

**NGĀTI TŪWHARETOA**

**and**

**TE KOTAHITANGA O NGĀTI TŪWHARETOA**

**and**

**THE CROWN**

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**DEED OF SETTLEMENT OF  
HISTORICAL CLAIMS**

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**8 July 2017**

## PURPOSE OF THIS DEED

This deed -

- sets out an account of the acts and omissions of the Crown before 21 September 1992 that affected Ngāti Tūwharetoa and breached Te Tiriti o Waitangi/the Treaty of Waitangi and its principles; and
- provides an acknowledgement by the Crown of the Treaty breaches and an apology; and
- settles the historical claims of Ngāti Tūwharetoa; and
- specifies the cultural redress, and the financial and commercial redress, to be provided in settlement to the governance entity that has been approved by Ngāti Tūwharetoa to receive the redress; and
- includes definitions of -
  - the historical claims; and
  - Ngāti Tūwharetoa; and
- provides for other relevant matters; and
- is conditional upon settlement legislation coming into force.

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## DEED OF SETTLEMENT

THIS DEED is made between

NGĀTI TŪWHARETOA

and

TE KOTAHITANGA O NGĀTI TŪWHARETOA

and

THE CROWN

## TE KAPUA WHAKAPIPI

*Ko Tongariro te maunga*

*Ko Taupō te moana*

*Ko Tūwharetoa te iwi*

*Ko Te Heuheu te tangata*

Within these simple words are encapsulated the very essence of who and what Ngāti Tūwharetoa are as a people. From a Tūwharetoa perspective, the past, present and future are seen as a cyclical continuum, each giving relevance and meaning to the other.

Therefore, within this context we will begin the journey of our people with the haerenga that Te Ariki Tā Tumu Te Heuheu undertook between 2012 and 2014. On this haerenga, Te Ariki visited each and every hapū of Ngāti Tūwharetoa to listen to the people and to learn what their aspirations were for their hapū and for their mokopuna. The resulting vision is a blueprint for the future of Ngāti Tūwharetoa named Te Kapua Whakapipi. The text that follows is the speech that Te Ariki delivered to every hapū on his haerenga.

### "TŪKINO (VIII) TE ARIKI TUMU TE HEUHEU

<i>Ka tītiro whānui au</i>	I gaze into the distance
<i>Ki ngā kokonga o tōku rohe</i>	To the corners of my lands
<i>Kei reira ngā mana o te motu</i>	To where the prestige of land lays
<i>Ko ngā whānau, ngā marae, ngā hapū</i>	The whānau, marae, hapū
<i>Ki mai ngā kōrero o o mātua tūpuna</i>	The old people our koroua and kuia cry out
<i>Whakaponotia! Manaakitia! Pumautia</i>	Believe in them! Care for them! Hold fast through the tikanga of Ngāti Tūwharetoa
<i>Tihei mauri ora!</i>	

### "Ko Tūwharetoa te iwi, ko Tūwharetoa te hapū"

This statement, once spoken by our kaumātua, is a timely reminder of the permanence and the resilience of our whakapapa and its centrality in defining our identity and our unity as Ngāti Tūwharetoa. When our kaumātua spoke of hapū, they were intimately aware of the existence of whānau and hapū whakapapa that established unique, but overlapping lines of history, that are boundless through time, geography, and space. Each of us, and each of our hapū, are able to travel along a relatively unique journey through the pathways of our whakapapa. The above statement is important because it epitomises our strength and our capacity to unreservedly acknowledge the whakapapa bonds that bind and unite us as Ngāti Tūwharetoa.

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Our whakapapa is the foundation of our identity; it is the foundation of who we are. It is the source of our whakakotahitanga because it combines the collective strength of all our hapū of Ngāti Tūwharetoa through bonds that are real, emphatic and established by our collective commitment to our Tūwharetoatanga.

Throughout Ngāti Tūwharetoa's history, this mindset has dominated. It has been clearly demonstrated in our continued survival and development, despite the erosive interference of colonial rule and its introduced laws. So I urge us all to maintain our respect for our Tūwharetoatanga and to preserve this as our ultimate platform of strength in moving forward to implement a collective vision that will deliver us with a future that our mokopuna and their descendants will forever cherish. This is not to deny the rightful importance we place in our whānau and our hapū, but it does commit us to acknowledge those bonds that unite us all as Ngāti Tūwharetoa.

We are indeed very fortunate that our vision for the future has been inspired by the outstanding deeds of our Ngāti Tūwharetoa tūpuna. Our whakapapa is here and it is that, of which we are all wanting to cherish. We have witnessed a rapacious colonial mindset and a hunger that has severed and weakened our people's relationship with our taonga tuku iho. In the process, we have been subjected to the systematic political and legislative erosion of our traditional beliefs and values, and all of this has imposed a heavy toll on the many facets of our wellbeing. We take heart in the fact that our history does illustrate our remarkable resilience for survival in a world of incredible challenge and uncertainty. Our survival is attributed to the legacy laid down for us by our ancestors, originating with our eponymous ancestor Ngātoroirangi. Our adherence to upholding the values and relationships between ourselves as a people and our environment has never wavered; Ngāti Tūwharetoa has never ceded our authority within our rohe, each generation upholding the legacy of Ngātoroirangi. Thus, seeing the past, present and future as a continuum, Ngāti Tūwharetoa is an ontological reflection of our environment and vice versa, one unable to exist without the other. We hold fast to this understanding that it may continue to be the foundation for our generations to come.

Through my recent engagements with our hapū of Ngāti Tūwharetoa, I am learning that many of us share similar concerns and frustrations about the current state of our wellbeing, and the erosive impacts of external forces on our Tūwharetoatanga. I am inspired to hear, however, that our aspirations and visions for ourselves, and our mokopuna, are remarkably similar, and that you share a passion to develop a clearer collective vision for our future. How this vision is shaped and realised will be something that each individual and hapū will no doubt have views on, and we must address this in a timely and constructive manner.

At our hapū hui I have received many suggestions on what needs to be fixed and how things may be improved. I am recording these suggestions and they will be given very serious consideration, as will the range and nature of solutions that may be possible. I will not pre-empt this thinking before I have had the opportunity to hear from all our hapū. At this early stage of our kōrero, I want to emphasise the following thoughts:

**Tikanga:** our tikanga is a central consideration in the blueprint that we develop for our future. I need not explain the tikanga, as you are well aware of the key concepts and components, and the importance of maintaining our reo rangatira. Many of our people have already raised grave concerns over the apparent decline in the number of kaumātua and pākeke who are able to fully participate on our paepae. I have also been made acutely aware of the feeling of loss of our important mātauranga. These are real issues that threaten the future strength and identity of Ngāti Tūwharetoa. We must talk about these matters and find effective solutions to address these concerns. I have alluded to the importance of maintaining the linkages of our whakapapa tangata-ki-tangata, but we must also maintain

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the whakapapa links between ourselves and our physical and spiritual taonga. As part of our vision for the future, I encourage us all to explore and develop effective strategies for enhancing these vital foundations of our existence.

**Commercial Development:** when I consider our existing Tūwharetoa commercial enterprises, I acknowledge the huge potential that exists for the creation of future opportunities and benefits. I am also heartened by the benefits that are being made available from successful enterprises. Despite this, I believe that we are merely at the starting point of delivering the great potential that is truly within our capability. Currently, our land-based enterprises include farming, extraction, geothermal, forestry and tourism. I am convinced that there are further benefits in the development of a cooperative approach to our primary businesses. We are capable of better sharing our knowledge and experience and our resources so that we may find ways of reducing our costs of production and enhancing our productivity.

Unlike conventional commercial businesses, we have an additional responsibility to acknowledge our tikanga and embody this as a positive attribute of our business practice so that it becomes a recognisable and highly valued attribute of our Tūwharetoa brand. I believe that this presents us with a real opportunity to develop a global "best business practice" that can be launched successfully within a national and global context.

Looking ahead, we need to visualise the future world we want for our tamariki and our mokopuna. We must make a difference now and there is no doubt in my mind that we have the capacity to assemble the necessary knowledge and know how to instill pride and confidence and build the pathway for a happy and productive future. Time will always be against us in this quest and we cannot afford to delay the implementation of this vision. I must caution also, that what we plan today may already be too late for tomorrow because of the huge challenge ahead of us, and the current framework which is resistant to change. I want to make it clear, however, that if we don't make the commitment today, we will have already failed our mokopuna.

I am willing to give you my undivided attention and leadership to find and implement effective solutions to these issues. I offer you my full support as Ariki of Tūwharetoa. To this end, I will need to make changes to my own approach to my duties as Ariki. One thing I will not be changing is my commitment to protecting and maintaining the mana and the mauri of Ngāti Tūwharetoa, and extending my support to each hapū to strengthen our Tūwharetoatanga. In order to facilitate this refocus, I am taking steps to relinquish my roles on the many organisations with which I have been associated. I believe that my role as Ariki will be more effective if I am independent of the influences of these organisations. In stating this, I want to underline the positive benefits that these entities provide, and confirm my availability to engage with them on any aspects which relate to the wellbeing of Ngāti Tūwharetoa. I have made this decision with total clarity so that I may unreservedly serve our whānau, our hapū and our people.

Let us take this opportunity to celebrate, and to weep. Let us look upon this occasion as a defining moment, in which we commit to turning the tide that is running against us, to one that will strengthen us. So I thank you my people for the unconditional support in advancing this take. The pathway forward for Ngāti Tūwharetoa will be guided by the views and aspirations that you as Ngāti Tūwharetoa express to us today. I remember my first hui with our hapū and I did say that I would attend not to give a speech, but it was to sit and listen to their thoughts. Let us be guided by those before us, and let it be known that it was not Tūwharetoa who abandoned our inherent responsibilities as Rangatira and Kaitiaki of our rohe, rather these roles, held so sacred to our people, were systematically stripped from us. Did we as a people abandon the legacy of Ngātoroirangi? No we did not! In the face of overwhelming odds we held fast to our tikanga. Let Tūwharetoa stand as



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one, and speak the words of our ancestors, for if we do not act now it may already be too late.

Therefore, I close with these words from our forefathers:

*Kei te pūmau tonu te hā o Tūwharetoa, kei te pūmau tonu te Ahi Tāmou*

*Kei te pūmau tonu Te Ahi Tāmou, kei te pūmau tonu te hā o Tūwharetoa.*

As long as there is breath left in Ngāti Tūwharetoa so too will burn our sacred flame of occupation.

As long as our sacred flame burns so too will there be breath in Ngāti Tūwharetoa.

Our journey has not ended, rather we continue on a pathway that was laid down before us many, many generations ago, with the arrival of Ngātoroirangi upon Te Arawa waka. We are merely beginning another chapter of that journey.

Nō reira, ki a koutou te whakapiringa o ngā Hapū o Ngāti Tūwharetoa, I leave you with these words, tēnā tātou, tēnā tātou, tēnā tātou katoa."

## NGĀ POU E TORU (THE THREE POU)

E kore te ringa tangata e tineia te ahi o tōku tūpuna i runga i te whenua.

No human hand can ever extinguish the sacred fire of my ancestors on the land.

*Te Heuheu Tūkino II Mananui*

Ngāti Tūwharetoa have identified three pou that reflect the aspirations of ngā hapū for redress:

**Te Pou Tuatahi: Tongariro te Maunga**

**Te Pou Tuarua: Te Mātāpuna o Te Wai, Te Ahi Tāmou**

**Te Pou Tuatoru: Tūwharetoa te Iwi, Tūwharetoa te Hapū**

### TE POU TUATAHI: TONGARIRO TE MAUNGA

#### THE FIRST POU: TONGARIRO THE SACRED MOUNTAIN

Ka ū, ka ū, ka ū ki matanuku  
Ka ū, ka ū, ka ū ki matarangi  
Ka ū, ka ū, ka ū ki tēnei whenua, hei whenua  
Mau e kai te manawa o tauhou

*I arrive where unknown land lies beneath my feet  
I arrive where unknown skies rise above me  
I arrive upon this new land, O land, this stranger  
Humbly offers his heart as food for thee.*

This karakia was recited by Ngātoroirangi as he journeyed inland, and ascended the sacred mountain of Tongariro. It established his claim to the land, and with it the enduring ancestral connection between Ngāti Tūwharetoa and their rohe. Tongariro is synonymous with Ngāti Tūwharetoa and a taonga tapu (sacred treasure).

### TE POU TUARUA: TE MĀTĀPUNA O TE WAI, TE AHI TĀMOU

#### THE SECOND POU: THE SOURCE OF WATERS, THE SACRED FIRES

**"E Kui, e Hau, ka riro au i te hau tonga, tukua mai he ahi, hei mahana taku kiri"**

***"O Kui, o Hau, I am seized by the cold south wind, send me fire to warm my skin"***

As Ngātoroirangi ascended Tongariro, he was overcome by the cold south wind. Close to death, he called out to his sisters to send the sacred fires of Hawaiki. Thus the geothermal energy was sent mai Hawaiki ki te tihi o ngā pae maunga, saving Ngātoroirangi and establishing the legacy of Te Ahi Tāmou that has sustained his descendants over many generations.

NGĀ POU E TORU (THE THREE POU)

Ngāti Tūwharetoa me ōna hapū consider they are the kaitiaki of their geothermal taonga called forth by Ngātoroirangi. The geothermal resources were used to provide warmth for early crops, for cooking, heating homes, and bathing, and were the source of minerals such as kōkōwai (ochre). Puia, waiariki and ngāwhā were rare and important, prized across te iwi Māori and taonga of Ngāti Tūwharetoa me ōnā hapū. Through their ahi kā, Ngāti Tūwharetoa have maintained their customary rights to the geothermal resources of their rohe.

**Ko Tongariro te Maunga  
 Ko Taupō te moana  
 Ko Te Heuheu te tangata  
 Ko te waenganui hoki tēnei o te motu nei,  
 he huinga mō ngā roma o tētehi taha, o tētehi tahataha  
 Tirohia ia ngā, ko ngā ika o taua moana he kōkopu, he kōura, he kōaro**

*Tongariro is the mountain  
 Taupo is the lake  
 Te Heuheu is the man  
 This is also the middle of the island,  
 where the great rivers of each side converge  
 Look and you will see that the fish of those waters are the kōkopu,  
 the kōura and the kōaro*

So said Iwikau te Heuheu Tūkino III as he declined the kingship, and referred Matene Te Whiwhi onwards to other tribal leaders. His words acknowledge his connections with other iwi of the North Island, symbolised by the waters of Tongariro flowing outwards to the rivers of Whanganui, Waikato and Rangitāiki.

Ngāti Tūwharetoa consider they are the traditional kaitiaki of the important lakes and rivers of Te Puku o Te Ika (the belly of the fish, i.e. the central North Island). The lakes and waterways are a source of tribal identity and mana, of physical sustenance and spiritual restoration. The health and wellbeing of lakes and waterways reflect and nourish the health and wellbeing of the people. Evidence in the Waitangi Tribunal recorded tribal feeling about Lake Taupo (Taupomoana) as follows:

*My Inland Sea, my medicinal waters offered as a gift by My Mountain;  
 the foam and spray maker of the wake of Te Reporepo, the emblem  
 canoe of the tribe; the womb of my existence as the cherishing waters  
 are to the embryo; the seat of my emotions that ripple and wave in the  
 ceaseless lapping tides of survival; the mirror of my soul upon which I  
 reflect; my water pool that carves the face of the earth; that renews me,  
 restores me, rebirths me; my lake that represents the pool of life, and I  
 but one drop; enjoined forever.*

TE POU TOKOTORU: TŪWHARETOA TE IWI, TŪWHARETOA TE HAPŪ

THE THIRD POU: STRENGTHENING HAPŪ

Tūwharetoa e! Kia āta whakaterere i te waka nei,  
kei pariparia e te tai, ka mōnenehu te kura.  
Ka whakamārotia atu anō,  
ka whakahoki mai ana ki te kapua whakapipi.

*Tūwharetoa! Navigate the waka carefully,  
Lest it be overwhelmed by the driving spray,  
Stretch out,  
But return to the sheltering cloud.*

These words were pronounced by Tamamutu, as he urged his people to be careful in their pursuit of an adversary, to advance but also to guard their return, and to ensure their strength through unity.

That kotahitanga reflects the strength of Ngāti Tūwharetoa in moving towards settlement of their historical Treaty grievances and in looking towards the future. Ngāti Tūwharetoa consider that their whakapapa brings their people together, united under the korowai of the Ariki. Ngāti Tūwharetoa maintain that this unity is their strength, enabling them to protect their people and taonga. Ngāti Tūwharetoa thrive when hapū and whānau are strong and united by whakapapa and tikanga.

One of the primary settlement objectives of Ngāti Tūwharetoa is to strengthen the mana whakahaere, tino rangatiratanga and kaitiakitanga of whānau, hapū and Ngāti Tūwharetoa as a whole.

# 1 BACKGROUND

## NEGOTIATIONS

- 1.1 In 2003, Ngāti Tūwharetoa participated in extensive mandating hui to establish the Ngāti Tūwharetoa Hapū Forum Trust ("**Tūwharetoa Hapū Forum**") and to confirm its mandate to negotiate a comprehensive settlement with the Crown.
- 1.2 In 2005, Te Ariki and the Tūwharetoa Hapū Forum agreed to suspend negotiations to allow Ngāti Tūwharetoa to proceed through the Waitangi Tribunal. From 2005 onwards, Ngāti Tūwharetoa proceeded to have their claims heard by the Waitangi Tribunal in the following inquiries:
  - 1.2.1 The Central North Island Inquiry, which was heard in 2005. The Tribunal's report, *He Maunga Rongo: Report on Central North Island Claims*, was released in 2008:
  - 1.2.2 The National Park Inquiry, which was heard in 2006-2007. The Tribunal's report, *Te Kāhui Maunga: The National Park District Inquiry Report*, was released in 2013:
  - 1.2.3 The Whanganui Inquiry, which was heard in 2008-2010. The Tribunal's report, *He Whiritaunoka: The Whanganui Land Report*, was released in 2015:
  - 1.2.4 Te Rohe Pōtae Inquiry, which was heard in 2012-2015 and has not yet produced a report:
  - 1.2.5 The Porirua ki Manawatū Inquiry, which commenced hearings in 2015:
  - 1.2.6 The Taihape: Rangitikei ki Rangipō Inquiry, which commenced hearings in 2016.
- 1.3 On 25 June 2008, Ngāti Tūwharetoa (and other central North Island iwi) and the Crown signed the Deed of Settlement for the Central North Islands Forests Lands. On 30 March 2009, the Tūwharetoa Hapū Forum re-convened at Waitetoko Marae. In 2010 and 2011 Ngāti Tūwharetoa undertook consultation and the mandating hui to reconfirm the mandate of the Tūwharetoa Hapū Forum to negotiate a deed of settlement with the Crown. The Crown recognised the mandate on 3 November 2011.
- 1.4 The mandated negotiators and the Crown -
  - 1.4.1 by terms of negotiation dated 14 January 2013, agreed the scope, objectives and general procedures for the negotiations; and
  - 1.4.2 by agreement dated 28 December 2013 Ngāti Tūwharetoa and the Crown signed a high level agreement recording the matters to be negotiated, the priorities of Ngāti Tūwharetoa, and their aspirations for settlement; and
  - 1.4.3 by agreement dated 6 March 2015 agreed, in principle, that Ngāti Tūwharetoa and the Crown were willing to enter into a deed of settlement on the basis set out in the agreement; and

**1: BACKGROUND**

- 1.4.4 since the agreement in principle, have -
- (a) had extensive negotiations conducted in good faith; and
  - (b) negotiated and initialled a deed of settlement.
- 1.5 Prior to initialling the deed of settlement, the Tūwharetoa Hapū Forum held hui with each of the twenty-six hapū represented on the Tūwharetoa Hapū Forum. Twenty-one hapū approved initialling a deed of settlement and having the deed of settlement ratified by Ngāti Tūwharetoa. Three hapū abstained from voting and two hapū did not agree.
- 1.6 Twenty-two hapū supported the proposed governance entity, three hapū abstained from voting and one hapū did not agree.

**RATIFICATION AND APPROVALS**

- 1.7 Ngāti Tūwharetoa have, since the initialling of the deed of settlement, by a majority of -
- 1.7.1 73%, ratified this deed and approved its signing on their behalf by Te Ariki; and
  - 1.7.2 71%, approved the governance entity receiving the redress.
- 1.8 Each majority referred to in clause 1.7 is of valid votes cast in a ballot by eligible members of Ngāti Tūwharetoa.
- 1.9 The governance entity approved entering into, and complying with, this deed by a resolution of the trustees dated 29 May 2017.
- 1.10 The Crown is satisfied -
- 1.10.1 with the ratification and approvals of Ngāti Tūwharetoa referred to in clause 1.7; and
  - 1.10.2 with the governance entity's approval referred to in clause 1.9; and
  - 1.10.3 the governance entity is appropriate to receive the redress.

**NGĀTI TŪWHARETOA ENTITIES**

- 1.11 This clause records the desire of the governance entity to enter into consolidation discussions and within five years following the settlement date, hold a beneficiary vote to determine whether this proposal should occur.

**AGREEMENT**

- 1.12 Therefore, the parties -
- 1.12.1 in a spirit of co-operation and compromise wish to enter, in good faith, into this deed settling the historical claims; and
  - 1.12.2 agree and acknowledge as provided in this deed.

## 2 HISTORICAL ACCOUNT

The Crown's acknowledgement and apology to Ngāti Tūwharetoa in part 3 are based on this historical account.

<i>Ko Tongariro te maunga,</i>	Tongariro is the mountain,
<i>Ko Taupo te Moana,</i>	Taupo is the lake,
<i>Ko Ngāti Tūwharetoa te iwi,</i>	Ngāti Tūwharetoa is the tribe,
<i>Ko Te Heuheu te tangata!</i>	And Te Heuheu is the man!

### Te Heuheu Tūkino I, Herea (c.1750-c.1820)



Figure 1: Te Heuheu Tūkino I, Herea (Tapeka Marae, Waihi)

*"Kei muri i te awe kapara he tangata ke, he tangata ma, kore te kiri ahua, ki te uhi matarau, mana hei kimi te mana o te ao."*

"Behind the tattooed-faced man, comes a new man, he has white skin, he has no tattoo, he attempts to inherit the earth."

(Herea Te Heuheu Tūkino I, n.d.).

### Ngāti Tūwharetoa

- 2.1 Ngāti Tūwharetoa are descended from Ngātoroirangi through the eponymous ancestor, Tūwharetoa, and from Tia. Tūwharetoa was born and grew up at Kawerau, and during his lifetime his people expanded south. Ngāti Tūwharetoa retain connections to their whanaunga at Kawerau, but their homelands have long been established in the Taupo district. Lake Taupo (Taupomoana) and Tongariro maunga lie at the heart of Ngāti Tūwharetoa's rohe. Mananui Te Heuheu Tūkino II, son of Herea, described the rohe of Ngāti Tūwharetoa through reference to his own body:

*"[He] considered his body to be similar to the land, one of his thighs on titiokura, the other on otairi, one of his arms on pare te tai tonga, one on tuhua mountains. His head on tongariro, his body lying on taupo".*

**Ngāti Tūwharetoa Before 1840**

- 2.2 The hapū of Ngāti Tūwharetoa each had their own independent rangatira, but remained mindful of the lineages that united them. According to Ngāti Tūwharetoa tradition, the senior rangatira, on behalf of their hapū, installed an ariki (paramount rangatira) towards the end of the eighteenth century. Herea Te Heuheu Tūkino became the first ariki of Ngāti Tūwharetoa, and established Te Whare o Te Heuheu ('the House of Te Heuheu'). The ariki lineage embodies the mana motuhake of Ngāti Tūwharetoa which endures to this day through each of Te Heuheu's direct descendants. At 1840, Mananui Te Heuheu Tūkino II held this position.

**Te Heuheu Tūkino II, Mananui (c.1780-1846)**



**Figure 2: Mananui Te Heuheu [seated] & Iwikau, Tanpo [sic]/Te Kawaw & his nephew Orakai.**  
 (George French Angas [delt], Giles, J W, fl 1847, Angas, George French 1822-1886; J. W. Giles [lith], Plate 56. 1847, Angas, George French 1822-1886; *The New Zealanders Illustrated*. London, Thomas McLean, 1847. Ref: PUBL-0014-56; Alexander Turnbull Library, Wellington, New Zealand)

*"... I am king here, as my fathers were before me, and as King George and his fathers have been over your country. I have not sold my chieftainship to the Governor, as all the chiefs round the sea-coast have done, nor have I sold my land. I will sell neither. A messenger was here from the Governor to buy the land the other day, and I refused: if you are on the same errand I refuse you too. You White people are numerous and strong; you can easily crush us if you*



2: HISTORICAL ACCOUNT

*choose, and take possession of that which we will not yield; but here is my right arm, and should thousands of you come, you must make me a slave or kill me before I will give up my authority or my land ... Let your people keep the sea-coast, and leave the interior to us, and our mountain, whose name is sacred to the bones of my fathers...".*

*(Mananui paraphrased by Wakefield, 1839-1844)*

**Ngāti Tūwharetoa's Rejection of Te Tiriti o Waitangi/the Treaty of Waitangi**

- 2.3 During a visit to Waitangi in 1840, Iwikau, younger brother of Mananui Te Heuheu Tūkino II, and Te Korohiko added their marks to the Te Tiriti o Waitangi/the Treaty of Waitangi. The two rangatira acted without the authority of Mananui Te Heuheu, who chastised them upon their return home. Angered, Mananui took a large war party and travelled to meet representatives of the Crown who had brought te Tiriti o Waitangi/the Treaty of Waitangi to Ohinemutu for signing. At a public meeting attended by Crown officials, Mananui renounced Te Tiriti/the Treaty on behalf of the iwi, and publically rejected the mana and authority of the Queen, exclaiming:

*"I kore rawa au e whakaae ki te mana o tena wahine iwi ke kia eke mai ki runga ki enei motu; ko au ano hei rangatira mo enei motu. ko tenei, tu atu, haere!"*

"I will never ever agree to the authority of that woman and her people intruding on our islands; I am a chief of these islands, this is my response, stand up! and leave! go!"

**Te Heuheu Tūkino III, Iwikau (1846-1862)**



**Figure 3: Mananui Te Heuheu & Iwikau [standing], Tanpo [sic]/Te Kawaw & his nephew Orakai.**

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(George French Angas [delt], Giles, J W, fl 1847, Angas, George French 1822-1886; J. W. Giles [lith], Plate 56. 1847, Angas, George French 1822-1886; *The New Zealanders Illustrated*. London, Thomas McLean, 1847. Ref: PUBL-0014-56; Alexander Turnbull Library, Wellington, New Zealand)

Iwikau became the third ariki after Mananui was killed in a landslide which overwhelmed his village at Te Rapa in 1846.

*"... that the English were, by degrees, obtaining the best of their lands, and that they would soon be "eaten up and cease to be;" and for these reasons they were determined to have a King of their own and assemblies of their own..."*

*(Governor Gore Browne reporting the comments of Iwikau  
Te Heuheu Tūkino III, 1857)*

**Pre-1865 Crown Purchasing**

- 2.4 In the years after 1840, the Crown did not establish an official presence within the Taupo region, where Ngāti Tūwharetoa continued to exercise mana over their rohe and live in accordance with their own tikanga (customary law). Throughout the 1840s and 1850s, Ngāti Tūwharetoa opposed Crown purchase negotiations involving lands and tribal communities inside boundaries Mananui had marked with pou whenua at Pourewa in Rangitikei, and at Titiokura. The group Mananui sent south in 1842 to establish a community at Te Reureu to protect the pou became known as the Ngāti Waewae hapū. The pou at Rangitikei was near to the north-eastern limit of the Crown's Rangitikei-Turakina purchase in 1850.
- 2.5 In 1850, the Crown commenced negotiations with members of another iwi to purchase the Ahuriri block. In January 1851, Iwikau Te Heuheu expressed his opposition to land purchasing and reminded the Crown of the boundary marked at Titiokura. In November 1851, the Crown signed a deed with another iwi to purchase the Ahuriri block, which included some Ngāti Tūwharetoa lands, without Ngāti Tūwharetoa's agreement.
- 2.6 From 1855, the Crown negotiated with other iwi to purchase other lands in inland Hawke's Bay, where it was aware that Ngāti Tūwharetoa had interests. It was not until 1863 that their claims were acknowledged when twelve Ngāti Tūwharetoa men were paid for their interests in lands already acquired by the Crown from other iwi.
- 2.7 In the 1860s, as part of the protracted and contested purchase of the Rangitikei-Manawatu block, Ngāti Tūwharetoa hapū Ngāti Waewae sought a large reserve around the large Te Reureu settlement. In 1872, the Crown set aside a 4,400-acre reserve along the Rangitikei River, parts of which Ngāti Waewae retain today.

**Kīngitanga**

- 2.8 The New Zealand Constitution Act, passed by the British Parliament in 1852, provided New Zealand with a system of representative government. The vote was given to all men over 21 years of age who owned or rented property of a certain minimum value which was held under a Crown title. However, because most Māori land at this time was in customary tenure, in practice relatively few Māori men were eligible to vote for the General Assembly that first met in 1854. Although section 71 of the New Zealand Constitution Act provided a mechanism for districts to be proclaimed, within which Māori custom and law could be given a level of official recognition, this provision was never used, despite repeated requests from Māori for this.
- 2.9 In the 1850s, Iwikau and Ngāti Tūwharetoa were at the forefront of discussions amongst some iwi and hapū about establishing a Māori king to promote Māori authority

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in New Zealand and lead a confederation of assenting tribes. As Hītiri Te Paerata explained in 1888, in supporting the Kīngitanga movement, Māori wanted to "set up a head whose mana was to overshadow the land and protect it". The Kīngitanga movement was motivated by concerns about the rapid alienation of Māori land as a result of Crown pre-emptive land purchasing, and the desire to ensure that Māori could exercise mana and tino rangatiratanga over Māori communities.

- 2.10 In November 1856, Iwikau convened a significant hui at Pūkawa called Hīnana ki uta, Hīnana ki tai (search the land, search the sea) to discuss the selection of a king. At the hui, attended by thousands from iwi across the island, Iwikau delivered the following haka, which underscored how important it is to Ngāti Tūwharetoa to hold on to their lands:

<i>Ka ngapu te whenua</i>	When the land is put asunder
<i>Ka ngapu te whenua</i>	When the land is put asunder
<i>Ka haere ngā tangata ki hea?</i>	Where shall the people stand?
<i>Aua</i>	Aua
<i>Ko Ruaimoko</i>	Oh Ruaimoko
<i>Tawhia!</i>	Hold it!
<i>Puritia!</i>	Grasp tightly to the land!
<i>Tō mana kia mau!</i>	Be firm!
<i>Kia ita! Aha ita! Ita!</i>	Let not your mana, your land
<i>Kia mau tonu!</i>	Be torn from your grasp!

(Iwikau Te Heuheu Tūkino III,  
4<sup>th</sup> Nov 1856)

- 2.11 From a pou hung strands of flax, each symbolic of the sacred maunga of the chiefs present at the hui, with Tongariro maunga represented by the apex of the pou. The flax was plaited together at the conclusion of the hui to signify the strength and unity of the iwi who supported the Kīngitanga. Although some of the iwi attending the Hinana Hui invited Iwikau to accept the kingship, Iwikau declined the invitation and chose to support Pōtatau Te Wherowhero. Te Wherowhero was anointed the first Māori king in 1857 by the supporters of the King Movement.
- 2.12 In 1857, Governor Gore Browne recorded Iwikau describe how, "the English were, by degrees, obtaining the best of their lands, and that they would soon be 'eaten up and cease to be'". For these reasons, Browne wrote, "they were determined to have a King of their own and assemblies of their own; that they would not interfere with the English in the settlements, but that the laws they intended to make should be binding on all who chose to reside among the Natives". Kīngitanga-based rūnanga were formed at Taupo in the late 1850s, holding formal meetings, enacting laws and administering justice.
- 2.13 The Kīngitanga initially drew a range of reactions and responses from Europeans. Some politicians and officials urged the Governor to recognise the King movement officially and to work alongside its leaders to improve governance within Māori communities. Others viewed it as an affront to the Queen's sovereignty.
- 2.14 During the late 1850s, relations between the Crown and the Kīngitanga deteriorated and Crown land purchase negotiations led to war in Taranaki. In April 1860, some Taranaki rangatira placed their lands under the authority of the Māori King. Although some Kīngitanga supporters fought with Taranaki Māori against the Crown, Ngāti Tūwharetoa did not join the war in Taranaki.

2: HISTORICAL ACCOUNT

- 2.15 In 1861, Gore Browne accused Kīngitanga of levying war against the Queen, and creating an authority "inconsistent with allegiance to the Queen, and in violation of the Treaty of Waitangi". The Colonial Office in London queried the Governor's hostility to the Kīngitanga and was open to proposals that aimed at reconciliation or peaceful co-existence with the movement. They reassured the Governor that they had no intention of fighting and urged him to instead settle any differences peacefully.
- 2.16 From October 1861, the Crown began promoting a system of local government for Māori based on rūnanga, which was intended to restore Māori confidence in the Crown while restricting the appeal and influence of the Kīngitanga. In June 1862, a Civil Commissioner was appointed to Taupo to implement these policies, which were known as the 'new institutions or the 'Rūnanga System'. A few Ngāti Tūwharetoa hapū living at the head of Lake Taupo in the area around the Tauhara maunga participated in the 'new institutions', and gifted 51 acres of land at Oruanui to the Crown for the Civil Commissioner. The 'new institutions' were disestablished in 1865.
- 2.17 The 51 acres of Oruanui land gifted for the Civil Commissioner in 1862 reverted to its Ngāti Tūwharetoa owners, but in 1872, the Crown claimed to have acquired the land although it was not then able to establish its title to the land in the Native Land Court. In 1874, one of the donors of the land had a personal debt of £30 discharged by the Crown, but the Oruanui owners refused to have this payment deducted from the rents owed by the Crown for its lease of Oruanui. In 1881, the Crown claimed the £30 as payment for the 51 acres at Oruanui, which was then awarded to it by the Native Land Court as the Oruanui No. 4 block. Later protests by the owners at this taking of the land were rejected by the Crown.

**Te Heuheu Tūkino IV, Horonuku (1821-1888)**



**Figure 4: Te Heuheu Tūkino IV, Horonuku**  
 (Swan & Wrigglesworth (Firm). Swan & Wrigglesworth (Wellington) fl 1865. Ref: PA2-1722.  
 Alexander Turnbull Library, Wellington, New Zealand)

**WARFARE**

**Waikato War**

- 2.18 In January 1863, Governor Grey attended a meeting of assembled chiefs at Taupiri near Ngāruawāhia. While there are conflicting versions of what Grey said at the meeting, according to one account Grey remarked that, "I shall not fight against him with the sword, but I shall dig around him till he falls of his own accord", in reference to the Māori King. Some Māori interpreted this as confirmation of the Crown's uncompromising opposition to the Kīngitanga.
- 2.19 Relations between the Kīngitanga and the Crown continued to deteriorate over the early months of 1863. By the end of March 1863, a road had been constructed as far south from Auckland as the Mangatāwhiri River, which the Kīngitanga had designated as the northern boundary of its authority in the Waikato. In May 1863, fighting resumed in Taranaki. In June 1863, the Premier outlined plans for war in the Waikato, and proposed to confiscate the land of those who fought against the Crown. In July 1863, the Crown invaded the Waikato when its forces crossed the Mangatāwhiri River.
- 2.20 Although Ngāti Tūwharetoa Kīngitanga had not joined the earlier Taranaki war, Iwikau described how he "would be compelled to help [Waikato Māori]" if they were attacked by the Crown. Ngāti Tūwharetoa did not consider the Crown's invasion of the Waikato to have "just cause". Ngāti Tūwharetoa immediately offered fighters to support Waikato

2: HISTORICAL ACCOUNT

Māori, with whom they shared whakapapa and political allegiances. In September 1863, Horonuku Te Heuheu Tūkino IV led approximately two hundred warriors across Lake Taupo (Taupomoana) by waka and down the Waikato River to defend the Kīngitanga.

- 2.21 Between 1863 and 1864, many Ngāti Tūwharetoa hapū participated in the Waikato War and fought variously at Meremere, Rangiriri, Patumahoe, Hairini, and Rangiaowhia. A number of Ngāti Tūwharetoa lost their lives in these battles.
- 2.22 On Sunday 21 February 1864, Crown forces attacked the unfortified agricultural settlement of Rangiaowhia. Some elderly men, alongside women and children, had been sent to Rangiaowhia for their own protection prior to the Crown's attack. The Māori occupants of Rangiaowhia took cover in the Anglican and Catholic churches and in their whare, or fled from the settlement. Some of those taking cover in a whare refused to lay down their arms and returned fire on the Crown forces. During the exchange a number of whare caught fire, some deliberately lit and some from gun fire igniting the thatch. Some of the occupants perished in the fire, and contemporary accounts reported that women and children were among those who died. One unarmed individual escaping a burning whare and attempting to surrender was killed by Crown troops. A number of Māori were taken prisoner. Afterwards, Hītiri Te Paerata, who had been present at Rangiaowhia, described how their "hearts were very dark" and "the old men were angry" about the young men killed in the battle.
- 2.23 The final battle of the Waikato war took place at Orakau between 31 March and 2 April 1864. Approximately 250-300 Māori warriors, including members of Ngāti Tūwharetoa led by Te Paerata, a rangatira of Ngāti Te Kohera and Ngāti Wairangi, were besieged by Crown troops at Orakau Pā. Horonuku had also led a Ngāti Tūwharetoa contingent to Orakau to reinforce the besieged pā, but they were subject to artillery fire and were unable to break-through the Crown's cordon. They instead "sat on the hill and wept their farewell" to those within the besieged pā.
- 2.24 After three days' siege by up to 1,800 Crown troops, there was little food, water or ammunition remaining. During a ceasefire on the last day of fighting, Crown officers attempted to negotiate the surrender of the pā. Te Paerata's daughter, Ahumai, declined an offer to evacuate the women and children saying, "*Ki te mate ngā tāne, me mate ano ngā wahine me ngā tamariki*" (if our husbands and brothers are to die what profit is it to us that we should live? Let us die with the men). According to traditional accounts, Te Paerata and leaders from other iwi are said to have then jointly declared, "*Ka whawhai tonu mātou, ake, ake, ake*" (We will fight on forever and ever).
- 2.25 As the Crown troops advanced on the pā, the Māori defenders attempted to flee, and a large number of Māori were killed. Some defenders, such as Te Paerata and his son Hone Teri, were killed, and others including Hītiri Te Paerata and his sister Ahumai escaped the pursuing Crown forces. Hītiri Te Paerata recounted in 1888:

*"My father and many of my people died in breaking away from the pā. When we cut through the troops further on my brother, Hone Teri, who was with Rewi, died in endeavouring to shield him. The whole of my tribe were slain; my father, brothers, and uncle all died. My sister Ahumai, she who said the men and women would all die together, was wounded in four places. She was shot in the right side, the bullet going through her body and coming out on the left; she was shot right through the shoulder, the bullet coming out at her back; she was also shot through the waist; and her left thumb was shot away. Yet she is still alive, and resides at Taupo. We bore away many of our wounded."*

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2.26 Ahumai's bravery was recounted again, in December 1864, when, still recovering from the wounds she sustained at Orakau, she used her influence to save the life of a Crown emissary.

2.27 The day after the battle at Orakau, Major Mair noted:

*"Most of the bodies had been stripped of even the wretched clothing they had worn. [...] Te Paerata, his son Hōne Teri, son-in-law Wereta ..., Piripi te Heuheu, and others, making thirty in all, were buried in the ditch at the south-east corner of the pā. At the edge of the manuka swamp ... twenty-five were buried. On the rising ground straight across the swamp, where the Maoris were headed off in their flight by the Forest Rangers and Blythe's party, thirty were put in one grave. Down the valley there were several smaller graves, containing seven, five, three and so on. Those who were killed in the pā during the siege were buried by their own people where they fell.*

2.28 Reports of the number of Māori who died at Orakau vary, but it is likely that somewhere between 80 to 160 Māori died. Ngāti Tūwharetoa's heaviest casualties were suffered by their hapū, Ngāti Te Kohera and Ngāti Wairangi.

2.29 The defeat at Orakau marked the end of the Waikato War. Most Kīngitanga supporters withdrew south of the Puniu River into what became known as the King Country. Ngāti Tūwharetoa warriors returned home, and in June 1864, convened a hui at Oruanui to propose terms of peace to the Crown. They sought an "everlasting peace", the retention of their arms, the return to their lands, and that the sovereignty of the Māori King be acknowledged. No terms of peace were agreed with the Kīngitanga.

2.30 Following the close of the Waikato War refugees took shelter with Ngāti Tūwharetoa who struggled to feed themselves and the refugees, many of whom were suffering from an aggressive fever. A Crown official recorded that the winter of 1864 was bitter, and made "harder by the war, with its attendant miseries of hunger and cold". Some refugees lived with Ngāti Tūwharetoa for many years. Many who died, including injured fighters, were interred in an urupā at Tokaanu. Ngāti Tūwharetoa still sing a waiata about these events, E Pā Tō Hau, which includes the verse:

<i>E moea iho nei</i>	I dream of
<i>Hoki mai e roto ki te puia</i>	returning to the hot springs
<i>Nui, ki Tokaanu,</i>	so famous, at Tokaanu,
<i>Ki te wai tuku kiri o te iwi</i>	to the healing waters of my people,
<i>E aroha nei au, ī.</i>	for whom I weep.

*E Pā Tō Hau*

### Omarunui and the Whakarau

2.31 During the mid-1860s, in the context of war and confiscation, the Pai Mārire ('Good and Peaceful') religion was established by the prophet Te Ua Haumene. Based on the Christian Bible, Pai Mārire promised the achievement of Māori autonomy, and attracted Māori converts from a number of North Island iwi. In December 1864, Pai Mārire emissaries arrived in southern Taupo and converted many Ngāti Tūwharetoa to the new faith. However, the spread of Pai Mārire, and the killing of the missionary Carl Volkner in Opotiki in March 1865, alarmed the Crown, which responded in an unequivocal fashion. In April 1865 Governor Grey issued a proclamation condemning the "fanatical sect, commonly called Paimārire and declaring the Government's

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- intention to resist and suppress movements such as Pai Mārire, if necessary by force of arms".
- 2.32 In 1865, Pai Mārire were defeated following conflicts in other districts, and some Ngāti Tūwharetoa Pai Mārire adherents travelled to Whanganui and Napier in January 1866 to tender their allegiance to the Crown and to make peace. In March 1866, other Pai Mārire, including Horonuku, travelled to Rotorua to meet Governor Grey and "gave himself up to the Governor's clemency".
- 2.33 In October 1866, a party of one hundred Pai Mārire adherents came to Hawke's Bay hoping to discuss peace with Donald McLean, the Crown's East Coast Agent. However, he decided they were a threat to local security, declined to meet with them, and on the 12<sup>th</sup> of October 1866, issued an ultimatum demanding their surrender within one hour or face attack. When the occupants of the pā at Omarunui failed to comply with this ultimatum, Crown military forces attacked the pā, killing twenty-three Pai Mārire adherents.
- 2.34 The attack ended when the occupants of Omarunui surrendered. Amongst those who escaped the attack was a rangatira of Ngāti Tūwharetoa named Maniapoto (who later died in 1869 as a result of wounds inflicted while fighting alongside Crown forces against Te Kooti near Tokaanu). A Crown force of several hundred men pursued the scattered Māori survivors inland, and then destroyed and plundered a number of kāinga.
- 2.35 Crown forces captured eighty-six prisoners at Omarunui and at smaller engagements at Petane, and sent most of these prisoners to the Chatham Islands. One of these prisoners was Te Rangitāhau, a Ngāti Tūwharetoa rangatira with whakapapa links to a number of neighbouring hapū and iwi. He was held with others in harsh conditions on the Chatham Islands for nearly two years without trial. In December 1867, the premier Edward Stafford referred to the prisoners as 'native political offenders'.
- 2.36 During their detention on the Chatham Islands, many of the prisoners converted to the Ringatū faith founded by Te Kooti Arikirangi, a fellow prisoner from Tūranga (later Gisborne). In July 1868, Te Kooti led 298 prisoners including Te Rangitāhau in an escape back to mainland New Zealand where he and his followers, known as the Whakarau, became embroiled in a bitter war with the Crown. Throughout the late 1860s Crown forces pursued Te Kooti and the Whakarau, across the North Island.
- 2.37 Ngāti Tūwharetoa were divided in their response to Te Kooti. In April 1869, some Ngāti Tūwharetoa at the head of Lake Taupo sought Crown military support to oppose Te Kooti. In early June 1869, a small group of troops were sent to Taupo, fourteen of whom encamped at Ōpepe, while the officers went on to Tapuaeharuru (later Taupo township).
- 2.38 On 7 June 1869, an advanced guard of the Whakarau, guided by Te Rangitāhau, launched a surprise attack on Ōpepe where nine Crown troops were killed. The Whakarau then moved south around the shore of Lake Taupo where they burned pā at Te Hatepe and Motutere and killed at least one person. The Whakarau moved on to Tauranga-Taupo where they were attacked by Crown troops who, after a brief skirmish, withdrew. The Whakarau moved on to Tokaanu where the kāinga of those who opposed Te Kooti were looted and burned. Later, while Te Kooti was temporarily away from the area, the kāinga of some hapū at Tokaanu were raided for food, waka and taonga, first by the Whakarau, and then a second and third time by Crown forces.
- 2.39 In September 1869, the Crown renewed its pursuit of the Whakarau. Fighting between Crown forces and the Whakarau continued at Tauranga Taupo and Tokaanu, where



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Te Kooti was defeated after leading an attack on a Crown defensive position. A senior Crown officer reported that those who were found wounded were beheaded. Te Rangitāhau, having quarrelled with Te Kooti over the killings of his Taupo kin, did not participate in the fight at Tokaanu and withdrew his support for a time. Nevertheless, some Ngāti Tūwharetoa supported Te Kooti and some fought with the Crown against him. The fighting caused a good deal of damage and disruption to local Ngāti Tūwharetoa communities, the effects of which endured in places like Tokaanu for many years.

- 2.40 On 4 October 1869, Crown forces attacked a pā at Te Pōrere, where Te Kooti, his followers and Horonuku were stationed, a set of earthwork redoubts to the west of Lake Rotoaira. Although the Crown forces suffered four dead, they inflicted heavy casualties, killing twenty-seven of the Whakarau in the upper redoubt, and ten more in the bush. One male adult, thirty-five women and four children were taken prisoner. Te Kooti was wounded, but escaped from Te Pōrere with others of the Whakarau, and fled the Taupo district. Ngāti Tūwharetoa supporters of Te Kooti were among the dead, those who escaped, and those who were captured. Two days after the battle, Horonuku agreed to surrender to the Crown.
- 2.41 By 1869, the Crown had confiscated significant amounts of land after fighting in other districts. Ngāti Tūwharetoa consider that fear of their land being confiscated prompted Horonuku and a number of southern Taupo chiefs to surrender and seek accommodation with the Crown following Te Kooti's defeat at Te Pōrere. However, the nature of Horonuku's support of Te Kooti is unclear. According to Ngāti Tūwharetoa oral tradition, the ariki was a willing supporter of Te Kooti, perhaps because of the prophet's efforts to prevent Crown subjugation, but this support appeared to wane following the battle at Te Pōrere. Other sources, however, suggest that during the conflict Horonuku had been forcibly detained by Te Kooti, and felt constrained to remain and fight on Te Kooti's side.
- 2.42 After questioning, Horonuku and others were detained for a time while the Crown considered his fate. Horonuku and the principal Taupō prisoners were taken to Napier to learn of the Crown's decision, arriving on 3 November 1869. In October 1869, the Native Minister considered that the Crown's "confiscation policy, as a whole, [had] been an expensive mistake", and that it "would not be judicious or politic to confiscate any of Te Heuheu's land". Instead, the Native Minister considered he "should bind himself to co-operate in opening the Taupo country". A senior Crown official interviewed Horonuku, in the presence of a leading local rangatira allied to the Crown, and explained that the Crown did not wish to punish Horonuku severely by confiscating any of his lands (and did not confiscate any of his land). Horonuku was then placed under the surveillance of a rangatira from another iwi at Napier.
- 2.43 In December 1869, Horonuku was taken to Auckland where he was interviewed by the Native Minister, before accompanying a ministerial tour of Northland. Horonuku was returned to Napier in January 1870 where his freedom of movement continued to be constrained. A Crown official recommended that he not be allowed to return to Taupo. Although officials began discussing Horonuku's return to Taupo that same month, the ariki did not travel home until about July 1870.

**Taupo After the Wars**

- 2.44 In the late 1860s and 1870s, the Crown constructed a number of military roads and redoubts in the Taupo and Kāingaroa regions. Redoubts were established on Ngāti Tūwharetoa land at Tapuaeharuru (later Taupo Township), Ōpepe, and Runanga during the 1869 conflict and occupied by Armed Constabulary. The lands on which the redoubts stood were later acquired from Ngāti Tūwharetoa from 1870 to 1872. For

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defence purposes these fortifications, as well as those at Tarawera and Te Haroto, were to be connected by a long mooted and "purely strategical road" from Napier to Taupo.

- 2.45 The Armed Constabulary stationed at Tapuaeharuru sometimes lacked discipline and mistreated local Ngāti Tūwharetoa, who had given military assistance to the Crown during the recent wars. In December 1869, the Resident Magistrate wrote privately to Native Minister McLean of the misconduct of Crown forces:

*"There is a great deal of robbery, breaking into friendly natives' houses and stealing horses going on by the forces. Hohepa Tamamutu's house at Oruanui was broken into by the Tauranga packhorsemen and a great deal of property stolen and destroyed. The Europeans do not respect the graves and burial grounds of the Maoris, it leaves a bad impression, in one case they dug up the bones of a Taupo friendly chief of importance to see if there were any green stones [taonga pounamu] buried with him. I don't wish this to come from me but if such things could be stopped, if it is not too late, it would do a great deal of good."*

- 2.46 In January 1870, the Resident Magistrate reported officially that "a row took place" at Tapuaeharuru "and a European constable set fire to a house in the pā, he was drunk, fortunately it was a wet night or all the pā would have been burnt down". The constable concerned was committed to trial.
- 2.47 The Armed Constabulary were also employed to build roads and supervise Ngāti Tūwharetoa labourers building roads to link Tapuaeharuru to Napier and to Rotorua. Officials hoped that road-building in the central North Island, and employing local Māori in their construction, would promote peaceful settlement and prosperity following the turbulent war years. However, in 1872 Governor George Bowen wrote of his visit to the Taupo district: "[the] true weapons of conquest have been... the spade and the pickaxe". During the Governor's visit, Hare Tauteka, a rangatira from Tokaanu challenged him: "The Ngāti Tūwharetoa, living on the west shore of the lake, have come in you. They will require constant attention; it is only thus you will keep those people right. Do not neglect Taupo. Raise us up. The country is yours; open it up. Governor Grey told us to take care that Taupo was properly managed. He said, 'Keep Taupo together'. We are now waiting to hear what this Governor will say".
- 2.48 Ngāti Tūwharetoa labourers participated in road-building within the Taupo district, and between Tapuaeharuru and Te Haroto and Rotorua. Often these roads were in remote locations far away from familial kāinga and reliable food sources. The large Ngāti Tūwharetoa road gangs took up the hard work often far from their kāinga, accompanied by women and children who foraged far and wide for food to supplement the rations purchased from the Armed Constabulary. In some places in the Taupo district like Tokaanu, food was also generally scarce, and the money labourers earned from road construction was used to buy supplies from the Armed Constabulary which were often of poor quality. Grace described how "[t]he remuneration they get will not more than half feed them".

## MOHAKA-WAIKARE CONFISCATION

### The Mohaka-Waikare Confiscation

- 2.49 During the 1860s it was Crown policy to confiscate land from those Māori it considered rebels. The New Zealand Settlements Act 1863 provided the legal framework for the Crown confiscation of Māori land. The act aimed to punish Māori by confiscating their

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land if they were judged to be 'levying or making war or carrying arms against' the Queen or her military forces, providing support to those involved in armed resistance, or who had 'counseled advised induced enticed persuaded or conspired with any other person to make or levy war against her Majesty' or who were involved in any 'outrage against persons or property'. The act gave the Governor in Council the power to proclaim a district where confiscation would be applied. It also enabled the Crown to use confiscated lands for military and other settlements and replace Māori customary tenure with Crown titles for land returned to Māori through a compensation process.

- 2.50 On 12 January 1867, the Crown proclaimed the confiscation of 300,000 acres of land in the Mohaka-Waikare district, which lay between the Mohaka and Ahuriri Crown purchases in 1851, and the Hawke's Bay provincial boundary. The Crown deemed those involved in fighting against the Crown at Omarunui and Petane to be rebels, and confiscated this land to punish those tribes. However, the Crown did not define the district selected for confiscation with reference to iwi and hapū boundaries, and it included some land in which Ngāti Tūwharetoa had interests. McLean believed that about half of the proposed block was owned by Māori who were "taken in arms at Omarunui" in 1866 and the remaining portion was "claimed by a few natives residing on the block". This included a large area inland of the pou whenua marked by Mananui Te Heuheu at Titiokura.
- 2.51 As recalled in 1870, the Crown undertook that "no land of any loyal inhabitant within the said district would be retained by the Government". The Crown intended to retain a portion of the block, and award much of it to individual Māori who had not been in rebellion. However, the Crown did not establish a judicial inquiry or any other due process, such as those used in other confiscation districts, to investigate Māori interests within the Mohaka-Waikare district, or to determine which Māori, if any, had been loyal to the Crown and which had been in rebellion. The process of identifying the persons to whom the returned blocks were to be allocated was left entirely up to Crown officials.

**The Mohaka-Waikare Deeds and the Mohaka and Waikare Districts Act 1870**

- 2.52 In May 1868, the Crown signed a deed with a number of Hawke's Bay rangatira returning some of the Mohaka-Waikare land to Māori ownership, and retaining the remainder for the Crown. However, the deed was never implemented. In July 1868, the prisoners who had been sent to the Chatham Islands escaped, and the Crown became embroiled in further fighting against them.
- 2.53 In 1869, during the fighting between the Crown and the Whakarau, the Crown began renegotiating with rangatira from other iwi how much land the Crown would retain, and how much land would be returned to Māori.
- 2.54 In June 1870, a number of Hawke's Bay rangatira and the Crown signed a second Mohaka-Waikare deed which recorded that some land in the Mohaka-Waikare district would be awarded to a number of individuals named in the deed, some land would be set aside for reserves, and the balance retained by the Crown. A small number of Ngāti Tūwharetoa were living in the original confiscation district at Pakaututu and Tarawera in the 1860s before and after the attack on Omarunui.
- 2.55 Ngāti Tūwharetoa were not a party to the 1870 Mohaka-Waikare Deed. It provided for 500 acres of confiscated land at Te Haroto for Ngāti Tūwharetoa rangatira Pāora Hapimana Huriwaka and "his people to cultivate or such other purpose as Government may desire". In 1869, Pāora Hapimana had asked Crown officials if his tribe could live on the confiscated land at Te Haroto and Runanga. A Crown official considered that it

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would be "very good" to have one of its allies in the war against the Whakarau settled at this location.

- 2.56 Nevertheless, the extinguishment of all customary interests in the confiscation district included those held by Ngāti Tūwharetoa. Ngāti Tūwharetoa also had some interests in the Waitara block of 40,000 acres and the Tarawera block of 78,000 acres. The Crown retained the entire Waitara block and part of the Tarawera block to punish another iwi who had interests in these locations. The confiscated land included the Tarawera Hot Springs, a geothermal taonga highly valued by local Māori.
- 2.57 From 1870 until 1873, Pāora Hapimana's people were employed on the Te Haroto-to-Te Purupuru section of the Napier to Taupo road but, after their road-building work was complete, they did not remain at Te Haroto, and members of another iwi took up residence on the block. In 1910, Parliament passed legislation empowering the Native Land Court to ascertain the beneficial owners. In 1911, the Native Land Court awarded 15 acres at Te Haroto to nine descendants of Pāora Hapimana.

**The Tarawera and Tatarakina Blocks**

- 2.58 The Tarawera block (approximately 76,700 acres) and the Tatarakina block (approximately 37,000 acres) lay within Ngāti Tūwharetoa's rohe, and were included in the Mohaka-Waikare confiscation. Under the terms of the 1870 deed, these blocks were awarded to a small number of individuals from another iwi. In the early twentieth century Ngāti Tūwharetoa joined other groups dissatisfied with the titles to both blocks in petitioning Parliament to have the Native Land Court investigate their titles. The Crown did not take any action in response to these petitions. Nevertheless, in 1924, the Crown promoted legislation that empowered the Native Land Court to redefine the relative interests of the owners if it found that other persons should be admitted into the title.
- 2.59 In 1925, the Native Land Court found that the descent group awarded the majority of interests in Tarawera in 1870 had no customary rights in Tarawera, but that it was obliged to make provision for them. Accordingly, the Native Land Court awarded this descent group 15,000-shares, and the remaining 50,051-shares to three other groups with customary interests in the block, which included hapū of Ngāti Tūwharetoa.
- 2.60 The Tatarakina block title investigation took place in 1927. The Native Land Court's order split the Tatarakina block at the Mokomokonui Stream, and awarded the portion to the west of the stream to the same three groups the Court had found to be the customary owners of the Tarawera block in 1925. Ngāti Tūwharetoa appealed the decision to the Native Appellate Court and, although the Native Appellate Court agreed that it had doubts about the correctness of the 1927 award, these doubts were not sufficient to overturn it.

**The 1951 Royal Commission**

- 2.61 In 1949, the Crown established a Royal Commission of Inquiry to investigate Māori grievances over the Tarawera and Tatarakina block titles. Ngāti Tūwharetoa presented evidence to this Inquiry about their grievances in regards to the two blocks. In 1951, the Commission reported its findings, which included the conclusion that the 1870 block titles should not have been altered. The Commissioners recommended that Parliament pass new legislation to undo the effects of the 1924 and 1928 Acts upon the titles of the Tarawera and Tatarakina blocks. The Commissioners also recommended that those individuals who had been admitted to the titles in 1925 and settled on the land be allocated interests.

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2.62 In 1952, Parliament adopted the Commission's recommendations and passed the Māori Purposes Act. This resulted in revised ownership lists that excluded hundreds of those who had been admitted to the titles of the Tarawera and Tatarakainga blocks in 1925, including Ngāti Tūwharetoa, but who were not occupiers of the land in 1952. Ngāti Tūwharetoa received no compensation for the loss of their interests. Ngāti Tūwharetoa are of the view that the Crown should have compensated those who lost interests in the Tarawera and Tatarakainga blocks as a result of title revisions.

**The Pakaututu Block**

2.63 Ngāti Tūwharetoa shared interests with other iwi in the 7,606-acre Pakaututu block. Although Pakaututu was included within the boundaries of the 1867 Mohaka-Waikare confiscation proclamation, in 1869 the Crown agreed to relinquish its claim to the block. In 1869, a joint application for Pakaututu was made by rangatira from Ngāti Tūwharetoa and another iwi who had fought on the side of the Crown. In November 1869, while many local Māori were absent from the area, the Native Land Court investigated title to the Pakaututu block and awarded title to members of another iwi and two individuals from Ngāti Tūwharetoa. In 1873, a lease was arranged, and in 1874 the block was sold.

**Te Matai Block**

2.64 In 1867, most of the 8,580-acre Te Matai block was included within the boundaries of the Mohaka-Waikare confiscation proclamation. In 1879, Crown land purchase officers advanced payments for a block at Te Matai to two Māori individuals, one of whom was Te Rangitāhau, a Ngāti Tūwharetoa rangatira with whakapapa links to neighbouring hapū and iwi.

2.65 In December 1880, the Native Land Court investigated title to the Te Matai block at Taupo and awarded it to thirty-one Ngāti Tūwharetoa owners. The following day, however, the Native Land Court revised its order after it was informed that the bulk of the block lay within the Mohaka-Waikare confiscation boundary. The land outside the confiscation district, initially thought to contain 1,020 acres but later revised downwards to 254 acres, was designated Te Matai No. 1 block, while the remaining land within the confiscation district became Te Matai No. 2 block. The Crown declined to proceed with the purchase because it had already incurred more expense by way of advance payments and surveying than the much reduced acreage of the Te Matai No. 1 block was worth.

2.66 Between 1888 and 1924, Ngāti Tūwharetoa and other iwi applied for title investigations for the Te Matai No. 2 block. In 1924, parliament passed legislation that gave the Te Matai No. 2 block the status of Māori customary land, and the Court jurisdiction to investigate title. In February 1928, the Court heard claims to the Te Matai No. 2 block in Hastings. The Court decided that the 1880 order should be amended so that it covered the whole Te Matai block. This meant that the Te Matai No. 2 block would be awarded to the same list of thirty-one Ngāti Tūwharetoa owners awarded the Te Matai No. 1 block in 1880. However, the Court did not proceed to amend the 1880 order accordingly. Instead, it adjourned the case indefinitely, leaving everything in a state of uncertainty.

2.67 Many years later in 1951, the Māori Land Court reopened the Te Matai case. The Court essentially upheld the 1880 award to Ngāti Tūwharetoa. Some individuals, from other iwi, were also admitted by the Court, on the grounds that they had established the probability of a claim from occupation. As a result of a number of appeals regarding the Court's decision, the case was heard again in 1952 when the additional individuals from other iwi were removed from the title. The Crown was also unsuccessful in its efforts to

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secure court orders that required Māori to refund the advances and survey costs it claimed.

- 2.68 In 1940, the Crown noted that Te Matai had no access, a shortcoming that was not remedied when title was awarded in 1952. In 1956, the Māori Land Court ordered a roadway be established along the route of an existing old track from State Highway 5 at Rangitaiki approximately 40km long, through Wharetoto blocks 5B, 2D, 2C, 2B, 2A and No. 1 to the Te Matai No. 2 block. The owners of the Te Matai No. 2 block, however, favoured access via a much shorter 3km route across the neighbouring Pakaututu block, which the Crown purchased in 1962. However, the Crown subsequently alienated this land to private purchasers without creating an easement. The roadway through the Wharetoto blocks granted by the Māori Land Court has never been built, leaving the block without practical access. This hindered the owners' ability to obtain an income from their land, resulting in large arrears of local body rates forming a charge upon their land.

**INTRODUCTION OF THE NATIVE LAND LAWS**

- 2.69 Growing opposition from Māori to selling their lands to the Crown under the pre-emption system of the 1840s and 1850s led the Crown to introduce a new system of dealing with Māori land. It established the Native Land Court under the Native Land Acts 1862 and 1865, to determine the owners of Māori land "according to native custom" and to convert customary title into title derived from the Crown. Through these laws the Crown also set aside its Treaty of Waitangi Article Two pre-emptive right of purchase, creating an open market in Māori land. The Crown intended that the Native Land Act would facilitate the opening up of Māori customary lands to Pākehā settlement.
- 2.70 Māori were not represented in Parliament when this legislation was enacted, and the Crown did not consult with Ngāti Tūwharetoa about these Acts. The Native Land Court became a major focus of the grievances of Ngāti Tūwharetoa that were raised with the Crown.
- 2.71 The native land laws introduced a profound change to customary land tenure. Customary tenure among Ngāti Tūwharetoa hapū and whānau was collective in nature, and customary rights were able to accommodate multiple and overlapping land usages through shared relationships with the land. Native land legislation converted customary land tenure into multiple individual interests, which did not necessarily include all those with a customary interest in the land, and contributed to their alienation by undermining tribal control of land. Through the individualisation of land ownership, the Crown expected that Māori would eventually abandon the tribal and communal basis of their traditional land holdings.
- 2.72 Ngāti Tūwharetoa had no alternative but to use the Native Land Court if they wanted a title that would be legally recognised and protected from claims by other Māori. A freehold title was also necessary if they wished to legally lease or sell their land, or use it as security to raise development finance. However, the nature of the titles issued meant these were not widely accepted as security.
- 2.73 The Native Land Court's investigation of title for land could be initiated by an application from individual Māori. There was no requirement to obtain consent from the wider tribal group of customary owners, but once an application was accepted by the Court all those with customary interest were obliged to participate in the investigation of title or risk losing their interests.

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- 2.74 Members of Ngāti Tūwharetoa who attended the Native Land Court were required to pay fees to the Court itself, along with survey costs and other expenses (like legal advice). Courts were often held away from the Taupo district at places such as Cambridge, Rotorua, Whakatane, Matata, Whanganui, and Napier, which required those Ngāti Tūwharetoa who attended to leave their cultivations and incur expenses for food and accommodation. Hearings in distant venues were sometimes held simultaneously, making it costly and difficult for Ngāti Tūwharetoa to attend to all their interests.
- 2.75 Survey charges and other Native Land Court costs were a burden on Ngāti Tūwharetoa. A registered survey of the land being investigated was required before title could be issued. The Crown sometimes acquired Ngāti Tūwharetoa land to discharge large survey costs. In other cases Crown purchases were agreed to by Ngāti Tūwharetoa in order to raise funds to clear survey debts and other title-related costs that formed a significant portion of the purchase price.
- 2.76 The rules of succession provided by the Native Land Court required that land be divided equally amongst the owners' successors. With each succeeding generation individual shares became smaller and less economic, and this fragmentation made management and economic use of Māori owned land extremely challenging.

**The Ten-Owner Rule**

- 2.77 The Native Lands Act 1865 required the Native Land Court to limit the number of owners named on a title to tribal lands to ten or fewer individuals ('the ten-owner rule'). Those so named on the titles were often rangatira expected by hapū to act as trustees on their behalf and as tribal representatives in any land dealings. However, the native land laws did not have the power to recognise trusts and those named on the title were absolute owners who were able to dispose of tribal lands and whose interests were passed to their descendants upon their death.
- 2.78 Section 17 of the Native Lands Act 1867 amended the ten-owner rule. This provided for additional right holders to be named on the back of the certificates of title, indicating a trust relationship between the legal owners and other members of their community. Section 17 titles were subject to restrictions against alienation except by way of leases not exceeding 21 years. However, the Native Land Court had discretion about whether to implement the new provision, and did not do so in the Taupo region. The Court declined to apply section 17 of the Act, even where Ngāti Tūwharetoa submitted the names of more than ten owners for inclusion in the title. In 1869, the claimants for the Wharetoto block had agreed on a list of seventy owners, which they submitted to the Court. However, the Native Land Court awarded the title to only ten owners.
- 2.79 Between 1868 and 1873, Ngāti Tūwharetoa were included in the titles of several blocks north and east of Lake Taupo comprising almost 400,000 acres. Title was determined by the Native Land Court under the 1865 Act and its amendments, and awarded to ten or fewer owners. In 1883, twenty-two members of Ngāti Rangīta protested to the Crown that, while the hapū interested in the Tauhara South block had consented along with the grantees to an earlier lease of this block, the grantees had now sold a portion of the Tauhara South block without the consent of the wider hapū. The owners of the Kāingaroa No. 2 block (144,000 acres) petitioned for the cancellation of their ten-owner title "because it is wrong that the Crown grant should have effect over the land of all the people, men, women, and children, we strongly object to that system". Although the Tauhara Middle block (106,000 acres), and the Tauhara South block (35,000 acres) each had several hundred owners, title was vested in six individuals for each block who the owners and the Native Land Court referred to as trustees for the several hapū of the land. The titles were to be inalienable until divided up and awarded to the

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individuals of each hapū. This order did not have the intended effect and the six 'trustees' were ultimately treated as absolute legal owners, which facilitated the alienation of large parts of each block to the Crown and to private purchasers despite protests from owners excluded from the titles who opposed the transactions.

- 2.80 The Native Equitable Owners Act 1886 and the Native Land Court Act 1894 empowered the Native Land Court to inquire into titles issued under the ten-owner system and, if it found that a trust existed or was intended, it could then include the beneficial owners on the title. The provision did not apply to lands that had already been sold. The 1886 Act was not applied to any Ngāti Tūwharetoa land titles. The equitable owners provisions of the 1894 Act were only applied to two Ngāti Tūwharetoa titles, those of the Tauhara North and Wharetoto No. 9 blocks.

**The Native Land Act 1873**

- 2.81 Under the Native Land Act 1873, the Native Land Court was charged with identifying all individuals with customary rights in the lands being investigated, and there was a requirement that every individual owner should be listed on the memorials of ownership issued. The extent of each owner's personal interest or share was not often precisely defined, and indeed could not have been so defined in a customary sense. Out-of-court arrangements sometimes resulted in only a small number of individuals on titles, to the exclusion of other right-holders. The 1873 Native Land Act did not provide any structure for the individual owners to manage their land collectively and this made it difficult for owners to accumulate capital and make improvements to their land. It provided that Māori land blocks could only be sold with the unanimous agreement of all the owners included in the title. However, amendments to the native land legislation later in the 1870s made it possible for the Crown and private parties to apply to the Native Land Court to be awarded any interests they had purchased from individual owners. It was not until 1894 that provision was made in the Native Land Laws for Māori land to be held in trust. This provision was little used and was not made use of by Ngāti Tūwharetoa in the alienation of any of their lands.

**Introduction of the Native Land Court to Taupo**

- 2.82 The Native Land Court was introduced to Taupo in 1867 at a time of economic and social disruption arising from the recent New Zealand wars and the Mohaka-Waikare confiscation. In the late 1860s, some run-holders from government and military circles sought to lease large areas in the Taupo-Kāingaroa area for pastoral farming. Settlers encouraged Māori to apply to the Native Land Court for determination of titles so that these leases could be put on a more secure legal footing. During the 1870s many Ngāti Tūwharetoa joined other iwi in opposing native land legislation, and repeatedly sought a greater role for Māori in the determination and management of land titles and land dealings through their own local tribal kōmiti ('committee').

**Private Land Speculation and Land Alienation**

- 2.83 The native land laws enabled private parties to purchase land from individual Ngāti Tūwharetoa owners, as determined by the Native Land Court. Until 1883 the native land laws provided that private transactions for lands that had not passed through the Native Land Court were void. However, the legislation did not prevent private parties from negotiating leases or the purchase of interests in land with Māori prior to title being awarded by the Native Land Court. Leases and sales could be completed once title was determined by the court (providing prospective purchasers had dealt with those Māori who were awarded title).



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- 2.84 The native land laws were complex and frequently amended. They required buyers and sellers to comply with a number of technical requirements before transactions for Māori land could be completed. For example, a certificate from the Trust Commissioner was required confirming that Māori owners understood the transaction, had received the consideration promised, and that prohibited items such as liquor or firearms were not given as payment. Some of these requirements were intended to provide a limited protection of Māori interests but proved ineffectual.
- 2.85 Although the periods of pre-emption meant that the Crown became the largest purchaser of Ngāti Tūwharetoa land, private purchasers did complete purchases of six blocks in the 1880s comprising about 187,000 acres.

**The Tatua Block**

- 2.86 The Tatua block (approximately 57,000 acres) had a long and complicated Native Land Court history. In 1867, the Native Land Court made an award which was to remain provisional until the block was surveyed. In 1868, this award was replaced with another provisional award which reduced the number of owners to ten. This award was appealed, and in 1869, the Court decided to divide the block into the Tatua East and Tatua West blocks. The Court awarded provisional titles for each which would be finalised when surveys were completed. The Court recognised Ngāti Tūwharetoa interests in the Tatua East and West blocks. However, since those awarded interests in the Tatua West block withdrew their list of grantees, no order of any kind was made, and because neither block was surveyed, both their titles remained incomplete.
- 2.87 In 1880, the provisional grantees of Tatua East sought title but were incorrectly informed that the 1869 interlocutory order had expired and a fresh claim was needed, in addition to a survey. A survey was made in 1882 and fresh claims were made to both blocks.
- 2.88 In 1883, the Native Land Court held a hearing at Cambridge against the express wishes of Ngāti Tūwharetoa who found Cambridge an inconvenient venue since they would have to travel far from their homes and cultivations. The hearing took a month, and was marked by confusion regarding the Court's inability to reconcile its earlier decisions. One Ngāti Tūwharetoa rangatira was led to ask: "If the Court does not understand the law it administers, what is the position of us natives?" In 1883, the Native Land Court made title orders for the Tatua East and West blocks based on its 1869 decision (which recognised Ngāti Tūwharetoa's interests in the blocks). The map that the Court used in 1883, however, was not the same as that from the 1869 hearing, and consequently, between four and six thousand acres were transferred from the Tatua East block into the Tatua West block, including a kāinga occupied by Ngāti Tūwharetoa.
- 2.89 In December 1883, the Tatua West block was purchased by non-Māori. The Court subsequently found that this meant it could not issue title for the Tatua East block because part of it had been conveyed to the private purchasers of Tatua West. From 1884 and for many years, Ngāti Tūwharetoa protested the erroneous boundaries of the Tatua East and West blocks but without success. Although a Crown official and the Native Land Court later acknowledged the inconsistency in the orders for Tatua East and West, no compensation was paid to Ngāti Tūwharetoa. In 1904, although the Deputy Chief Judge of the Auckland Native Land Court suggested remedial legislation to remedy the "state of hopeless confusion" into which the Tatua East title had been placed, no action was taken.

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**The Wairākei Block**

- 2.90 In May 1881, the Native Land Court commenced an investigation of the 4,203-acre Wairākei block at Taupo. Five Ngāti Tūwharetoa groups laid claim to the block. There is evidence that some goods and/or cash changed hands between a Pākehā businessman and local Māori as an advance on the block. This businessman sought the land at Wairākei for its geothermal attractions and tourism potential.
- 2.91 The Court named five owners, identified as belonging to Ngāti Tūwharetoa hapū, which resulted in the dispossession of the other customary owners. There are convoluted accounts of the hearings for the Wairākei block. A private written account of the Court's proceedings by a Government Land Purchase Commissioner described how claimants were hurried through their cases by the Court's interpreter, and "worried into signing the Deed of Sale and Purchase the same night". There are also conflicting accounts about whether the owners' names were read out in the Court, and descriptions of many angry Māori subsequently shouting: "He Kooti whanako, he Kooti tahae [thieving Court, stealing Court]".
- 2.92 Petitions for a rehearing were rapidly submitted. The rehearing began in January 1882. Without explanation three of the counter-claimants withdrew their claims on the second day, and by the third day of the rehearing the remaining counter-claims were also withdrawn. The actions of the Māori counter-claimants left the Native Land Court with no other choice than to uphold its original June 1881 title decision.

**NINETEENTH CENTURY CROWN LAND PURCHASING**

- 2.93 The Crown purchased land from Ngāti Tūwharetoa for the purposes of settlement, and its alienation undermined Ngāti Tūwharetoa's ability to exercise traditional kaitiakitanga over a large area of their traditional tribal estate. Nevertheless, much of the land the Crown purchased from Ngāti Tūwharetoa is still in Crown ownership, and is now part of the public conservation estate. This includes large areas in the Western Bays area, the Pureora Forest Park, and the Kaimanawa Forest Park. Taking this land together with the Tongariro National Park, a significant proportion of the Ngāti Tūwharetoa's rohe is public conservation estate.
- 2.94 The first Crown land purchases in Taupo were effected between 1869 and 1872, and involved the purchase of blocks which had been used as bases by the Armed Constabulary at Tapuaeharuru, Ōpepe, and Runanga. The deed for the Runanga Block was first signed in Hauraki in April 1872. Te Rangitāhau was one of the signatories. The rangatira had been sheltering at Ohinemuri following the withdrawal of his support for Te Kooti, but he later returned to live in Taupo.
- 2.95 In the early 1870s, the Crown embarked on a major programme of public works and immigration intended to stimulate New Zealand's economic development and growth. A key part of this programme was the large-scale purchase of land from Māori. In 1873 the Crown recruited private land purchase agents who had been negotiating for land in Taupo, and who proceeded to convert these private negotiations into negotiations for the Crown. This included private negotiations to lease and purchase land in the Tauhara Middle and Oruanui blocks.
- 2.96 In the case of Oruanui the Crown took over negotiations in the aftermath of the lessee not having paid rent between 1868 and 1872. This contributed 10,000 acres to a private interest from whom the Crown acquired this land.
- 2.97 The Crown instructed its agents to acquire as much land as possible in the wider Bay of Plenty and central North Island regions. Crown agents were instructed to acquire land

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as cheaply as possible. Many Ngāti Tūwharetoa, however, were opposed to selling their land and would only agree to lease it to the Crown. The Crown's preference was to purchase lands for European settlement, so it entered negotiations to lease large areas such as those in the Tauhara Middle and Oruanui blocks in the hope that it could ultimately purchase the lands it leased.

- 2.98 In 1876, the Crown reported that it had several large blocks of land in Taupo under negotiation for lease. These included, amongst others, the Tauhara Middle block (106,000 acres) in which all of the grantees were Ngāti Tūwharetoa, and the Kāingaroa No. 2 block (144,000 acres) in which one of the ten grantees was Ngāti Tūwharetoa. The Crown had a further 46,000 acres in Taupo under negotiation for purchase. The land under negotiation for purchase, for example, included 11,594 acres in the Tauhara Middle block which lay along Lake Taupo's north-eastern shore, and which the Ngāti Tūwharetoa owners agreed to sell in 1875 for £1,150. This money would pay the survey costs of a 94,000-acre section in the Tauhara Middle block that the owners had agreed to lease in 1873 for £200 per annum.
- 2.99 The Crown frequently opened negotiations by making advance payments of rent or purchase money to secure the agreement of the owners to alienate their land, but would not pay over the balance of purchase money or make regular rental payments until after it had concluded formal legal agreements with owners who held valid Native Land Court titles. However, the suspension of the Native Land Court between 1873 and 1877 over Taupo and adjacent districts prevented Māori from obtaining the legal titles they required. A key reason why the Crown took this step was to make it difficult for private interests to compete with the Crown.
- 2.100 By imposing monopoly powers over land it was negotiating for, the Crown prevented Māori from alienating their interests to private parties. This could impede the owners from deriving an income from land that was under negotiation for lease for the duration of negotiations. It also meant that the Crown could negotiate prices without having to face competition.
- 2.101 It could take many years between the opening and close of negotiations. For example, the Crown opened negotiations to purchase the Taharua block, to the east of Lake Taupo, in 1873, eight years before the Native Land Court awarded a title for this block. In the case of the Tauhara Middle block, even though the Court had awarded a title in 1869, several of the grantees were minors for whom no guardian had been appointed. Furthermore, the Court restricted alienations of the Tauhara Middle block to leases lasting less than twenty-one years.
- 2.102 The Ngāti Tūwharetoa owners of land blocks under negotiation for lease were still keen to receive the rental income which the Crown would not pay until legally valid agreements were complete. For example, in 1876, Poihipi Tukairangi wrote to the Crown stating that the owners of the Tauhara Middle block were passing away without receiving any of the rent due on their land. The lack of income placed more pressure on owners to sell their land. Although the Court had appointed a guardian for the minors on the title of the Tauhara Middle block in 1877, the Crown still declined to pay any rent until an agreement had been reached about the location of its reserves. In the late 1870s, the Crown began a new round of purchase negotiations for the Tauhara Middle block, and in 1879, the Crown agreed to pay six years of back-rent. However, by this stage the Crown was looking to turn the lease into a purchase, and no additional rent was ever paid for the block.
- 2.103 By the early 1880s, the Crown was withdrawing from all the lease negotiations it had previously entered into, and was seeking to wrap-up as many of the purchase negotiations it had begun in the 1870s as possible. The Crown instructed its agents to

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obtain refunds for previously advanced rents if Māori would not agree to sell. For example, in 1881, Ngāti Tūwharetoa were still willing for the Tauhara Middle block lease to take effect, but the Crown was only interested in purchasing land, and wanted the rents it had already paid to be refunded. The Crown was only willing to lift its monopoly powers over a block such as the Tauhara Middle block if Ngāti Tūwharetoa agreed to an outcome that satisfied the Crown. In 1881, the Crown agreed to purchase an additional 13,250 acres in the Tauhara Middle block for £925, of which £632 had previously been paid as rent, or for survey costs. In 1881, the Crown also abandoned its lease in the Oruanui block.

- 2.104 The Crown did not finally agree to complete leases for any of the land it had negotiated to lease before 1876. By 1890, the Crown had purchased a large area that it had previously agreed to lease, including 13,250 acres in the Tauhara Middle block, and 91,529 acres in the Kāingaroa No. 2 block. By 1894, the Crown had purchased nearly 80,000 acres of land which had been under negotiation for purchase in the 1870s. The Native Land Act 1873 provided for 50 acres to be reserved for each Māori individual, however the Crown did not systematically monitor Māori land holdings and apply this provision. Ngāti Tūwharetoa sought to reserve an urupā at Te Aputahou near Tauhara maunga on Kāingaroa 2 block but no reserves were made. The Crown agreed to reserve some land for Ngāti Tūwharetoa in the Tauhara Middle block; however, there were several long-running disputes about the extent of these reserves.

**Parakiri and Wharewaka**

- 2.105 In March 1869, the Native Land Court awarded a provisional title for the Tauhara Middle block, approximately 106,000 acres along Lake Taupo (Taupomoana)'s north-eastern shore, to six individuals representing six Ngāti Tūwharetoa hapū. The title was inalienable until the block had been subdivided into portions for each of the six hapū, and all the owners identified.
- 2.106 In July and October 1870, the Crown and six Ngāti Tūwharetoa individuals signed a deed for the Crown to purchase 534 acres of land at Nukuhau Tapuaeharuru within the Tauhara Middle block for £400. In 1872, another two signatories were added to the deed by descendants of the original grantees who had died since being awarded title. This deed did not refer to any reserves, but the sketch plan provided, in English, on the deed describes a 'Public Reserve' at the south-western tip of the block, at the Lake Taupo outlet. This place was known to Ngāti Tūwharetoa as Parakiri.
- 2.107 Nukuhau Tapuaeharuru was a strategically significant location. The Crown stationed the Armed Constabulary at Tapuaeharuru towards the end of its pursuit of Te Kooti, and this later became the site of the present-day Taupo township. In 1873, the Crown gazetted approximately 80 acres of Nukuhau Tapuaeharuru as reserves for a redoubt and a rifle range. In March 1874, 5 acres, 2-roods and 24-perches at Parakiri was formally reserved as a 'Reserve for a Landing Place or other public purpose' in the New Zealand Gazette, and accompanying plan.
- 2.108 In June 1874, the Crown began negotiations to purchase another part of the Tauhara Middle block, an area designated as Tauhara Middle No. 1 block, which the owners agreed to sell to pay survey charges. A year later in August 1875, the Crown purchased an additional 11,060 acres of the Tauhara Middle block for £1,150. However, the 1875 deed listed three Māori reserves, one at Waipahihi stream where it enters Lake Taupo, one at Wharewaka, and another at Patuiwi, and sketched them on a plan.
- 2.109 In March 1877, one of the Ngāti Tūwharetoa owners who had sold Nukuhau Tapuaeharuru to the Crown, Poihipi Tūkairangi, wrote to the Native Department

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concerned that Pākehā were planning to erect buildings on land that he had reserved for himself and his tribe at Parakiri. The letter was referred to the Crown official who negotiated the 1870 Deed, and he replied that Tūkairangi had "no right whatever to a reserve at the outlet of Taupo Lake", but that "a promise was made that a public reserve should be kept open there". In May 1877, the Crown advised Tūkairangi that the Landing Reserve at the mouth of the Waikato River had been purchased by the Crown and "was land for the purposes of the Public. Not for you". In December 1877, officials and newspapers reported that Māori were obstructing Crown surveying of land at Nukuhau Tapuaeharuru.

- 2.110 In April 1879, the Nukuhau Tapuaeharuru purchase and the Tauhara Middle No. 1 block purchase were confirmed by four of the original Ngāti Tūwharetoa vendors (including Poihipi Tūkairangi) and the successors of the two original hapū trustees who had died. The deed excepted three reserves at the Tauhara Middle purchase block (Waipahihi, Patuiwi and Wharewaka), and a piece at the outlet, "as marked on the plan", at Parakiri.
- 2.111 In December 1880, the Native Land Court awarded the Crown 14,050 acres of the Tauhara Middle block. Records of the proceedings show a Ngāti Tūwharetoa grantee of the block describe the Waipahihi, Wharewaka and Patuiwi reserves, and refer to the Landing Reserve at the outlet of Lake Taupo as Parakiri, a "reserve of 2 acres to be made to Poihipi Tūkairangi". The Court minutes do not record a response by the Crown representative, and no mention of the reserves was made in the subsequent Court order, although a survey plan was before the Court on which the Waipahihi, Wharewaka and Patuiwi reserves were marked. The registered copy of the order, however, listed only the Patuiwi and Waipahihi reserves, and did not include Wharewaka, or the reserve at Parakiri. Despite the Waipahihi, Wharewaka and Patuiwi reserves being surveyed between 1876 and 1878, in 1881 the Crown only issued Certificates of Title for the Waipahihi and Patuiwi reserves.
- 2.112 In May 1886, the omission of the reserves at Wharewaka and at Parakiri was referred to by several Ngāti Tūwharetoa in the Native Land Court. The Court awarded Patuiwi, Waipahihi and Wharewaka to six Ngāti Tūwharetoa hapū representatives, but this order was not completed following correspondence with the head of the Native Land Purchase Department who explained that in 1881 it was decided not to grant Wharewaka, but simply to reserve it for the general public.
- 2.113 In June 1900, the surviving original owner of the Tauhara Middle block protested to the Native Land Court that "Parakiri had been fenced by the government, I object to that fence ... This has not been acquired by the government", and offered to sell Parakiri to the Crown. The Crown reasserted that the land was a public reserve, not a native reserve.
- 2.114 In September 1905, the Native Land Court sought clarification of the court's jurisdiction regarding the Waipahihi, Wharewaka and Patuiwi reserves. In November 1905, the head of the Native Land Purchase Department explained to the Court Judge that Wharewaka and "Parakere" were public reserves. Ngāti Tūwharetoa were unsatisfied with this response. Members of the iwi petitioned Parliament for relief in 1905, 1926, 1927, 1936 and 1944 in respect of the reserve at Nukuhau Tapuaeharuru/Parakiri. The 1936 petition also raised issues relating to the Wharewaka reserve.
- 2.115 Reporting on the 1936 petition in 1937, a Commission of Inquiry held that, while the Wharewaka reserve should have been excluded from sale to the Crown, the Crown had a legal title to Wharewaka. The Crown asked that it should retain possession of Wharewaka in the event of the Commissioners' report being favourable to the petitioners, and that the claimants receive monetary compensation. The Commission

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recommended that 'reasonable compensation' be provided to the claimants. The Commission made no recommendation in relation to the reserve at Nukuhau Tapuaeharuru/Parakiri.

- 2.116 The Native Purposes Act 1938 vested the Wharewaka reserve in the Crown and provided for the land to be treated, for the purposes of determining compensation, as land taken under the Public Works Act. The question of compensation for Wharewaka came before the Native Land Court in 1940, where the owners made it clear that they wanted both compensation and the land returned, as redress for what the Crown described as the 'grievous wrong' they had suffered. The 1938 Act provided for the Crown to pay compensation for the land "as if the said land had been taken for a public work under the Public Works Act, 1928". This was the only compensation option available to the owners. The Crown eventually paid the owners £600 in compensation.
- 2.117 In September 1940, a relative of Tūkairangi filed a petition in the Supreme Court with regards to the Landing Reserve at Nukuhau Tapuaeharuru/Parakiri. Witnesses recalled a whare at Parakiri in which Poihipi Tūkairangi resided, a kūmara patch, a flour mill, and a miller's house on the land. The Crown resisted the claim. It argued it had owned the land in question since July 1870, and that the 1880 Native Land Court order had been conclusive. The Court held that the petitioner was not a person capable of bringing the proceedings, and did not make a conclusion about whether the Crown had established a reserve at Parakiri for Poihipi in the 1870s. Applications were lodged in the Māori Land Court in 1965, 1980, and 1984, but none of these attempts to reopen the Parakiri case were successful. Ngāti Tūwharetoa and the Crown continue to disagree about whether the land at Parakiri was supposed to be reserved for Ngāti Tūwharetoa.

**The Thermal Springs District Act**

- 2.118 In the 1870s, the Crown prioritised the purchase of lands with geothermal resources to ensure that they would not pass into private hands, but rather, would be held for the benefit of all New Zealanders. The early tourism trade at Taupo was concentrated around the geothermal attractions around Taupo township, where former members of the Armed Constabulary and early settlers developed tourist operations around hot springs. By 1880 the Crown had acquired the township land and some of the nearby land containing hot springs.
- 2.119 In 1880, the Crown negotiated an agreement with another iwi related to the establishment of a township near geothermal attractions in Rotorua. The Thermal Springs District Act 1881 was enacted to implement that agreement and for related purposes. The Act authorised the Crown to proclaim districts in which there were a considerable number of "ngawha, waiariki, or hot or mineral springs, lakes, rivers or waters". Once a district had been proclaimed land within that district could be alienated only to the Crown.
- 2.120 In October 1881, 640,000 acres of the central North Island was proclaimed under the Act, including almost 30,000 acres in the northern Taupo district. This area encompassed geothermal features on the Rangatira, Wairākei and other blocks. Ngāti Tūwharetoa were not consulted about the Act or its application to their lands and they protested against it, but it remained in force over their lands. The township at Taupo had already been established, and the application of the Thermal Springs Act over Taupo lands therefore served mainly as another form of pre-emption. By 1894 the Crown had purchased interest in at least five of the blocks proclaimed under the Act at Taupo. The Act remained in force until 1908 and Crown purchasing in the area subject to the Act continued until 1906.

NGĀTI TŪWHARETOA AND TE ROHE PŌTAE

Te Rohe Pōtae

- 2.121 The conflicts of the 1860s had a long term impact on Ngāti Tūwharetoa, many of whom continued to support the Kīngitanga after the wars. The southern and western part of Ngāti Tūwharetoa's rohe - from the Tauranga-Taupo River on Lake Taupo around to the Whangamata River - where Kīngitanga support was strongest was included in Te Rohe Pōtae, also known as the King Country. The Kīngitanga sought to maintain their autonomy behind their aukati ('border') and excluded Crown authority from Te Rohe Pōtae for nearly two decades after the war. Surveying, road making, and the courts, including the Native Land Court, did not extend to Te Rohe Pōtae until the 1880s.
- 2.122 At various times from the late 1860s, colonial governments negotiated with those among the Kīngitanga who had not made a formal peace with the Crown and sought to maintain their autonomy, as the Crown sought to establish its authority in Te Rohe Pōtae. It sought to detach those Ngāti Tūwharetoa who supported Kīngitanga and other iwi on the edges of Te Rohe Pōtae from their allegiance to the Kīngitanga movement. The Kīngitanga opposed the construction of roads and the work of surveyors within Te Rohe Pōtae. Some Ngāti Tūwharetoa hapū accepted the Crown's request to construct roads, but others remained loyal to King Tawhiao's prohibition and considered that roads challenged the autonomy and authority of iwi.
- 2.123 It was not until the early 1880s, however, that the first of several agreements were reached between the Crown and the leaders of Te Rohe Pōtae iwi. The alliance of 'four tribes' negotiating with the Crown was supported by some Ngāti Tūwharetoa rangatira, including Matuaahu Te Wharerangi, Kingi Te Herekieke, Te Papanui, and Hītiri Te Paerata. In 1883 and 1884, the Crown and Te Rohe Pōtae iwi entered into a series of negotiations and agreements that, according to some iwi traditions, were later regarded as 'Te Ohaki Tapu', a sacred compact with the Crown under which they would work together to secure the Crown's objectives of opening up Te Rohe Pōtae and constructing the North Island Main Trunk Railway, while preserving Māori rangatiratanga in the district, including maintaining tribal management of their lands.
- 2.124 An agreement for an exploratory railway survey was reached on 16 March 1883 under which the Crown agreed to prevent title surveys and to consider Māori proposals for reform of the land laws. Following this, the objectives of Te Rohe Pōtae iwi, including Ngāti Tūwharetoa, were encapsulated in a petition to Parliament that expressed grave concerns about the possible impact of the existing native land legislation and the Native Land Court on their property and their way of life, if the Crown's authority was exerted over their territories. In the English translation, they asked, "what possible benefit would we derive from roads, railways, and Land Courts if they became the means of depriving us of our lands?" The petition called for significant alterations to the existing native land system that they considered necessary to protect their interests, including provision for greater involvement in decision-making by Māori landowners. The petitioners expressed a willingness to lease lands for European settlement, and to cooperate with other developments, and asked that a new law "secure our lands to us and our descendants for ever, making them absolutely inalienable by sale".
- 2.125 Some Kīngitanga objected to the inclusion of land within the Kīngitanga aukati in the proposals of the Rohe Pōtae tribes. Horonuku Te Heuheu petitioned the Crown in August 1883 to complain about "excessive" fees charged by lawyers in the land court and the inconvenient location of land court sittings. He also objected to the boundaries proposed by the Rohe Pōtae tribes which he said encroached on Ngāti Tūwharetoa's rohe without his consent.

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2.126 At Whatiwhatihoe on 30 November and 1 December 1883, Native Minister Bryce and representatives of and other Te Rohe Pōtae iwi, including Ngāti Tūwharetoa, agreed to a formal survey of the external boundary of Te Rohe Pōtae. In a letter of 19 December 1883 to the government they confirmed that the survey was "in order that a Crown grant may issue to us," and that "this agreement must not be altered by any other arrangement or by any future government". The total cost of the survey was also agreed. The government replied the same day, confirming these terms. The Crown grant for Te Rohe Pōtae was sought with a view to the establishment of tribal kōmiti to manage the land under reformed native land laws. Whereas the Kīngitanga opposed the Native Land Court, the Crown intended to open up the area for the railway and allow the introduction of the Native Land Court and Pākehā settlement. The leaders present at Whatiwhatihoe felt they had little choice, but to agree to have the whole block surveyed by the government and held under a Crown grant, as the Native Minister had said he was unable to "hold back the Court any longer" when other Māori applied to have their interests in land in the area investigated by the Court. As part of its agreements with Te Rohe Pōtae iwi, the Crown had been holding back applications for investigations of title for lands with Te Rohe Pōtae. During 1884 further requests were received from other Māori for Native Land Court investigations of title for lands within Te Rohe Pōtae. This eventually led to Native Land Court title investigations to all of the land within Te Rohe Pōtae.

**TAUPŌNUI-A-TIA: TE ROHE PŌTAE O NGĀTI TŪWHARETOA**

**The Taupōnui-a-Tia Native Land Court Application, 1885**

2.127 Tensions between the different tribal communities of Te Rohe Pōtae were exacerbated by the survey of the external boundary of the Te Rohe Pōtae for a Native Land Court claim. Horonuku Te Heuheu and other Ngāti Tūwharetoa Kīngitanga opposed surveys. Horonuku Te Heuheu rejected the Rohe Pōtae boundary being surveyed as he perceived it as one that cut Ngāti Tūwharetoa's rohe in two, bisecting it and Lake Taupo from Whangamata River to Tauranga-Taupo River. The survey necessarily excluded land in the north and east of Taupo which was not part of Te Rohe Pōtae or Taupo Kīngitanga territory, as most of it had already been investigated by the Native Land Court.

2.128 In 1884 and 1885, the introduction of roads and settlement to Tokaanu and southern Taupo was a matter of discussion between Ngāti Tūwharetoa and the Crown as well as within the iwi. In 1884, Ngāti Tūwharetoa Kīngitanga opposed the extension of a government road beyond the Tongariro River towards Tokaanu, leading to 100 Armed Constabulary being brought to the district to oversee the construction of the road. In February and in May 1885, the Crown met with Ngāti Tūwharetoa at Tokaanu to discuss establishing a township based around the geothermal springs there. The proposal, along with related issues of roads, surveys, and settlement, was strongly debated within the iwi. Most resident Ngāti Tūwharetoa rangatira opposed the township. It did not proceed at that time.

2.129 Ngāti Tūwharetoa Kīngitanga reasserted their support for Kīngitanga principles at a large hui convened at Poutū in September 1885 and attended by 1,000 people, mainly from Ngāti Tūwharetoa. All present at the hui, with the exception of that part of Ngāti Tūwharetoa on the eastern and northern sides of Lake Taupo, supported the resolutions opposing the Native Land Court and resolved to allow no surveys or sales of lands within the district. The Ngāti Tūwharetoa Kīngitanga strongly supported the Kīngitanga's request for reform of the native land laws with a view to the establishment of Māori Committees to 'rule and manage all the business of the [North] Island, also under the mana of Tawhiao'. To that extent the Kīngitanga had similar aspirations to



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the Rohe Pōtae alliance but many of those at Poutū opposed the survey then being undertaken of the boundaries of the Rohe Pōtae block.

- 2.130 At the Poutū hui, Horonuku Te Heuheu spoke out against the splitting of Ngāti Tūwharetoa lands with survey boundaries. He instead sought to keep the iwi's lands intact:

*My boundary is like a kiwi's egg lying before me, and it is not yet broken, and I wish the kiwi to hatch it. I have given the boundary and the land to him [King Tawhiao]; my mana is also with him. ... When it is hatched it will come forth. ... Listen! This is the day my egg shall be hatched, it matters not whether through a lease, a sale, or adultery. My boundary is the former one. If my egg is not hatched today I shall talk to the whole of us; I shall not throw it away. Rotten men and rotten land should be buried in a graveyard. This is the day the king is to be established.*

- 2.131 The metaphor of the kiwiwaka is of great traditional significance for Ngāti Tūwharetoa: the male kiwiwaka cares for the egg and assists it to hatch. If he does not assist the chick to break the egg in two, it picks at the shell and leaves it in fragments. Horonuku Te Heuheu sought to keep the land of Ngāti Tūwharetoa intact and to avoid it becoming fragmented.
- 2.132 In 1885, Native Minister Ballance was promoting reform of the native land laws. At meetings in that year he proposed to give Māori powers of self-government, enhance the role of Māori kōmiti in title determination, and establish a system for communal land management. Measures along these lines had long been sought by Ngāti Tūwharetoa and other iwi of Te Rohe Pōtae. The meetings with Ballance generated considerable "good will and expectation" among the iwi of Te Rohe Pōtae. Ballance's proposals were subsequently considerably modified and enacted in the Native Land Administration Act 1886 which failed to meet key Māori expectations regarding the role of kōmiti in title determination (which remained the sole responsibility of the Native Land Court) and in the management of the land (which was vested in Crown commissioners). Because of these, amongst other reasons, the legislation was rarely used by Māori and was repealed in 1888.
- 2.133 In October of 1885, Ngāti Tūwharetoa applied to the Native Land Court in the name of Horonuku Te Heuheu and thirty-seven leading rangatira for the ascertainment of title within the Taupōnui-a-Tia block, which included an eastern portion of Te Rohe Pōtae. Ngāti Tūwharetoa likely made the application due to a combination of factors. These included dissatisfaction with the surveying and claiming of Te Rohe Pōtae by the alliance of Te Rohe Pōtae iwi, Ballance's 1885 promises to reform the native land laws, and the belief that the Native Land Court could not be kept away from their lands for much longer, as many applications had already been made. The government had responded to Te Heuheu's anxiety over the Te Rohe Pōtae survey by advising him that it was by the "Native Land Court alone" that ownership to the land could be determined.
- 2.134 Crown officials promoted the application, lobbied iwi members to support it, and held back more than 100 separate applications for Taupōnui-a-Tia lands so that the single application for the whole block could proceed as soon as possible. The application fit well with Crown objectives to counter the resurgent support for Kīngitanga and to acquire land near the North Island Main Trunk Railway line, as well as acquire particular features such as geothermal lands and Tongariro. Some Ngāti Tūwharetoa later protested that notification of the hearing in the Gazette published in Auckland in early December 1885 was insufficient for those who lived some distance from the hearing at Tapuaeoharuru beginning on 14 January 1886.

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2.135 Taupōnui-a-Tia was intended to define the external boundary of the "Rohe Pōtae" of Ngāti Tūwharetoa. The applicants, other iwi, and Crown officials understood this to be its intent. The sketch map submitted with the application covered an estimated two and a half million acres, centered on Ngāti Tūwharetoa lands around Lake Taupo and Tongariro. However, the native land laws did not provide for the definition of such a tribal boundary, only for title investigation and the awarding of individual interests to land. At the same time the Native Land Court had to exclude from Taupōnui-a-Tia any lands that had already been investigated by the court or which lay within the Mohaka-Waikare confiscation district. This reduced Taupōnui-a-Tia, as investigated by the Native Land Court, to what the surveyor of the block estimated to be about one and a quarter million acres.



Figure 5: Map of the Taupōnui-a-Tia Block (ML5995D)

**The Investigation and Subdivision of Taupōnui-a-Tia, 1886-1887**

2.136 On 16 January 1886, after two days of adjournments for out of court negotiations over the boundaries of Taupōnui-a-Tia, Horonuku Te Heuheu began his evidence to the

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Native Land Court at Taupō township in support of the Ngāti Tūwharetoa claim. He challenged a claim made by the leader of another iwi, saying:

<i>Na wai koe hei tuku aku whenua?</i>	Who are you to claim fires of occupation on my lands?
<i>Kei hea ou ahi ki te mana whenua?</i>	Show me your fires! You cannot for they do not exist?
<i>Kua kore, anei te ahi tapu i tupu taku tupuna a Ngātoroirangi!</i>	Behold, I show you my fires of occupation brought by my tipuna Ngātoroirangi centuries ago. Behold!

- 2.137 At this, he pointed out the window of the court to the smoke and ash to be seen erupting from Tongariro.
- 2.138 Te Heuheu said that the key tūpuna for Taupōnui-a-Tia were Tūwharetoa and Tia, and named 141 hapū with interests in the land. He advised the court that the 141 hapū descended from tūpuna other than Tūwharetoa and Tia. This meant that Te Heuheu sought to be inclusive, for while not all those named were necessarily hapū of Ngāti Tūwharetoa, they were hapū of Taupōnui-a-Tia. After less than a week of intermittent sittings, the Native Land Court awarded title to the Taupōnui-a-Tia block in favour of the descendants of Tūwharetoa and Tia only.
- 2.139 After giving judgment on 22 January 1886, the court gave Ngāti Tūwharetoa the choice of handing in names for the whole, vast block, or of subdivision. The former option required a list of alienable, unlocated, individual Māori interests in the whole block, an unwieldy option given its enormous size and very large number of owners. Alternatively, subdivision compromised the iwi's ability to control and manage their land and resources collectively. The iwi elected to proceed with subdivision.
- 2.140 On 1 February 1886, following two adjournments, the Native Land Court began to determine ownership of 163 subdivisions. A Ngāti Tūwharetoa kōmiti (committee) handled the process of drawing up the lists of names for many blocks out of court. By September 1887, following ten months of hearings, the Court made interlocutory orders for 138 land blocks, which were to become final upon surveying, and another twenty-five blocks were vested in the Crown. Some land had to be sold to defray the costs of surveying and the court process. Nine other titles remained to be investigated by a future court. It was difficult for those involved in the subdivision process to know when their land would be called, how quickly the title might be arranged, or what business the court was dealing with at various times. As a result some missed out on being included in the title to their customary lands. Others who had customary interests in lands adjoining Taupōnui-a-Tia found it difficult to attend to their Taupōnui-a-Tia interests because their interests in other lands were investigated at sittings held at distant venues such as Whanganui, Rotorua, and Napier at the same time as the Taupō court.
- 2.141 The Ngāti Tūwharetoa kōmiti involved in making out-of-court arrangements for the subdivision process was not able to manage the subdivision of the extensive Taupōnui-a-Tia West blocks along the west of Lake Taupō as it wished. Ngāti Tūwharetoa sought to acknowledge the interests of neighbouring Te Rohe Pōtae iwi in the west of Taupōnui-a-Tia, but the Native Land Court struck out the claims of all who were not descendants of Tūwharetoa and Tia.
- 2.142 Hītiri Te Paerata had been unable to attend the first days of the hearing in January 1886 or participate in the out of court negotiations between iwi as he had been

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subpoenaed to give evidence in a court case being heard at Cambridge at the same time. He sent a telegram to the judge in Taupo township asking for the court to wait until he was able to attend and others at Taupo requested an adjournment until Hītiri arrived. The case, however, began without Hītiri Te Paerata and from then on it was too late for him to raise the interests he claimed through tūpuna other than Tūwharetoa and Tia. When his claim via an ancestor of another iwi was disallowed by the Court. Hītiri Te Paerata recast it through the whakapapa of Ngāti Tūwharetoa. Despite this action, his claim was unsuccessful. Hītiri Te Paerata and his people considered the Native Land Court's decision to be unjust and campaigned to have it changed.

- 2.143 The court's exclusion of neighbouring Te Rohe Pōtae iwi from Taupōnui-a-Tia West titles, despite Ngāti Tūwharetoa's desire to include them, caused lasting harm to inter-iwi relationships. It resulted in Ngāti Tūwharetoa right-holders being excluded during the 1888 subdivision of the adjoining Aotea block. This occurred despite the Native Land Court's inclusion of Ngāti Tūwharetoa in its 1886 Rohe Pōtae judgment.
- 2.144 Some members of Ngāti Tūwharetoa and other iwi complained to Members of the House of Representatives about the conduct and conflicts of interest of Crown officials involved in the Taupōnui-a-Tia hearings. One petition protested the injury caused by these officials who were 'officers of the government, officers of the court and commissioners'. One such official, who for a time acted as court interpreter and clerk, was employed as a Crown land purchase officer and had land and business interests in the area. Married to a Ngāti Tūwharetoa woman of mana, he also assisted claimants in court via his family connections. Another Crown official paid the court fees owed by some Ngāti Tūwharetoa claimants.
- 2.145 In another instance in 1887, the Native Land Court required a witness to exhume the graves of some of those killed in the Waikato War in order to prove the existence of an urupā. When the witness protested that the bodies were "very sacred" the judge said this was "nonsense".
- 2.146 The ten months of Native Land Court sittings for Taupōnui-a-Tia at Taupō Township in 1886 and 1887 were a strain on the resources of local Ngāti Tūwharetoa. They were obliged to provide food and shelter for large numbers of those who attended the court at Taupō Township, where locally-produced food supplies were scarce and the price of store-bought goods was high. Other Ngāti Tūwharetoa had to travel far from their homes and cultivations to attend the hearings, which was a strain on their resources. In March 1886 the Crown was informed this would lead to "considerable scarcity in the ensuing winter". Te Heuheu's request to adjourn the court to Waihi, 'that it might be heard in my house, because the principal blocks belong to me' and where fertile lands with extensive cultivations were better able to support those attending court, was rejected. The local doctor reported more than six-hundred cases of illness among Māori at Taupō during the first hearing in early 1886, including an epidemic of whooping cough. Later that year the Resident Magistrate reported on the "considerable amount of sickness", adding that "especially during the Land Court, there have been an exceptional number of deaths".

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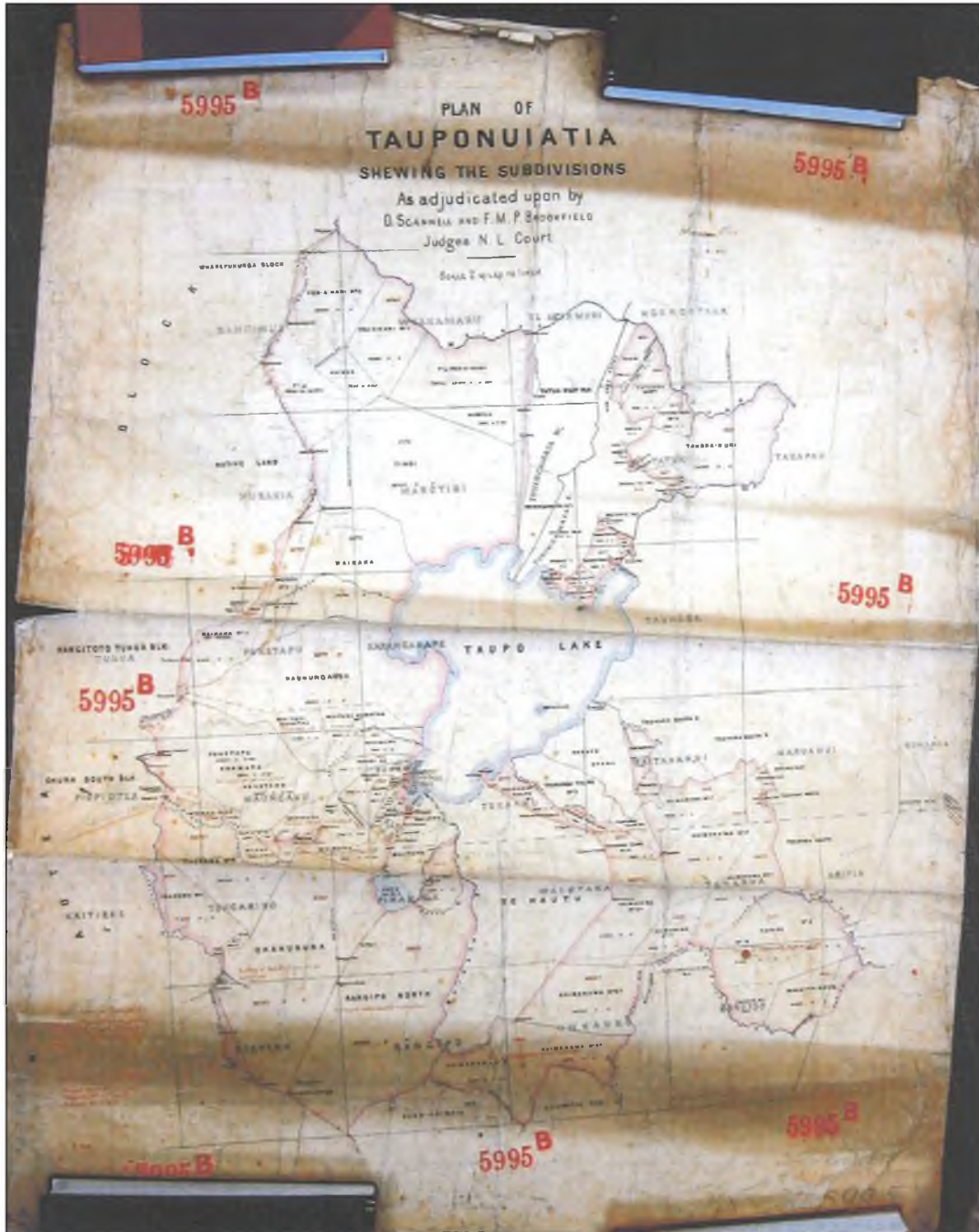


Figure 6: Plan of Tauponuiatia Shewing the Subdivisions [sic] (ML5995B)

Appeals and Protests, 1888-1891

2.147 One in five Taupōnui-a-Tia titles were the subject of formal protests by hapū and rangatira of Ngāti Tūwharetoa and other iwi. Objections to the title investigation and subdivision process began before the Taupōnui-a-Tia hearings had even finished. Many of these were rejected as "premature", as they preceded the title orders of September 1887. After the title orders were issued, twenty-one objections were considered by the Native Land Court in 1888 as applications for rehearing of various Taupōnui-a-Tia blocks. Rehearing was the only form of appeal against a decision of the Native Land Court at this time, as the Native Appellate Court was not established until 1894. Only one of the twenty-one requests for rehearing was granted.

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- 2.148 Seven petitions were submitted to the Crown in 1887 and 1888 by members of Ngāti Tūwharetoa and other iwi disputing their exclusion from titles awarded in the Taupōnui-a-Tia block. In July 1889, the Crown appointed a royal commission to enquire into the boundary between the western Taupōnui-a-Tia block and the Aōtea block. Its findings led to a reinvestigation of some blocks along that section of the boundary from 1890 to 1891.
- 2.149 The completion of the titles of the boundary blocks in 1891 prompted further petitions from Ngāti Tūwharetoa protesting at the Taupōnui-a-Tia title process. In 1891, the Native Affairs Committee recommended the Crown inquire into 'the whole question of the Taupōnui-a-Tia block', adding 'if it is found that the merits of the case warrant such a course, a special commission should be appointed. This, the Committee think, would be the best mode of finally settling all the difficulties in connection with the block in question'. The Crown did not establish a new commission to inquire into Taupōnui-a-Tia.

**Crown Purchasing, 1886-1900**

- 2.150 Ngāti Tūwharetoa preferred to lease rather than sell their lands. In the early 1880s, they leased out several large blocks in eastern and southern Taupō as sheep runs. In the Okahukura run, they were involved as lessors and business partners with the lessees. By this time the Crown only wanted to purchase land, and during the Native Land Court sub-divisional hearings it began negotiations in January 1886 with the aim of purchasing "as much land as possible" in Taupōnui-a-Tia.
- 2.151 Various pieces of legislation provided for Crown pre-emption between 1884 and 1887. From 1888, the Native Lands Frauds Prevention Act 1881 Amendment Act 1888 introduced a modified form of Crown pre-emption that prevented the lease or sale of Taupōnui-a-Tia lands to anyone other than the Crown unless title had been issued to twenty or fewer owners and the land had been in their ownership for at least forty days. Legislation passed in 1889 imposed full pre-emption over parts of south-western Taupōnui-a-Tia. These Acts applied to Taupōnui-a-Tia until 1894. Under pre-emption the Crown was a monopoly purchaser, and it sought to purchase land in Taupōnui-a-Tia as cheaply as it could. The Crown did not make use of an independent valuation process until 1905. The prices the Crown paid for the land were a key factor in the amount of land alienated to cover the costs of securing title to the block.
- 2.152 In addition to the unavoidable costs of travel, accommodation, and food associated with attendance at Native Land Court hearings to obtain title, survey costs were a burden for some Ngāti Tūwharetoa. In the late 1880s and 1890s, survey costs in the Taupōnui-a-Tia block lands were charged against the land as liens, and also paid for in land. Ngāti Tūwharetoa sought to discharge their debts by selling land to the Crown. About 300,000 acres of Taupōnui-a-Tia land were sold in order to 'pay off the cost of survey both of the External and Internal boundaries of their "Rohe Potae", also to pay off the cost of hearing by the Native Land Court'.
- 2.153 In addition to survey costs, debts included money personally owed to Crown land purchase agents and store debts potential sellers had incurred pending the sale of their land; these were tactics employed by a land purchase agent. The agents also paid 'bonuses' to some owners to facilitate purchasing. Ngāti Tūwharetoa made complaints about the actions of these agents to the Crown, but they were not investigated at the time. However, the actions of these agents in relation to one block were one of the issues considered by the 1889 royal commission. One of the commissioners said he did not consider 'bonuses' to have been improper action as they had been used in earlier Crown purchasing and remained common in private transactions at the time. Crown officials considered the purchase agents did not have the authority to make

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these kind of arrangements. At the time and subsequently such bonuses continued to be paid as part of Taupōnui-a-Tia Crown purchasing.

- 2.154 The cost of survey varied within the central North Island region. The survey of some subdivisions of Taupōnui-a-Tia accounted for between a quarter and over a half of their sale value. Ten Taupōnui-a-Tia blocks were sold to pay for the cost of the original Taupōnui-a-Tia survey. In the Tauranga-Taupo No. 3 block (8,432 acres), the Crown was awarded Tauranga-Taupo No. 3A (4,832 acres) to pay for the block's survey. In the Rangipō North parent block (81,811 acres), the Crown was awarded 18,875 acres from Rangipō North No.s 1A - 7A to cover survey costs of £1,681 3 d for the parent block. Surveys were often expensive, sometimes unnecessary, and sometimes a source of confusion and dispute. In 1891, Tūreiti Te Heuheu told the Native Land Laws Commission:

*Now there are some blocks in Taupōnui-a-Tia West that were surveyed in 1886 ... but up to the present we have been unable to cut off any portion of this land to pay for these surveys, owing to the difficulty I have just mentioned [Crown pre-emption in the Rohe Pōtae and Taupōnui-a-Tia districts]. Therefore for four-and-a-half years these surveys have remained unpaid, and of course interest has accumulated .... Then, as these restrictions on the land are the cause of the surveys not being paid, they have at the same time the effect of increasing the amount of expense with which the Natives are saddled. Now, the owners of those blocks have long wished to have the matter settled - that is to say, to have portions cut off to pay for the subdivision - but they have been unable to do so owing to the restricted market; and the owners have repeatedly requested the Government to settle this matter, but up to date nothing has been done. This delay, of course, has raised the amount of interest they will have to pay. ... the delay in that payment has not been their fault, but that it is rather the fault of the Government and of the laws.*

- 2.155 The prices the Crown agreed to pay for land were generally arrived at by it setting a maximum price that it was prepared to pay for each block of land. Crown land purchase agents on the ground then attempted to persuade landowners to accept prices at or lower than the maximum. When the Crown began purchasing Taupōnui-a-Tia lands in January 1886, it instructed its land purchase agents to pay an average of one shilling six pence per acre due to its view that "the country is not of good quality and the area proposed to be purchased is large". Even a small rise in price per acre would have a big impact on total expenditure. The Crown also proposed that purchase payments be "spread over a number of years". The same year, Crown purchase agents advised that the prices they were offering in Taupō were too far below those offered by private interests in the area to tempt owners into selling. One agent said that private parties had offered as much as fifteen shillings an acre for some land in the Rangatira block, which the Crown was seeking to purchase in its entirety for four shillings per acre.
- 2.156 Ngāti Tūwharetoa had been offered six shillings per acre for the 'mountain portion' of land in the Rangipō North and Ōkahukura blocks. As land purchase agents considered this to be 'some of the best land fit for settlement in the district,' they advised a higher price was required. Another official advised these two blocks were worth five and seven shillings per acre due to the tourism potential of the mountains while the rest of the land in the two blocks was "very good second class pastoral country". In response, the agents were then instructed that they could offer five shillings per acre as the "extreme limit" for these 'special blocks'. This rate was paid for the Ōkahukura No. 7 block purchased in 1886. In most subsequent Taupōnui-a-Tia purchases, including

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later Okahukura purchases, however, the Crown succeeded in paying lower prices. The Okahukura No. 8 block was purchased for three shillings an acre in May 1887, and, in the Rangipō North block, a large area was acquired by the Crown at a rate of two shillings per acre to discharge survey costs. The Under-secretary of the Land Purchase Department reported in 1888 that the previous year he had 'succeeded in obtaining land in payment of surveys on terms which are very advantageous to the Crown'. In 1887 he had obtained an order from the Native Land Court for nearly 12,000 acres in the 'best part of Tuhua Waihaha' for survey costs at two shillings an acre, observing: 'My object in contending for so low a price is that it will practically fix [the] price in other portions of the block'.

- 2.157 Ngāti Tūwharetoa sought what they considered to be fairer prices, but they were confronted by large survey costs and debts arising from the Taupōnui-a-Tia title investigations, and lacked any alternative purchaser to the Crown. Describing their situation, Tūreiti Te Heuheu told the Native Land Laws Commission in 1891:

*If the land is not very good land there is nothing to stop the Government from fixing the price at any sum they like - say 1s or 1s 6d an acre. That, of course, comes about through the market being restricted to only one purchaser, and that one the Government themselves. No matter how hard the Natives fight for a larger price, they are unable to alter the Government's intention. But, on the other hand, if the public market were open to the Natives there is no doubt that they would obtain competitive prices for their land, and thus would very often get more than the Government chose to offer.*

- 2.158 Another prominent Ngāti Tūwharetoa leader, Tōkena Kerehi, told the commission that the present system was '*kohuru (murdering)*', for this 1s 6d is too small a price. We sold one piece of land at 5s an acre, and that is the only piece we consider we got properly paid for.'

**Lack of Reserves in the Taupōnui-a-Tia Block**

- 2.159 The Crown's support of the 1885 Taupōnui-a-Tia title application enabled it to initiate the 'acquisition on behalf of the Crown of lands in the interior of the North Island' for settlement or tourism purposes when title was awarded. A local Member of the House of Representatives proposed to the Crown in January 1886 that 'every endeavour should be made to settle the native tribes of Taupo permanently on portions of their tribal lands' which he asserted could 'only be done by passing their lands through the court and individualising their titles thereto as thoroughly as possible.' Native Minister Ballance agreed and responded that 'after making ample reserves for the natives, a large extent of country' should be acquired. However, no land was set aside as reserves for Ngāti Tūwharetoa from the Crown's purchases before or after purchasing commenced in 1886.
- 2.160 In 1887, owners who lived on the Taurewa block sought a reserve for their houses and cultivations. Land in the Taurewa block was, however, purchased without any reserves being made. A reserve of 100 acres was agreed in the Whakaipo block (500 acres) in 1886 in order to preserve an urupā and kāinga. The Crown did not make the reserve after it had purchased the block. When the owners later protested, one of the two purchase agents involved denied having agreed to the reserve and the Crown advised the owners of this. The other agent agreed a reserve had been promised, but this information was not provided to the owners, whose kāinga and urupā were included in the Crown's purchase.



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- 2.161 The Crown did not systematically assess whether its land purchases left any Ngāti Tūwharetoa with insufficient lands for their needs. In 1883, the Taupo Resident Magistrate warned that the government needed to act to prevent Ngāti Tūwharetoa of northern Taupo being rendered landless, but purchasing in the area continued. In 1886, the owners of the Rangatira block in northern Taupō protested to the Crown that 'they had no other land included in the Taupōnui-a-Tia external boundary,' and asked that the Crown cease purchasing, and accept a refund of the advances it had already paid. The Crown instead purchased 1,850 acres in the block to discharge survey costs, and instigated a further purchase. In 1897, owners in the Oruanui block asked the Crown to exchange land they owned at Wharetoto for Crown land beside their papakāinga at Oruanui. Although such exchanges were provided for in the Native Land Act 1894, the Crown considered this exchange was not in its interests.
- 2.162 In 1894, nationwide pre-emption was restored under the Native Land Court Act 1894 and remained in place for the rest of the nineteenth century. The period from 1894 to 1900 saw the Crown complete significant purchases in Taupōnui-a-Tia, principally in the Ōkahukura, Rangipō North, and Waihaha blocks. During this time, the Crown also all but completed purchasing for the mountain blocks: Tongariro No. 1C and No. 2C, and Ruapehu No. 1B and No. 2B. By 1900 the Crown had acquired more than 430,000 acres of Ngāti Tūwharetoa land.

**THE TONGARIRO NATIONAL PARK**

- 2.163 Ngāti Tūwharetoa have provided the following words about Horonuku Te Heuheu:

*"E kore te ringa tangata e tineia te ahi tapu o taku maunga"*

No human hand can ever extinguish the sacred fire of my ancestors on the land

Nā Mananui

For Te Arikitunga, upholding the legacy laid down by Ngātoroirangi was an inherent responsibility that transcended all other matters. Every knowledge system within Ngāti Tūwharetoa had an ideological basis in this world view. It was one of formal acknowledgement and systemised kinship with all things within the cosmos, held together and governed by a very rigid set of rules, by tikanga and kawa. These whakapapa relationships were the foundation upon which our actions were based. It necessitated that we protect, nurture, maintain and respect all within our world, and through the knowledgeable application of all these knowledge systems, we upheld the mana and mauri of the people and all we identified and defined as being of significance. This was the fundamental basis of the nineteenth century Ngāti Tūwharetoa worldview.

Horonuku, as Ariki, was bound by a code beyond normal people. He operated within a paradigm handed down over many generations of chiefs stretching back to Hawaiki and beyond. His was a worldview whose knowledge base was tap-rooted in the sacred teachings of our highest schools of learning within Tūwharetoa and other iwi.

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Koinei te kupu a Io:

*He tā e Rī kia tini  
Haehae ō rātou kahukahu  
Kaua ngā kiri, ngā kikokiko, ngā whēua rānei  
Otirā ngā wāhi katoa o te tinana  
Engari pūpuritia te tinana  
E koe e te tāne, e te wāhine  
E te tamaiti, e te kōtiro; kia ū, kia ū'*

Io spoke:

Oh son, The Screen, thou will possess the strength of thousands  
You will remove the foetus  
But not the skin, nor the flesh, nor the bones  
Nor any part of the body  
Cherish your bodies and keep them inviolate  
Oh ye men, oh ye women  
Oh ye youth, oh ye maids; Be steadfast, be steadfast!

This means mankind would have physical knowledge of its body but of its soul (the foetus), it would have no memory. Herein is the root meaning of the single world 'Ariki'; Rī is the protector. Kī is the single unspoken world of Io, God. A - Ri - Ki means 'To be as the protector of the unspoken word' or 'The protector of the way of god'. This is its sacerdotal meaning. Its practice on the ground derives from this philosophy. The job of the ariki is to protect the soul of his people; anything that interferes with that MUST be addressed. It is not a choice, it is an imbued responsibility.

Horonuku was a product and disciple of this worldview. An orator, a warrior, an historian, a scholar, a philosopher, a deeply spiritual man, and a leader; a man who knew no superior, and a man who carried a legacy that was tapu (sacred). Yet as a man, Horonuku had to navigate all he and his iwi held precious through one of the most tumultuous times of upheaval in Ngāti Tūwharetoa's history. Given the pressures of the time, war, land confiscations, land alienation, Horonuku had every reason to believe that the Tongariro mountains were under threat.

The Tongariro maunga were and are tribal symbols. Their mana is the iwi's mana, of which Horonuku, like every other Ariki before him, was the titular head. The three mountain peaks of Tongariro are named for the successful conclusion of Ngātoroirangi's spiritual journey on the pathway of Io. Horonuku's overriding obligation as Ariki was to preserve the tapu (the sacredness) of the mountains. Protecting for him, meant making them off limits.

From Horonuku's cultural paradigm, the mountains philosophically were 'ungiftable'. Ngāti Tūwharetoa did not own the mountains. Ngāti Tūwharetoa belong to them, we descend from them through our whakapapa, they are the essence of who we are.

Giving away the spiritual fount of Tūwharetoa, the Tongariro mountains, was not in Horonuku's framework of reference. He would have rather suffered death than give them away.

If Horonuku could have spoken of the duty he was called on to fulfil, what would he say?

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*It is I Horonuku, I who was raised steeped in the highest esoteric and exoteric knowledge systems, I who have spoken to my tūpuna and them to me, I who knows this land with an intimacy of that between a mother and son, I who fought with Rewi, and again at Te Pōrere. I look to the very corners of our lands and call once more to my tūpuna to guide us.*

*Wherever I turn my people and all we hold precious are under siege. We who carry a whakapapa borne upon the breath of Gods, we who are intrinsically connected to the cycle of life, to the forests, the waterways, from the land to the sky, from the rising sun to its setting, to the deities, guardians of all within, so stand I, Horonuku, son of Mananui, descendant of Ngātoroirangi.*

*We are besieged by a people who do not care to understand us, and our connection to all things both tangible and intangible within our environment. It is a shadow, which creeps across our world, carrying with it a rapacious need to own; that which cannot be owned. It has no understanding of tikanga, kawa, tapu and noa, our value systems, like us, are no more than obstacles to their desires.*

*What fate awaits our people? What fate awaits Tongariro? How long before this shadow reaches into the very depths of what we hold tapu, the place of our ancestors, our stories, our very identity is threatened until the voice of Ngātoroirangi is forever silenced and his deeds are submerged in the stampede of surveyors.*

*Oh Tongariro, my tūpuna, standing alone above our lands, shrouded in the mists of our people and their stories. Your majesty gnarled and battle scarred reaching to the sky. Ancient stories of bygone battles etched into your torso. Thunder and lightning relive the time before man, back to when the great mountains fought for the hand of Pihanga. It was you who emerged victorious. A story of love and devotion that spanned millenniums, from the ancient mists of time, for a time where the mountains ruled the land.*

*This is my world, the world of Tūwharetoa, it is the genesis of who and what we are, encapsulated within are our tribal memories and our identity, carried through each generation upon the memories of a people's collective consciousness.*

*Oh Tongariro, my tūpuna, your breath is mine, as mine is yours. Every facet of your majesty reflects and reinforces our complete interconnectedness. Each shadow holds a story; each breeze carries the whispers of yesterday. Oh Tongariro the source of all things, of life giving waters, of identity, of existence. Oh Tongariro, the Warrior Mountain, the very soul of Tūwharetoa how do I protect you in these tumultuous times? For it is now left to me, Horonuku, to protect you, as you have given us life, I too will ensure the wellbeing of yours.*

### **Tongariro - Ngā Pae Maunga Tapu**

- 2.164 The origins of Tongariro National Park have long been misunderstood. The received version of the park's founding is that Horonuku Te Heuheu Tūkino II agreed to support the government's goal of establishing the country's first national park around Tongariro and, as a gesture of goodwill, generously made a "noble gift" of the three mountain peaks for the park in 1887. This misconception endures today. At the heart of the matter are profound differences between tikanga Māori and English law.

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2.165 Ngāti Tūwharetoa revere the three volcanic peaks which lie at the heart of the Tongariro National Park, and are known to them as Tongariro, Ngā Pae Maunga Tapu. The iwi consider the mountains to be taonga tapu of immeasurable significance, utterly sacrosanct and inviolable. Ngāti Tūwharetoa regard Tongariro as a tupuna or ancestor, a symbol of their identity, and the embodiment of their mana. The mountains' significance is captured in the Ngāti Tūwharetoa pepeha:

<i>Ko Tongariro te maunga,</i>	Tongariro is the mountain,
<i>Ko Taupo te Moana,</i>	Taupo is the lake,
<i>Ko Ngāti Tūwharetoa te iwi,</i>	Ngāti Tūwharetoa is the tribe,
<i>Ko Te Heuheu te tangata!</i>	And Te Heuheu is the man!

2.166 The mountains also contain many wāhi tapu including the Ketetahi hot springs - the place at which, according to Ngāti Tūwharetoa tradition, Ngātoroirangi called forth Te Ahi Tāmou (the sacred fire) to save him from the cold south wind Tongariro - and several burial caves. Following the death of Mananui Te Heuheu in a landslide at Te Rapa in 1846, the chief's body was placed in a burial cave on Tongariro.

2.167 Ngāti Tūwharetoa have always strived to safeguard the mana and tapu status of the mountains. Ngāti Tūwharetoa strove to protect Tongariro during the colonial period by strongly dissuading Pākehā from ascending or depicting the maunga, which was a breach of tapu. However in 1839 the first of many unauthorised Pākehā ascents occurred.

**The Crown Seeks to Establish a National Park**

2.168 In the 1880s, the Crown sought to establish national parks in New Zealand around Aoraki/Mount Cook and the central North Island akin to the national park that had opened at Yellowstone in Wyoming, America in 1872. Although the concept of a national park was still being developed, New Zealand officials were intent on instituting some basic principles for the parks such as the exclusion of human habitation, and public ownership in perpetuity in order to preserve wild, scenic areas from damage, particularly those with geothermal features.

2.169 In early January 1886, Crown officials expressed a desire to make the three central North Island volcanic peaks and the principal thermal springs of Taupo into inalienable reserves. Later that month, officials were directed to take steps to establish the peaks as a reserve for public purposes. Officials advised the Minister that Māori were likely to consent to this action without seeking payment.

2.170 By the late 1870s, Ngāti Tūwharetoa were struggling to stop unauthorised intrusions onto the mountains by Europeans. Crown pressure in the 1880s to 'open-up' the Te Rohe Pōtae for the construction of the North Island Main Trunk Railway line, the sale of Māori land, and Pākehā settlement intensified Ngāti Tūwharetoa's concerns that the mountains would be desecrated by European encroachment and inappropriate exploitation. In March 1886, Horonuku's concerns for Tongariro were recorded at a sitting of the Native Land Court in Taupo for the Taupōnui-a-Tia block:

*"If... our mountains of Tongariro are included in the blocks passed through the Court in the ordinary way, what will become of them? They will be cut up and perhaps sold, a piece going to one Pākehā and a piece to another. They will become of no account, for the tapu will be gone. Tongariro is my ancestor, my tūpuna; it is my head; my mana centres round Tongariro. My father's bones lie there today. You know*

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*how my name and history are associated with Tongariro. I cannot consent to the Court passing these mountains through in the ordinary way. After I am dead, what will be their fate? What am I to do about them?"*

- 2.171 According to Ngāti Tūwharetoa oral tradition, Ngāti Tūwharetoa devised a strategy at hui held at Pāpākai and Ōtūkou Marae to protect Tongariro maunga. That strategy involved appointing rangatira (chiefs) to the title of the mountain blocks to act as kaitiaki (guardian trustees) for their taonga.
- 2.172 In February 1886, after Native Land Court hearings for the approximately 83,000-acre Ōkahukura and 82,000-acre Rangipō-North blocks, subdivisions around the three volcanic peaks began.
- 2.173 From the Ōkahukura block, the Tongariro No. 1 and Ruapehu No. 1 blocks were subdivided and each awarded to seven chiefs. The Ruapehu No. 1 block was a wedge-shaped quadrant defined by a three-mile radius from Paretetaitonga (approximately 3,650 acres), while the Tongariro No. 1 blocks comprised two adjoining half-circles with a radius of two miles from the peaks of Tongariro and Ngauruhoe (approximately 7,000 acres).
- 2.174 In March 1886, mirror opposite subdivisions of the peaks occurred to the east in the Rangipō-North block: the Tongariro No. 2 block was estimated to comprise 6,949 acres, and the Ruapehu No. 2 block 4,876 acres, and each was variously awarded to seven chiefs. A 150-acre block was also subdivided out of the nearby Mahuia block and named the Ruapehu No. 3 block, and was awarded to three chiefs.



**Figure 7: Initial Subdivisions of Tongariro, Ngauruhoe and Ruapehu Mountain Peaks (1886)**

- 2.175 Ownership of the five mountain blocks was arranged by Māori outside the Native Land Court, and in total nineteen rangatira held the titles to the five mountain peak blocks. Ngāti Tūwharetoa oral tradition records that the rangatira were selected on the basis of

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their mana and whakapapa to the hapū around the maunga. Horonuku was the only one to be included in all five of the blocks.

**Negotiations to Establish a National Park Begin**

- 2.176 In entering negotiations with the Crown over Tongariro, Ngāti Tūwharetoa's intention was to protect the mountains. In March 1886, a Crown official reported that the creation of separate mountain titles around the mountain's peaks was in accordance with the Native Minister's proposal to set the mountains aside as "public recreation grounds".
- 2.177 In January 1887, Horonuku, accompanied by his son Tūreiti, met Native Minister John Ballance in Rotorua to discuss the mountain peaks. Tūreiti's recollection of this meeting, recorded in 1920, was that Ballance asked Horonuku to sell the mountains so the Crown could establish a National Park, and so the mountains could "become the property of the public of this country for all time". Tūreiti recalled that Horonuku agreed that the other chiefs could sell their interests in the land below the peaks, but then stated that "he would not sell himself because his prestige depended on his retaining these mountains which were the proud possessions of his forefathers from their very first ancestor". Horonuku asked Ballance to have Parliament pass an Act to make the peaks "sacred" and preserve them as "his own property".
- 2.178 Tūreiti's 1920 recollection also described a second meeting between Horonuku and officials in Taupo, in February 1887. At this meeting, the Under-Secretary for Native Affairs told Horonuku that the Prime Minister had agreed that the peaks should be "set aside for [Horonuku], and should be held sacred" and proposed that the "Queen should be put into the Title along with himself, so that the Crown should be represented in the Title of that partition". Horonuku agreed to this. Tūreiti's account suggests that Horonuku intended to make a *tuku taonga* (a customary gift exchange) in order to protect the mountains, and not a "gift" without conditions.
- 2.179 Tūreiti recalled that it was also decided that Horonuku and the Queen would both be made life members of a Board established to manage the park, and that Tūreiti would succeed Horonuku in this role upon his death. In March 1887, another attendee at the meeting between Horonuku and the Native Minister reported that there had been an agreement to prepare a deed which would "vest" the lands in three trustees: Horonuku, a nominee of the Governor, and a European from the district.
- 2.180 Also in March 1887, a number of newspapers announced the Crown's intention to introduce a Bill to create a National Park at Tongariro, and stated that Horonuku and the chiefs of Ngāti Tūwharetoa would make a "free gift to the Government" of the mountains and the land around them.
- 2.181 In April 1887, the Crown introduced the first Tongariro National Park Bill to Parliament which provided for the establishment of the Tongariro National Park once the land was "ceded to Her Majesty" by its Māori owners, and for the park to be administered by three trustees: Horonuku Te Heuheu, the Native Minister, and one other appointed by the Governor. The Bill provided for Te Heuheu Tūkino to hold office as trustee for life. The Bill was discharged in early June after the Stout-Vogel government was dissolved.
- 2.182 In May 1887 the government received two letters of protest, one from a Ngāti Waewae rangatira and titleholder of the Ruapehu No. 2 block who wrote on behalf of 580 others objecting to "one person" "giv[ing] away our land", and the other from a titleholder for the Tongariro No. 2 block who wrote to protest that the "transfer of Tongariro" was "wrong".

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- 2.183 In June 1887, the Native Department drafted a deed of trust for the five mountain peak blocks. The deed would vest these blocks in the Queen to hold in trust as a national park on behalf of a group of beneficiaries (Māori and Pākehā), subject to the provisions of any Act later passed for the purposes of managing and controlling the park. However, the Solicitor-General advised that the Queen could not hold property in trust and that a deed of conveyance transferring the mountains to the Queen should be drawn-up for Horonuku to sign.
- 2.184 In July 1887, the Crown's land purchase agent acquired the interests of three of the mountain block titleholders and paid them for their shares. One signatory, Kumeroa of Ngāti Waewae, only signed after the purchase agent promised to recommend that the government give him a 100 acre reserve from other land in addition to paying him for his interests. The Crown subsequently refused to provide this reserve. The Crown had not anticipated making payments to the titleholders as it understood "Te Heuheu and the principal men" would "give the mountains as a national park without payment". In August, the Crown suspended further negotiations with the Ngāti Tūwharetoa titleholders until the Native Land Court sat at Taupo in September 1887 to finalise the mountain block titles.
- 2.185 On 21 September 1887, Tūreiti Te Heuheu and three other titleholders applied to the Native Land Court to subdivide smaller circlet blocks from the mountain peak blocks, and to have them awarded to Horonuku. Tongariro and Ngauruhoe were split into the Tongariro No. 1A, 1B, 2A, and 2B blocks, and the Ruapehu No. 1A and 2A blocks respectively. In total, the six peak blocks comprised 6,520 acres. The balance of the mountain peak blocks, being Tongariro 1C and 2C, and Ruapehu 1B, 2B and 3 remained in the names of the rangatira appointed to each title. At the same time, Ketetahi Springs were subdivided out from the Tongariro No. 1 Block. Title to the springs was granted to the original seven chiefs (including Horonuku) of the Tongariro No. 1 block.

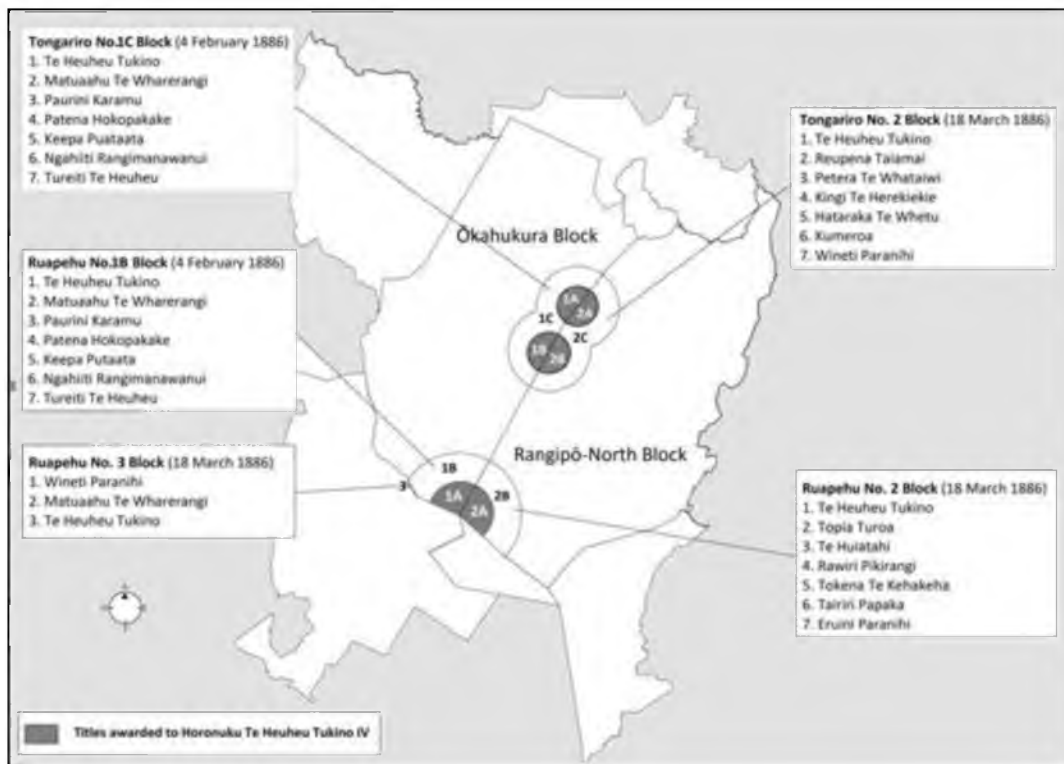


Figure 8: Circlet Subdivisions of Tongariro, Ngauruhoe and Ruapehu Mountain Peaks (1887)

2: HISTORICAL ACCOUNT

**Deed of Conveyance**

- 2.186 On 23 September 1887, Horonuku came before the Native Land Court and, according to the Court's English minutes, made an application to award the mountain peak blocks to the Crown as a "gift" from himself. Horonuku also requested that he be appointed one of the trustees to be succeeded by his son, Tūreiti, upon his own death. Horonuku then signed a deed of conveyance to the Crown for a 'nominal consideration' (which was neither specified nor paid at that time). The deed, written in English, also includes a 'Clear Statement in the Māori Language', which referred to the transaction as a 'tuku' and to Te Heuheu as 'te kai tuku' (grantor). The deed was explained to Horonuku in te reo Māori, the language in which he was fluent, by his son-in-law, who was, at the time, a member of Parliament for the Taupo region.
- 2.187 Under tikanga Māori, the concept of tuku established a reciprocal relationship that conveyed rights and imposed obligations on both sides. Horonuku intended to fulfil his inherent obligations as ariki by inviting the Queen to share in the kaitiakitanga of the taonga. In receiving an interest in the taonga, the Crown was bound to the tuku, in partnership, to do everything to ensure the future protection of the taonga, unless or until one or other of the parties gave notice of wishing to modify or terminate the agreement. This would have met Horonuku's overriding objective of protecting the mountain peaks in partnership with the Crown.
- 2.188 Immediately after signing the deed, Horonuku wrote a letter to the Native Minister which recounted his earlier discussions with the Minister about "*te Rāhui whenua ka whakatapua nei mo te Iwi ki Tongariro*" (the land assigned to be made sacrosanct and kept inviolate for the people of Tongariro). Horonuku stated that he had signed the deed for the purpose of "*tukunga atu o taua whenua hei whenua tapu mo te iwi katoa*" (the releasing of that land to be held inviolate for the people). Horonuku also made two requests: first, that the Crown erect a tomb for his father, Mananui, whose remains lay on Tongariro, and secondly, that Tūreiti be appointed trustee to succeed him after his death. The Crown accepted these conditions.
- 2.189 The English portion of the 1887 deed, and the translation of Horonuku's letter by Crown officials in 1887, translated the concept of "tuku" as "gift", and informed what has been the Crown's understanding since this time that the mountain peaks were a gift to the Crown, albeit with important conditions attached. These conditions were not fully met.

**The Tongariro National Park is Established**

- 2.190 It was several years after Horonuku signed the 1887 deed before the Tongariro National Park Act was passed in 1894.
- 2.191 In June 1893, the Crown promoted the Tongariro National Park Bill in the House of Representatives without having consulted Tūreiti about its provisions. The Bill provided for the Governor to proclaim a park once the three mountain peaks were "ceded to Her Majesty". While the 1887 Bill had provided for Horonuku to serve as trustee for life alongside two other trustees, as had been agreed, the first 1893 Bill provided only for "one of the chiefs of the Ngāitiūwharetoa tribe" to be appointed by the Governor as trustee for a term of five years, alongside four other trustees.
- 2.192 On 18 July 1893, a second Tongariro National Park Bill was introduced to Parliament. Whereas the June Bill provided for the Governor to proclaim the Park once all the land had been ceded to the Crown, the July version allowed the Governor to proclaim a Park, at which point Native title over the land would be deemed extinguished. The second Bill also enabled the Crown to use public works legislation to compulsorily acquire any areas of the Park still held by Māori owners. The second Bill still provided



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for the Governor to appoint a chief of Tūwharetoa as a trustee for five year terms, rather than for Tūreiti to be a trustee for life.

- 2.193 During a parliamentary debate on the second Bill on 28 July, it was stated that Tūreiti had sent word that he desired a postponement of the Bill until he arrived in Wellington to discuss its provisions with the Crown. Tūreiti later recalled that the Bill "had no rights for Māori". Parliamentary debate was adjourned until Tūreiti arrived in Wellington to confer on the Bill.
- 2.194 The Bill was subsequently withdrawn and translated into Māori and Tūreiti discussed it with the Native Affairs Committee. An almost identical Bill was introduced in July 1894 which continued to provide for the Park to be vested in the Crown, the compulsory acquisition of land within the park still held by Māori, and the appointment of "one of the chiefs of Tūwharetoa" by the Governor as one of five trustees. At Tūreiti's request, a preamble was added to the Bill on 15 October 1894 which referred to the 1887 arrangements. In 1920, he recalled that the Committee "undertook to have the Bill so framed that it would contain all the matters set out" in the 1887 arrangement, and he pointed to the preamble to the 1894 Act as showing "that what I say is absolutely correct". Three days later, a third version of the Bill provided for Tūreiti to serve as a trustee for life. This Bill was passed into law on 23 October 1894, and provided for the Minister for Lands, the Surveyor General, the Director of the Geological Survey, and "such other persons as the Governor shall appoint" to serve as trustees alongside Tūreiti. The Act provided for the Governor to appoint Tūwharetoa representatives to the Board on Tūreiti's death or resignation.
- 2.195 The Crown did not maintain Tūreiti's trusteeship position in the years following the passage of the 1894 Tongariro National Park Act as it had promised. In 1914, Tūreiti's trusteeship on the Board was abolished after the Crown promoted legislation to repeal the 1894 Tongariro National Park Act. The Crown did not consult Ngāti Tūwharetoa about this step which led to the iwi having no role in the administration of the park for eight years. In 1920, Tūreiti strongly protested against this arrangement, and in 1922, legislation was finally enacted re-appointing the ariki to the Board. However, he was now one of seven trustees who oversaw the park's administration.
- 2.196 Although the Crown assisted in the construction of a special vault at Waihi to hold Mananui's remains as Horonuku had requested in 1887, it did not assist Ngāti Tūwharetoa in the removal of the chief's remains from their resting place on Tongariro or in the erection of a memorial to Mananui.

**Acquisition of Ngāti Tūwharetoa's Remaining Land for the Tongariro National Park**

- 2.197 The 1894 Act provided for the compulsory acquisition of any Māori land within the area of 62,300 acres intended for Tongariro National Park (excluding the Ketetahi springs block). Although it had acquired the interests of only three owners in the mountain blocks prior to 1894, by 1903 the Crown was able to complete the purchase of the remaining interests in the mountain blocks.
- 2.198 Prior to 1894, the government had met with very little success in its efforts to purchase undivided individual Māori interests in the land designated for the national park and there remained about 39,000 acres of Māori land within the area. By 1899, following the reintroduction of Crown pre-emption, it had acquired all but about 5,000 acres of the land designated for the park. It had also acquired more than 100,000 acres adjacent to the park.

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- 2.199 When the Park was proclaimed in 1907 more than 5,000 acres of land remaining in Māori ownership was compulsorily acquired by the Crown, being part of the Rangipō North No. 8 block, part of the Ōkahukura No. 1 block, and part of the Ōkahukura No. 8M block. The Crown was required by the 1894 Act to pay compensation for lands compulsorily acquired for the park but it did not do so.
- 2.200 Tongariro National Park comprised 62,300 acres when it was proclaimed in 1907. The Tongariro National Park Act 1922 increased the size of the park from about 63,000 acres to 145,000 acres. Approximately 5,000 acres was added later in the 1920s. Large areas of adjacent land were subsequently added to the park, eventually tripling its area to the current extent of 194,000 acres (79,000-hectares). The adjacent Tongariro Conservation Area comprises 53,000 acres (21,500-hectares). Nearly all of the land added to the park after 1907 was previously acquired by the Crown from Māori for other purposes.

**Management of the Tongariro National Park**

- 2.201 In 1894, when the Tongariro National Park Act was passed, the board of trustees was to comprise of the Minister of Lands (chair), the Surveyor-General and the Director of Geological Survey, Tūreiti Te Heuheu and 'such other persons as the Governor shall appoint'. In 1914, the Crown promoted legislation which repealed the provisions of the 1894 Act and responsibility for the administration of the park was placed with the tourism department. The board of trustees, and Tūreiti's position on it, was abolished. The Crown did not consult Ngāti Tūwharetoa about this decision which led to the iwi having no role in the administration of the park for eight years.
- 2.202 In November 1920, Tūreiti protested his removal from the Tongariro National Park to officials. Tūreiti declared that he "felt very grieved over it", that he wanted to "have [his] name put back on as one of the governing people in connection with that Park", and that he would "not cease being active in connection with this matter ... and [would] continue to take steps to have [his] right asserted". In June 1921, Tūreiti Te Heuheu Tūkino V passed away.
- 2.203 In 1922, a new Tongariro National Park Act reconstituted the board of trustees; however, the number of board members was increased to thirteen, four of whom were to be appointed by the Crown. The Act provided that the paramount chief of Ngāti Tūwharetoa would be a member of the Board, but only if he was a descendent of Te Heuheu Tūkino. If the chief of Ngāti Tūwharetoa at a given time was not a descendent of Te Heuheu, the Act allowed the Crown to instead appoint a lineal descendent of Te Heuheu to serve on the Board in lieu of the chief. In 1924, the Reserves and Other Lands Disposal and Public Bodies Empowering Act allowed the Governor to appoint two further members to the Board 'during his pleasure', which increased the board from a possible thirteen to fifteen members.
- 2.204 In 1952, the National Parks Act established a two-tier system of authority for New Zealand's national parks. A central decision-making body, the National Parks Authority, was established to control the administration of all national parks in New Zealand, including the Tongariro National Park. The Authority was to comprise nine members, including four Ministerial appointees representing the Royal Society, the Forest and Bird Protection Society, New Zealand Mountain Clubs, and the National Park Boards. There was no appointee to expressly represent Ngāti Tūwharetoa or other iwi of the Tongariro National Park.
- 2.205 The second tier consisted of a newly established Tongariro National Park Board comprising eight members including the paramount chief of Ngāti Tūwharetoa,(or another lineal descendent of Te Heuheu if the current chief was not a descendent).

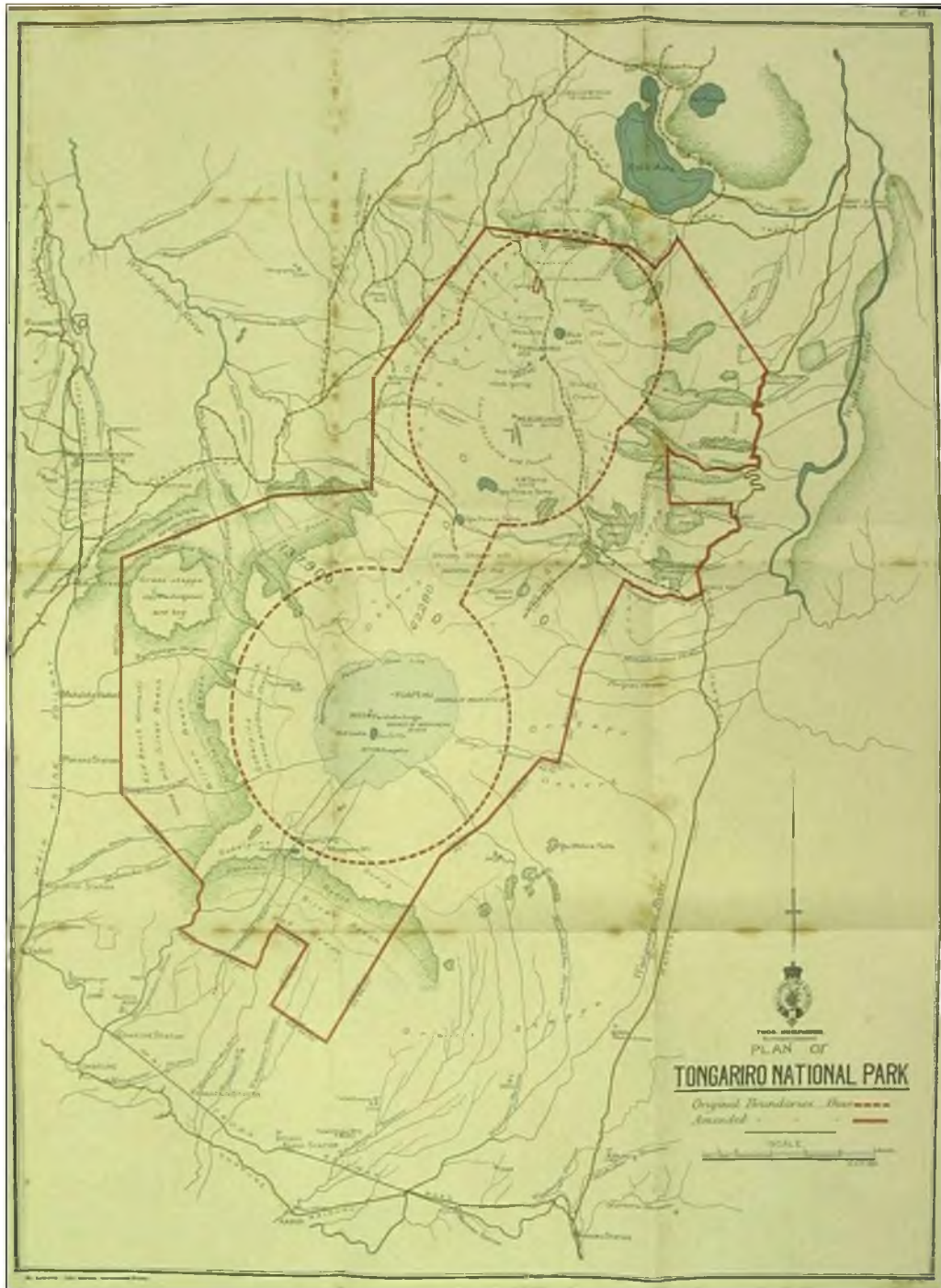
2: HISTORICAL ACCOUNT

While the Board was given the power to manage the park on a day-to-day basis, its decisions were subject to the general policy and direction of the central Authority. Although the board had fewer members than under previous legislation, the new additional tier of authority above the Tongariro National Park Board meant that Te Heuheu Tūkino's role in the governance of the park had become subordinate to the National Parks Authority.

- 2.206 As a result Mount Ruapehu has been over-developed for commercial and recreational purposes to the point of significant environmental degradation. Tapu areas, particularly the peaks of the mountains, have not been adequately protected from culturally insensitive action by visitors to the park. The park regime negated Ngāti Tūwharetoa customary rights in indigenous flora and fauna, and removed these rights in preference to the practices of non-Māori user groups. The Crown did not adequately respond to introduced threats to indigenous birds and flora at the time, which had a negative impact on Māori customary rights. In the case of one introduced pest species, heather, the Crown directly facilitated its introduction to the park and has since failed to eradicate it.
- 2.207 In 1980, the National Parks Act retained the two-tier system of governance, but disestablished the park boards, replacing them with regional boards. The regional board responsible for the Tongariro National Park became the Tongariro-Taupo National Parks and Reserves Board and comprised ten members including the paramount chief of Ngāti Tūwharetoa. Day-to-day management of the park, however, became the task of the Department of Lands and Survey.
- 2.208 In 1987, the Conservation Act saw the establishment of a new department with responsibilities to manage parks and reserves. Provision was made in the Act to preserve the statutory membership of the paramount chief of Ngāti Tūwharetoa on the Conservation Board. Consequently, Ngāti Tūwharetoa's ability to exercise their kaitiakitanga to safeguard the tapu of, and the taonga within, the Tongariro National Park from physical and cultural degradation has been limited.
- 2.209 It is a particular source of grievance for Ngāti Tūwharetoa that their hapū have been unable to exercise kaitiakitanga over the public conservation estate in their rohe, which has undermined the relationship of the hapū with their traditional lands. It has caused the hapū particular grief when they have been unable to protect the land in cases where, for example, wāhi tapu have been desecrated by the public, or recreational tracks have been placed in culturally sensitive locations.
- 2.210 There are important cultural differences between the national park concept and the Māori concept of kaitiakitanga. Acts such as the National Parks Act 1952, sought to preserve national parks in their natural state of wilderness for the benefit and enjoyment of the public while prohibiting human habitation and the removal of resources. The Act did not provide for the exercise of kaitiakitanga for the harvesting of traditional cultural resources, or for other Māori cultural values such as rāhui or the protection of wāhi tapu. The Act made it an offence to remove native flora and fauna, excluding Māori from accessing traditional cultural resources within national parks. The inability to harvest birds such as kererū and tītī has led in turn to a loss of mātauranga of the bird lore and rites associated with the traditional harvest of birds. The National Parks Act 1980 maintained the scheme of the earlier legislation of preserving national parks in their natural state without reference to the relationship of tangata whenua with the land. It was not until 1987 that the Conservation Act imposed an obligation to administer the Act so as to give effect to the principles of the Treaty of Waitangi.

**Expansion of the Tongariro National Park After 1894**

2.211 The 1894 Act provided for the Crown to compulsorily acquire any Māori land within the area intended to become the Tongariro National Park (excluding the Ketetahi Springs block). However, under the 1894 Tongariro National Park Act, the creation of the park was not final until it had been legally proclaimed, which did not happen until 1907. Between 1887 and 1894, the Crown had succeeded in acquiring the interests of only three individuals, but by 1903 it had acquired all remaining interests in the mountain blocks. The Crown proclaimed the establishment of the Tongariro National Park on 23 August 1907, comprising approximately 62,300 acres.



**Figure 9: Survey Map of the Tongariro National Park, as supplied by the Department of Conservation, 1908**

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- 2.212 Before proclaiming the park in 1907, the Crown did not identify the appropriate customary owners of all the land proclaimed, and incorrectly included more than 5,000 acres of land that it had not yet acquired from its Māori owners. This land included the Rangipō North No. 8 block and parts of the Ōkahukura No. 1 and Ōkahukura No. 8M2 blocks. Under the 1894 Tongariro National Park Act, the Crown was required to pay compensation to the owners of any lands compulsorily acquired for the park, but no such compensation was paid to the owners of the 5,180-acre Rangipō North No. 8 block. In 1949, the Crown took formal ownership of the fifty-acre Ōkahukura 1A block in exchange for other Crown land which was granted to the land's former owners. The available evidence suggests that the owners of the Ōkahukura No. 8M2 block had not received any compensation by 1952.
- 2.213 In 1925, the Crown ordered a further 4,756 acres of land to be added to the park from the Rangataua North blocks which the Crown had acquired in 1900, and came to form a substantial extension of the park's southern boundary towards Ohakune. Scenic reserves such as Rongokaupo and Pīhanga were also created and extended before eventually being included in the park.
- 2.214 During the 1950s and 1960s the Crown purchased land from the Rangataua North, Raetihi and Urewera blocks specifically for inclusion in the Tongariro National Park. In the 1970s, further large areas of land were added to the park. Today, the Tongariro National Park comprises approximately 196,500 acres, more than three times the area first proclaimed in 1907.

**The Pīhanga Scenic Reserve**

- 2.215 One of the more significant additions to the park was the Pīhanga Scenic Reserve comprising more than 12,700 acres of land between Lake Rotoaira and Lake Taupo, including Pīhanga, the maunga synonymous with Ngāti Tūrangitukua. These lands began to be acquired by the Crown in 1918, were established as a reserve in 1965, and added to the park in 1975. The reserve included land previously held under numerous Māori titles in the Ohuanga, Waipapa, Tokaanu, and Waimanu blocks.
- 2.216 The Crown began to consider acquiring land south of Lake Taupō for settlement purposes from about 1917. Around this time, Ngāti Tūwharetoa owners of blocks in the area including Tokaanu and Waipapa were taking steps to develop the land for their own use. In January 1918, after protracted negotiations, owners of the Tokaanu and Waipapa blocks partitioned them through the Native Land Court to facilitate the development of dairy farming among their people. In order to facilitate Crown purchasing, the Native Minister formally applied to the Native Land Court to have these partitions cancelled, which it did in April 1918. Several owners protested about the Crown's cancellation of their partition arrangements, with Hoare Waaka, an owner of a Waipapa block, stating in 1921 that it had caused 'great hardship and delay'. The Crown later agreed to reinstate some partitions of the Tokaanu and Waipapa blocks, on the condition that the owners sell other parts of the blocks to the Crown.
- 2.217 Between February and June 1918, the Crown imposed prohibition orders over the four blocks to prevent the owners from alienating land to anyone but the Crown. The Crown repeatedly extended prohibition orders over parts of these blocks, with some remaining in place until 1956, even though the owners rejected Crown purchase offers as too low. When it became clear that meetings of owners would reject Crown purchase offers, the Crown abandoned such meetings and pursued the purchase of undivided individual interests. Ngāti Tūwharetoa protested at the prohibition orders, pointing out in 1918 that they were "not a people who have not made gifts to the Government of New Zealand," and were "not clear why the law bears such ill will" towards them. The imposition and renewal of prohibition orders sometimes placed considerable pressure

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on owners to sell to the Crown. In the case of the Ohuanga 2B2 block, the Crown kept prohibition orders in place despite repeated requests from owners over a sixteen-year period that they be lifted and complaints to the Native Minister that the orders were preventing owners from selling valuable timber on their lands and causing 'undue hardship' to their families.

- 2.218 In 1919, a Crown report assessing the Ohuanga block stated that the 800 to 1,000 acres around the peak of Pīhanga maunga was unsuitable for farming and 'suited only for [the] National park'. The Crown sought a considerably larger area of the bush-clad slopes below the peaks. In March 1921, meetings of owners of the Ohuanga South and Ohuanga North blocks offered to gift land around the peak of their taonga Pīhanga to the Crown. They asked in return that the Crown lift alienation restrictions over other parts of the block and reinstate their desired partitions. By this time the Crown had already agreed to reinstate some partition orders, but, the day after the offer was made, the Crown informed owners that it would not lift the alienation restrictions as requested. The owners nonetheless went through with the gift, and on 15 March 1921, the Native Land Court awarded 1,236 acres around the peak of Pīhanga to the Crown, comprising 806 acres for individual interests that had been purchased in Ohuanga titles and 430 acres that had been gifted.
- 2.219 The Crown continued to purchase individual interests in the forest blocks around Pīhanga during the 1920s and 1930s. In 1927, it was reported that the areas acquired by the Crown would eventually become part of the Tongariro National Park. In the 1940s, the Crown sought to secure the remaining bush-clad Māori land around Pīhanga by proposing to exchange it for nearby Crown-owned lands that were suitable for agricultural development. In 1949, 15 parcels of land around Pīhanga were exchanged. In 1965, these lands were combined with the 21 titles the Crown had acquired through earlier purchases, along with the gift of the peak of Pīhanga. A further piece of land was added in 1968. Together, these pieces of land formed the Pīhanga Scenic Reserve, which was formally added to the Tongariro National Park in 1975.

**Te Heuheu Tūkino V, Tūreiti (c. 1865 - c.1921)**



**Figure 10: Te Heuheu Tūkino V**

(Original photographic prints and postcards from the file print collection, Box 17. Ref: PAColl-7489-07; Alexander Turnbull Library, Wellington, New Zealand)

**TOKAANU NATIVE TOWNSHIP**

- 2.220 The geothermal springs at Tokaanu were taonga to Ngāti Tūwharetoa and lent the land there great customary significance. Ngāti Kurauia and the other hapū of the Mātāpuna had large papakāinga in the area and made extensive use of the hot springs for bathing, cooking and heating cultivations. The hot springs were attractive to early Pākehā visitors and in 1874 a hotel was built at Tokaanu, near the hot springs, on land informally leased from Ngāti Tūwharetoa in order to provide access for tourists. The proprietors of the hotel operated a government subsidised steamer on the lake from June 1874 until the ship foundered at her berth at Taupo in April 1878. Ngāti Tūwharetoa complained to the government that the steamer's freight charges were too high, that they were not paid for the lakeside timber taken from their land to fuel the ship, and that the felling of the timber damaged their cultivations. In 1880, Ngāti Tūwharetoa investors joined with local Pākehā to revive a shipping service to Tokaanu using the schooner *Dauntless*. From this time the Crown sought to acquire the geothermal land at Tokaanu in order to control access to and management of the hot springs. It met with Ngāti Tūwharetoa at Tokaanu in February and May 1885 in an effort to acquire land from them for a township but, "the majority of the people offered the strongest opposition" to a township at Tokaanu and no land was acquired. By 1887 there were twenty Europeans resident at Tokaanu.
- 2.221 Securing the geothermal land at Tokaanu was a key aspect of the Crown's intentions when it encouraged and promoted the Taupōnui-a-Tia title application in 1885 but Tokaanu was among the few parts of Taupōnui-a-Tia to which title was not determined in 1886 and 1887. Through to the early 1890s the Crown continued to express interest in establishing a township at Tokaanu but was rebuffed by the local Ngāti Tūwharetoa.

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- 2.222 The Native Townships Act 1895 empowered the Crown to establish townships on Māori Land. The purpose of the Act was to open up the interior of the North Island for settlement and facilitate Crown control over areas of Māori land which it had not been able to purchase. The Crown was to take control of all land in these townships, administer it on behalf of the owners, and lease most of the land in the townships to settlers. The Crown took ownership of roads and public reserves in the townships without paying compensation to the owners. The Crown was required to make allotments of up to 20 per cent of township land to be reserved for the owners including burial grounds and buildings occupied by Māori, but did not specify reservation of mahinga kai or cultivations. Māori were to have free use of thermal springs on any land within a native township. The Native Townships Act did not require the Crown to obtain Māori agreement or even consult them before proclaiming the establishment of townships on Māori land. Tūreiti Te Heuheu objected to the Native Townships Bill before it was enacted, and visited the government in Wellington in an unsuccessful bid to have the Bill amended.
- 2.223 The Crown's determination to acquire control of the Tokaanu hot springs was one of the main reasons for establishing a native township there. In December 1895, officials met with the whole of Ngāti Tūwharetoa at Tokaanu and reported they, "seemed to be satisfied" with a township being established there but details remained to be addressed through further meetings, including the layout of streets in relation to existing cultivations. The land's owners were not determined by the Native Land Court until 1899.
- 2.224 There were difficulties in surveying the township in 1896 as Ngāti Tūwharetoa wished to reserve several areas within the town earmarked for public purposes, and some of their cultivations interfered with the layout of the township proposed by the Crown. In June 1896, "after much trouble" with Ngāti Tūwharetoa, the government surveyor of the town site submitted a map showing areas they had selected as Native reserves. The government objected to the extent and location of the reserves sought as taking in "the most valuable sites" and made its own selection "of what should be kept for them". In August 1896, a deputation from Tokaanu went to Wellington to protest to the government about the township. They met with officials who reported to the Minister of Lands in September 1896 that they had concluded an arrangement "very advantageous to the Government," and in return had made what were described as concessions to Ngāti Tūwharetoa about two urupā and the Māraakerake hot pools. Under the 1895 Act the government was obliged to reserve the urupā.
- 2.225 In October 1896, Tūreiti Te Heuheu led another deputation from Tokaanu to Wellington to meet Premier Seddon, and propose that Tūreiti Te Heuheu, three local rangatira, and Mr Grace (related to Tūreiti Te Heuheu by marriage) be appointed as a board of management to assist the Commissioner of Crown Lands in the management of the town but this proposal was rejected. The Crown instead proposed an advisory committee (excluding Grace) to "supply the Commissioner with any information he may want" when managing the Tokaanu Township. The committee was informed that if the Commissioner did not always take their advice, "it is because he is responsible and you are not". This may not have been clearly communicated to Tūreiti Te Heuheu as in 1898 he remained under the impression that he was part of a board of management rather than an advisory committee. When the committee provided advice to the Government about reserves sought by Ngāti Tūwharetoa in Tokaanu Township, sought clarity about the committee's role, and suggested meeting to resolve these matters, the Crown invited them to take any objections to the Native Land Court sitting under the 1895 Act.
- 2.226 In March 1897, the Tokaanu Native Township was proclaimed. The plan of the township covered 500 acres, in which 28 acres were set aside, well short of the



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maximum 20 per cent available under the Act (100 acres) for Ngāti Tūwharetoa for dwelling places and cultivations. Native Minister Carroll told Tūreiti Te Heuheu that the reserves were to be "a certain percentage" of the township, but this proved not to be the case. Ngāti Tūwharetoa sought further occupation reserves in the township for cultivations, their whare karakia (church) and for wharepuni ('meeting houses'), but none were made. The 1895 Act required all Māori buildings to be reserved but this requirement was not met by the Crown. Two wharepuni were required to be moved at the owners' expense to reserve lands as soon as the leases on sections on which they stood were wanted by Pākehā. Another wharepuni was to be moved at the Crown's expense from its unreserved location to a Native reserve.

- 2.227 The plan of the Township was notified in the New Zealand Government Gazette in March 1897 and provided to the Native Land Court for exhibition as required by the 1895 Act. Objections relating to the Native reserves were raised for investigation by the Native Land Court under section 9 of the 1895 Act. Te Waaka Tamaira told the Crown his people "felt very downcast," and "what they were so anxious about were the cultivations used as such by their ancestors, their parents, and themselves, and to be for their descendants, and now not one of their cultivations have been retained for them, they have all been included in the township and they feel sad ... the government should have sympathy for the owners of Tokaanu who are so old and who do not understand the position". Before the Court sat, the Crown incorrectly asserted to it that the objections made were "afterthoughts" that it had not been aware of before drawing up the plan.
- 2.228 The Native Land Court reportedly sat in Tokaanu in March 1898 to investigate the objections. In May 1898, the township leases were advertised for auction the following month, when 36 of the 154 sections (comprising 85 acres) were subsequently let on fixed terms of 21 years with a right of renewal for a further 21 year term, for a total annual rental of £179. The lands were leased at upset rentals as there was "little competition" for the leases, with the main bidders being business owners already occupying land at Tokaanu and Māori owners who apparently sought to obtain lands they had not been able to have reserved. Ngāti Tūwharetoa had previously been earning £158 in rent from the informal leasing of four small areas to settlers at no cost to themselves. The Crown charged the township land with survey and other expenses of £464 plus interest of £23 per annum, which costs were to be deducted from rental income over a period of 5 years but in 1901 this was changed to 10 years because of economic problems faced by the local community who had for several years been in "reduced circumstances and at times have actually been short of food supplies". Parati Paurini of Tokaanu had previously informed the government, "friend, there is much distress for want of food here, very much indeed".
- 2.229 The Crown required the rentals to be paid to the owners of the township sections as identified by the Native Land Court. Accordingly, in 1899 the Court sat at Tokaanu to investigate the title to the township land. After three weeks of sitting title was awarded to 234 owners. An appeal against this award was heard in 1903 resulting in the addition of one owner and a redistribution of shares. Until the title was finalised by the Native Appellate Court in December 1903 the accumulated rentals of £600 could not be distributed amongst the 235 owners.
- 2.230 In June 1898, the Crown took 135 acres of the Tokaanu Native Township under the Public Works Act, for which compensation was payable to the land's owners. Additional land was taken for the roads within the township. The takings were proclaimed again in 1899 under the Native Townships Act, under which no compensation was payable and accordingly none was paid for the 135 acres of reserves, which included Maunganamu and the Mārakerake hot springs. Mārakerake are the main hot springs in Tokaanu, and a taonga to Ngāti Kurauia.

2: HISTORICAL ACCOUNT

- 2.231 Maunganamu is a Ngāti Tūwharetoa wāhi tapu and urupā. Sixty acres of land on and around Maunganamu was taken for a recreation ground. The Crown excluded from its taking a small area near the foot of Maunganamu as an urupā, with the proviso that no further burials take place. The area it excluded did not include the urupā in a cave on Maunganamu or other wāhi tapu on the hill.
- 2.232 As part of the Tokaanu Native Township negotiations in 1896 the Crown made an arrangement with Ngāti Tūwharetoa, later approved of by the Minister of Lands, for the use and administration of certain thermal pools at Tokaanu. A record of the negotiations discloses that "the bathing pools at Māraikerake, now used by everyone, to be returned to the Māoris, as soon as there are proper buildings erected for the white people to bath in". In addition, when the costs of building development and maintenance for improvements to the bathing pool at Māraikerake had been met, any profit from the bath's operation was to be paid to Ngāti Tūwharetoa as rent under the Township accounts. Views on the arrangements changed over time and at some point between 1898 and 1904 the Tourism Department enclosed the pool and constructed changing facilities. Use and maintenance of the pools also involved disputes between the local hotelier and the local community. The temporary locking out of Māori from the hot pools in 1905 raised local tensions particularly as their exclusion from the pool and baths was advocated for by local business interests. In 1909 these interests again lobbied for Māori to be excluded. On both occasions the Crown refused to countenance exclusion.
- 2.233 The eventual construction in 1910 of a new bath and utilisation of an alternative water supply from the Crown's hot springs reserve appeared to remove any prospect of potential income for owners of township lands. What appeared to be a real property right with development potential in 1896 became, according to officials in the early twentieth century, simply a use right of the Māraikerake pool located in the Crown's Hot Springs Reserve. Māraikerake pool and bath were never formally returned to Ngāti Tūwharetoa and the outcome on the ground was not what was envisaged in 1896.
- 2.234 The Crown yielded to settler pressure to grant perpetual leases in townships after 1910 under the Native Townships Act 1910. Despite strong Ngāti Tūwharetoa opposition, by the mid-1920s, the Crown had converted some Tokaanu township leases to perpetual lease based on five per cent of the unimproved value of the land. The rentals on the most valuable sections, based on 5 per cent valuation and not market rates, fell to below what had been paid in the 1890s before the township was established. The Crown concluded in the mid-1920s that a mistake had been made in granting such leases, and no more were issued. In 1941, Ngāti Tūwharetoa complained about this situation. In 1974, a Royal Commission of Inquiry strongly criticised perpetual leases as they yielded rents well below market rates. The Crown did not, however, introduce reforms to make the rents fairer for the lessors until the 1990s. Today, numerous sections in Tokaanu Township remain under perpetual leases.
- 2.235 The Crown hoped the townships would generate settlement and economic activity from which settlers and Ngāti Tūwharetoa land owners would benefit, but Tokaanu Native Township was not an economic success. The Crown's development of vital infrastructure such as roads and a wharf to improve access to Tokaanu proceeded very slowly. Rental income was stagnant and some lessees, who had taken up sections for speculative purposes, ceased to pay rent while other leases were forfeited. As late as the 1940s the township still lacked an administrative body with rating powers to exercise local governance functions. There were no systems for drainage, water, or lighting.
- 2.236 The fate of Tokaanu Native Township was sealed in the 1940s when the level of Lake Taupo was raised as part of hydro-electric power developments, resulting in the

2: HISTORICAL ACCOUNT

flooding of much of the township land. Parts of it were transformed into a swamp of no economic value while other areas were damaged by flooding leading to property damage and public health hazards. This cleared the way for the release of the affected lands from the township and re-vesting in its owners. Ngāti Tūwharetoa made numerous applications for re-vesting from the 1940s to 1960, and many of the unusable sections were re-vested in their owners in 1961.

**KOTAHITANGA MOVEMENT**

2.237 In response to their concerns about the impact of the Native Land Court system on Māori lands, from the 1890s Ngāti Tūwharetoa became involved in a growing pan-tribal movement seeking to retain Māori lands and to support Māori autonomy over their lands. During the 1891 Native Land Laws Commission hearings, Tūreiti Te Heuheu Tūkino V and other Ngāti Tūwharetoa rangatira such as Hemopo Hikarāhui spoke of their opposition to the individualisation of Māori land tenure and endorsed a proposal for iwi kōmiti to manage Māori lands and other matters affecting Māori land with Crown support. Hemopo Hikarāhui told the Commission:

*"I earnestly pray you to especially take back to Wellington the word relative to the committee, and to have our committee appointed; thereby affording us the means or the power of adjusting and managing all matters, both with regard to ourselves and also to the Europeans who have dealings with us."*

2.238 The Crown did not act on the recommendations of this Commission to remodel the Native Land Court and create committees appointed by the owners to determine the ownership and management of each Māori land block. In 1892, Ngāti Tūwharetoa supported the emerging pan-iwi Kotahitanga movement which called for the abolition of the Native Land Court and its replacement with Māori committees. The Kotahitanga movement symbolised pan-iwi unity and established annual Pāremata Māori (Māori Parliaments) to unite and lobby for legislative change. Several Ngāti Tūwharetoa rangatira played a major role in the movement. At the first full Kotahitanga Pāremata in 1892, Tūreiti Te Heuheu was elected to the Rūnanga Ariki ('Upper House') and Kingi Te Herekieke was appointed a local officer for the Taupō district. As part of their involvement in the Kotahitanga movement, Ngāti Tūwharetoa established a Kotahitanga committee, as well as a women's committee, and both were involved in iwi affairs, monitoring land dealings, and fund-raising for Kotahitanga.

2.239 In 1895, Crown attempts to survey Okahukura lands were disrupted as part of the Kotahitanga policy of opposing the Native Land Court and land sales. In 1896, Ngāti Tūwharetoa hosted the Kotahitanga Pāremata at Tokaanu attended by more than 1,000 Māori including the Māori King Mahuta. In 1897, a Kotahitanga delegation took a petition to the Queen. It called for the remaining five million acres of Māori land to be reserved in perpetuity. The Kotahitanga delegation presented the petition to the Secretary of State for Colonies, Joseph Chamberlain, at the Queen's jubilee celebrations. Chamberlain invited a Kotahitanga representative to outline their concerns to the British Parliament, causing embarrassment to Seddon who was in London and felt obliged to reply with a defence of the Liberal Government's native policy. The British Government was unable to intervene in colonial business.

2.240 Māori support for Kotahitanga, including the 1897 petition, contributed to the Crown's introduction of the 1898 Native Lands Settlement and Administration Bill to Parliament. Prime Minister Seddon and his Native Minister Carroll brought the Bill to a Pāremata in 1898 to discuss it with Kotahitanga. Seddon told the Pāremata that the Bill would set up Māori land districts and Councils or Committees to take over the functions of the Native Land Court and end land purchasing.

2: HISTORICAL ACCOUNT

2.241 In 1898 Seddon spoke at a Kotahitanga Pāremata:

*...I consider that what has happened in the past in connection with the Native Land Courts is one of the darkest blots that has occurred in the history of this colony. Native Land Courts have sat in the European settlements; the Natives have gone to those settlements, and many of them have gone to their destruction... You are only the remnant of a once numerous race. When we were few and you were numerous, you befriended us, and now that we are numerous, and you are few, it is our duty to befriend you."*

2.242 In 1899, Seddon took the Bill to the Waitangi Pāremata. Tūreiti Te Heuheu was among those who opposed the 1898 Bill because he was seeking full legislative powers for Kotahitanga and thought the Councils would advantage settlement rather than Māori owners. However, he was willing to work with those of Kotahitanga who supported it and propose amendments which would provide for a greater role for a representative Māori body at the national level and at the local level through rūnanga iwi. Having been delegated by Kotahitanga, Te Heuheu told the Native Affairs Committee in 1898:

*The cry of the Māori has been that they should be allowed to make the law themselves under the rights conferred upon them by the Treaty of Waitangi, but the Crown holds on to all these privileges, and refuses to surrender them, and only gives little trifling concessions to the natives. From then up to the present, the government has continued to act in same way towards the Māori. So now all we say is this: You people have had control and disposal of these lands for a long time, and you have proved that you cannot use them for our benefit; they have slipped away from us continually. Give us that control ourselves; we ought to be considered.*

2.243 In 1900, the Pāremata agreed to compromise on the Bill. The Native Lands Settlement and Administration Bill were enacted as the Māori Councils Act 1900 and the Māori Lands Administration Act 1900. These Acts provided for Māori Land Councils to be established in an attempt to provide for greater Māori administration over their own affairs. After 1902 the Kotahitanga Pāremata did not sit again and the movement largely fell silent as some members wanted to focus on making the 1900 legislation work.

## TWENTIETH CENTURY LAND ADMINISTRATION

### Twentieth Century Land Administration and Alienation

2.244 The Māori Lands Administration Act 1900 was not what Tūreiti Te Heuheu and the Kotahitanga had been seeking which was absolute control of the remaining Māori land in a Māori body, through the right to make laws relating to their land. The 1900 Act provided for the establishment of district Māori Land Councils consisting of a Pākehā President, two to three appointed members (one of whom had to be Māori) and two to three elected Māori members. The Hikairo-Maniapoto-Tūwharetoa Māori Land Council had a majority Māori membership. The councils had the powers of the Native Land Court in land matters but the court was not disestablished and the councils could act in its stead only at the discretion of the court on a case-by-case basis, added to which appeal to the Native Appellate Court remained. The councils were able to lease but not to sell Māori land vested in it by the land's owners and could borrow from the Public Trustee and certain government agencies to assist development of Māori lands.

2: HISTORICAL ACCOUNT

- 2.245 Tūreiti Te Heuheu and others in Kotahitanga feared that the councils, which they perceived as being controlled by the government, would act more in the interests of the government's settlement priorities rather than in the interests of Māori. Ngāti Tūwharetoa did not have their own district council but instead elected one member of the broader Hikairo-Maniapoto-Tūwharetoa Māori Land Council, which was up and running by mid- 1902, being renamed as the Maniapoto-Tūwharetoa Māori Land Council in October 1902.
- 2.246 Ngāti Tūwharetoa were cautious about vesting their lands in the council and saw its main utility as confined to taking over the leasing of lands with complex ownership to ensure settlers could obtain a good title. The iwi did not favour letting the council decide which papakāinga lands Ngāti Tūwharetoa owners should retain, or giving it control of the leasing of flax or timber on their land. The result was that two subdivisions of the Wharetoto block comprising 21,000 acres were the only Ngāti Tūwharetoa lands vested in the Maniapoto-Tūwharetoa Māori Land Council under the 1900 Act. As Tūreiti Te Heuheu put it, "[t]he Māoris are to retain the mana of the land; the Council is to have the mana of the law".
- 2.247 There was limited opportunity for Ngāti Tūwharetoa to test the utility of the 1900 Act before it was extensively amended without them or other iwi being consulted, as they had been over the introduction of the 1900 Act. The government came under political pressure from the settler freeholder lobby which was strongly opposed to what was described as "Māori landlordism," and called for a resumption of land purchasing. The role of Māori in the councils was weakened by the Māori Land Settlement Act 1905 which replaced the councils with Māori land boards appointed by the Crown, comprising a Pākehā President and two members, at least one of whom was to be a Māori. Crown land purchasing was also re-introduced, including the authority to purchase the interests of owners who did not agree to sell where the non-sellers were in the minority.
- 2.248 The Crown's move towards more significant changes in native land policy was further indicated by the re-establishment of the Native Department in 1906 (it having ceased in 1892) and the passing of the Native Land Settlement Act 1907, the latter enacted to give effect to the recommendations of the 1907 commission of inquiry into Native Lands and Native Land Tenure. The Native Department centralised all matters affecting Māori, the impact of which was to further distance decision making from local boards. The "Stout-Ngata" commission undertook an audit of Māori land with a view to distinguishing those areas it recommended be reserved for Māori occupation and farming from areas available for settlement by lease or by sale. The 1907 Act provided for the Māori land identified as not required for Māori occupation to be compulsorily vested in the local land board, with half of the land to be sold and half leased out. The Stout Ngata commission did not investigate Ngāti Tūwharetoa's lands, other than to endorse an agreement between Ngāti Tūwharetoa and a timber company for the milling of a large area of land in western Taupo. The Commission did provide the Crown with guidelines for future Māori land policy which emphasised the need to end Crown purchasing, ensure Māori retained sufficient land for their present and future needs and see that they were given assistance in reorganising the titles to their lands and developing these with State-provided funding commensurate with that then being given to Pākehā.
- 2.249 Māori distrust of the 1907 Act and their awareness that sweeping changes to native land laws were pending led Tūreiti Te Heuheu Tūkino to invite other tribes, and two MPs, to the Tokaanu Land Conference in April 1909. The conference, amongst other significant issues, sought reform of the native land laws to enable Ngāti Tūwharetoa and other iwi to control the disposition of those lands not required for their immediate needs in order to promote a settlement regime satisfactory to both Māori and settlers.

2: HISTORICAL ACCOUNT

They sought to retain restrictions against alienation where land was not held by individuals or small whānau groups. Like the 1907 commission, they looked to the government to provide some assistance for Māori land development.

- 2.250 The Native Land Act 1909 did not reflect the recommendations of the 1907 commission or the proposals of Ngāti Tūwharetoa. It removed almost all existing restrictions on alienation, and established a new regime for the alienation of Māori land under which all alienations of Ngāti Tūwharetoa land were to be supervised by the government-appointed Maniapoto-Tūwharetoa District Māori Land Board (Taupo lands were later divided between the Waiariki and Aotea District Māori Land Boards).
- 2.251 The principal business of the board was overseeing the selling and leasing of Māori land. Sales and leases to private parties after 1909 required approval of meetings of the assembled owners. Provided such meetings satisfied the Act's minimal quorum of five owners, the minority attending the meeting could bind the absent majority to a sale. It was a system later criticised by the government as "open to grave abuse". In the case of a meeting of owners to consider the private purchase of the Tihoi No. 3B8A block by a returned soldier, three of the 14 owners representing 4,304 of a total of 4,840 shares were present. Two owners representing 1,800 shares, opposed. The one remaining owner who acted as proxy for five others who together represented 52 percent of the shares in the block agreed to the purchase which was accordingly approved. A Crown purchase in the Tihoi No. 3B3 block - 3000 acres in extent - was approved by a meeting attended by seven of the 379 owners representing 2,463 of the 79,637 shares in the title, and the purchase was approved by five of the seven attendees representing 2043 shares.
- 2.252 Under the auspices of the 1909 Act and its later amendments, private purchasers acquired about 80,000 acres of Ngāti Tūwharetoa land after 1900. The 1909 Act contained provisions intended to prevent any transaction requiring the approval of the board rendering any Māori land vendor landless. The Act's definition of landlessness was not quantitative but referred to land interests that would be insufficient for the adequate maintenance of the vendor.
- 2.253 The Native Land Act 1913 amended this definition to enable purchases that rendered vendors landless where they could provide for themselves without relying on their land holdings or where the land being sold was not likely to be a material means of support. Not all Ngāti Tūwharetoa communities retained large landholdings and some vendors were left effectively landless by transactions approved by the Waiariki District Māori Land Board, such as purchases in the Tatua East blocks, but the 1913 Act enabled the transactions to be approved.

## CROWN PURCHASING IN THE TWENTIETH CENTURY

### Crown Purchasing in the Twentieth Century

- 2.254 The Native Land Act 1909 provided that Māori land could only be sold with the approval of meetings of the assembled owners and checks were put in place to ensure sellers were not left landless. These checks were watered down over succeeding years. However, the Native Land Amendment Act 1913 again empowered the Crown to purchase undivided interests from individual owners. The 1909 Act and its amendments provided for the Crown to issue proclamations that excluded private parties from competing with the Crown for land the Crown wished to purchase.
- 2.255 Large scale Crown purchasing recommenced in Taupōnui-a-Tia from 1918, when initial proclamations prohibiting alienation to anyone but the Crown were issued over more than 40 titles comprising nearly 300,000 acres, including lands closely settled and

2: HISTORICAL ACCOUNT

occupied by its owners which they did not wish to sell. When meetings of owners collectively rejected Crown purchase offers the Crown proceeded to acquire undivided interests from individual owners. Ngāti Tūwharetoa were not consulted about what, if any, land they wished to sell before proclamations were issued. They opposed the Crown's purchase strategy, especially the imposition of Crown pre-emption which prevented them dealing with their lands as they saw fit. Where some owners were willing to sell they sought higher prices than the Crown would offer and sought to instead deal with private purchasers offering considerably higher prices but the Crown would not permit such dealings. In particular owners of western Taupo blocks wished to engage in the timber industry, which enabled them to retain their land while obtaining a higher income from timber royalties than the Crown was willing to pay for the freehold. In October 1918, Tūreiti Te Heuheu called the leaders of numerous iwi together in Wellington to protest against the Crown's proclamations over land Māori did not wish to sell. Government assistance was sought to help them develop their lands rather than be pressured into selling them to a monopoly purchaser.

- 2.256 The Crown did not assess how much land Ngāti Tūwharetoa communities retained or the adequacy of their land holdings before it recommenced land purchasing. Hundreds of thousands of acres of Māori land was then retained within the Ngāti Tūwharetoa rohe, most of which was considered unfit for close settlement especially the poor pumice land to the north, east, and south of Taupo. Most of their remaining lands were marginal land which required clearing and significant development before it could be used for extensive pastoral runs, each comprising many thousands of acres. As such Ngāti Tūwharetoa needed to retain a large area of land for their present and future needs.
- 2.257 Ngāti Tūwharetoa earmarked some land for development, including Waipapa which was set aside during World War One to be developed by the iwi's discharged soldiers. Te Heuheu informed the Māori Land Court that this block and the Tokaanu block were intended for Ngāti Tūwharetoa men returning from the war. Waipapa was instead targeted for Crown purchasing and placed under Crown pre-emption, which locked up the land and prevented its development. The Crown also had the 1918 partition orders cancelled and declined to allow them to be reinstated until 1921, by which time it had acquired very few individual interests in Waipapa. This caused hardship and delay to Ngāti Tūwharetoa in their efforts to develop land for their returned soldiers. By 1929 the Crown had acquired 53 per cent of the 10,346 acre Waipapa Block.
- 2.258 Other lands were selected by their owners for sale to the Crown in order to raise funds for local development, such as the Tūwharetoa Dairy Company in Waihi. In the 1920s, some owners in the Puketapu and Hauhungaroa blocks offered their interests for sale to the Crown in order to help finance the Company. The Crown's Aotea Māori Land Board endorsed this request, writing: "Ngāti Tūwharetoa is a rangatira tribe that is making a genuine effort to build itself up on proper lines ...The tribe has always met the Crown very fairly in its purchases and partitions at Tokaanu. I beg to consider that it has a strong moral claim on the Government and the Board now for real assistance". The government rejected the owners' request to purchase the land and instead recommended the Aotea Board advance funds to the company. The Company ceased trading in 1927.
- 2.259 The Crown's acquisition of individual interests often extended over many years, during which the owners were not only unable to sell to anyone but the Crown, they were also prevented from leasing or mortgaging their lands and also from partitioning them into titles more suitable for whānau occupation and development. The 1918 prohibitions on alienation applied for one year. Once titles were selected for purchase the prohibitions were repeatedly extended, in some cases until 1956, until the Crown was satisfied with the extent of interests acquired. Multiple portions of the Hauhungaroa and Waituhi-

2: HISTORICAL ACCOUNT

Kuratau blocks were acquired in this way over a 38-year period, and Crown prohibitions remained even though purchasing was largely completed by 1929. The number of prohibitions rose to 160 titles in 1923 covering more than 500,000 acres.

- 2.260 Periodically, the Crown would apply to the Native Land Court to partition out the interests it had acquired but this did not mark the end of the purchase process. After the first round of partitioning the Crown returned to purchase further undivided individual interests, leading to further rounds of partitioning. The Hauhungaroa block was one of many blocks repeatedly subdivided through this process as a result of Crown purchasing from 1902 until 1957 most of which occurred under Crown prohibition. Each round of partitioning imposed further survey costs and other costs related to Native Land Court sittings on the remaining owners. Many owners were "more or less indigent" and unable to pay the survey fees required to complete their titles. While many survey liens were discharged from purchase proceeds, land was also acquired by the Crown for survey costs and accumulated interest, and in the period from 1900 to 1928 it acquired 20,000 acres in this way. This included 6,000 acres in the Hauhungaroa block acquired in 1902 for survey charges of £1,068 and 8,000 acres in the Tihoi block acquired in 1913 for survey charges of £1,353.
- 2.261 Through these and other means the Crown acquired nearly 300,000 acres of Ngāti Tūwharetoa lands after 1900. These purchases may have left some owners landless but as the Crown failed to ascertain the extent to which its purchases left owners landless, the number of landless Ngāti Tūwharetoa cannot be ascertained. For Crown purchases, the responsibility for ascertaining the land holdings of vendors and the extent to which they might be rendered landless - as required by Section 373 of the Native Land Act 1909 - fell on the Native Land Purchase Board, the same body which was purchasing the land. There is no evidence that the board carried out the necessary checks to establish the extent to which its Taupo purchases would render any vendors landless.

**Ōwhāoko Gifted Lands**

- 2.262 In 1916, Ngāti Tūwharetoa gifted 16,640 acres of the Ōwhāoko A block to the Crown in a patriotic gesture linked to New Zealand's role in World War One. They intended the gifted land to be used for the settlement of Māori discharged soldiers from all tribes. Those settlers would pay rent which would be used to assist ill or disabled returned Māori soldiers. The government welcomed the gift and brought it to the attention of King George V, who expressed his appreciation to Ngāti Tūwharetoa in a telegram. At the same time they asked that £800 of proceeds from the alienation of their lands then held by the Public Trustee be donated towards a monument in Parliament grounds in memory of Māori killed in the war.
- 2.263 Ngāti Tūwharetoa encouraged their whanaunga who owned adjoining land in the Ōwhāoko B and D blocks to gift a further 18,942 acres. The total final gift of 35,582-acres could not be completed under the native land laws and was instead provided for in the Native Land Amendment and Native Land Claims Adjustment Act 1917.
- 2.264 The gifted land proved unsuitable for closer settlement so it could not be used for the purpose for which it was given. The Native Land Amendment and Native Land Claims Adjustment Act 1930 discharged any trust implicit in the gift and provided for it to be disposed of as ordinary Crown land. The Māori Affairs Secretary later acknowledged that the 1930 Act appeared to have been passed without any consultation with those who had gifted the land. Any surplus income generated was to be applied by the Crown to assisting Māori discharged soldiers. In 1939 the Crown set aside around 7,000 acres of the land gifted by Ngāti Tūwharetoa for conservation purposes.



2: HISTORICAL ACCOUNT

- 2.265 In 1957, Ngāti Tūwharetoa sought the return of the gifted land as it had not been used for the purpose for which it was given. The Crown did not wish to return the land, and informed them some of it had been set aside for conservation purposes in 1939 and it now wished to set aside another 20,000 acres for the same purposes. It offered to pay two shillings six pence per acre for this 20,000 acres but did not offer to pay for the 7,000 acres set aside in 1939. This left 9,000 acres of the gifted land, which an adjoining private landowner wished to purchase from the Crown at four shillings six pence per acre.
- 2.266 Ngāti Tūwharetoa did not want the payment offered and continued to seek the return of the land. In the 1960s the Crown sought to set aside the land for soil and water conservation purposes. In 1972, the Minister of Māori Affairs endorsed the return of the land and this was provided for by the Māori Purposes Act 1973. Accordingly, in 1974 the Māori Land Court vested the gifted Ōwhāoko lands in iwi trustees.

**PUBLIC WORKS TAKINGS**

- 2.267 Since 1871, the Crown has used Public Works Acts, and other legislation which provides for public works takings, to compulsorily acquire Ngāti Tūwharetoa land for almost any public purpose. It has taken Ngāti Tūwharetoa land for roads, scenic reserves, schools, quarries, metal pits, hot springs, hydroelectric power generation schemes, a trout hatchery, defence and other public purposes. Ngāti Tūwharetoa lost ownership of some significant sites through these takings, including urupā, wāhi tapu, and papakāinga. The Crown used its statutory powers more than 700 times to compulsorily acquire nearly 23,000 acres of Ngāti Tūwharetoa land between 1870 and 1992.
- 2.268 The Crown seldom consulted Ngāti Tūwharetoa about takings under the Public Works legislation before the middle of the twentieth century. The Crown did not pay compensation for many road takings under the Native land legislation in place at the time. Where compensation was assessed under Public Works legislation, there were considerable delays before payments were actually made in some cases.
- 2.269 The Crown did not return compulsorily acquired land to Ngāti Tūwharetoa once it had finished using this land for the purpose for which it was taken or where it was found the land was not needed for the purpose for which it was taken. It instead allocated this land to another public purpose or sold it to a third party.

**Roads**

- 2.270 Native land legislation of the nineteenth and early twentieth centuries empowered the Crown to compulsorily acquire up to five per cent of any Māori-owned block for road making. This was initially for ten years, then 15 years from 1878. A similar provision for general land owned by settlers had a time limit of five years and required compensation to be paid. The Native Land Act 1909 contained further provisions for the taking of roads from Māori land without compensation, while the Native Land Act 1931 provided that compensation may or may not be payable at the Native Land Court's discretion. These powers to take Māori land for roads were extensively used on Ngāti Tūwharetoa lands. Before 1927, the Crown did not pay compensation for these takings. After 1927 there remained many instances where compensation was still not paid. It did not consult Ngāti Tūwharetoa about the extent or location of takings for public purposes.

### Scenery Preservation

- 2.271 In the early 1900s, the Crown introduced a scenery preservation policy aimed at protecting and preserving features and sites it considered of scenic value. It did this with a view to developing and promoting the country's tourism industry. The Scenery Preservation Act 1903, and subsequent legislation, provided for the taking of Māori land for scenery preservation purposes. A 1910 amendment retrospectively validated any Native land taken for this purpose prior to the passing of the Act.
- 2.272 The Crown took land of scenic value near the North Island Main Trunk Railway line under this scenery preservation legislation. In order to preserve 'the splendid views of the Whakapapa River' for train passengers, the Scenery Preservation Board recommended the establishment of the Whakapapa Gorge Scenic Reserve. Initially, around 2,400 acres was selected, including 1,791 acres of Crown land, and 671 acres of Māori land. Of this, around 200 acres in the Taurewa No. 4 West block was Ngāti Tūwharetoa land. When the Crown proclaimed the reserve in 1911, it comprised only 200 acres, all of which was taken from the Taurewa No. 4 West block. When the Native Land Court sat to assess compensation for the taking of this land, the Public Works Department official, who valued the land at £687, did not appear in order to be questioned about his valuation. Nor did he appear when the case was called a second time. The court nevertheless awarded the £687 compensation.

### Public Works Takings for Tongariro Trout Hatchery

- 2.273 In 1926, the Crown took 22 acres from three blocks (Pt Ohuanga North No. 1, Pt Ohuanga South No. 1 and Pt Ohuanga South No. 2B2) beside the Tongariro River for a trout hatchery site and an access road. The Crown wanted to establish the hatchery to breed trout for release into Lake Taupō, and particularly sought the stream that ran through the blocks for this purpose. The Crown did not consider alternative sites for the trout hatchery on nearby private land. The Crown had tried to purchase interests in the Ohuanga block since 1918, when it imposed a prohibition on alienations to any party but the Crown, as it sought the forest on the land for milling. The prohibition orders were still in place when the land for the hatchery and road was taken in 1926. Some of the Ngāti Tūwharetoa owners objected to the prohibition order on their land as they did not wish to sell it. They protested to the Native Minister that the prohibition order imposed 'undue hardship' on them and their whānau. The owners had cultivated a fertile portion of the land and wanted to utilise the valuable timber on other parts of it. They also considered the blocks the only area suitable to develop as a papakāinga. The Ohuanga North No. 1, North No. 2, and North No. 5 blocks had been subjected to earlier takings for gravel pits in 1923 and the Ohuanga No. 2B2 block was later subject to takings for the Pihanga Scenic Reserve.
- 2.274 In 1927, the Native Land Court awarded compensation for 20 acres of the land taken for the hatchery. In accordance with the Native land legislation of the time, no compensation was awarded for the 2 acres taken for a road. Land acquired by the Crown for a gravel pit in 1923 was added to the hatchery in 1962, once it was no longer required for the purpose for which it was taken.

### Public Works Takings for Defence Purposes

- 2.275 Between 1914 and 1973, the Crown took more than 10,000 acres of Ngāti Tūwharetoa land for defence purposes. It did not pursue alternatives to permanently alienating Māori land, such as leasing arrangements or acquiring firing rights, to secure access and control of the land for military training. Furthermore, when the land was no longer required for defence purposes, the Crown allowed some of it to be used for other purposes.

2: HISTORICAL ACCOUNT

- 2.276 In 1914, at the beginning of World War One, approximately 3,800 acres was taken from the Mahuia B and Tawhai North blocks for defence purposes. Compensation of £1,302 for the Tawhai North block was assessed in 1914, but was not paid to the owners until 1924. Compensation for the Mahuia B block of £419 was not paid until 1943.
- 2.277 By the 1920s, the land was surplus to defence needs. Instead of returning the land to its former owners or consulting them about the land, the Crown transferred it to Tongariro National Park. In the 1930s, however, the land was assessed as being better suited to forestry and farming. The Crown then took the land out of the national park, and it eventually became part of a Crown-owned farm.
- 2.278 During World War Two, the Crown sought to expand its training grounds near the Waiouru army base. In 1942, it took 1,850 acres from the Rangipō North No. 6C block and 4,474 acres from the Rangipō-Waiū No. 1B block. The Native Department wrote to the Army Secretary suggesting that officials meet with the owners to discuss compensation. Neither the army nor defence officials responded to this letter. The land taken included wāhi tapu, but the Crown did not consider any means for identifying or protecting them.
- 2.279 In 1943, the Native Land Court sat at Whanganui to determine the compensation to be paid for the land taken in 1942. It is unlikely any of the Māori owners were present. The Rangipō North No. 6C and Rangipō-Waiū No. 1B blocks had previously been valued by the Crown at £442 and £127 respectively. The Crown produced a special valuation of £5 for each block and told the court the lands had no commercial value. The court said that the low valuation "savoured of confiscation" and asked the Crown to reconsider its valuation. The Crown subsequently made a written offer of £250 for both blocks. After deductions of £156 for survey liens, this would leave £94 for the owners. The court said the offer of £250 would be satisfactory if the survey liens were reduced or cleared, as they were 'out of all proportion to the value of the land'. The Crown cancelled the survey liens in 1944. No order was made for the compensation of £250 and there is no evidence any sum was ever paid.
- 2.280 By the 1970s, parts of the Rangipō-Waiū No. 1B block land taken in 1942 were deemed to be no longer required for defence purposes. Rather than being returned to their former owners, the lands were set aside for conservation purposes in 1979. Around 220-hectares of the Part Rangipō-Waiū No. 1B block land was added to Tongariro National Park in 1980. A further 96-hectares in the Part Rangipō-Waiū No. 1B block were added to the Kaimanawa State Forest Park in 1981.
- 2.281 From the mid-1960s until at least 1980, the Crown used the Kaimanawa No. 3B2A and No. 3B2B blocks for training exercises. While the Crown received consent from two owners, it did not acquire formal collective agreement for its use of either of the multiply-owned blocks, and did not pay to use them.

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**Te Heuheu Tūkino VI, Hoani (1887-1944)**



**Figure 11: Hoani Te Heuheu**

(Bledisloe, Charles Bathurst, Viscount, 1867-1958: Snapshots of New Zealand.  
Ref: PA1-f-015-16; Alexander Turnbull Library, Wellington, New Zealand)

**THE TONGARIRO TIMBER COMPANY**

- 2.282 In 1906 and 1907 Ngāti Tūwharetoa devised a plan for the development of a large area of bush land lying to the southwest of Lake Taupo. Under the proposed scheme, the land owners granted the privately-owned Tongariro Timber Company cutting rights to the timber on their inaccessible land. In exchange, the company would pay timber royalties to the owners and construct a 40-mile long railway between Lake Taupō and the main trunk railway line. In order to facilitate their agreement with the company, Tūreiti Te Heuheu Tūkino and 800 other owners from 13 hapū, interested in more than two dozen blocks covering 135,000 acres, sought the cooperation and assistance of the Crown.
- 2.283 The arrangement was intended to open up access to land containing more than 970 million log feet of merchantable timber which was estimated to be worth about £2.5 million, once railway access was completed. Ngāti Tūwharetoa's aim was to stimulate economic development and employment for the benefit of the impoverished owners, their hapū and iwi, and the wider district. The Crown agreed that this proposal

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represented a significant economic development opportunity for Ngāti Tūwharetoa, and also for the broader district and the country.

- 2.284 Ngāti Tūwharetoa proposed a new system of paying the timber royalties which involved distributing the income derived from milling each block amongst the owners of all of the blocks covered by the scheme. Known as the 'hotch potch' clause, this scheme was a departure from the usual method of paying royalties to the owners of each block as it was milled. This approach provided the owners with many of the benefits of an incorporation of owners, but without the associated difficulties and expenses.
- 2.285 Writing to the Native Minister in 1908, Te Heuheu stated that 'the owners of the 28 blocks involved deliberately determined that the whole of the people should uniformly benefit from the royalties and accordingly devised the hotchpotching clause so that all should draw royalties every year for the whole period of cutting. This is a most beneficial and just arrangement.' Ngāti Tūwharetoa also intended that the arrangement with the Tongariro Timber Company would enable them to derive income from their land without selling it. In 1910, Te Heuheu told the Aotea District Māori Land Board that he 'had spent 17 years trying to devise a scheme for the profitable use of the lands without selling them' and that 'he saw no benefit to natives in selling their lands'.
- 2.286 The initiative required significant Crown oversight and monitoring. Crown approval was required before the Māori owners could alienate the land needed for the construction of the railway and related buildings. In order to overcome difficulties arising from the highly fragmented ownership of the blocks covered by the arrangement, the local Land Board was statutorily required to act as agent of the owners. Ngāti Tūwharetoa remained unaware of the extent of the Board's role. The consent of the Native Minister was required for any variations to the original agreement. In 1907, the Board endorsed the initiative, and in 1908 referred it to the Native Land Commission which endorsed the agreement as advantageous to the owners and in the public interest. In 1908, the Board signed the agreement with the Company, and the Crown issued an Order in Council to authorise the private purchase of the land needed for the railway. This action was validated later in 1908 by legislation.
- 2.287 The Tongariro Timber Company struggled to raise finance for the venture, especially the large funds required for the railway. In 1910, Ngāti Tūwharetoa agreed to assist the company by accepting lower royalties, delays in payment, and a longer timeframe for the building of the railway. They made similar concessions to the Company in 1913. World War One further hindered the company's attempts to obtain the funds needed to finance the railway.
- 2.288 In 1914, Parliament passed the Native Land Claims Adjustment Act to validate an agreement between the Tongariro Timber Company and the Egmont Box Company in respect of the construction of the railway. The Egmont Box Company agreed to pay for the construction of part of the railway over a four-year longer timeframe. In exchange, the Egmont Box Company received use of the railway for timber it was milling from the Taurewa block. A 1915 law change gave the Tongariro Timber Company more time to honour its agreement with Ngāti Tūwharetoa land owners to build the railway. Te Heuheu told the Parliamentary committee considering the 1915 Bill that an additional two years from the end of the war was a "reasonable time" for this. The 1915 law instead provided for the Crown to extend the time limit as it saw fit. The law also protected the Company against actions for defaulting on its obligations until two years after the war ended. The effect of this legislation was to enable it to suspend payment of the rent and timber royalties due to the owners without fear of legal action.
- 2.289 In 1918, the Crown began the process of purchasing undivided individual interests in some of the blocks subject to the Tongariro Timber Company agreement although a

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key intention of the agreement with the Company was to preserve the land in Ngāti Tūwharetoa ownership. The Crown imposed prohibition orders against alienations of land to any party but the Crown over most of the blocks that were covered by the agreement. The owners were in great economic distress and frustrated at the continuing failure to implement the arrangement and some expressed a willingness to sell land. Others were willing to sell parts of the area subject to the agreement that were covered in fern and tussock rather than timber. However, many Ngāti Tūwharetoa informed the Crown that they opposed Crown purchasing of these lands. They later stated that it was "a wrong thing to do for the Crown to go round buying individual interests from these unfortunate Natives when they were hard up, and taking advantage of their poverty in that fashion".

- 2.290 In 1921, the Crown issued an Order in Council which required the railway line to be built from steel that weighed 45lb per lineal yard, fifty per cent heavier than it had approved in the original 1908 agreement. The Crown stated that the heavier rail was required so the line would be suitable for 'the proper use by Government engines and rolling stock'. These higher specifications meant that the costs of building the railway increased from £4,000 to £14,000 per mile at a time when the company was struggling to raise finance.
- 2.291 The 1921 Order in Council also provided for the whole line to be reconstructed within twelve years (i.e. by 1933) to bring it up to full government standard. The Order stated that this would require significant additional tunnelling, track widening, and the construction of new deviations, all of which would be the Company's responsibility. Further, the Order required the Company to set aside no less than £5,000 per year once cutting began. If the Company failed to complete the reconstruction work, this money would go to the Crown to compensate it for the cost of completing the work. The Company had by this time succeeded in securing a £250,000 loan to build the railway, but after the specifications were increased, the contractors decided that they could not build the railway for the money available. Three investors later expressed the belief that the Crown had imposed an increased railway standard with the intention of making it impossible for the Company to raise the necessary funds, which in turn would enable the Crown to get control over the forest. The Order in Council was validated by legislation enacted in 1922 which also required the Company to pay the Land Board £6,000, being a portion of the £30,000 of unpaid royalties it owed to the owners.
- 2.292 From 1921 Ngāti Tūwharetoa land owners began to express their opposition to the changes being made to their agreement with the Company, especially the repeated postponements of royalty payments and the completion date for building the railway. In 1921 Ngāti Tūwharetoa protested that they had not been "properly and adequately represented" in regard to the Company's dealings "and on many vital points have not been consulted at all". There is no evidence that Ngāti Tūwharetoa were consulted about the development or introduction of law changes from 1921 to 1924, some of which were made despite the Crown being aware of owner opposition. Some of these changes were also opposed by their agent, the Land Board. The Land Board complained about the failure of the Company and the Crown to keep it informed.
- 2.293 The Native Land and Native Land Claims Adjustment Act 1924 empowered the Land Board, subject to Crown approval, to vary the existing agreements as it saw fit provided it did not consider this would prejudice the Ngāti Tūwharetoa land owners. In August 1925, following an application from the Company, the Crown issued an Order in Council that extended the deadline for completing the railway by seven further years and extended the deadline for paying overdue royalties.
- 2.294 In 1926, Ngāti Tūwharetoa representatives met Prime Minister Gordon Coates. They told him that they had not received any payments from the Company between 1911

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- and 1922, and proposed to Coates that the Crown should give its consent to the cancellation of the agreement if the company could not pay them the interest owing on deferred royalties within the next five years, or give them shares in a restructured company. Coates agreed their request was a reasonable one and undertook to put it to the Company.
- 2.295 In 1927, the Land Board sought the Crown's consent to the cancellation of the agreement. It described the 'nothing but detrimental' impact the failed agreement had on the Ngāti Tūwharetoa owners: 'their lands have been tied up since 1906 so that they have been unable to obtain any benefit from them and the great increase in the market price of timber in the interval has not been of advantage to them - it has been rather a disadvantage in as much as the County rates which ... they have to pay have increased out of all reason. The position now is that many of the owners ... will be hard pushed to get through the present winter without suffering hardship'. Furthermore, a dairy factory established at Waihi by Ngāti Tūwharetoa in 1921 to take advantage of the railway was failing by 1927 due to the railway not having been built.
- 2.296 The Crown noted it needed to make some effort to "save the Natives from loss," but took no immediate action. In September 1928, the Board issued a notice of default against the Company. Many Ngāti Tūwharetoa continued to seek the cancellation of the agreement, while others explored alternative arrangements for utilising the timber resource.
- 2.297 In 1929, the Native Affairs Committee reported that the Tongariro Timber Company had paid the Land Board a total of £53,553 between 1908 and 1921, but that £22,000 plus interest remained in arrears. It recommended that the agreement with the Company be cancelled. In 1929, Parliament passed the Native Land Amendment and Native Land Claims Adjustment Act to enable the Board to cancel the agreement with the Company, which it did in 1930.
- 2.298 Following the cancellation of the agreement between the Tongariro Timber Company and the Land Board, uncertainty arose as to whether this also had the effect of cancelling the agreement between the Tongariro Timber Company and the Egmont Box Company. The owners had asked the Native Minister in 1929 to indemnify them against the claims of the Tongariro Timber Company's creditors, which included the Egmont Box Company. The Minister replied that "the Crown's hands might be tied in giving that indemnity but that he hoped to get a settlement for all time of this very difficult matter". The owners "placed themselves in the hands of the Native Minister".
- 2.299 In 1930, the Egmont Box Company and other creditors lobbied the government for payments they believed were owed by the Land Board. The Native Affairs Committee expressed the view that the Egmont Box Company had acquired legal rights over one block, but that the claims of all other investors in the Tongariro Timber Company should be disallowed. In September 1930, acting Prime Minister Sir Apirana Ngata met with the Tongariro Timber Company's other creditors, telling them the Tongariro Timber Company had been given a lot of leeway over the years and that 'the far stronger claims of the natives than the [Company] had been absolutely disregarded by Parliament because they were against the Pākehā interests.' The following month, Parliament passed the Native Land Amendment and Native Land Claims Adjustment Act 1930, which directed the Board to enter into a contract with the Egmont Box Company based on that company's 1919 agreement with the Tongariro Timber Company. The Native Minister was to decide any disputes between the Board and the Egmont Box Company, which retained the right not to enter into any contract and to instead have recourse to legal remedies.

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- 2.300 In 1931, the Egmont Box Company claimed that it was owed almost £47,000, but the Land Board stated that it could not pay until timber was milled. The Egmont Box Company responded that it would accept an immediate payment of £30,000. Negotiations continued until 1935, at which point the Board offered a payment of £20,000 while the Egmont Box Company sought £23,750. The Solicitor-General, the former Attorney-General, and the Board's lawyer separately raised strong doubts that Ngāti Tūwharetoa land owners were legally liable for this debt. The Board suggested the Egmont Box Company seek legal remedies, but the Egmont Box Company preferred to negotiate a settlement directly with the Crown. The Native Minister intervened and accepted the Egmont Box Company's proposal to fix the amount payable as £23,750.
- 2.301 In 1935, Parliament passed the Finance Act 1934-35 and the Native Purposes Act 1935 which directed the Board to accept the Company's offer. The Act also stipulated that the Board's payment to the Egmont Box Company should be deemed a loan to the Ngāti Tūwharetoa owners, secured against their land, and, further, that the Board was entitled to charge the owners interest on that loan not exceeding five per cent. The amount payable was subsequently adjusted to £23,500. On 25 June 1935, the Board paid £23,300 to the Egmont Box Company, with the balance of £200 paid in December 1935.
- 2.302 In December 1935, Ngāti Tūwharetoa voiced their opposition to the payment made to the Egmont Box Company and to it being made without consulting them, viewing this as a "great injustice" to them. In early 1936, Hoani Te Heuheu led Ngāti Tūwharetoa legal proceedings against the Board to free their lands from the £23,500 'loan'. The Court found against Ngāti Tūwharetoa on the basis that the Board was compelled by Acts of Parliament to make the payment against the land. The Court, however, endorsed the view of the counsel for both parties that Ngāti Tūwharetoa "had cause to feel a sense of injustice". An appeal to the Court of Appeal in 1938 failed.
- 2.303 Before taking the case to the Privy Council, Hoani Te Heuheu called a national hui of several hundred tribal leaders representing all the major waka at Waihi in January 1939 to decide whether to try and have the Treaty of Waitangi acknowledged as the law of the land. The hui resolved to call on the government to refer the timber lands issue to a Royal Commission for inquiry and for the question of whether legislation could override the Treaty to be referred to the Full Court. Hoani Te Heuheu and a delegation from the Waihi hui met with Prime Minister Michael Savage in Wellington in March 1939, when the government declined both requests. A memorial from the tribal leaders who attended the 1939 hui was drawn up on 6 February 1940 for submission to the Privy Council. A letter to raise funds to take the case to London described its significance: "ehara tenei take ia Ngāti Tūwharetoa engari ia te iwi Māori (this cause is not just for Ngāti Tūwharetoa but for the whole Māori people)". The memorial described the Treaty as a "binding covenant" and set out many issues that it described as breaches of the Treaty by the Crown since 1840, including 'the request for Rectification by NgātiTūwharetoa' in relation to the Tongariro Timber Company. The memorial called for a Royal Commission, comprising a Law Lord, a Māori representative, and a New Zealand Supreme Court Judge, to inquire into Māori grievances.
- 2.304 When the case was heard by the Privy Council in 1940, Hoani Te Heuheu's argument that the Act which provided for the payment to be made was in breach of the Treaty of Waitangi was put before them. This claim was rejected by the Privy Council on the grounds that Parliament had sovereign power to legislate, and the Treaty was only legally enforceable if it had been made so through legislation.
- 2.305 In 1944, Hoani Te Heuheu wrote to the Prime Minister that the Privy Council's decision revealed that "only the New Zealand Parliament itself could rectify any wrongs done by



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Parliament". He said that the Privy Council's decision brought "the Treaty out into the light of day" and emphasised that it was Parliament's responsibility "for carrying out the Treaty ... to nurse and nourish as something precious in the relations of the two races".

- 2.306 In 1949, following further protests from Ngāti Tūwharetoa, the Crown agreed to establish a Royal Commission to consider whether 'in equity and good conscience' the land owners should pay all or any part of the £23,500. The Commission found that the Crown "acted unfairly" towards the owners when it imposed this charge on their lands. As the charge had been imposed it found that the owners, which included the Crown, should be liable to pay £20,000. It further recommended the Crown pay £750 of the balance of legal costs owing on the basis that Ngāti Tūwharetoa had been "labouring under a sense of injustice" that the Commission found to be "reasonable". The Māori Purposes Act 1952 provided for the Māori Land Court to apportion the payments among the owners of the various blocks covered by the 1908 agreement.
- 2.307 Of the 134,500 acres of Ngāti Tūwharetoa land originally placed under the 1908 arrangement with the Tongariro Timber Company, about 82,000 acres was timber lands. The Crown purchased about a quarter of the whole area subject to the agreement including almost 20,000 acres of the timber bearing lands. A 1930 Crown report stated that the Crown had paid approximately £77,000 for the timber-bearing lands, but noted that the timber on those lands was worth approximately £645,000. The failure of the arrangement over more than twenty years had prevented Ngāti Tūwharetoa from obtaining the economic and social benefits they had originally sought through the arrangement, and had also prevented them from using the land for other purposes over the duration of the agreement. While the Company paid approximately £53,000 in royalties to the Land Board between 1908 and 1929, it is not clear how much of this was paid to the owners. Even if the full amount was paid, this amounted to less than £3 per owner per year. Ongoing disputes over the debt owed to the Egmont Box Company tied up Tūwharetoa lands for twenty further years, and ultimately left them holding significant debt including the £20,000 charged against their lands in 1952. In the mid 1930s, a Native Land Court Judge stated that the majority of Māori around Taupo were 'more or less in a state of poverty'.

**Introduction of Trout to Lake Taupo and Degradation of the Indigenous Fishery**

- 2.308 Lake Taupōnui-a-Tia ('Lake Taupo') is a Ngāti Tūwharetoa taonga of great cultural significance. Its waters and the native species it contains, such as kōaro, kōura, kōkopu, toitoi and inanga, have long been a vital source of physical and cultural sustenance and are intrinsic to Ngāti Tūwharetoa history and identity as an iwi.
- 2.309 Brown trout were introduced to Lake Taupo in large numbers from the early 1890's by provincial acclimatisation societies, which were provided with financial assistance from the Crown. While the Crown did not run acclimatisation societies, from 1867 Parliament passed laws under which they operated and it actively promoted and encouraged their work. Trout fishing has always been subject to the legislation and authority of the Crown. From the late 1890s, acclimatisation societies introduced rainbow trout to the lake, with large numbers introduced from 1903. By 1911 rapidly growing trout numbers attracted the attention of anglers from around New Zealand and the world.
- 2.310 There is no evidence that Ngāti Tūwharetoa were consulted, and they did not consent to the introduction of trout to their lake. From the 1880s the harmful effects of trout on indigenous fisheries were known and in 1902 Ngāti Tūwharetoa's complaints about the degradation of their customary Taupo fisheries were aired in Parliament. In 1905, Ngāti Tūwharetoa petitioned the Crown about the destruction of 'our fish which were assured to us by the Treaty of Waitangi'. The petitioners stated they were prevented by

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fisheries law from eliminating the introduced trout from their lakes and rivers and were punished if they killed them. In 1913, Ngāti Tūwharetoa again petitioned Parliament about its diminishing fisheries, asking for free fishing licences as compensation for the loss of their fisheries. These were not provided. In 1913, Ngāti Tūwharetoa granted easier access for anglers to the Tongariro River, and in exchange legislation was enacted to provide for the Tongariro Māori Council to allocate 20 quarter-price fishing licences to its people.

- 2.311 The trout population in Lake Taupo grew rapidly, due in part to the abundance of indigenous fisheries such as kōaro on which the trout fed. By 1912, the population of indigenous fish in Lake Taupo had diminished to the point that the trout fishery also began to decline. In 1913, the Crown assumed control of Taupo trout and authorised the culling of trout to a level intended to match their declining food supply. This was done not for the benefit of Ngāti Tūwharetoa or the indigenous fisheries upon which they had relied but for the benefit of trout. In the 1930s, after the near-eradication of kōaro and a further decline of the trout fishery, the Crown introduced smelt and freshwater shrimp as food sources for trout. The kōaro, which had long been a critical and abundant food source for Ngāti Tūwharetoa, was no longer able to sustain fishing.
- 2.312 With their customary fisheries disappearing, Ngāti Tūwharetoa incorporated trout into their food supplies and fishing practices. Ngāti Tūwharetoa protested that it was unreasonable to require them to hold a license to catch trout, and to prosecute them if they caught trout without a licence, when their traditional fisheries had been destroyed.

**Lake Rotoaira**

- 2.313 In 1905, having seen the damage wrought by trout on the indigenous fisheries in Lake Taupo, Ngāti Tūwharetoa petitioned the Crown to prevent the release of trout in Lake Rotoaira. As the last of their waterways to remain free of trout, Ngāti Tūwharetoa wished to retain it "as a sanctuary for the beautiful fish of our ancestors". In response the Native Minister promised that trout would not be introduced to Rotoaira. However, sometime before 1919 trout were surreptitiously introduced to the lake by persons unknown. In 1922, as a means to compensate Ngāti Tūwharetoa for the detrimental effect of trout on their fisheries in Lake Rotoaira, legislation was passed authorising Ngāti Tūwharetoa to fish in their lake, Rotoaira, without having to pay for licences although they remained subject to other aspects of fisheries regulations. Non-Māori were prohibited from fishing in Lake Rotoaira.

**CROWN ACQUISITION OF LAKE TAUPO**

- 2.314 Following the damage caused to indigenous fisheries by the introduction of trout to Taupō waterways, Ngāti Tūwharetoa were able to obtain some benefit from the growing trout fishing industry by charging anglers to camp and fish for trout on lands owned by Ngāti Tūwharetoa. In 1902 the Crown attempted to prevent this practice and guarantee licensed anglers access to waterways with the introduction of the Fisheries Conservation Amendment Act. This Act abolished the right of landowners to sell or lease their right to fish without a licence from their own lands. However, Ngāti Tūwharetoa continued to exercise effective control over the trout fishery by charging anglers a fee to cross and use their land.
- 2.315 By the early 1920s, anglers were increasingly asking the Crown to intervene over the issue of securing access to waterways. In 1923, an Acclimatisation Society alleged to the Crown that Ngāti Tūwharetoa might allocate exclusive access rights to the Waitahanui River to only a few anglers in order to generate a higher income. The Crown responded by urging Ngāti Tūwharetoa to continue to provide this service to all anglers while it sought to come to a more permanent arrangement with the iwi over

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- fishing access. The Crown therefore acknowledged Ngāti Tūwharetoa's practice of charging for access.
- 2.316 In 1923, Ngāti Tūwharetoa lodged a claim in the Native Land Court to the title of Lake Taupo. However, the claim was not heard. At the time the Crown considered that Māori customary law did not recognise ownership of lakebeds, and therefore considered that lakebeds were owned by the Crown even though in 1913 the Court of Appeal had found that the Native Land Court was able to investigate whether Māori had customary title to lake beds.
- 2.317 In 1924 the Crown sought to address anglers' concerns about fishing access by introducing legislation which authorised the Crown to negotiate such access with Māori "claiming to be owners of the lands bordering on Taupo waters for an agreement in respect of fishing-rights in Taupo waters and in respect of the beds and margins of Taupo waters", including Lake Taupo and all rivers and streams flowing into that lake, and the Waikato River between Lake Taupo and the Huka Falls.
- 2.318 The reference to those claiming to be the owners of the lands bordering on the lake and rivers, rather than with the legal owners of these riparian lands and the customary owners of the lake, enabled the Crown to circumvent the native land title system and deal directly with Ngāti Tūwharetoa representatives at meetings with the Native Minister or his officials. If, in the view of the Native Minister, an agreement was 'approved by a majority of the Natives claiming to be concerned in the subject matter ... and present at such meeting or meetings' and that agreement was 'fair and reasonable in the interest of the Natives concerned, and also in the public interest', the agreement would be embodied in an Order in Council.
- 2.319 In March 1926, the Crown finalised a draft agreement to put to Ngāti Tūwharetoa. The Crown's draft agreement proposed to vest ownership of the bed of Lake Taupō and its riverbeds in the Crown. The Crown also proposed to secure access for licensed anglers to the rivers flowing into Lake Taupō via a one-chain strip (20-metres) along the riverbanks. A one-chain strip was sought around the shore of Lake Taupō for use by the general public as well. During the long-running debate over access for licensed anglers, access to the lake by the general public had not previously been raised as an issue. In return, the Crown would set up a licensing system for Taupō fisheries distinct from the national system then in place and offer Ngāti Tūwharetoa half of the revenue collected from Taupō licence fees, to be distributed to Ngāti Tūwharetoa riparian owners. Ngāti Tūwharetoa would also be given a share of free fishing licences.
- 2.320 On the morning of 21 April 1926 Prime Minister and Native Minister J. G. Coates met with representatives of Ngāti Tūwharetoa at Waihi to discuss the draft agreement. No official record of the meeting has been located but a newspaper report of the meeting notes that after a morning of discussions, Hoani Te Heuheu and several other rangatira informed Coates that Ngāti Tūwharetoa agreed to cede their fishing rights over Lake Taupō. In return, they wanted an annual payment of half of the Taupō licence fees with a minimum payment of £3,000 per annum. Coates and the rangatira present agreed that the finer details of the agreement and the issue of fishing rights in rivers were to be the subject of further negotiations. Although both the 1924 Act and the Crown's draft 1926 agreement included provisions for the acquisition by the Crown of the beds and margins of Lake Taupō and its tributaries, Coates reportedly told those present that the Crown was 'not concerned with the ownership of the lake' and 'did not want to have anything to do with the bed of Lake Taupo'.
- 2.321 In response to complaints from anglers about the failure to resolve fishing rights in the rivers, it was reported that these were included within the term "Taupo waters," as defined in the 1924 Act. Ngāti Tūwharetoa reacted to that report by denying they had

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- ceded fishing rights in the rivers. Another press report in April 1926 referred to the iwi having ceded the lake bed and a one-chain strip on the banks of the rivers for £3,000, prompting Hoani Te Heuheu to ask the Native Minister to correct this error.
- 2.322 On 26 April 1926, Coates wrote to the Governor-General setting out the Crown's view of what had been agreed at Waihi. He advised the Governor-General to sign an Order in Council giving effect to the agreement as provided for in the 1924 Act. The agreement sent to the Governor-General was almost identical to the draft prepared by the Crown before the meeting at Waihi, with the exception that Ngāti Tūwharetoa's share of the licence revenue was specified as being a minimum of £3,000 per annum and that the sum would be paid to the Tūwharetoa Māori Trust Board for the general benefit of the iwi. The stated agreement also referred to the vesting of the beds of Lake Taupō and its tributaries in the Crown even though this had not been discussed with or agreed to by Ngāti Tūwharetoa. On 27 April, officials advised that it was 'probably desirable' that the agreement should be given effect to through legislation rather than with an Order in Council.
- 2.323 On 21 July 1926, Hoani Te Heuheu and 10 other Ngāti Tūwharetoa rangatira met in Wellington to review the Crown's proposed agreement. The Ngāti Tūwharetoa rangatira passed a resolution that they would allow the general public to access Lake Taupō and allow licensed anglers to access the rivers. For 'their fishing rights in Lake Taupo only', Ngāti Tūwharetoa wanted a minimum annual payment from the Crown of £3,000. The resolution also outlined that Ngāti Tūwharetoa wanted 100 free fishing licences, that the Tūwharetoa Māori Trust Board would be able to prohibit public access to certain areas from time to time, and that fishing camps would not be allowed on the one-chain marginal strips. However Ngāti Tūwharetoa did not agree to the vesting of the beds of Lake Taupō and the rivers in the Crown.
- 2.324 On 23 July 1926, the Ngāti Tūwharetoa delegation met with Prime Minister Coates to finalise the agreement. No record has been found of the discussion which took place at the meeting, but further clauses and amendments were made. The final agreement, which was closer to the Crown's proposals than the iwi's previous responses, stipulated that the beds of Taupo Waters were to be "vested in the King as a Public Reserve". The public would be granted access to the lake via a one-chain strip (20-metres) around the length of its shore, while licence-holders would have access to the rivers via a one-chain strip along their banks. Fishing camps would be allowed on the one-chain right of way with rents for the camps to be shared with Ngāti Tūwharetoa. The agreement also specified that the Crown would grant half of the annual revenue collected from trout fishing licensing in Taupō, fines for breaches of fishing regulations, camping fees, and commercial boat licensing fees with a minimum payment of £3,000, to the Tūwharetoa Māori Trust Board. The Board would also receive 50 free fishing licences to distribute to Ngāti Tūwharetoa.
- 2.325 The agreement was signed by Hoani Te Heuheu on behalf of Ngāti Tūwharetoa on 26 July 1926 and it was given effect to by the introduction of the Native Land Amendment and Native Land Claims Adjustment Act 1926. The Act declared the "bed of ... Lake Taupo, and the bed of the Waikato River extending from Lake Taupo to and inclusive of the Huka Falls, together with the right to use the respective waters ... to be the property of the Crown, freed and discharged from the Native customary title (if any) or any other Native freehold title thereto". The Act differed from the agreement in making no provision for the beds of Taupo waters to be held as a public reserve. The Act excluded land owned by non-Māori from the provisions for public access and camping. The Tūwharetoa Māori Trust Board was established under the 1926 Act to administer Ngāti Tūwharetoa's annuity from fishing licences, "for the general benefit of the members of the Tūwharetoa Tribe or their descendants". The Board held its first meeting in November 1926.

2: HISTORICAL ACCOUNT

- 2.326 The final 1926 agreement contained a provision that the legislation to be passed to give effect to the agreement would include provisions from the Native Land Amendment and Native Land Claims Adjustment Act 1922, relating to Te Arawa lakes "as may be applicable". The agreement did not stipulate which specific provisions from the 1922 Act were considered to be "applicable". When the 1926 Act came into force, this clause of the agreement had the effect of vesting the right to use the waters of Lake Taupō and its rivers in the Crown. In 1944 and 1946, after the lake began to be used for electricity generation, Ngāti Tūwharetoa complained to the Crown that the right to use the lake's waters for such a purpose had not been discussed or conferred to the Crown in the 1926 negotiations and they proposed fresh negotiations on the matter. The Crown informed Ngāti Tūwharetoa that it would investigate whether or not the issue had been agreed in 1926 but there is no evidence that it did so.
- 2.327 One difference between the July agreement and the subsequent 1926 Act was that the latter provided that the Crown could prohibit access to any portion of the one-chain strip around the lake shore and along the rivers; there was no reference to exclusions being made on the recommendation of the Tūwharetoa Māori Trust Board as provided for in the 1926 agreement. In late 1926 and in 1927 Ngāti Tūwharetoa landowners informed the Crown of the need to protect some valuable hot springs and lands which included urupā, burial caves, cultivations, and pā within the chain strip. Coates advised them to apply to the Minister of Internal Affairs for such exemptions. Despite Ngāti Tūwharetoa later showing an official where the requested reserves were, no reserves were ever made.
- 2.328 In 1927, Ngāti Tūwharetoa informed the Crown that private individuals were taking gravel and sand from the beds of Lake Taupo and its rivers. They queried whether royalties should be paid for such extraction and whether, as with other income related to the lake and rivers, half of the royalties should be paid to the iwi. The Native Department considered that, if any royalties were derived from gravel and sand in the lake and streams, they should be divided up with the Tūwharetoa Māori Trust Board. The Department of Internal Affairs noted that there was no provision in the 1926 Act relating to gravel extraction.
- 2.329 In 1992 the Crown recognised that Lake Taupō is a taonga of Ngāti Tūwharetoa and embodies the mana and rangatiratanga of Ngāti Tūwharetoa. The Crown agreed to vest the bed of Lake Taupo in the Tūwharetoa Māori Trust Board, to be held in trust for its beneficiaries and for the common use and benefit of all the peoples of New Zealand. The Crown also vested title to the beds of the Waikato River and of the rivers and streams flowing into Lake Taupo in the Trust Board to be held in trust for the members of the Ngāti Tūwharetoa hapū who adjoin those waterways, and in trust for the common use and benefit of all New Zealanders. The 1992 deed acknowledges that Ngāti Tūwharetoa assert that the vesting of the lake and river beds was not intended to be part of the 1926 agreement.
- 2.330 The Ngāti Tūwharetoa tradition is that the 1926 negotiations were for the purpose of providing public access to the fishery, and that the iwi did not willingly relinquish the ownership of Lake Taupo to the Crown. Ngāti Tūwharetoa also recall that kaumātua Arthur Grace said that his father Puataata Alfred Grace, who had been involved in the 1926 negotiations, regarded the Crown's acquisition of the lake as a serious grievance which had been achieved by a "sleight of hand".

**Compensating Ngāti Tūwharetoa landowners for the riparian right of ways**

- 2.331 In October 1926 the Crown proclaimed all the major rivers and streams flowing into Lake Taupō as its property. The final 1926 agreement over fishing rights in Taupō contained a provision that the Crown would appoint a tribunal to investigate

2: HISTORICAL ACCOUNT

landowners' claims for compensation in relation to the loss of revenue resulting from the installation of one-chain strips along riverbanks. When the Native Land Amendment and Native Land Claims Adjustment Act 1926 was passed, it provided that owners of riparian lands 'injuriously affected' by the one-chain right of way could claim compensation. Claims for compensation had to be filed within three months of rivers being declared Crown land and a right of way being reserved under the 1926 Act. Ngāti Tūwharetoa landowners filed 48 claims totalling £67,900.

- 2.332 Despite calls from Ngāti Tūwharetoa in late 1927 to amend the Act to provide more clarity around the extent of the compensation clause, no progress was made with the claims. In 1928 Hoani Te Heuheu filed proceedings in the Supreme Court seeking an interpretation of the compensation provisions in the 1926 Act. However, the Court considered that the wording of the compensation provision relating to rivers in the 1926 Act had 'defeat[ed] the intention of the parties as expressed in the agreement' and as such the Act did not give effect to the provision. The Court considered that it should be left to the legislature to remedy the issue and declined to make a determination.
- 2.333 The Crown took no action on the 1926 compensation claims or on the Court's 1928 findings despite Ngāti Tūwharetoa repeatedly urging that it address the issue. In 1946 Parliament enacted the Native Purposes Act which amended the criteria for compensation set out in the 1926 Act, enabling compensation to be claimed by riparian landowners who had suffered any loss through no longer being able to let their land within the one-chain strips for fishing or camping purposes. Claimants had six months from the passage of the 1946 Act to lodge a claim.
- 2.334 The Lake Taupo Waters Claims Compensation Commission finally heard Ngāti Tūwharetoa landowners' claims, and the Crown's responses to them, in November 1948. The landowners sought £71,900 in compensation for damage caused to their land and the loss of revenue, in addition to £4,800 in legal costs. In December 1948 the Compensation Court awarded Ngāti Tūwharetoa claimants a total of £45,600 in compensation and an additional £2,400 for legal costs.

**WAIMARINO RIVER**

- 2.335 Ngāti Hine treasure the Waimarino River as a taonga tuku iho of special significance. The hapū pepeha is:

*Ko Matauhipō te maunga  
Ko Waimarino te awa  
Ko Korohe te marae  
Ko Rereao te whare tūpuna  
Ko Ngāti Hine te hapū  
Ko Ngāti Tūwharetoa te iwi*

- 2.336 In 1921, some of the blocks adjacent to the Waimarino River were surveyed; however, this survey did not depict the entire Waimarino River. In 1922, the Inspecting Surveyor characterised the survey as unsatisfactory. He noted in his report that "a further area should have been included in [Hautū] 1B8", referring to an area shown as riverbed on the plan. He added that the main arm of the river had not been traversed in this area. The Inspecting Surveyor stated that "failing a satisfactory explanation, the matter should be referred to the Native Land Court". In 1922, the Deputy Chief Surveyor recommended that this matter should be referred to the Native Land Court. It is not known if this was done. In 1925, the Chief Surveyor approved the plan with some amendments, but there was no change to the boundaries of the river.

2: HISTORICAL ACCOUNT

- 2.337 In October 1926, the Crown proclaimed the bed of the Waimarino River to be Crown land under the Native Land Amendment and Native Land Claims Adjustment Act 1926. However, the river was not surveyed in 1926 so the location of the riverbed acquired was not accurately verified at this time. In 1927, a survey of adjoining blocks was carried out and revealed that the river in this area had shifted course. Ngāti Hine came to occupy some of the land that had formerly been riverbed. This land was near their main papakāinga, located beside the river at Korohe.
- 2.338 From 1948, the Crown began using the Waimarino riverbed as a source of gravel for road construction and maintenance in the Turangi district. From the early 1950s, the river was also the main source of gravel for the construction of the Wairākei and Aratiatia power schemes. By 1956, the Crown and its contractors had extracted 40,000 yards of gravel from the lower Waimarino River. Over one million yards had been removed by 1965.
- 2.339 The primary site for the gravel extraction operation in the Waimarino River was in close proximity to the Ngāti Hine papakāinga of Korohe, which, until then, had been a quiet rural community. The extensive industrial activity was a constant and extreme disruption to the Korohe community, with the crushing plant and trucks causing continuous noise and heavy vibration. Extraction activity sometimes occurred twenty-four hours a day, and continued even during tangi at Korohe Marae. A resident recalled, "[t]he noise was horrendous, and it was constant. Night-time, day-time, seven days a week, this huge rumbling ... the whole place vibrated".
- 2.340 Ngāti Hine describe damage to environmental taonga, including a stand of ancient kowhai trees located close to the river's edge that were an important source of rongoā, and special stands of harekeke used for the weaving of whariki for the marae. Metal extraction activities damaged indigenous and introduced fisheries that were an important food source for Ngāti Hine. The hapū are also deeply distressed that their strong spiritual association with the Waimarino River has been disrupted, and that the river's mauri has been detrimentally affected through pollution from dredging work.
- 2.341 Ngāti Hine recall that the metal extraction caused a severe dust nuisance for the Korohe community which affected their health and polluted their water supply. Kaumātua Jim Biddle recalled how the dust settled on residents' gardens, laundries and roofs, and people had to "shovel mud out of their water tanks"; turning on the water tap was like "drinking liquid mud". Residents also describe an increase in asthma and other respiratory problems during this time.
- 2.342 In 1955, the gravel extraction and processing operations in the Waimarino River expanded. Officials noted that the Crown would need to enter Māori land at Korohe in order to carry out the works, "which may mean protracted negotiations" with the owners. Such negotiations did not take place. Without seeking permission from the Ngāti Hine owners, the contractors carrying out the gravel works cleared a section of the Korohe Pā Reserve which abutted the river and established a crushing and screening plant on it. The Crown and its contractors also traversed the reserve in order to access the river and its gravel supply.
- 2.343 Prior to 1956, the Crown did not investigate or act upon Ngāti Hine complaints about the Crown's operations. In February 1956, the owners took an injunction out against the Crown and its contractors to stop them from trespassing on the reserve. Ngāti Hine say that the injunction was filed under their Māori names rather than their legal anglicised names because the men, like many at Korohe, were employed by the Ministry of Works and those who had previously complained about the impacts of its operations had been threatened with the loss of their jobs. The owners sought

2: HISTORICAL ACCOUNT

compensation from the Crown and for some protections to be implemented to prevent erosion and other damage to the river due to the extraction works.

- 2.344 A local man acted for the owners and informed the Crown that they appreciated that the gravel works were a matter of 'great national importance'. Because of this, they would not insist on the costly removal of the processing operation from the land allowing it to continue operating while a settlement was negotiated. They recognised that the Crown had "very wide powers" that it could exercise over the land, but that it had agreed not to seek to acquire the area. Following negotiations, the owners' agent agreed to grant the Crown a 20-year easement over approximately six acres of the reserve for use in gravel extraction and waive all claims for damage and trespass. In exchange, the Crown offered to undertake steps to prevent riverbank erosion connected to gravel extraction and construct a groyne on the northern riverbank as a protection measure. An internal Crown memorandum noted that the owners would, in any case, have a right to claim for injury to their land as a result of the Crown's work in gravel extraction. The Crown also agreed to keep the land clear of vegetation and the surface of the land level.
- 2.345 The Crown further agreed to grant Ngāti Hine seven acres of land as compensation for the granting of the easement and in satisfaction of their claims. The land the Crown granted to Ngāti Hine had previously been part of the Waimarino riverbed but had become dry land due to the river changing course. In 1956, an official thought that granting Ngāti Hine this parcel of land "would legalise the factual position" as Ngāti Hine had occupied the land for many years, while at the same time provide an inexpensive means to settle the owners' claim. The agreement was presented to the Māori Land Court in August 1956 and finalised at a hearing in November 1956. The compensation land was part of the area identified by the Inspecting Surveyor in 1922 as having been unsatisfactorily surveyed [in 1921]. Ngāti Hine consider that the land returned to them was land that they already owned, and that they therefore were not properly compensated; for example, Jim Biddle recalled that, "[t]o add insult to injury, they used that very land to give to us as compensation".
- 2.346 In 1981, five years after the 20-year term of the easement ended, the owners of the Korohe Pā Reserve complained that the Crown had not complied with the terms of the easement. It had not kept the land used for the easement tidy as required by the agreement. The land was left covered in noxious weeds, old quarrying works, rubbish, and had not been levelled. Following a meeting between the Minister of Māori Affairs and the owners at Korohe in 1981 the Crown cleared and levelled the easement land. Crown officials understood at the time that they had satisfactorily addressed Ngāti Hine's concerns. However, the former pits in the riverbank and parts of the easement land are now swamps and the land is unable to be used.

**MĀORI LAND DEVELOPMENT SCHEMES**

- 2.347 Ngāti Tūwharetoa landowners had little access to commercial or state-provided development finance, but the nature of their lands was such that they required substantial development to create viable grazing farms. By the turn of the 20<sup>th</sup> century it had become apparent that barriers to Ngāti Tūwharetoa land owners developing their lands included the state of their Native Land Court titles, the absence from the native land laws of an effective governance mechanism, and the resultant limits this placed on their ability to accumulate or borrow capital. Coupled with these systemic issues were, at the individual level, were a lack of relevant skills and education. In 1907, the Stout Ngata Commission was critical of the Crown for failing to provide Māori with the same level of financial assistance and expert advice it provided for settlers to develop their land.



2: HISTORICAL ACCOUNT

- 2.348 The period from 1890 to 1929 was critical for the growth and development towards the goal of closer settlement in rural New Zealand. It was a period in which the Crown began to take a more active role in development, leveraging off advances in commodity processing of animal protein and the international transport of such products. The Crown continued to provide settlers with titles to lands suitable for development into farms, created some access and infrastructure, as well as providing some training for the unemployed on the State farms in the 1890s. The most important development was targeted financial assistance through the Government Advances to Settlers Office from the 1890s. By 1929, the Crown had come to recognise that individual settlers could no longer be expected to undertake and fund land development in advance of commencing farming operations, leading the Crown to institute Crown land development schemes to develop and settle land and to advance development funds to settlers.
- 2.349 Ngāti Tūwharetoa's early twentieth century strategy of combining sales and retention of land for development and the provision of a living for members of its various hapū was undermined by successive governments' land purchase policies - leaving insufficient land of a quality to be developed for the general population of Tūwharetoa when the Crown began promoting development schemes in the early 1930s. Ngāti Tūwharetoa's goals for development were also frustrated by the lack of the financial and other assistance that had been available to others since 1890. In 1924, owners of land near Tokaanu suitable for development for dairying lacked capital to develop and stock their land, and offered to sell interests in other lands such as Hauhungaroa to the Crown to raise capital. The Native Land Court endorsed this request and informed the government: "There is... nothing much in front of them at Tokaanu, apart from dairying, and if this fails they will be faced with starvation or have to leave their homes and go in search of a livelihood elsewhere".
- 2.350 In 1926, Ngāti Tūwharetoa made a request to J.G. Coates seeking assistance to develop 100,000 acres around Lake Taupo. The land owners identified significant difficulties "through a want of capital". They sought assistance similar to that provided to European settlers and the guidance by staff of the Department of Agriculture.
- 2.351 After 1929, the Crown instituted a number of schemes in the Ngāti Tūwharetoa rohe to develop Māori land for commercial agriculture using funds loaned by the Crown. These schemes operated between the 1930s and the 1980s with six larger schemes being commenced in the 1930s and six smaller ones after 1940. Land could only come into development schemes with the consent of its owners, but owners wishing to get their land developed had very few other options. The Crown administered these schemes, and required Ngāti Tūwharetoa landowners to give up control of the lands they wished to place in development schemes. In the 1930s the Crown characterised its complete control over the schemes as a "benevolent despotism". The Crown intended to return the land in development schemes to Ngāti Tūwharetoa control once it had developed sustainable farms on this land.
- 2.352 The Crown never provided for Ngāti Tūwharetoa land owners to have an effective role in the management of the development schemes. After proposals by Ngāti Tūwharetoa, in 1950 the Crown agreed to establish two Ngāti Tūwharetoa advisory committees for the Waiariki and Aotea districts development schemes. In 1969, the Crown established a five member "development committee" for each scheme that would include two owners' representatives appointed by the Crown. However, the role of the committees was only to give "provisional" approval to management plans, and the Crown gave them no legal power to control management decisions. The committees were not very successful as they were "purely consultative". Ngāti Tūwharetoa were critical of the Crown's ability to direct the administration of the schemes without being accountable to the owners.

2: HISTORICAL ACCOUNT

- 2.353 A considerable quantity of Ngāti Tūwharetoa land remained under Crown administration for much longer than the landowners were led to expect and the Crown expected would be the case. In the depression of the 1930s, the Crown's administration of development schemes also provided socio-economic relief to Ngāti Tūwharetoa who were saved from "destitution" by development-related work. After 1949, the Crown's focus narrowed much more to the economic development of lands in the schemes. However, the Crown sometimes found it difficult to develop the land due to factors such as the poor quality of some of the Ngāti Tūwharetoa land on which development was attempted, difficulties in attracting competent managers, and fluctuating economic circumstances. Ngāti Tūwharetoa sometimes criticised what they regarded as the incompetence of the Crown's management, and what they saw as unnecessary costs being incurred in the management of the development schemes.
- 2.354 The Crown charged the costs of development schemes against the land for which they were incurred. It intended to recover many of these costs from the profits of farming the developed land, and to return this land to Ngāti Tūwharetoa control with what it considered to be manageable debt levels. The high cost of developing marginal land, such as that in the Korohe development scheme, combined with an infestation of rabbits, fertiliser shortages, and the transformation of some of the developed land into wetland following the raising of the level of Lake Taupo, made it inevitable that large amounts of development costs would need to be written off if land was to be returned to its owners with sustainable debt levels. The Korohe scheme was returned to its owners in 1960/1961.
- 2.355 In the 1970s and early 1980s, the Crown delayed the return of land in development schemes to Ngāti Tūwharetoa control with a view to reducing to manageable levels the large debts which had accumulated against development scheme land. Another debt faced by the owners arose from buying back the undivided individual shares acquired by the Crown while the land was being developed. Some of the shares had been compulsorily acquired on the basis that they were 'uneconomic interests'. Between 1968 and 1971, the Crown acquired 984 shares in the Waituhi Kuratau scheme for \$17,077. In 1983 these shares were valued at \$617,798. As the owners had decided in 1977 to buy back the shares, the Crown agreed in 1983 to sell the shares at the 1977 valuation plus interest, which came to \$238,848. In the Waihi Pukawa scheme the interests acquired by the Crown before 1971 for less than \$20,000 were offered back to the owners in 1980 at a valuation of nearly \$300,000, who took out a mortgage to pay for the shares.
- 2.356 The need to pay down debt meant the owners who did not participate in the schemes as farmers or employees received little or no income from their land. The schemes originally envisaged settling some owners on small but economically viable farms. However, as the schemes progressed, and the rural economy was affected by a sharp decline in commodity prices after the mid 1950s, the Crown reduced the number of farms to be created. The Taurewa scheme was reduced to a single large station.
- 2.357 The Crown decided to withdraw from land development schemes after 1984, and the lands and assets of schemes still in operation were returned to the control of the land owners by the early 1990s. The owners of the Taurewa scheme initially refused to accept this land back because of a large debt they said had been incurred due to Crown mismanagement over which they had no control. The Crown wrote-off a large part of the remaining development costs, and the Taurewa owners paid off the remaining debt within a year. However, the owners of the land in the Taurewa scheme lacked the capital and the training to further develop and manage the station at Taurewa.

## TAUPO BASIN RESERVES SCHEME

- 2.358 During the late 1950s and early 1960s, there was widespread concern about the declining quality of the waters of Lake Taupo. In the 1960s the Crown and the Taupō County Council proposed a significant initiative to conserve the water quality and health of Lake Taupō and "preserve the natural beauties and attractions of Lake Taupo". Initiated in 1968, the Taupō Basin reserves scheme, aimed to preserve the lake's water quality by preventing further sediment and nitrate loading, both direct outcomes of large-scale developments and farming practices around the lake. The scheme proposed creating scenic reserves as a buffer zone around the lake and on the banks of some of its tributaries.
- 2.359 When the scheme was being mooted in 1965 the Crown observed affected Ngāti Tūwharetoa land owners were "likely to be strongly opposed". When the iwi met to discuss the scheme in 1967 there was "a general feeling for retaining tribal lands" and concerns were expressed about the Crown's powers of compulsory acquisition of reserves. Of the 38,000 acres proposed as reserves under the scheme in 1966, 22,000 acres was Māori land. The scheme's success was viewed as dependent on the cooperation of Ngāti Tūwharetoa landowners. At a hui at Waihi in 1967, Ngāti Tūwharetoa gave their support to the scheme on the basis that their land would not be compulsorily acquired, that rates on Māori-owned land would be deferred (and unpaid rates written-off), and that Reserve Zoning would be removed on land Ngāti Tūwharetoa wished to develop (or land would be exchanged). In August 1967, Ngāti Tūwharetoa approved the scheme, and newspapers reported that this approval was on the basis that land would be set aside for the purpose of the scheme would become "proper reserves for all time for the use of the people and with adequate roading", and that suitable areas be "earmarked for subdivisions", and that they preferred exotic afforestation of the land round the eastern side of the lake than farming.
- 2.360 In 1968, the Crown established the Taupō Basin Coordinating Committee, which included Ngāti Tūwharetoa representatives. The Crown assured the committee that it would not compulsorily acquire land, but would instead negotiate with landowners to secure the land needed for the scheme. The Crown told the Committee it could not purchase all the land required for the scheme at once. To ensure the future inclusion of land in the scheme, Taupō and Taumarunui County Councils zoned the areas as 'proposed lakeshore reserve' under the Town and Country Planning Act. This restricted the owners' use of their land without requiring the acquisition of the land or compensation for its owners. Many owners were unaware of the designation imposed on their land and none were consulted before it was imposed.
- 2.361 In 1970, Ngāti Tūwharetoa expressed concerns to the Crown that the use of the 'proposed lakeshore reserve' designation over large areas of their land defeated the policy agreed between them to negotiate the designation and acquisition of reserves. The Crown assured Ngāti Tūwharetoa that the designations were a necessary first step before negotiations over the reserves could commence. Negotiations for a few proposed reserves proceeded slowly as the Crown found Ngāti Tūwharetoa landowners reluctant to negotiate the sale of their land. Meanwhile, the designations remained in place for around 20 years.
- 2.362 Concerned by the reserve designations, some Ngāti Tūwharetoa landowners objected to them for a range of reasons. Landowners at Waihaha objected to restrictions on development and to the reserve designation taking in papakāinga land as well as their marae and urupā. They and other landowners said that no consultation with owners had taken place before the reserve designations were imposed nor were they subsequently notified. Waitetoko marae was on land designated as proposed

2: HISTORICAL ACCOUNT

lakeshore reserve and the marae trustees objected that the public access this entailed would affect the status and functioning of the marae. Trustees for the Tauranga Taupō block argued that the designation was "not necessary for the development of the lake shore or the maintenance of the environment" and that it "fail[ed] to take into account the cultural economic and social needs of the owners". A Waipapa trustee stated that a development plan was already in place for lands bordering the Tokaanu Stream and that he wanted his trust to be left the task of maintaining and beautifying the area. The process for changing the designation of the land was difficult and confusing and it does not appear that any Ngāti Tūwharetoa landowner succeeded in having the reserve designation lifted before the Taupo Basins reserves scheme was abandoned in 1989.

- 2.363 In 1971, parts of 14 Tauhara Middle blocks, comprising 18 acres lying between Lake Taupo and Waitahanui stream, were acquired by the Crown as a result of the non-payment of rates. The lands had been designated as reserves under the scheme and continued to be subject to rates. The Taupo Basin Co-ordinating Committee informed the Crown that this caused "quite bitter anger" among the Ngāti Tūwharetoa landowners.
- 2.364 In 1978, the Taumarunui County Council removed the reserve designations within its district west of Taupō. In 1989, a Taupō County Council report concluded landowners had not been dealt with fairly or promptly and that compensation should be paid. This was not done. In 1989 the Taupo County Council abandoned the scheme. Ngāti Tūwharetoa felt the objectives of the reserves scheme could have been achieved through consultation with the relevant Crown agencies, and through continuing to exercise their traditional kaitiakitanga, without the need for restrictive zoning designations. Although only a small amount of Ngāti Tūwharetoa land was actually acquired for the scheme, as a result of the scheme much of their land that was earmarked for it remained undeveloped. As at 2004, 45 per cent of the land owned by Ngāti Tūwharetoa in the Taupo catchment was undeveloped. This amounted to 38 per cent of the total area of undeveloped land in the Taupo catchment. The Crown, through the Department of Conservation, owned 53 per cent. Consequently, Ngāti Tūwharetoa consider that they shoulder a disproportionate share of the burden of environmental protection.

Te Heuheu Tūkino VII, Hēpi (1919-1997)



**Figure 12: Hēpi Te Heuheu speaking at the opening of Tapeka meeting house at Waihi, near Lake Taupo**

(Peacock, Morice Gladstone, 1916-1995 : Negatives, prints, register and minute book from 20<sup>th</sup> Century Photography studio, Taumarunui. Ref: MP-0379-099-F; Alexander Turnbull Library, Wellington, New Zealand)

**WAIKATO OUTLET CONTROL GATES**

- 2.365 In late 1926, following serious flooding around Lake Taupo Ngāti Tūwharetoa approached the Crown with a proposal to lower the level of Lake Taupō. They were concerned about the lake level, which they considered had been rising for several years due to a narrowing of the Waikato River mouth. This resulted in some lands around the lake becoming 'inundated and useless'. Ngāti Tūwharetoa wanted to open up those affected lands for agricultural development, including land that had been farmed prior to the 1926 floods. The Crown investigated their proposal but decided that lowering the lake level would present too many risks, particularly to future hydro-electric development on the Waikato River. In 1939, the Crown proposed to install control gates on the Waikato River at the outlet from Lake Taupo. The proposed control gates would raise the level of the lake to provide storage for Waikato River power stations being developed downstream. In response to Ngāti Tūwharetoa concerns about the lake level being raised the Minister of Internal Affairs suggested that some amendments be made to the proposed control gates if there was no alternative to their installation. The suggested amendments were rejected by the Minister of Works who asserted it would be "difficult and expensive" and interfere with fishing.
- 2.366 Ngāti Tūwharetoa expressed concern in October 1939 that their low-lying lakeside lands, which included lakeside papakāinga, geothermal taonga, and wāhi tapu near the lake as well as productive farm lands, would suffer from flooding as a result of the raising of the lake level. The Minister of Public Works assured Ngāti Tūwharetoa that no cultivated land would be affected by the raising of the lake level, nor would it affect Tokaanu township or land being developed for farms at Korohe. This assessment was

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based on checks at a few sites rather than a comprehensive survey of the lakeside lands. The Crown approved the control gates in December 1939 and completed their construction in 1941.

- 2.367 The Crown's construction of the control gates involved the dredging of the lake bar to deepen and widen the lake outlet, the dredging of the bed of the Waikato River above the control gates, and excavation of a drainage channel parallel to the original river channel. This profoundly altered some lands downstream, such as Patuiwi, and the hydrology of the Waikato River. Ngāti Tūwharetoa say Matawhero, the taniwha at the natural outlet of the lake, was destroyed.
- 2.368 From 1941, the Crown raised the level of Lake Taupō higher than required for electricity generation purposes. The power generated helped to meet rising demands for electricity and increased Crown revenue by £800,000 per annum. The lake was kept at a consistently high level for long periods, including during seasons when it would typically have been lower. Until 1947 it was held at close to the maximum operational level and was held unseasonably high for sustained periods until 1971.
- 2.369 As a result of the higher level of the lake, many Ngāti Tūwharetoa taonga, wāhi tapu, burial caves, puna, beaches, and fishing rocks located alongside or in the lake and its tributaries were damaged or submerged.
- 2.370 After the control gates were installed and the lake level raised, low-lying productive lands at Waihaha, Nukuhau, and Waitahanui were damaged. Damage was caused by direct flooding or by the raised water table, which caused some land to become waterlogged, transforming it into swampland. In 1943, for instance, at Waitahanui, the inhabitants were unable to grow their usual crops because of the waterlogged land, while some of their homes needed to be shifted after being damaged by the higher waters. Lands used for the native land development schemes at Tokaanu, Korohe, and Tauranga-Taupō were similarly affected. As a result of flooding and the rise of the water table, some farms and cultivations had to be abandoned in the decades immediately following 1941. At Waihi, Nukuhau, and other papakāinga, geothermal springs used for bathing and cooking were damaged or inundated by flood waters. The marae at Waihi was flooded, the coastline reduced, and bath-houses damaged.
- 2.371 As a result of the Crown's regulation of the level of Lake Taupo in the 1940s and 1950s, the Waikato River valley also experienced a significant amount of flooding which caused damage to Ngāti Tūwharetoa lands alongside the river and accelerated the erosion process.

**Control Gate Compensation Claims**

- 2.372 Ngāti Tūwharetoa accepted that increasing electricity production was a matter of immense importance and in the national interest. At the same time, they wanted to protect their lands from the higher lake level. From 1942, Ngāti Tūwharetoa, as well as non-Māori, made complaints to the Crown about the harmful effects of the raised lake level on their lands. In 1943, Prime Minister Fraser acknowledged that the "job was not handled well" and a mistake had been made when the Crown originally concluded that raising the lake level would not cause flooding. He gave an assurance that something would be done as: "No Government will stand by and have injustices imposed on private citizens because of Government operations". While the Prime Minister preferred to think there had been a mistake or incompetence, the Native Minister later accused the Public Works Department of having been "very far from candid in its description of the probable effect of the works". In the six years following the opening of the control gates, the Crown made some attempts to rectify the situation and respond to claims for compensation. Its responses included building a protective wall

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and new baths at Waihi Pā, as well as shifting Tokaanu Native School. In 1944 the Crown proposed to compensate affected landowners.

- 2.373 In addition to receiving compensation for the damage caused, Ngāti Tūwharetoa sought ways to end flooding of land close to the raised level of the lake. In 1945, they commissioned an independent investigation into how the harmful impacts of the raised lake level could be mitigated in the future. The investigation recommended lowering the lake level by three feet and setting the controlled operational maximum at two feet on the lake gauge. This would improve waterlogged land issues, reduce compensation claims, and increase the productivity of the land, while still maintaining a sufficient water supply in the lake for the Waikato River power stations. Ngāti Tūwharetoa presented this proposed solution to the Crown. However, the Crown considered the necessary engineering work to be uneconomic.
- 2.374 The Crown established a Compensation Court to hear claims arising from damage caused by the increased lake level. Between 1945 and 1946, around 400 claims - some of which were later withdrawn - were made by Māori and non-Māori landowners. Initially the Compensation Court could only consider claims related to loss of value in the land affected. Ngāti Tūwharetoa and Crown officials alike raised concerns that the loss of taonga with historical and cultural associations, or the communal loss suffered when hot springs were flooded, would not be taken into account when the claims were considered. One official noted that while landowners would be compensated for the damage done to their lands, they would be unable to obtain similar lands in the area because no such land was now available. As a result those landowners would become reliant on purchasing food rather than growing it for themselves, a loss for which compensation could not be paid. In response, in 1945 the Crown promoted legislation to extend the definition of damages to include other 'injury'. The Native Minister was concerned that the 1945 Act could be interpreted too narrowly and failed to give effect to the "real intention" of the Government to widen the damage for which compensation could be paid. He warned that if that was the case the legislation might need to be amended. When the Court came to assess the claims, it concentrated almost exclusively on damage to land and the impact on individual owners. The court did not take into account matters of cultural and spiritual importance to the claimants. These included hot pools at Waihi, the loss of which the Native Affairs and Public Works Departments had previously accepted should be compensated, but for which compensation was not ultimately paid.
- 2.375 In 1947, the Compensation Court sat to hear landowners' claims, including 389 relating to about 28,000 acres of Ngāti Tūwharetoa land. The total compensation claimed was about £270,000. The total compensation payments made, including to non-Māori, were £42,356. Of this the sum awarded by the Court to Ngāti Tūwharetoa was approximately £16,000 in damages. In addition, through out-of-court settlements related to claims for about £68,000, Ngāti Tūwharetoa landowners received about £20,000 in compensation.
- 2.376 Many compensation awards were intended to meet the cost of rectifying damage through moving buildings, improving drainage, or building protective walls. However the Court did not have the authority to specify how the award money should be spent. Instead of being paid to the claimants directly, the awards were paid to the local land boards for distribution. The land boards had a statutory obligation to discharge debts registered against the titles affected, such as survey liens, unpaid court fees, and rates charges, before paying any balance to the individual owners according to their shareholding. In December 1948, the Registrar of the land board protested that the compensation awarded for filling in areas transformed by the higher lake into swamp was "utterly inadequate". It was "elementary that the Māori owners are entitled to compensation, which means full compensation, and there is a moral duty on the

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[Public] Works Department to see that they get it". The Registrar asked that the government do the work needed to restore the affected lands, otherwise the Land Board would be "saddled with an impossible task". Awards made for development scheme lands were divided between the owners and the Native Department. Of the approximately £37,000 claimed by the Board of Native Affairs for the three affected development schemes, compensation of £11,282 was awarded.

- 2.377 Much of the damage done in the 1940s was not remedied before the lands suffered from further flooding in the 1950s.

**Later Impacts of the Waikato Control Gates**

- 2.378 After 1947, the Crown continued to keep Lake Taupo at higher than its seasonal level for sustained periods. The maximum control level of the lake, 1177-feet, was not altered until 1971. After 1987, it continued to be held at higher than natural levels on a seasonal basis.

- 2.379 During the 1950s, the high lake level and flooding caused further damage to Ngāti Tūwharetoa's low-lying lakeside lands in 1952, 1957, and 1958. Between 1956 and 1957, the Crown raised the lake level above the maximum control level. In preference to compensation, Ngāti Tūwharetoa requested that the Crown consider ways to run the power schemes on the Waikato River with a lower lake level. The Crown preferred to pay compensation. As a result, 266 claims were lodged for compensation, originally totalling £146,000. In 1959, the Finance Act 1944 was amended to allow the Land Valuation Court to hear claims resulting from the lake level having been kept above the maximum control level from 1956 to 1957. In 1960, compensation hearings were held. The Court considered that if earlier damage caused to the lands in question by the high lake level had been rectified, then the effects of raising the level in 1956-1957 would have been lessened. The Court also considered that it would have been beneficial if the Crown had provided more technical advice and assistance to Ngāti Tūwharetoa for their remedial works. Such assistance had been sought in 1948 when the first round of compensation was paid. The Court awarded £24,000 in damages and £4,000 in interest to Ngāti Tūwharetoa. Compensation was paid to individual landowners through the Māori Trustee, who deducted administration costs of £5,000. The remaining compensation took some years to reach the owners.

- 2.380 The Court also awarded £5,000 to Ngāti Tūwharetoa for "very heavy" costs and expenses, such as surveys and legal fees. Ngāti Tūwharetoa had originally claimed costs amounting to £11,000 leaving a shortfall of £6,000.

- 2.381 Ngāti Tūwharetoa lands, papakāinga, cultivation lands, wāhi tapu, and urupā beside the Waikato River downstream of the control gates were damaged by changes in river flows and river levels after 1941. Poor regulation of the level of Lake Taupo from 1941 through to the 1950s led to the spillage of large amounts of water, causing a significant amount of flooding and erosion to Ngāti Tūwharetoa lands downstream.

**Waikato River Dams and Power-stations**

- 2.382 As part of its hydro-electric developments on the Waikato River, the Crown built dams in the Ngāti Tūwharetoa rohe between 1952 and 1964. These included the Waipapa, Maraetai, Whakamaru, Atiamuri, Ohakuri and Aratiatia dams. During construction, which included building roads and digging diversion channels, Ngāti Tūwharetoa wāhi tapu and wāhi taonga were damaged or destroyed, including hot springs, places for catching kōura (freshwater crayfish), urupā, burial caves, tapu rocks and rock paintings. From Aratiatia down to Mangakino, the formation of new lakes behind the dams, and alterations to river flow above and below the dams, caused flooding and damage to



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some Ngāti Tūwharetoa land and cultivations including highly valued kūmara cultivations in geothermally-warmed land beside the river. Islands in the river, including those on which pā and papakāinga and urupā had been located, were submerged. Old papakāinga and bird hunting sites beside the river were also flooded.

- 2.383 The Crown compulsorily took around 300 acres of land from Ngāti Tūwharetoa beside the Waikato River and Lake Taupō in relation to hydro-electric power schemes. In addition, in the 1960s, the Crown used 30 acres of fertile land known as the Cherry Grove as a "muck disposal area" during construction of the Aratiatia power station. This destroyed the utility of this valued and productive land. The Crown recognised that it needed to pay compensation for its use of the land. Officials negotiated with the owners and the Māori Trustee to buy the area rather than pay compensation. The land was acquired as a reserve in 1971, and declared Crown land in 1975 even though it was no longer needed for its original purpose.
- 2.384 Construction of the dams has resulted in a number of environmental problems, including a decline in indigenous fish species. The dams transformed large parts of the upper Waikato River into a series of artificial lakes, preventing the movement of tuna (eels) and migratory fish species and causing erosion and siltation.

**KAWERAU PULP AND PAPER MILL**

- 2.385 Ngāti Tūwharetoa Te Atua Reretahi have been adversely affected by the development and operation of the Tasman Pulp and Paper mill at Kawerau. In particular, the development of an effluent disposal scheme for the mill in the 1970s has impacted a number of Ngāti Tūwharetoa wāhi tapu, including the spring Te Wai Ū o Tūwharetoa, Waitahanui pā and urupā, and Lake Rotoitipaku. Te Wai Ū o Tūwharetoa is the spring where Ngāti Tūwharetoa's eponymous ancestor was nursed as an infant and accordingly is a site of immense cultural importance for all Ngāti Tūwharetoa.
- 2.386 In 1952, the Tasman Pulp and Paper Company was registered as an incorporated company, with the Crown as the majority shareholder, to develop the pulp and paper mill. While the Crown was no longer a majority shareholder after March 1955, it remained a significant shareholder in the company until 1979. In addition, the Crown invested in road and rail links, the establishment of townships, and the development of a new export port at Mount Maunganui to ensure the mill's success.
- 2.387 The Tasman Pulp and Paper Company Enabling Act 1954 authorised the discharge of waste from the mill into the Tarawera River in accordance with guidelines to be developed by the Pollution Advisory Council (PAC), whose members were appointed by the Crown as representatives of several central government departments, local authorities and industry. The company was, however, exempted from prosecution under any other legislation.
- 2.388 In 1962, the PAC reported negatively on the water quality of the Tarawera River. As a result, the company was required to improve the mill's waste discharge into the river. In 1966, the PAC's new stricter guidelines for allowable river pollutants came into effect. The company developed three options for effluent disposal. The option recommended involved Ngāti Tūwharetoa land blocks near Kawerau that contained wāhi tapu including Te Wai Ū o Tūwharetoa and Lake Rotoitipaku. The 1967 report did not consider the effects of the proposed discharges on the Lake. Nonetheless, the company selected the Lake Rotoitipaku scheme because it was the cheapest option. However, the report also said, if none of the options were suitable then 'all treatment and disposal could be carried out on existing holdings.'

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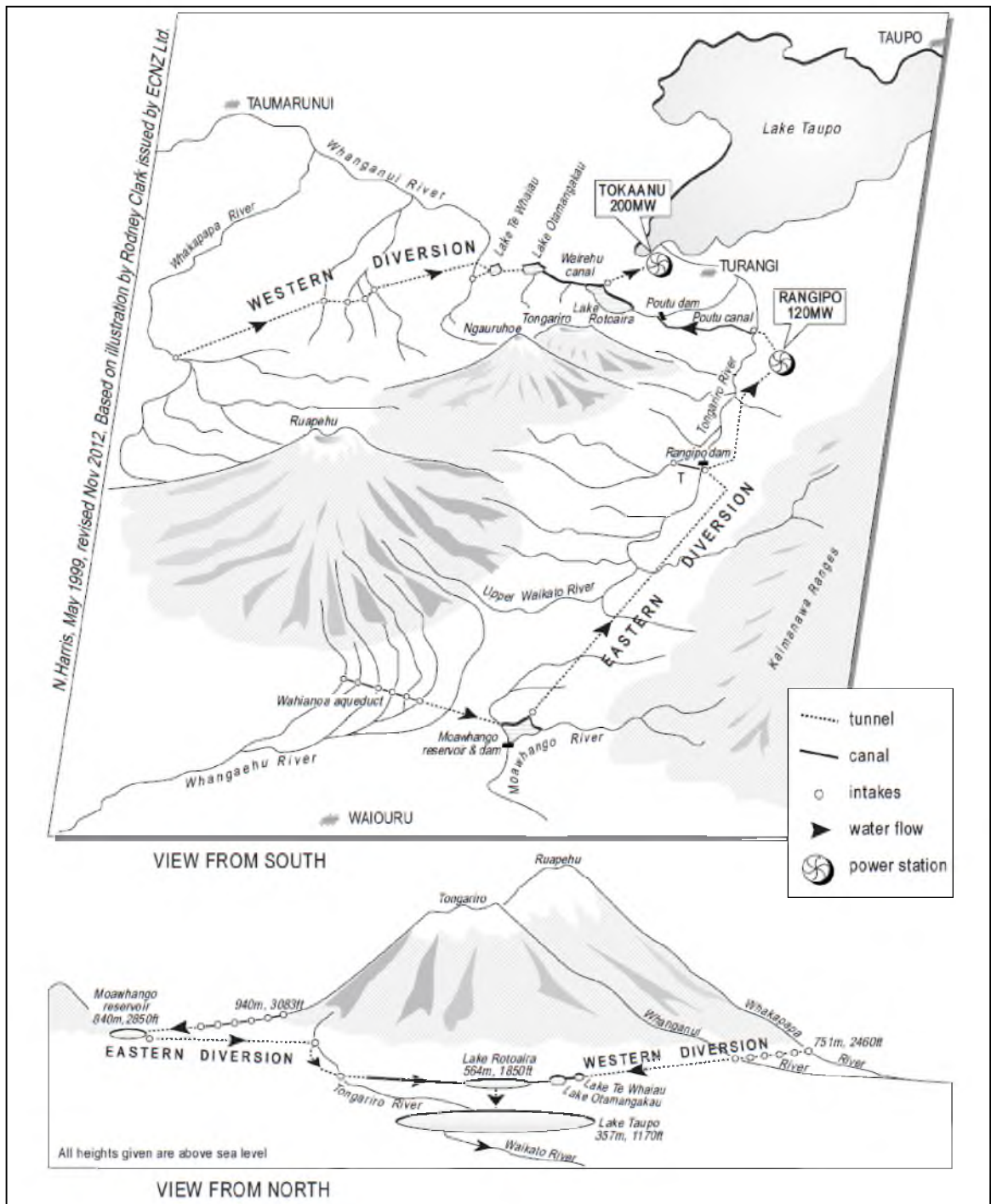
- 2.389 In July 1969, the PAC removed Lake Rotoitipaku from the existing regulatory regime in preparation for its use in the effluent disposal scheme. In September of that year, the company applied to the Māori Land Court for the blocks to be vested in a trustee, under section 438 of the Māori Affairs Act 1953. The Māori Trustee was the trustee nominated by the Court at this time. By 1970, however, the Māori Trustee did not want to act in conjunction with the owners' nominated advisory trustees. The Court therefore vested the land in an alternative trustee instead. At the time, this trustee held a \$10 million debenture in the company. During lease negotiations with the company, the owners did not feel that they were being adequately consulted by the new responsible trustee.
- 2.390 The primary solids waste disposal site is significantly contaminated. Lake Rotoitipaku is now a sludge lagoon. The whole site is, effectively, a landfill that contains pockets and layers of contaminated wastes generated from saw-milling, milling pulp and paper, using geothermal steam, and other industrial activities that have taken place at the mills. Multiple contaminants have been found in the wastes that exceed national and international contaminated land guideline criteria for agricultural use and ecological protection. The underlying geology of the site made it a poor choice for waste disposal, as it consists of high permeability pumice. The landfill blocks a natural spring and waterway, is partly saturated with groundwater, and is within 100 meters of the Tarawera River. It is also located next to and on land with significant cultural value, and it is situated over a major fault-line and geothermally active area.
- 2.391 The owners of the Kawerau A8 and A9 land blocks have been vigilant in making their grievances about the contamination of the site known to the company. They have also sought other means to protect their lands, having tried to take out an injunction against the company, and objected to its further council permit and consent applications.
- 2.392 In 1982, a new responsible trustee took over the blocks from the previous Court-appointed trustee. This was achieved through legislation, without consulting the owners. The new responsible trustee negotiated a deed of variation of lease in 1983, and a deed of settlement in October 1984 to address the owners' concerns with the company. The company has taken some steps to mitigate the problems caused, including the construction of two embankments, two artificial ponds and a toe drain. Even so, the area is severely degraded and wāhi tapu of great value to Ngāti Tūwharetoa remain polluted and desecrated.

**THE TONGARIRO POWER DEVELOPMENT SCHEME**

- 2.393 The Tongariro Power Development (TPD) scheme is a 360MW hydroelectricity scheme built around the Tongariro maunga. The idea for the hydro-electric development gained force in the 1950s as a response to post-World War Two demands for energy resources. The scheme extends from the southern and western flanks of Ruapehu round to the southern shore of Lake Taupo, and east to Rangipō and the Moawhango Rivers. Almost all of the water that flows from the central North Island volcanic peaks is diverted into the scheme, including the Tongariro, Whangaehu, Whakapapa, and Whanganui Rivers. This water passes through hydro-electric power stations at Rangipō and Mangaio, before being channelled into Lake Rotoaira, which is used as a storage reservoir. The water moves through tunnels to the Tokaanu power station, and then into Lake Taupo, before passing through a further succession of hydro-electric stations along the Waikato River. Construction began in 1964, and all four stages of the Tongariro Power Development scheme were completed in 1984.
- 2.394 The scheme has radically reengineered the natural waterways of the volcanic plateau. The sheer geographic scale of this infrastructure project means that the TPD scheme

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has impacted upon many Ngāti Tūwharetoa hapū, particularly those of Te Mātāpuna. The scheme's impacts have been wide-ranging and deeply-felt by Ngāti Tūwharetoa.



**Figure 13: The Tongariro Power Development Scheme**  
 (Map by Rodney Clark, and later by Noel Harris, reproduced with permission from the Waitangi Tribunal's *Te Kahui Maunga National Park District Inquiry Report* (2013))

**A Proposed Hydro-electric Development: Consultation 1955-1964**

2.395 The concept of focussing on the water resources of the volcanic plateau as the basis for a hydro-electricity scheme, and the diversion of waterways to maximise their energy potential, was first raised by officials in the late 1940s. By the mid-1950s, Lake Rotoaira and its surrounding environs began to occupy a prominent position in the designs for a proposed hydro-electricity scheme as a storage lake for diverted waters.

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Officials noted that this may affect the normal water level of Lake Rotoaira, and the land around it.

- 2.396 Before construction began, the Crown held four meetings with Ngāti Tūwharetoa between 1955 and 1964. In October 1955, the Crown held a preliminary meeting with Ngāti Tūwharetoa at Hīrangī Marae (near present-day Turangi). The proposed scheme was broadly outlined, and the possible use of and changes to the water level of Lake Rotoaira were discussed, as well as the protection of fishing rights. The Crown's proposals were tentative and it assured Ngāti Tūwharetoa that further research and analysis would be commissioned, particularly if Lake Rotoaira was to be used as part of a hydro-electricity scheme. The lakebed was, at that time, subject to an investigation into title by the Māori Land Court following an application made by Ngāti Tūwharetoa in 1937. The Ngāti Tūwharetoa attendees at the meeting unanimously resolved to defer the matter for consideration at a later date.
- 2.397 Following this meeting, however, no further formal contact occurred between the Crown and Ngāti Tūwharetoa for nine years until 1964, the year that the scheme was approved following years of preparatory work.
- 2.398 In October 1958, the Crown issued an Order in Council which provided for the establishment of a hydro-electric power development scheme in the Tongariro region. The Order in Council gave officials powers to construct hydro-electric works, enter upon private land, and to facilitate research for the scheme.
- 2.399 Ngāti Tūwharetoa have always held a strong desire to protect Lake Rotoaira, which is a precious taonga to them, and to safeguard their existing fishing rights in the waterways around the mountains, and especially in Lake Rotoaira. By the early 1960s, the iwi were growing increasingly anxious about the harm the Tongariro Power Development scheme may have upon the lake's fishery, and requested a resumption of communication with the Crown. A meeting was scheduled for 15 April 1964; however, nine days prior, on 6 April 1964, Cabinet had approved the Tongariro Power Development (TPD) scheme 'in principle'. The Crown met with Ngāti Tūwharetoa three further times before Cabinet formally approved the construction of the TPD scheme in September 1964.
- 2.400 On 15 April 1964, a meeting was held at the Tūwharetoa Māori Trust Board's (Trust Board) offices in Tokaanu between several members of the Board (including Hepi Te Heuheu Tūkino VII) and Crown officials. The meeting focussed upon the proposed Turangi Township. Discussion of the use of Lake Rotoaira in the TPD scheme was not recorded in the meeting minutes.
- 2.401 On 7 May 1964, a second meeting was held at the Trust Board's offices in Tokaanu between several Trust Board representatives and Crown officials. The meeting focused almost exclusively on the proposed Turangi Township. In the meeting minutes, Lake Rotoaira is raised once in discussions of land near the lake that may be lost (before the township was located at Turangi, Lake Rotoaira and the Rangipō and Hautū prison farms were considered).
- 2.402 On 24 May 1964, a third meeting was held at the Trust Board's offices in Tokaanu. A large representation of Ngāti Tūwharetoa land owners were present, as well as their legal representatives, and Crown officials. The TPD project engineer described each stage of the proposed construction work, and explained how Lake Rotoaira's water levels could rise in periods of low power consumption, and assured attendees that compensation would be paid for any disruption to fisheries and land taken or damaged during construction. Employment for local people and economic development were emphasised by the Crown and welcomed by Ngāti Tūwharetoa, who expressed a broad

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willingness to cooperate over the TPD and the township. At the end of the meeting the attendees unanimously resolved to approve the Crown's proposal for the establishment of the Turangi Township, on the basis that the Crown's assurances of fair and reasonable compensation would be honoured.

- 2.403 In August 1964, a Ngāti Tūrangitukua kaumātua wrote to the Crown complaining that it had yet to meet with the affected landowners to discuss the details of the land required, and its valuation and acquisition. In his reply, the Minister explained that the Crown had been working on the basis of the motion passed at the May meeting, and that suggestions of compensation before land was taken "envisage[d] long delay and [was] quite unacceptable".
- 2.404 On 20 September 1964, a final meeting was held at the Trust Board's offices in Tokaanu. Despite Ngāti Tūwharetoa elders repeatedly requesting that the meeting be reconvened at Hīrangī Marae where many local Ngāti Tūwharetoa land owners had assembled, officials refused four times before finally reassembling the meeting at the marae. The meeting minutes record discussion about the proposed Turangi Township, and that Ngāti Tūwharetoa raised the question of Lake Rotoaira's possible water level increase and the impact this might have upon the lake's fishery. A Trust Board representative impressed upon officials the great value of Lake Rotoaira to Ngāti Tūwharetoa. Quarrying at Ōtūkou pā was discussed, as was the proposed artificial lakes, Te Whaiāu and Ōtamangakau. No formal resolution was passed.
- 2.405 The next day, Cabinet approval for the TPD scheme was publically announced. This included the acquisition of 900 acres of Māori freehold land, the lease of 200 acres of Māori land to construct the Turangi Township, and that special legislation would be drawn-up for the transfer of the township to the Taupo County Council. Although the Crown owned land on the east side of the Tongariro River, it selected the Māori-owned land at Turangi West for the construction of the Turangi Township.
- 2.406 Construction of stages one, two and three of the TPD scheme were to begin immediately at an estimated cost of £46 million.

**Construction for the TPD Scheme Begins**

- 2.407 More than a thousand hectares of land within Ngāti Tūwharetoa's rohe was taken for the construction of the TPD scheme, and approximately 60-hectares for quarries and metal pits. The taking of ancestral land was profoundly distressing to Ngāti Tūwharetoa, particularly the loss of wāhi tapu and urupā.
- 2.408 In 1964, during their meetings with the Crown about the proposed TPD scheme, Ngāti Tūwharetoa repeatedly emphasised the importance of preserving their cultural heritage and wāhi tapu before construction work began. Although the Crown undertook to respect, protect, and avoid sacred sites as much as possible (including the appropriate re-interment of any human remains that were disturbed) some contractors hired by the Crown to conduct construction work did not report or protect cultural sites, which led to the damage, destruction and desecration of some wāhi tapu and urupā. Two examples of this damage took place at Turangi Township's water supply reserve and rubbish tip.
- 2.409 In October 1964, the Ministry of Works occupied a ridge to the south of the Turangi Township for the construction of a water reservoir. The reserve was larger than Ngāti Tūwharetoa had been led to expect when the matter was discussed in May 1964, and contained wāhi tapu which members of the iwi described to officials in Turangi in January 1972. In November 1972, the Crown issued notices of intention to take 539 acres of land for a water supply reserve, and agreed with Ngāti Tūwharetoa to a twelve

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month period for the identification of 'areas of historic interest' which could be excluded from the taking and declared 'Māori Reservations'.

- 2.410 In October 1974, the Crown issued a proclamation taking 539 acres of the Waipapa block for a water supply reserve and a road for the Turangi Township. Some reserves were set aside by the Māori Land Court on the residual Waipapa 1M and 1G blocks; however, several wāhi tapu, including urupā and pā sites, remained within the water supply reserve taken by the Crown.
- 2.411 On the higher slopes and cliffs above the Tokaanu River in the area taken for the water supply reserve there were several urupā, including Te Urupā a Hinemanu, a burial cave in a hillside cleft. The influx of new residents to the Turangi Township led to Māori complaints that the tapu of the cave suffered from "interference by ignorant strangers" who moved bones and disturbed the urupā. An urupā at Ōmawete, near the Tokaanu River, was also tampered with by newcomers to the Turangi township.
- 2.412 The ridge of Kōhatu Kaioraora was another tapu place with many burials and a number of springs, one of which was enclosed and had a water-pumping station constructed over it to supply the new Township with fresh water. Local Māori complained that the tapu of the area had been "completely disrupted".
- 2.413 In January 1985, the Crown vested the lands taken for waterworks in the Taupo County Council.
- 2.414 Pumice was also mined from a 34-acre area adjacent to the water supply reserve which, in March 1966, the Crown proposed to use as a new rubbish tip for Turangi Township.
- 2.415 In 1967, Ngāti Tūwharetoa and the Crown considered the tip as part of wider discussions over the extent of additional land required for an industrial area and the water reserve. Officials explained their desire to compulsorily acquire the land but also considered leasing the land. However, no lease agreement was negotiated with the Ngāti Tūwharetoa owners because the Taupo County Council insisted that freehold title be obtained before the tip was transferred to the Council.
- 2.416 Between the mid-1960s and early 1970s, operations at the tip destroyed two of five distinctive ancient wāhi tapu called tūāhu. In 1977, Ngāti Tūwharetoa secured the protection of the remaining tuahu through a Māori Land Court order setting them apart as a Māori reservation. Nonetheless, the proximity of the rubbish tip to the tūāhu undermined their sanctity. In the mid-1980s, officials conducted some restoration work on the site that was supervised by a Ngāti Tūwharetoa rangatira.
- 2.417 In November 1972, Ngāti Tūwharetoa and the Crown agreed that the land would be leased for a peppercorn rent to the Crown or Council as long as it was needed as a dump, after which it would be "restored to a reasonable contour", and "topsoiled and sown in grass". In the 1980s, an alternative tip was opened. Some restoration work was carried out on the Waipapa tip in the 1980s.
- 2.418 Te Puke a Ria was a hill in a three-acre gravel reserve close to the Turangi Township that was named after a kuia who would sit on the hill and sing in mourning for her dead husband. Ria was later buried on the summit. The Crown levelled Te Puke a Ria to make way for an industrial area and a new state highway. No bones were recovered from the hill. Ngāti Tūrangitukua were very upset that this wāhi tapu had been desecrated.

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- 2.419 In the 1960s, the Crown also built roads and opened-up pits and quarries in the central North Island for the construction of the TPD scheme. Initially, the Crown did not take these lands, and nor did it pay compensation for the metal, but between 1968 and 1973, six metal pits and one quarry were compulsorily acquired by the Crown for the construction of roads, dams and canals.
- 2.420 An old pā at Ruakōiwi and its urupā on the Waipapa block was one of the sites disturbed by the quarrying activities for the TPD scheme during this time. The Crown extensively excavated this site for pumice for the Tokaanu power station and tailrace. Urupā at Ruakōiwi were disturbed and destroyed by bulldozers before work was temporarily halted for archaeological investigation. The Crown reinterred the human remains at Piripekapeka Cemetery at Tokaanu.

**Ōtūkou Quarry and Metal Pits, and the Huimako Bluff**

- 2.421 In late September 1964, Crown officials met with Ngāti Tūwharetoa at Tokaanu to explain the Crown's intention to quarry a cliff-face, known as Huimako Bluff, to provide sealing chips for road-works associated with the Tongariro Power Scheme. Officials stated that the Crown hoped to begin quarrying operations at the site, which was located directly above the Ōtūkou marae, before Christmas.
- 2.422 Eleven days later, the Crown advised residents that they would need to be relocated for the duration of quarrying operations due to the danger posed by falling rocks during blasting, and the severe disturbance posed by the noise and dust of quarrying which would continue twenty-four hours a day. Officials also informed residents that they had already called for tenders to carry out the work. By early December, most residents of Ōtūkou had been relocated, although some people remained at Ōtūkou during six years of quarrying in unsafe conditions. The Te Ūpoko-Ō-Taitaia papakāinga was relocated from Ōtūkou to Pāpākai.
- 2.423 Huimako Bluff was a wāhi tapu which contained several graves. At the October 1964 meeting, Crown officials had agreed to re-inter a number of graves located at the top of a rock outcrop to another cemetery approximately 200-yards from the rock face. The Crown subsequently removed the remains of three people from one urupā atop Huimako for re-interment. However, other ancient urupā at Huimako were destroyed after blasting commenced in November 1964. As a result, human remains were mixed with the metal. Ngāti Hikairo continue to feel profound grief at the thought that the roads they travel on contain the bones of their tūpuna. Residents have described the deep distress caused by the "horrible desecration" of their tūpuna interred within Huimako Bluff. Residents also recall stones and rocks "raining down" upon the marae and around Ōtūkou during blasting.
- 2.424 In December 1964, the Crown was advised that the Ōtūkou landowners intended to seek compensation for the metal that was being removed from Huimako. Crown officials replied that the Crown had no liability to pay for material extracted if it had 'no established commercial value (other than to the Crown or local authority)'. However in November 1966, the Crown advised that it was compulsorily taking Huimako Bluff under public works legislation 'to give the Crown exclusive rights to the materials'. Officials stated that this was sufficient reason for taking land in cases such as Huimako Bluff where there was 'a possibility of private concerns being interested in the material once the deposit has been opened up'. However the formal taking process did not proceed at this time.
- 2.425 In early 1967, the Lake Rotoaira Trustees complained that run-off and sediment from the quarry was polluting the adjacent Wairehu and Maungamutu Streams. They also complained that silt and other materials were seriously discolouring Lake Rotoaira,

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contaminating its waters and depleting the lake's fisheries. The sediment also contaminated the Maungamutu Stream and Lake Rotoaira, which were both fed by the Wairehu Stream.

- 2.426 In February 1969, the Crown formally gazetted its taking of 96 acres (39 hectares) at Ōtūkou, comprising two sites including the Huimako Bluff. In 1970, the Crown paid the owners of Huimako Bluff \$234.80 compensation, which was based on the value of the land plus 5 per cent per annum for the period the Crown has used the site. This payment did not take into account the value of the material extracted.
- 2.427 Quarrying ceased at Ōtūkou in about 1973. In 1979, the Court of Appeal found, in relation to a case taken by Ngāti Tūwharetoa rangatira Pateriki Hura about another Crown taking, that public works legislation required the Crown to pay reasonable compensation for materials taken even if there was no alternative private market. In 1985, Crown officials recorded that the previous Māori owners of Ōtūkou had objected to a Crown proposition that they should pay to have the land returned. Officials accepted that the owners had received 'very little compensation' and recommended that the land should be returned free of charge. However no action was taken as a result of this recommendation.
- 2.428 Hineumu Daisy Curran, a Ngāti Hikairo kuia of Ōtūkou, later recalled the impact of the quarrying:

*After the works finished the workers packed up their gear and just left. Today the land up there is a mess. There are boulders and huge rocks lying all over the place. It's so dangerous that people can't go walking for fear of rocks falling. When I look at Huimako now I feel that the wairua [spirit] has gone. When we were kids we used to call and the echo would come back but it doesn't come back any more. There were people in that hill but they no longer answer.*

**The Tokaanu Tailrace**

- 2.429 The Tokaanu Power Station is a four-turbine, 240MW hydro-electric power station situated at the base of Tihia maunga. It generates two-thirds of the electricity produced by the TPD. Water from Lake Rotoaira passes through tunnels to the Tokaanu Power Station, and on to the 3.8km-long Tokaanu Tailrace canal where it is discharged into Lake Taupo at Waihi Bay. The Crown required land for the construction of the power station, penstocks, surge chamber access road, tailrace, and land for dumping spoil.
- 2.430 In 1966, the Crown planned to route the proposed Tokaanu Tailrace through land that was home to Te Waiariki, a Ngāti Tūwharetoa pā near Lake Taupo that was once the residence of Ngāti Tūwharetoa rangatira Te Herekieke. A large urupā lay nearby. At meetings in July, September and October 1966, the Crown and Ngāti Tūwharetoa discussed the former's proposal to acquire and to purchase 1,075 acres of Ngāti Tūwharetoa land for these purposes. At these meetings, Ngāti Tūwharetoa raised concerns about the possible disruption and destruction of their wāhi tapu, particularly kōiwi in the lagoon, and the pā and urupā at Te Waiariki. However, no agreement was reached between Ngāti Tūwharetoa and the Crown.
- 2.431 Te Waiariki was destroyed by the excavations for the Tokaanu tailrace. In May 1966, local Ngāti Tūwharetoa accompanied officials to undertake preliminary investigations of Te Waiariki urupā. In September 1966, the Crown assured Ngāti Tūwharetoa that burial grounds affected by the tailrace would be reinstated elsewhere. In total, fifty-four human burials were reinterred at Pirikapeka cemetery and St. Paul's Church. In



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October 1966, construction began on the Tokaanu powerhouse and excavation work started on the tailrace nearby.

- 2.432 The construction of the Tokaanu tailrace also destroyed geothermal features in an area called Māhinahina, a place where Ngāti Tūwharetoa people had māra (gardens).
- 2.433 In April 1970, as construction of the tailrace continued, Cabinet authorised officials to negotiate the acquisition of 750 acres of Māori land for the Tokaanu tailrace by way of exchange for Crown lands in the Hautū, Ōpawa-Rangitoto, and Tauranga-Taupo blocks.
- 2.434 In 1974 and 1980, 93 acres and 23 acres respectively were taken by proclamation for the Tokaanu tailrace, and a state highway connecting the tailrace to the Turangi township. Swampland adjacent to the tailrace was acquired by the Crown for flood protection purposes, which included the Mangapikopiko urupā.
- 2.435 The destruction of cultural heritage sites like Te Waiariki for the TPD scheme's construction have caused Ngāti Tūwharetoa great distress, and mean the iwi have lost "important signposts" to their history and their mana, which continues to have a "permanent effect" on their hapū.
- 2.436 The Tokaanu River, '*he taonga tapu, he awa tapu*', used to flow to the east of Maunganamu, past Te Waiariki and was regularly used by canoes travelling between the many kāinga and cultivations along its banks. It has been forever changed by the construction of the Tongariro Power Development scheme, which entailed diverting the course of the river through an aqueduct that passes over the Tokaanu tailrace. Local Ngāti Tūwharetoa residents describe how the combined effects of the TPD scheme and the increases in the level of Lake Taupo have resulted in increases in siltation and weed-growth in the Tokaanu River, which have in turn degraded the river's mauri and detrimentally affected customary food resources and the spawning of aquatic species.

**Lakes Te Whaiiau and Ōtamangakau**

- 2.437 As part of constructing Stage One of the TPD project, the 'Western Diversion', water from five tributaries and the headwaters of the Whanganui Rivers were diverted through a series of canals and tunnels to two artificial lakes, Te Whaiiau and Ōtamangakau, before moving on to Lake Rotoaira. Excavations of the artificial lakes began in 1966, and two dams were also constructed. The lakes were constructed on Māori-owned land in the Waimanu Ōkahukura blocks.
- 2.438 In September 1964, during the last meeting between Ngāti Tūwharetoa and the Crown before the TPD scheme was approved by Cabinet, officials explained to the iwi that two new lakes would be created for the scheme, and that there were proposals for these two lakes to be vested in the Māori owners of the land, many of whom were also the owners of Lake Rotoaira. In July 1965, officials explained to Ngāti Tūwharetoa that the Crown favoured control over hydro-electric infrastructure, and that Māori land-owners should seek compensation for the land taken for Lakes Te Whaiiau and Ōtamangakau. In April 1974, Lakes Te Whaiiau and Ōtamangakau were vested in the Crown when the Waimanu and Ōkahukura lands, in which they were located, were taken for TPD purposes.
- 2.439 In the 1972 Lake Rotoaira Deed, clause 8 was inserted at the request of the owners, and stated that the Lake Rotoaira Trustees considered that Lakes Te Whaiiau and Ōtamangakau should be included with the waters subject to the Rotoaira Trout Fishing Regulations 1959. Clause 8 further stipulated that responsibility for administration regarding the public use of the lakes would be reviewed at a later date. Consideration

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was given to this issue in 1973 and 1974, after which officials wrote to Ngāti Tūwharetoa to advise that authority in relation to the two new lakes would not be delegated to the Lake Rotoaira Trustees.

2.440 In June 1972, an agreement was signed between the Waimarino Acclimatisation Society and the Crown which allowed the society's members to fish in the two new artificial lakes with a Waimarino fishing licence only (Taupo licences were not included), in exchange for the loss of fishing brought about by the diversions of the Whanganui and Whakapapa headwaters. The agreement was ratified in 1973 by an amendment to the Taupo Trout Fishing Regulations 1971. In 1975, the solicitor for the Tūwharetoa Māori Trust Board and the Lake Rotoaira Trust explained to officials that the Crown's agreement with the Society had never been disclosed to Ngāti Tūwharetoa during negotiations for the 1972 Lake Rotoaira Deed. Had Ngāti Tūwharetoa known of this agreement, the solicitor argued, the 1972 Deed would "never have been concluded in the way it [was]".

**Lake Rotoaira**

2.441 Lake Rotoaira, or Te Moana o Roto-a-Ira, is a taonga tuku iho for Ngāti Tūwharetoa, especially the hapū of Te Mātāpuna who whakapapa to the lake and have been sustained by it for many generations. To Ngāti Tūwharetoa, Lake Rotoaira was known as Te Pātaka Kai o Ngāti Tūwharetoa (the 'food basket of Ngāti Tūwharetoa') because of its bountiful food resources.

2.442 Lake Rotoaira was renowned for the quality and abundance of its fishery, and was famous for being one of the most productive trout fisheries in the country. The outlet of the lake at Te Poutūtanga-a-Tamatea was a valuable spawning ground. The lake nourished Ngāti Tūwharetoa with fresh-water fish, the native kōaro, and trout that were prized for their flavour and pink flesh. There was a great abundance of kōaro, and they were caught with traditional nets made of muka titore near underground springs where the kōaro thrived. Lake Rotoaira's environs provided an abundance of other resources, including watercress, resources for rongoā, extensive flax plantations, and paru, a type of black mud used for dyeing the flax. There were many puna (springs) around the lake, and the water was fresh and pure.

2.443 Lake Rotoaira has always sustained Ngāti Tūwharetoa spiritually as well as physically. According to Ngāti Tūwharetoa tradition, the lake was considered Te Waiū (life giving waters). The island in the lake, Motuopuhi, is still held in customary title for the hapū Ngāti Hikairo, Ngāti Rongomai, Ngāti Waewae, Ngāti Tūrangitukua and Ngāti Kurauia. Motuopuhi was once the pā of Te Wharerangi, the rangatira of Ngāti Hikairo of whom Mananui Te Heuheu said "Ko Tongariro te maunga, ko Rotoaira te moana, ko Te Wharerangi te tangata".

2.444 Ngāti Tūwharetoa's special relationship with the lake was recognised by legislation passed in 1921 and 1922 granting Ngāti Tūwharetoa exclusive fishing rights in Lake Rotoaira, and these rights were reconfirmed in 1938. In 1937, Ngāti Tūwharetoa made an application to the Native Land Court for an investigation of title to Lake Rotoaira's bed. The Crown initially opposed the application, but subsequently withdrew its opposition on the condition that any decision on Lake Rotoaira should not be taken as a precedent on the ownership of the beds of inland lakes.

2.445 In 1956, the Māori Land Court awarded title of Lake Rotoaira to 2,778 owners. The Court vested title to the bed of the lake in eleven trustees, each representing the various hapū of the owners: Ngāti Parehuia-Matangi, Ngāti Rongomai, Ngāti Waewae, Ngāti Marangataua, Ngāti Pouroto, Ngāti Tūrangitukua, Ngāti Rākeipoho and Ngāti Kurauia-Rangipō (although some of these hapū represented Ngāti Hikairo, the hapū

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- was explicitly added to the list of Lake Rotoaira's trustees in 1965). The trustees would be responsible for "utilising, developing and exploiting" the natural resources of the lake for the benefit of all the owners, making arrangements and contracts with the Crown for the "use of the water from" the lake for hydro electric purposes, and negotiating with the Crown over hydro-electric works that would affect the lake.
- 2.446 In 1959, the Māori Purposes Act provided for Lake Rotoaira's Trustees to charge members of the public for access to Lake Rotoaira to fish. The prodigious fish stocks in the lake meant this provided significant revenue for the Trustees. In the 1960s this yearly revenue was between NZ\$8,000-NZ\$10,000. During the third reading debate on the Bill in October 1959, Prime Minister Walter Nash clearly articulated an endorsement of continuing Ngāti Tūwharetoa ownership of Lake Rotoaira, and emphasised the tenets of the Treaty of Waitangi.
- 2.447 Lake Rotoaira is integral to the TPD scheme as it provides a storage reservoir at altitude above the Tokaanu power station. The 1958 Order in Council conveyed on the Crown the legal right to use the lake for the generation and storage of electricity, including raising or lowering the level of its water. Although project engineers did not initially consider the Crown's acquisition of Lake Rotoaira to be necessary for the TPD scheme to proceed during the early planning and construction stages, its acquisition became an increasingly vital component of the scheme as construction progressed. By 1964, the Crown had informed Ngāti Tūwharetoa that Lake Rotoaira's water levels could rise in periods of low power consumption, and assured the iwi that compensation would be paid for any disruption to fisheries and land taken or damaged during construction. On the basis that the Crown's assurances of fair and reasonable compensation would be honoured, Ngāti Tūwharetoa had approved the Crown's proposal for the establishment of the Turangi Township.
- 2.448 By 1966, tenders for the construction of tunnels, canals and aqueducts had been let, and the Ministry of Works began damming the Whanganui River at Taurewa, constructing the Poutū Dam, and excavating lakes Te Whaiāu and Ōtamangakau. Lake Rotoaira's natural outlet at the Poutu Stream was reversed to become an inflow channel. Newspapers were reporting damage to Lake Rotoaira's spawning streams as a result of construction work for the TPD. In December 1966, the Lake Rotoaira's trustees commissioned their own research into fish stocks and health in Lake Rotoaira, which concluded that the lake's spawning waters, particularly the Wairehu, Otarā and Poutū Streams, had in some way been adversely affected. The Trust Board's legal representative complained to the Crown about the discharge of silt and other material into Lake Rotoaira.
- 2.449 In February 1969 and May 1970, officials together discussed how Lake Rotoaira was a "special problem" given that its rising water level would "certainly flood" surrounding land, and three compensation options for the owners of the affected lands were considered. One official noted that protection of a major Crown investment "should not be prejudiced by private ownership".
- 2.450 In July 1970, the Crown recognised Lake Rotoaira's "continuing pollution" as a result of pumice, suspended sediments, and enrichment from the waters diverted into it, that weed growth was expected to increase rapidly, and that the lake's waters were "already at a critical level of enrichment".
- 2.451 By 1970, sedimentation and rapid weed growth were making Lake Rotoaira's delicate ecology increasingly inhospitable for fish. Lake Rotoaira's owners began to vigorously protest. Crown officials, anxious that compensation may be more costly than they had expected given the considerable revenue Ngāti Tūwharetoa received from fishing in Lake Rotoaira, began to consider negotiating with the lake's owners for its purchase. In

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- September 1970, Cabinet authorised officials to hold discussions with Lake Rotoaira's owners on issues of control and ownership of the lake, with the object of reaching a satisfactory basis for future control.
- 2.452 In October 1970, the Crown informed Ngāti Tūwharetoa that it wished to purchase Lake Rotoaira. In December 1970, the Crown reiterated this view to Ngāti Tūwharetoa's solicitor, and warned the iwi that the operation of the TPD scheme could have major effects on the future of their lake and that the Crown wished to negotiate the purchase of Lake Rotoaira. However, the lake's vital status to Ngāti Tūwharetoa meant that the Lake Rotoaira Trustees continued to refuse to sell their lake to the Crown. At the time, the Lake Rotoaira Trust was considering establishing a holiday and tourist complex on the lake shore.
- 2.453 Five months later in February 1971, waters from the Whanganui River were diverted into Lakes Te Whaiau and Ōtamangakau, before passing on to Lake Rotoaira. Ngāti Tūwharetoa became ever more concerned about the disruption that was occurring to the mauri of the waterways as their distinct identities were mixed with one another.
- 2.454 That same month, Lake Rotoaira's trustees informed the lake's owners of the government's proposal to purchase the lake. Meeting attendees gave the matter due consideration, but decided "against selling at any price". They concluded that the ownership of Lake Rotoaira "must remain, as it always has been, with our people".
- 2.455 In February and March 1971, officials together discussed how, in recent months, it had become apparent that the TPD would seriously impact upon Lake Rotoaira's fishing potential, and that its value would be "largely destroyed" by the operation of the New Zealand Electricity Department. Consequently, the Crown decided that ownership of the lake was necessary in order to avoid costly compensation claims from the lake's owners, and in order to maintain "adequate control" over the lake for the TPD scheme.
- 2.456 However, Ngāti Tūwharetoa were determined to retain ownership of their lake. In December 1971, Ngāti Tūwharetoa wrote to Prime Minister Holyoake and explained that they were "deeply concerned over the pressure being exerted by the Officers of the Ministry of Works to bring about the acquisition of our lake either by purchase or by the land being compulsorily taken under the Work's Act". That same month, their solicitor met with Crown Law, and informed officials of speculation that the lake was going to be taken. The Trust was sufficiently concerned to seek a meeting with the Prime Minister. In preparation for that meeting, officials considered a long-term lease of the lakebed as an alternative to purchase.
- 2.457 In January 1972, the Lake Rotoaira Trust, led by Hepi Te Heuheu, met with Prime Minister Holyoake. Pat Hura explained that the lake "is our heritage and we want to retain it", and he described the Trust's deep concern that the Crown could "forcibly take Lake Rotoaira by proclamation". They pointed to instances where land at Turangi had been taken compulsorily despite assurances to the contrary from senior officials. The deputation proposed how, as a token of good faith, they were prepared to offer a written assurance to the government that no claims for compensation would be made for fluctuations of Lake Rotoaira's water level so long as ownership of the lake remained vested in its trustees. While the Prime Minister declined to give any assurances to Ngāti Tūwharetoa, an official noted that the Minister of Electricity would not ask the Minister of Works to take Lake Rotoaira compulsorily, and suggested that leasing the lake may be an option.
- 2.458 The Crown decided to accept Ngāti Tūwharetoa's offer and began drafting an agreement. Between May and November 1972, Lake Rotoaira's Trustees and the Crown negotiated the terms of a Heads of Agreement, but it was not until November

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that this agreement, covering a range of TPD-related matters and a separate Lake Rotoaira deed, were finalised. During this time, officials were aware that it was inevitable that there would be a significant deterioration in Lake Rotoaira's water quality, which would "result in the fall-off in the quality of the fish and of fishing in the lake". It is not known whether this information was communicated to the Lake Rotoaira Trust. In November, the Trust's solicitor informed the Māori Land Court that the risks of damage to the lake were "believed to be minimal", but if "quite unforeseen" damage occurred, the Trust would have to accept the risk as it did not want to lose the lake. Despite this, however, the Crown chose to enter into a deed with Ngāti Tūwharetoa in November 1972.

- 2.459 On 30 November 1972, the Lake Rotoaira Trustees reluctantly signed the Lake Rotoaira Deed. The deed recorded that the Trustees would discharge the Crown from all liability to pay compensation, valuable consideration, or damages for loss suffered by the Trust over the use of Lake Rotoaira in the scheme, in exchange for surety against its compulsory acquisition by the Crown. Title to the lake bed would remain with the Trust, but under legislation, the Crown would continue to control Lake Rotoaira for the production of hydro-electricity. Existing fishing rights to Lake Rotoaira were extended to include the intakes and canals connected to Lake Rotoaira, but did not include Lakes Te Waiau and Ōtamangakau.
- 2.460 In 1984 the Lake Rotoaira Trust made an approach to the Crown and asked the Crown to consider an annual payment to the Trustees for the use of their lake bed in the generation of electricity. The Crown declined, and the Minister responded by reiterating the provisions of the 1972 Lake Rotoaira Deed, and pointing out that the Crown's exercise of its "lawful powers would include the right to have the title of the bed of the lake vested in the Crown". Anxious that their lake would be compulsorily acquired, the Lake Rotoaira Trustees withdrew their request.
- 2.461 Ngāti Tūwharetoa suffered major adverse cultural, spiritual, social and economic impacts as a result of the construction and operation of the TPD scheme on Lake Rotoaira. The gentle flow of the lake has been reversed, and an artificially swift current has been created (from 243-cubic-feet-per-second (cusecs) to more than 2,000 cusecs) by the diversion of waters into the lake from the Whanganui, Whakapapa and Tongariro Rivers. This has turned the lake into a "washing machine", adversely disrupting fish spawning, destroying areas frequented by juvenile trout, and rendering the water undrinkable. Sandy beaches, puna, and camping and fishing places around the lake and Motuopuhi were drowned or significantly eroded by changes to the lake's currents and water levels. As once-abundant fish stocks dramatically dwindled, anglers travelled elsewhere to find fish.
- 2.462 Following the signing of the Lake Rotoaira Deed in 1972, fish-stocks in Lake Rotoaira began to decline rapidly, which led to a decrease in the sale of fishing licenses and significantly impacted the revenue collected by Lake Rotoaira's Trustees. For example, by 1975 Ngāti Tūwharetoa's receipt from fishing licenses for Lake Rotoaira had declined from NZ\$5,000 in 1971/72 to NZ\$183 in 1974/75, a ninety-six per cent decrease. Under the terms of the 1972 Deed, however, Ngāti Tūwharetoa were unable to receive compensation for this harm.
- 2.463 The hapū who belong to Lake Rotoaira assert that almost everything about the lake has changed, and it "is no longer the food basket that it once was". They describe how the lake's fishery has been badly affected, and kōaro are no longer seen. Lake Rotoaira was once famous for supplying fish to all Ngāti Tūwharetoa marae, and consequently "with the loss of [their] traditional kai comes the loss of knowledge of our traditional way of life and our mana is degraded". Ngāti Tūwharetoa were obliged to increase their reliance on introduced rainbow trout. They also report how, as the mana of the lake

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has been diminished, so too have they been diminished, and that the mauri and natural life of the lake have been "irreparably harmed".

- 2.464 Ngāti Hikairo, for example, say that detrimental changes to Lake Rotoaira have led to the ill-health of their vibrant taonga taniwha, Aorangi. The hapū believe this spiritual guardian tends to Lake Rotoaira's mauri and ensures its prosperity, and serves as a symbolic indicator of the health of the Ngāti Hikairo tribe and their waterways. The hapū consider, however, that as a result of the TPD scheme's detrimental impact upon Lake Rotoaira's delicate ecology and fishery, Aorangi is sick and dying, "just a shadow of his former self", and can no longer sustain Ngāti Hikairo's spiritual and physical needs.
- 2.465 Many other waterways involved in the scheme were also adversely affected, with hydrological disruptions to water quality and ecology creating conditions unsuitable for the spawning and survival of indigenous flora and fish species, and impeding their migration. The diversion of water from the Whakapapa, Whanganui, Tongariro and Moawhango Rivers and Poutu Stream has resulted in a diminished water flow in some parts of these waterways. For example, about half of the flow of the Tongariro River has been removed for use in the TPD scheme. Kaumātua Arthur Grace described how the once "mighty Tongariro [River]" is only a "shadow of its former self", and that the low flow of the river has resulted in it silting up. The customary and introduced fisheries in the lakes and rivers have also been impacted.
- 2.466 Ngāti Tūwharetoa also feel that the artificial mixing of waters in Lakes Rotoaira and Taupo has interfered with the natural state of the lakes, and diminishes the mauri of their taonga and the wairua (spirituality) of their people. For example, Kaumātua Te Rangihouhiri Asher stated that "foreign waters from the Rangitikei and Moawhango have a mauri of their own", which "creates an imbalance" in Lake Rotoaira.

*Rotoaira tō rāua punawai*

Rotoaira, blessed waters, born of the mountains

*He waiora, māu tāku Manawa*

Our life source, we give to you our hearts

*Rotoaira, nō ngā roimata*

Rotoaira, sourced from the tears of Tongariro and his eternal love for Pihanga

*o te maunga toa, me tōna whaiāipo ā Pihanga*

Here is our home, here is the essence of who and what we are

*Ānei tōku kaingā, me tōku Manawa*

*Toi moana, Toi whenua, Toi maunga e*

Without our life giving waters, without the land that sustains us, and without the mountains that encapsulate all we are

*Toi moana, Toi whenua, Toi maunga e*

*Kotahi tāua, e Hikairo tū mai, tū mai e*

Hikairo who are inseparable, would cease to exist

**GEOHERMAL TAONGA**

- 2.467 Ngāti Tūwharetoa have always highly valued and treasured the rich geothermal resources in their rohe which by their tradition was brought to Aotearoa by their tupuna Ngātoroirangi. Ngāti Tūwharetoa consider it a taonga over which they have exercised rangatiratanga and kaitiakitanga. Ngāti Tūwharetoa used geothermal taonga for cooking, bathing, heating, therapeutic uses, horticulture, collection of kōkōwai (red ochre) and as burial places.
- 2.468 Over time the Crown and private parties have purchased some geothermal lands, such as Wairākei, out of Ngāti Tūwharetoa ownership. From the 1870s, the Crown aimed to

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- develop geothermal tourism in the Central North Island. It sought to purchase lands containing geothermal features, including those in the Tauhara block in which Ngāti Tūwharetoa have interests. In 1881, the Crown included 30,000 acres of Ngāti Tūwharetoa lands in a region it proclaimed under the Thermal Springs Districts Act 1881. This prohibited alienations in this region to anyone but the Crown. The lands affected by this Crown proclamation included geothermal features of eastern Taupo lands.
- 2.469 The surface features of the Tokaanu-Waihi-Hipaua geothermal field were greatly valued by Ngāti Tūwharetoa. As it could be utilised to warm the soils and increase crop production, the geothermal field was an important element in the fertility of the low-lying lands at Tokaanu. The field was damaged, however, when, in October 1941, the Crown completed construction of the Taupo Control Gates, which raised the level of Lake Taupo. Many geothermal features close to the shore of Lake Taupo at Tokaanu and Waihi were either flooded by the higher lake level, diluted and cooled, or rendered inaccessible, as the water table rose and the land around them became saturated and boggy.
- 2.470 In 1942, the Crown drilled four test bores in the Tokaanu-Waihi-Hipaua geothermal field which caused further damage. The Crown did not consult Ngāti Tūwharetoa about these bores which were drilled to assess the viability of extracting the high concentration of boron in this field. Despite the Crown's exploratory drilling, the field was not subsequently used for boron extraction. The Crown left the bores uncapped and they are today unstable and dangerous, discharging into a local waterway and depleting the Tokaanu-Waihi-Hipaua geothermal field.
- 2.471 The Crown's construction of the Tongariro Power Development in the 1970s destroyed some of the remaining geothermal features at Tokaanu. This included the cementing over and sealing of Māhinahina, a geothermally warmed garden and hot pool in the path of the Tokaanu tailrace. The presence of the Tokaanu power station hinders Ngāti Tūwharetoa's potential to develop the geothermal resource at Tokaanu.
- 2.472 The Onekeneke valley is a significant geothermal feature near the lake at Taupo township. It formerly provided an abundance of geothermal resources to the Ngāti Tūwharetoa community at Waipahihi marae, who relied on it for a variety of uses. Ngāti Tūwharetoa consider that residential and commercial development, storm water discharge, commercial extraction from the geothermal field, and the construction of the Wairākei geothermal power scheme have impacted on the flow and heat of the Onekeneke stream over the last 50 years. The stream can no longer sustain the needs of the Waipahihi marae. Untreated storm-water drainage into the valley system has damaged silica channels and sedimentation downstream from commercial and recreational development also obscures a series of black terraces. The hot pool created by Ngāti Tūwharetoa at Taharepa on the shores of Lake Taupo for healing and bathing was also badly affected when the lake level rose and fell.
- 2.473 Other geothermal features were harmed through alterations to the height and flow of the Waikato River in the 1940s. In 1960, the Crown compulsorily acquired land on both sides of the Waikato River under public works legislation for the Ohakuri Hydro Scheme.
- 2.474 The enactment of the Geothermal Energy Act 1953 provided for the Crown to have the sole right to tap and use geothermal energy. Ngāti Tūwharetoa were not consulted about this. Ngāti Tūwharetoa harbour a strong sense of grievance over this Crown action. They consider the Crown has deprived them of a treasured taonga. Despite the loss of lands containing geothermal surface features the geothermal resource was, and still is, central to the lifestyle and identity of Ngāti Tūwharetoa.

### Wairākei Power Station

- 2.475 The Wairākei geothermal power station was only the second power station in the world to utilise geothermal energy. In 1953, the Crown declared the Wairākei geothermal field a Geothermal Steam Area under the Geothermal Steam Act 1952. The Crown began construction of a power station on Crown owned land and did not consult Ngāti Tūwharetoa about its plans to use the geothermal resource for this purpose. The Crown undertook large-scale earthmoving in the Waiora Valley for the construction of the power station, heavily impacting the geothermal field. Further construction of the station continued until October 1963.
- 2.476 In 1965 the power station reached peak capacity. The extraction of geothermal fluid for use in the station has caused extensive subsidence in the geothermal field beneath the town of Taupo. It also resulted in the loss of geysers and hot pools at Wairākei which were taonga to Ngāti Tūwharetoa, such as the Karapiti geyser, Matarakukia, Te Kiriohinekai, and Pirorirori (the Blue Lake), and led to the emergence of new surface features in the Karapiti thermal area. The power station also affected the connected Tauhara geothermal field, causing the cessation of geysers and other geothermal activity in the Spa Sights area beside the Waikato River.

### THE UNDERDEVELOPMENT OF NGĀTI TŪWHARETOA

- 2.477 At the dawn of the twentieth century Ngāti Tūwharetoa were poised to enter into a new economy based on the resources of the land they had managed to retain following the Crown and private land alienations of the late nineteenth century. Although some hapū in northern Taupo retained very few lands, in other parts of the district Ngāti Tūwharetoa retained resources that could have provided significant economic opportunities, including forests for milling, hot springs of interest to tourists, papakāinga lands for cultivation. Ngāti Tūwharetoa also retained large areas of poor quality land which, if developed, had some farming capability.
- 2.478 Ngāti Tūwharetoa were unable to develop many of their resources during the twentieth century. By 1900 the Crown had acquired most of the lands containing hot springs in the Taupo district. Following the 1909 Native Land Act and its subsequent amendments, the Crown commenced another extensive land purchasing programme resulting in the alienation of significant areas of land and resources. The prolonged imposition of orders against private alienation of lands owned by Ngāti Tūwharetoa also locked-up many retained lands and their resources, especially indigenous timber. Title fragmentation made it difficult for Ngāti Tūwharetoa landowners to develop what lands they retained. Until the 1930s, they lacked access to the finance needed to develop their lands, and it was only after 1929 that the Crown turned its focus from purchasing Māori lands to helping Māori develop their lands.
- 2.479 The education of their children was critical to Ngāti Tūwharetoa. From 1867, the Crown began establishing a Native school system which it promoted to Māori. The Crown required Māori to gift land for native schools to be established. In the early 1870s, immediately after peace was brought to the district, Ngāti Tūwharetoa requested Native schools to educate their children. Crown officials encouraged them in this pursuit of education and Governor Fergusson promised them a school in 1874.
- 2.480 The first Native school in the Taupo district opened at Tapuaeharuru in 1877 but this school closed after less than two years. In 1886, Ngāti Tūwharetoa gifted land at their main settlement of Tokaanu and at Te Hatepe for schools, but the next Native school opened in the district was at Pukawa in 1895. Rangatira from Taupo complained that the location of the Pukawa School was not convenient for children, and after two years it also closed. A school at Ngāti Tūwharetoa's favoured location of Tokaanu was



2: HISTORICAL ACCOUNT

opened in 1898, and an official report the following year described it as one of the 'more satisfactory' native schools in New Zealand. The land gifted at Te Hatepe was never used for a school. By 1890, it was apparent no school would be opened and the donors requested its return, without success. The donors continued to seek the return of this land and in 1971 it was returned, eighty years after it was gifted. In 1905, Native schools were opened at Oruanui and Waitahanui, and at Ōtūkou in 1921. In 1940, Ngāti Tūwharetoa gifted land at Tauranga-Taupo for a native school.

- 2.481 The Crown saw these schools in part as a means of assimilating Ngāti Tūwharetoa into Pākehā culture. Ngāti Tūwharetoa children were, therefore, strongly discouraged for many decades from speaking their own language in Crown-run schools. In 1918, a senior education official predicted that te reo Māori would soon disappear as a spoken language. Another senior official argued in 1931 this would inflict no loss on Māori. Ngāti Tūwharetoa remember their children being punished for speaking te reo Māori on school grounds. In 2013, only one-quarter of Ngāti Tūwharetoa could speak te reo Māori.
- 2.482 Until the 1960s, the Crown's education system had much lower expectations for Ngāti Tūwharetoa than Pākehā. It sought to prepare most Māori children for manual labouring occupations only. The educational qualifications of Ngāti Tūwharetoa continue to lag well behind those of other New Zealanders, restricting the economic and life opportunities available to most Ngāti Tūwharetoa. Today only 11 per cent of Ngāti Tūwharetoa adults have a Bachelor's degree or higher compared to 20 per cent of the total New Zealand population. Thirty per cent of Ngāti Tūwharetoa have no qualifications at all, compared to 21 per cent of New Zealand as a whole.
- 2.483 By 1945, Taupō was one of the most sparsely populated and least developed areas in New Zealand. For Ngāti Tūwharetoa, this contributed to economic marginalisation including widespread poverty, poor housing, high infant mortality, ill-health, and a shorter life span. It also contributed to extensive outward migration as Ngāti Tūwharetoa whānau left the district in search of opportunities elsewhere. By the 1960s, around 70 per cent of Ngāti Tūwharetoa lived outside their Taupō rohe. They earn less, are considerably younger, and less likely to own their home than other New Zealanders. At \$21,900, the median income of Ngāti Tūwharetoa adults is lower than the total Māori population (\$23,700), which is also less than the total New Zealand population (\$28,500). Their unemployment rate is almost 50 per cent higher than that of other New Zealanders.

**Te Heuheu Tūkino VIII, Tumu (1941-)**



**Figure 14: Sir Tumu Te Heuheu Tūkino VIII**

**NGĀTI TŪWHARETOA CONTRIBUTION TO NEW ZEALAND**

- 2.484 Ngāti Tūwharetoa have, through the leadership of Te Whare o Te Heuheu, a long and proud record of making significant contributions to New Zealand on the national and international stage. They have, often at great cultural and economic cost to themselves, also contributed through the development of Ngāti Tūwharetoa taonga for the public good.
- 2.485 Ngāti Tūwharetoa's tuku of the Tongariro mountain peaks in 1887 was instrumental in establishing Tongariro National Park. Ngāti Tūwharetoa have been actively involved in the UNESCO World Heritage organisation in the nomination of Tongariro for World Heritage status in 1993, Tumu Te Heuheu's appointment as World Heritage Chair in 2006 and in the 2007 World Heritage Youth Forum. The gift of Pihanga by Ngāti Tūwharetoa landowners in 1921 for a scenic reserve enabled a maunga and surrounding area of significant natural beauty to be added to the park. Their Māraikerake hot springs at Tokaanu have been a public reserve since 1897.
- 2.486 In 1926, Ngāti Tūwharetoa agreed to public access to Lake Taupō and access for anglers to the lake and its rivers. Ngāti Tūwharetoa maintained this free public access for recreational purposes when Lake Taupō and its rivers were returned to them in 1992. Ngāti Tūwharetoa cooperated with the use of Lake Taupo and the upper Waikato River for the generation of hydro-electricity from 1941. From the 1950s to the 1980s they made substantial areas of land and natural resources, including Lake Rotoaira, available for the Tongariro Power Development scheme and for the Wairākei Power Station.

2: HISTORICAL ACCOUNT

- 2.487 Ngāti Tūwharetoa have played an active and significant role in fostering and improving the relationship between Māori and the Crown. They played a leading role in persuading Kotahitanga to work with the Crown on important policy changes for Māori land laws in 1900. More recently they have been instrumental in the establishment of the National Māori Congress and the Federation of Māori Authorities.
- 2.488 Ngāti Tūwharetoa have a long and proud record of service in New Zealand's defence. At the outbreak of World War One Tūreiti Te Heuheu became active in recruiting Ngāti Tūwharetoa volunteers for the Māori contingent, the Pioneer Battalion also known as Te Hokowhitu-a-Tū. The first member of Te Hokowhitu-a-Tū killed at Gallipoli was a Ngāti Tūwharetoa man, who is remembered in the tangi 'He Waiata Tangi mo Taiāwhio Te Whare'.
- 2.489 Ngāti Tūwharetoa made other contributions to the war effort. In 1918 they gifted Ōwhāoko land for returned soldiers of World War One and contributed substantial funds to a national war memorial. Large areas of their land were allocated for defence purposes during World War One and World War Two. They made gifts to the Crown during World War Two to aid the war effort. In 1940, the Tūwharetoa Māori Trust Board gifted £150 and loaned £500 to the Crown interest-free for the duration of the war. At a Ngāti Tūwharetoa meeting in Tokaanu in 1944 it was decided on the motion of Hepi Te Heuheu to subscribe £3000 to the war loan from the Puketapu section of the iwi.
- 2.490 During World War Two, many Ngāti Tūwharetoa men enlisted in the 28 (Māori) Battalion, most serving in B Company. Iwi members also enlisted in other armed services, and in 1941 Sergeant Porokoru Patapu Pohe of Ngāti Tūwharetoa was the first Māori pilot to arrive in Great Britain. Pohe was shot down and kept in the prisoner-of-war camp, Stalag Luft III, until he and seventy-six other prisoners escaped in the 1944 'Great Escape'. Pohe was executed on recapture. The 28 (Māori) Battalion suffered a high casualty rate. The cost of their participation in war has been high, resulting in a loss of present and future leadership from whānau, hapū, and the iwi, as well as a loss of expertise in te reo Māori and Ngāti Tūwharetoa tikanga.

*E kore te ringa tangata e tineia te ahi o tōku tūpuna i runga i te whenua*

No human hand can ever extinguish the sacred fire of my ancestors on the land

### 3 ACKNOWLEDGEMENT AND APOLOGY

#### ACKNOWLEDGEMENT

- 3.1 The Crown recognises that every generation of Ngāti Tūwharetoa since 1840 has been adversely affected by the Crown's failure to uphold its obligations under te Tiriti o Waitangi/the Treaty of Waitangi. The Crown's recognition of Ngāti Tūwharetoa's grievances is long overdue. Accordingly, the Crown now makes the following acknowledgements.

#### **Treaty of Waitangi/te Tiriti o Waitangi**

- 3.2 The Crown acknowledges that Ngāti Tūwharetoa Ariki Mananui Te Heuheu Tūkino II refused to sign te Tiriti o Waitangi/the Treaty of Waitangi. Nevertheless, the Crown further acknowledges that the undertakings it made to Māori in te Tiriti o Waitangi/the Treaty of Waitangi apply to Ngāti Tūwharetoa. The Crown hereby recognises the legitimacy of Ngāti Tūwharetoa's grievances and historical claims.

#### **Pre-1865 Crown Purchasing**

- 3.3 The Crown acknowledges that -
- 3.3.1 it included land within the boundary of the 1851 Ahuriri purchase in which Ngāti Tūwharetoa had interests, without obtaining any Ngāti Tūwharetoa consent to this transaction; and
  - 3.3.2 it did not pay Ngāti Tūwharetoa for this land until after the Crown had represented this transaction as a completed purchase; and
  - 3.3.3 this was a breach of te Tiriti o Waitangi/the Treaty of Waitangi and its principles.

#### **Warfare**

- 3.4 The Crown acknowledges that -
- 3.4.1 following the invasion of its armed forces in the Waikato in 1863, some hapū of Ngāti Tūwharetoa were drawn into the fighting because of their whakapapa connections and allegiance to the Kīngitanga; and
  - 3.4.2 members of Ngāti Tūwharetoa were wounded and killed during the siege and battle at Orakau in 1864, and the loss of these tribal leaders created a profound sense of grief for Ngāti Tūwharetoa, which is still felt to this day.
- 3.5 The Crown acknowledges that the Ngāti Tūwharetoa rangatira Maniapoto and Te Rangitāhau, who had whakapapa links to a number of neighbouring iwi and hapū, were caught up in the Crown's unjustified attack on Ōmarunui in 1866. Te Rangitāhau was detained on the Chatham Islands without trial and in harsh conditions for nearly 2 years. These actions were unjust and a breach of the Treaty of Waitangi and its principles.

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3.6 The Crown acknowledges that -

- 3.6.1 its military forces partook in looting at Tokaanu in the aftermath of the fighting at Tauranga-Taupo and Tokaanu in 1869, and engaged in tactics that damaged and depleted some of Ngāti Tūwharetoa's kāinga and cultivations; and
- 3.6.2 a number of Ngāti Tūwharetoa lost their lives during the battle at Te Pōrere in 1869; and
- 3.6.3 it constrained the movement of Horonuku Te Heuheu Tūkino IV and his whānau at Pākōwhai in Napier from October 1869 to July 1870, where he was kept under the surveillance of Hawke's Bay chiefs following his surrender after his involvement alongside Te Kooti in the battle of Te Pōrere; and
- 3.6.4 after fighting had ended, some of its military forces engaged in looting in Tapuae-haruru, and in one instance of profound disrespect, exhumed the bones of a Māori chief while seeking taonga from his grave.

3.7 The Crown acknowledges that the wars of the 1860s disrupted the social, political and economic patterns of Ngāti Tūwharetoa.

**Raupatu**

3.8 The Crown acknowledges that -

- 3.8.1 between 1867 and 1870 it compulsorily extinguished Ngāti Tūwharetoa customary interests within the Mohaka-Waikare confiscation district; and
- 3.8.2 legislation was not amended until the 1920s to enable the Native Land Court to investigate, and ultimately award, Ngāti Tūwharetoa interests at the Te Matai No. 2 block; and
- 3.8.3 it never returned the other land in the confiscation district in which Ngāti Tūwharetoa held customary interests; and
- 3.8.4 its extinguishment of Ngāti Tūwharetoa's customary interests and retention of some of this land breached te Tiriti o Waitangi/the Treaty of Waitangi and its principles.

3.9 The Crown acknowledges that it unjustly excluded Ngāti Tūwharetoa from the title it awarded for Tarawera when it returned this land to individual Māori following the Mohaka-Waikare confiscation. Although some Ngāti Tūwharetoa were awarded interests in Tarawera in 1924 after the Crown wrongly concluded that the block was outside the boundaries of the confiscation, the Crown took steps in 1952 to restore the pre-1924 position. The unjust exclusion of Ngāti Tūwharetoa from the ownership of Tarawera was a breach of te Tiriti o Waitangi/the Treaty of Waitangi and its principles.

**Native Land Laws**

3.10 The Crown acknowledges that -

- 3.10.1 it did not consult Ngāti Tūwharetoa before introducing land laws in the 19th century that established the Native Land Court, and provided for the

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individualisation of Māori land holdings that had previously been held in tribal tenure; and

- 3.10.2 it allowed a Native Land Court hearing for Pakaututu to proceed at Napier in 1869 at a time when a number of Ngāti Tūwharetoa refugees had fled their homes to avoid warfare; and
- 3.10.3 between 1865 and 1873 the native land laws provided for legal ownership of Māori land to be awarded to a maximum of 10 individuals who were legally able to treat this land as their property. The native land laws did not prevent the alienation of land awarded under these provisions without the consent of the wider community of owners. This meant the operation of the native land laws did not meet the Crown's obligations to actively protect Ngāti Tūwharetoa interests and breached te Tiriti o Waitangi/the Treaty of Waitangi and its principles.
- 3.11 The Crown acknowledges Ngāti Tūwharetoa grievances about the impact of the native land system on the Taupōnui-a-Tia block which the iwi considered their "Rohe Pōtae", and for which they sought to define the external boundary of Ngāti Tūwharetoa tribal lands. In particular, the Crown acknowledges that the native land system caused division among hapū which Ngāti Tūwharetoa wanted to avoid. The Crown also acknowledges the expense of the native land system, especially the cost of surveying, led to the sale of a large amount of the Taupōnui-a-Tia block to the Crown. The costs were so excessive that more than half of some of the blocks created during the subdivision of Taupōnui-a-Tia had to be sold to the Crown, and this was a breach of te Tiriti o Waitangi/the Treaty of Waitangi and its principles.
- 3.12 The Crown acknowledges that the native land laws failed to offer an effective form of tribal title to facilitate Ngāti Tūwharetoa's tribal control over their lands until 1894, and this was a breach of te Tiriti o Waitangi/the Treaty of Waitangi and its principles.
- 3.13 The Crown acknowledges that the individualised titles obtained from Native Land Court processes for Taupōnui-a-Tia and other blocks made Ngāti Tūwharetoa lands more susceptible to partition, fragmentation and alienation, and this led to the erosion of Ngāti Tūwharetoa's tribal structures. The Crown's failure to protect these structures was a breach of te Tiriti o Waitangi/the Treaty of Waitangi and its principles.

**19th Century Crown Purchasing**

- 3.14 The Crown acknowledges that the combined effect of it -
- 3.14.1 paying advances of rent to secure Ngāti Tūwharetoa agreement to lease land blocks before the Native Land Court had determined the ownership of these blocks, or before the Court had resolved defects in titles it had previously determined; and
- 3.14.2 declining to pay regular rentals until after the Native Land Court had determined ownership of these blocks or resolved defects in their titles; and
- 3.14.3 preventing Ngāti Tūwharetoa from securing the titles they needed to receive regular rentals for a number of years by suspending the operation of the Native Land Court between 1873 and 1877; and

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- 3.14.4 imposing monopoly powers which prevented Ngāti Tūwharetoa from drawing economic benefit from their land while it was subject to Crown negotiations; and
  - 3.14.5 withdrawing from the lease arrangements after 1877, and refusing to lift its monopoly powers until after Ngāti Tūwharetoa had repaid the Crown's initial advances of rent;
  - 3.14.6 meant that the Crown purchased land from Ngāti Tūwharetoa that they would have preferred to lease, and that the Crown's unreasonable approach to negotiations breached te Tiriti o Waitangi/the Treaty of Waitangi and its principles.
- 3.15 The Crown acknowledges that the large quantity of land the Crown acquired for settlement from Ngāti Tūwharetoa included sites of particular significance to the iwi that were never used for settlement and now form part of the public conservation estate.

**Wharewaka**

- 3.16 The Crown acknowledges that it failed to honour an agreement to reserve an important fishing site at Wharewaka when it purchased Tauhara Middle in 1875, and this was a breach of te Tiriti o Waitangi/the Treaty of Waitangi and its principles.

**Tongariro and Tongariro National Park**

- 3.17 The Crown acknowledges the profound significance of Tongariro Maunga to Ngāti Tūwharetoa. The Crown also acknowledges that through his tuku in 1887, Horonuku Te Heuheu Tūkino IV sought to create a shared responsibility with the Crown to protect and preserve the mountains for Ngāti Tūwharetoa, for other iwi, and for all New Zealanders. The Crown further acknowledges that -
  - 3.17.1 Horonuku intended to retain Ngāti Tūwharetoa's mana in relation to the maunga by entering into a partnership with the Queen, and not to make an unconditional gift; however, legal ownership of the mountains was vested solely in the Crown and it has not always honoured its reciprocal obligations; and
  - 3.17.2 this began a process whereby Ngāti Tūwharetoa's authority over the taonga and their ability to exercise their kaitiakitanga has been greatly reduced. In particular, the Crown acknowledges that legislation for the governance of Tongariro National Park failed to maintain a regime that reflected the spirit of the 1887 tuku by -
    - (a) excessively diluting the role of Ngāti Tūwharetoa in the administration of Tongariro National Park by appointing increasing numbers of non-Māori members to the Tongariro National Park Board; and
    - (b) unilaterally abolishing Tūreiti Te Heuheu Tūkino V's trusteeship on the Board between 1914 and 1922; and
    - (c) this was a breach of te Tiriti o Waitangi/the Treaty of Waitangi and its principles; and
  - 3.17.3 it failed to fulfil the requests Horonuku Te Heuheu made in 1887 that the Crown facilitate the removal of Mananui Te Heuheu Tukino II's remains from

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Tongariro Maunga, and erect a memorial to Mananui Te Heuheu. These failures were inconsistent with the Crown's duty to act in good faith, and were a breach of the Treaty of Waitangi and its principles.

- 3.18 The Crown acknowledges that changes to the natural environment through commercial development and the introduction of exotic species have caused great distress to Ngāti Tūwharetoa because they are unable to exercise their kaitiakitanga to safeguard the tapu of the taonga within the Tongariro National Park from physical and cultural degradation.
- 3.19 The Crown acknowledges that it breached te Tiriti o Waitangi/the Treaty of Waitangi and its principles by failing to purchase from, to identify, to consult with, or to compensate the Ngāti Tūwharetoa owners of some lands that were included in the proclamation that established Tongariro National Park in 1907.

**Ketetahi Springs**

- 3.20 The Crown acknowledges the spiritual importance of the Ketetahi Springs to Ngāti Tūwharetoa, and that -
- 3.20.1 the certificate of title for the Ketetahi Springs block did not accurately reflect the area identified by the owners to be reserved from the Tongariro No.1C block and the Tongariro National Park, and took many decades to remedy; and
- 3.20.2 until as late as 1958, the Crown pursued the purchase of Ketetahi Springs despite the clear intention of its Ngāti Tūwharetoa owners to retain the whole of the Springs in private ownership; and
- 3.20.3 the Tongariro Alpine Crossing Track was constructed across the Ketetahi Springs block, and tourists have trespassed on Ngāti Tūwharetoa's privately-held property; and
- 3.20.4 that all of these actions have been a source of grievance and distress for Ngāti Tūwharetoa.

**Tokaanu Native Township**

- 3.21 The Crown acknowledges that -
- 3.21.1 it compulsorily took 135 acres, including Maunganamu and Māraakerake Springs, for use as roads and public reserves in Tokaanu Township under the provisions of the Native Townships Act which did not require the Crown to pay compensation for these takings; and
- 3.21.2 it converted a number of leases of Ngāti Tūwharetoa owned land at Tokaanu to perpetual leases without the consent of Ngāti Tūwharetoa; and
- 3.21.3 much of it was flooded after hydro-electric power developments in the 1940s, and parts of it were transformed into a swamp of no economic value; and
- 3.21.4 its attempt to establish the township was a failure.
- 3.22 The Crown acknowledges that it breached te Tiriti o Waitangi/the Treaty of Waitangi by failing to implement agreed arrangements by which it would return ownership of the



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Māraikerake thermal bathing pool to Ngāti Kurauia. This issue had been a critical feature of the Native Township negotiations. This had adverse social, cultural, and economic repercussions which have caused a deep sense of grievance amongst Ngāti Kurauia that is still held today.

**20th Century Purchasing**

3.23 The Crown acknowledges that its approach to land purchase negotiations caused Ngāti Tūwharetoa to lose development opportunities because the Crown imposed monopoly powers for a number of years over land that many Ngāti Tūwharetoa owners had no interest in selling. In particular, the Crown acknowledges that its approach to land purchase negotiations did not live up to the standards of good faith required of the Crown under the Treaty and its principles when -

3.23.1 it made a sham of provisions in the native land legislation that provided for collective decision-making about land alienations by meetings of the assembled owners when it purchased individual interests in Ngāti Tūwharetoa land blocks after meetings of the assembled owners had rejected Crown offers; and

3.23.2 it unreasonably maintained monopoly powers for long periods of time over large areas of land that became the Pīhanga Scenic Reserve, despite the Ngāti Tūwharetoa owners having shown no interest in selling these lands; and

3.23.3 its maintenance of monopoly powers over the Pīhanga lands led to the gift of Mount Pīhanga, a sacred taonga and tupuna wahine of Ngāti Tūwharetoa.

**Trout**

3.24 The Crown acknowledges that it facilitated the introduction of trout into Lake Taupo (Taupomoana) and the waterways of Tongariro, significantly depleting the indigenous freshwater fish species, a vital resource upon which Ngāti Tūwharetoa depended for food, hospitality, trade, and koha.

3.25 The Crown further acknowledges the distress felt by Ngāti Tūwharetoa because they are no longer able to fully exercise their customary fishing rights.

**Tongariro Timber Company**

3.26 The Crown acknowledges that -

3.26.1 Ngāti Tūwharetoa regarded the indigenous timber industry as a significant economic opportunity that allowed the retention of land whilst providing capital for economic development. Ngāti Tūwharetoa actively sought to establish a sawmilling venture, the Tongariro Timber Company, to provide employment and long-term development opportunities for their hapū and communities; and

3.26.2 following the Crown's change to the specifications required for the proposed Tongariro Timber Company rail line in 1921, investors were discouraged from investing in the venture which contributed to the ultimate failure of the Company; and

3.26.3 without consulting Ngāti Tūwharetoa, the Crown passed legislation requiring the land owners to pay the Egmont Box Company the sum of £23,500, even though there were doubts as to the extent of the owners' legal liability for the

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company's losses, and this led Te Ariki Hoani Te Heuheu Tūkino VI to take unsuccessful legal proceedings to the Privy Council at great cost to the iwi; and

- 3.26.4 many Ngāti Tūwharetoa families and communities suffered severe socio-economic hardship and deprivation as a consequence of the Tongariro Timber Company's failure and the loss of anticipated development opportunities.

**1926 Acquisition of Lake Taupo (Taupomoana)**

- 3.27 The Crown acknowledges Ngāti Tūwharetoa's sense of grievance arising from -
- 3.27.1 the Crown's acquisition of the beds of Lake Taupo and its tributaries and the Waikato River (from Lake Taupō to, and including the Huka Falls) in 1926, and the right to use the waters; and
- 3.27.2 the Crown's ownership of the beds of Lake Taupo and its tributaries and the Waikato River (from Lake Taupō to, and including the Huka Falls) for 66 years before they were returned to Ngāti Tūwharetoa and its hapū in 1992.

**Public Works Takings**

- 3.28 The Crown acknowledges that it used statutory powers more than 700 times to compulsorily acquire nearly 23,000 acres of Ngāti Tūwharetoa land between 1870 and 1992, including for defence purposes and hydro-electric power generation schemes. In some cases, the Crown did not pay compensation, or only did so after a long delay. The Crown further acknowledges that it did not always return land to Ngāti Tūwharetoa once it had become surplus to the Crown's requirements.

**Land Development Schemes**

- 3.29 The Crown acknowledges that some of the Māori land development schemes instituted in the central North Island for the benefit of Ngāti Tūwharetoa did not provide the economic opportunities and benefits that Ngāti Tūwharetoa expected, and that their operation deprived Ngāti Tūwharetoa of the effective control of their lands for many decades.

**The Waikato Hydro-electric Power Scheme**

- 3.30 The Crown acknowledges -
- 3.30.1 that the people of New Zealand have benefited from the installation of the control gates at the head of the Waikato River on Lake Taupo (Taupomoana)'s northern shores, the use of the lake as a reservoir, and the establishment of dams and hydro-electric power stations along the Waikato River; and
- 3.30.2 Ngāti Tūwharetoa's distress over the construction of the control gates, which led to the dredging of the lake bar and the excavation of a channel parallel to the original river, and forever altered the landscape and hydrology at Nukuhau; and
- 3.30.3 that from 1941 to 1947 the control gates kept Lake Taupo's (Taupomoana) waters at a sustained high level, and they were held at unseasonably high

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levels until 1987, which inundated some of the land surrounding the lake, as well as geothermal taonga and caves housing Ngāti Tūwharetoa kōiwi; and

- 3.30.4 as a result of Lake Taupo's (Taupomoana) higher water level, many Ngāti Tūwharetoa taonga, wāhi tapu, burial caves, puna, beaches, papakāinga, geothermal springs used for bathing and cooking, fishing rocks and farm land located alongside or in the lake and its tributaries were damaged or submerged, and at Waihi, the marae was flooded, the coastline reduced, and puia damaged; and
- 3.30.5 in the 1960s, during the construction of the Aratiatia Power Station, the Crown used 30-acres of fertile land known as the Cherry Grove as a "muck disposal area"; and
- 3.30.6 these lake-level fluctuations had an adverse impact upon Ngāti Tūwharetoa's economic well-being, and cultural and spiritual values.

**Kawerau Pulp and Paper Mill**

3.31 The Crown acknowledges that -

- 3.31.1 the freshwater spring Te Wai Ū o Tūwharetoa is a wāhi tapu and a significant mahinga kai and geothermal resource for Ngāti Tūwharetoa Te Atua Reretahi who consider it to be the life-giving water that fed Tuwharetoa as an infant. The relationship of the iwi with, and respect for, Te Wai Ū o Tūwharetoa gives rise to their responsibilities to protect the mana (authority) and mauri (life-force) of the spring; and
- 3.31.2 the nearby site of Waitahanui pā and urupā are also wāhi tapu for the iwi. Ngāti Tūwharetoa consider all these taonga, along with Lake Rotoitipaku, to be inextricably linked because of their association with the eponymous ancestor Tūwharetoa; and
- 3.31.3 Waitahanui pā, urupā and Lake Rotoitipaku were sited on the land blocks that the Tasman Pulp and Paper Company leased for the pulp and paper mill's effluent disposal in the 1970s. Since their lease to the company, significant contamination has occurred to the site causing a sense of anguish and grievance for Ngāti Tūwharetoa Te Atua Reretahi that is still felt today; and
- 3.31.4 the loss of control over their lands while they were under trusteeship and subject to the lease has prejudiced Ngāti Tūwharetoa Te Atua Reretahi, and impeded their ability to exercise control over their taonga and wāhi tapu and maintain and foster spiritual connections to their ancestral lands; and
- 3.31.5 the Crown failed to adequately protect significant taonga and wāhi tapu of Ngāti Tūwharetoa ki Kawerau from pollution when other reasonably practicable alternatives were available to mitigate against pollution. This Crown failure was in breach of te Tiriti o Waitangi/the Treaty of Waitangi and its principles.

**Waimarino River/Korohe Marae**

3.32 The Crown acknowledges that it breached te Tiriti o Waitangi/the Treaty of Waitangi by failing to respect Ngāti Hine's rangatiratanga over their lands when its contractors repeatedly trespassed across the hapū's land to obtain gravel from the Waimarino

3: ACKNOWLEDGEMENT AND APOLOGY

River, and cleared vegetation and erected a crushing and screening plant on Ngāti Hine's land without seeking the consent of the Māori owners. The Crown further acknowledges that these actions caused severe dust and noise pollution, and disrupted the everyday lives of Ngāti Hine, and had adverse social and cultural repercussions that have caused a deep sense of grievance amongst the hapū which is still held today.

**The Tongariro Power Development Scheme**

- 3.33 The Crown acknowledges that the waterways and lakes of the volcanic plateau, particularly Te Moana o Rotoaira (Lake Rotoaira), in the Tongariro Power Development Scheme have made a significant and valuable contribution to the wealth and development of the New Zealand nation, but that many of the scheme's benefits have come at great cost to those Ngāti Tūwharetoa hapū who whakapapa to Lake Rotoaira and depend upon it for physical and spiritual sustenance. The scheme has radically re-engineered the natural waterways of the volcanic plateau, and its impacts have been wide-ranging and deeply-felt by Ngāti Tūwharetoa.
- 3.34 The Crown acknowledges that -
- 3.34.1 some of the waterways and lakes of the volcanic plateau have suffered environmental degradation, and that the populations and health of some native species of flora and fauna have diminished as a result; and
  - 3.34.2 the diversion of water through Lake Rotoaira as part of the Tongariro Power Development scheme dramatically changed the flow of water in the Tongariro River and the volume of water held in Lake Rotoaira, and resulted in the environmental degradation of the lake's ecology, water quality, and fisheries; and
  - 3.34.3 the merging of waters in Lake Rotoaira is considered by Ngāti Tūwharetoa to be inconsistent with the mauri of the waterways of Tongariro Maunga; and
  - 3.34.4 the environmental degradation of Lake Rotoaira, and the disruption to the water quality and ecology of many of the waterways involved in the Tongariro Power Development scheme has been, and remains, a source of profound distress to Ngāti Tūwharetoa.
- 3.35 The Crown acknowledges that the construction and operation of the Tongariro Power Development scheme -
- 3.35.1 has had a destructive impact on the cultural and spiritual well-being of Ngāti Tūwharetoa; and
  - 3.35.2 has mixed the waterways of Tongariro Maunga with one another, and is considered by Ngāti Tūwharetoa to be inconsistent with the mauri of those waters; and
  - 3.35.3 has caused distress and remains a significant grievance for Ngāti Tūwharetoa.
- 3.36 The Crown acknowledges that the excavation of the Tokaanu tailrace destroyed Te Waiariki pā and urupā, and māra (gardens).

### **Ōtūkou and the Huimako Bluff**

- 3.37 The Crown acknowledges that its blasting at Huimako Bluff destroyed Ngāti Hikairo kōiwi and wāhi tapu and caused profound anguish for Ngāti Hikairo. The Crown further acknowledges the distress caused by the relocation of the Te Ūpoko-Ō-Taitaia papa kāinga to Pāpākai as a result of the quarrying work.
- 3.38 The Crown acknowledges that it failed to compensate the Ngāti Hikairo owners for the value of the materials taken from Huimako Bluff after a court decision, in relation to another taking, indicated the Crown's compensation policy was unlawful, and this was a breach of te Tiriti o Waitangi/the Treaty of Waitangi and its principles.

### **Lake Rotoaira**

- 3.39 The Crown acknowledges that -
- 3.39.1 it did not conduct all aspects of negotiations between 1964 and 1972 for the establishment of the Tongariro Power Development Scheme in a manner that reached the standards expected of good faith negotiations; and
- 3.39.2 it failed to actively protect Ngāti Tūwharetoa's interests when it entered into the 1972 Lake Rotoaira Trust Deed which exempted it from paying compensation for damage to the lake and its fishery, despite being aware that the Tongariro Power Development Scheme would detrimentally impact the lake; and
- 3.39.3 it did not prevent or mitigate the Tongariro Power Development scheme's destructive ecological impact upon Lake Rotoaira, with the result that its owners were unable to derive an income from its fishery; and
- 3.39.4 these failures were breaches of te Tiriti o Waitangi/the Treaty of Waitangi and its principles which have been a source of profound distress for Ngāti Tūwharetoa.

### **Taupo Basin Reserves Scheme**

- 3.40 The Crown acknowledges that the Taupo Basin Reserves Scheme hindered the development of a significant amount of Ngāti Tūwharetoa's land around Lake Taupo (Taupomoana) for around 20 years in order to conserve the water quality of the lake.

### **Geothermal Taonga**

- 3.41 The Crown acknowledges that the geothermal resource is a taonga of immeasurable spiritual and cultural importance to Ngāti Tūwharetoa, and that many of the geothermal features that lie within Ngāti Tūwharetoa's rohe were central to their traditional way of life.
- 3.42 The Crown acknowledges that many of the geothermal features that lie within Ngāti Tūwharetoa's rohe are of immeasurable importance to the iwi, and that many treasured geothermal sites have been polluted or destroyed, including -
- 3.42.1 Wairākei, where the construction of the Wairākei Power Station resulted in profound negative disruption and damage to the Wairākei geothermal field, which has resulted in extreme distress for Ngāti Tūwharetoa; and

3: ACKNOWLEDGEMENT AND APOLOGY

- 3.42.2 the Ōnekeneke Valley, where thermal springs have been significantly degraded as a result of urban and commercial development and the construction of the Wairākei Power Station, and the Waipahihi geothermal stream is no longer able to sustain the needs of the Waipahihi marae and is a significant grievance for Ngāti Tūwharetoa; and
- 3.42.3 the Tokaanu-Waihi-Hipaua geothermal field, where the raising of Lake Taupo (Taupomoana)'s water levels in the 1940s flooded, diluted, or saturated many significant geothermal springs along the shore of the lake, rendering some inaccessible, and changing the chemistry and temperature of others; and
- 3.42.4 the Crown further acknowledges that the pollution and destruction of many of these geothermal features has also irreparably harmed their inherent mauri, and remains a source of profound anguish and grievance for Ngāti Tūwharetoa.

**Contribution to New Zealand**

- 3.43 The Crown acknowledges that the taonga of Ngāti Tūwharetoa have been of considerable benefit to the people of New Zealand, and that Ngāti Tūwharetoa have made a significant contribution to the New Zealand nation through the leadership of Te Whare o Te Heuheu on the national and international stage.

**APOLOGY**

- 3.44 To the resilient iwi that is Ngāti Tūwharetoa, to your Ariki, your beloved tūpuna, your hapū and your whānau, the Crown offers this long overdue apology: the Crown unreservedly apologises for the ways it has dishonoured its obligations to you under Te Tiriti o Waitangi/the Treaty of Waitangi and its principles.
- 3.45 Ngāti Tūwharetoa's relationship with the Crown is one characterised by your iwi's generosity of spirit. Time and again, your hapū have shared taonga precious to you for the benefit of your fellow New Zealanders. At other times, the Crown has taken your whenua and your resources from you. The Crown regrets, profoundly, its actions, omissions and policies that have debilitated the social, cultural, spiritual, political and economic structures of Ngāti Tūwharetoa. The Crown understands, and is deeply remorseful, that by removing the ability of your whānau and hapū to safeguard your whenua and taonga, your ability to nurture yourselves has been hindered.
- 3.46 In particular, the Crown apologises for the grief Ngāti Tūwharetoa feel over the loss of their warriors in wars with the Crown, specifically at Orakau and Te Pōrere.
- 3.47 The Crown acknowledges that your great Ariki, Horonuku Te Heuheu Tūkino IV, could never unconditionally 'gift' the peaks of Tongariro maunga because he could not own them - indeed, it is the mountains that own Ngāti Tūwharetoa. The Crown expresses deep remorse, therefore, that it did not always honour the reciprocal obligations established by Horonuku's tuku of the peaks of Tongariro maunga in 1887, with which the Ariki had intended to protect the sacred maunga.
- 3.48 The Crown sincerely apologises for failing to protect Ngāti Tūwharetoa from the partitioning, fragmentation and alienation of your iwi's whenua, facilitated by the operation of the Native Land Court. The social, political and economic upheaval you have suffered as a consequence has led to great economic hardship and lost opportunities for Ngāti Tūwharetoa.

3: ACKNOWLEDGEMENT AND APOLOGY

- 3.49 The Crown is deeply sorry that the geothermal- and hydro-electric power generation schemes it has constructed in your rohe, for the benefit of all New Zealanders, have come at great cost for Ngāti Tūwharetoa. These schemes have caused environmental degradation to the waterways and lakes of the central North Island, which are, to Ngāti Tūwharetoa, akin to veins which sustain the beating heart of Te Ika a Māui - Lake Taupo (Taupomoana). The Crown is profoundly remorseful that its actions forever changed the character of Lake Rotoaira and its fishery, and denigrated its sacred mauri. The Crown also humbly apologises for the destruction and defilement the construction of these schemes has had upon Ngāti Tūwharetoa's kōiwi and sacred spaces.
- 3.50 Through this settlement, and with this apology, the Crown recognises how your resilience as hapū and as an iwi depends upon your deep connection to the whenua and your desire to protect it. The Crown looks forward to building an enduring relationship of mutual trust and cooperation with Ngāti Tūwharetoa based on Te Tiriti o Waitangi/the Treaty of Waitangi and its principles, and to support you in the revitalisation of ngā hapū o Ngāti Tūwharetoa.

## 4 SETTLEMENT

### ACKNOWLEDGEMENTS

- 4.1 Each party acknowledges that -
- 4.1.1 the other parties have acted honourably and reasonably in relation to the settlement; but
  - 4.1.2 full compensation for the losses and mamae of Ngāti Tūwharetoa is not possible; and
  - 4.1.3 Ngāti Tūwharetoa believe the redress will nonetheless secure a platform for Ngāti Tūwharetoa development and protection, and materially improve the ability of Ngāti Tūwharetoa to exercise their mana, tino rangitiratanga and kaitiakitanga; and
  - 4.1.4 the settlement is intended to enhance the ongoing relationship between Ngāti Tūwharetoa and the Crown (in terms of Te Tiriti o Waitangi/the Treaty of Waitangi, its principles, and otherwise).
- 4.2 Ngāti Tūwharetoa acknowledge that, taking all matters into consideration (some of which are specified in clause 4.1), the settlement is fair in the circumstances.

### SETTLEMENT

- 4.3 Therefore, on and from the settlement date -
- 4.3.1 the historical claims are settled; and
  - 4.3.2 the Crown is released and discharged from all obligations and liabilities in respect of the historical claims; and
  - 4.3.3 the settlement is final.
- 4.4 Except as provided in this deed or the settlement legislation, the parties' rights and obligations remain unaffected.

### REDRESS

- 4.5 The redress, to be provided in settlement of the historical claims -
- 4.5.1 is intended to benefit Ngāti Tūwharetoa and ngā hapū o Ngāti Tūwharetoa collectively and to strengthen the mana and capability of ngā hapū o Ngāti Tūwharetoa; but
  - 4.5.2 may benefit particular members, or particular groups of members, of Ngāti Tūwharetoa if the governance entity so determines in accordance with the governance entity's procedures.



4: SETTLEMENT

**IMPLEMENTATION**

- 4.6 The settlement legislation will, on the terms provided by sections 15 to 20 of the draft settlement bill -
- 4.6.1 settle the historical claims; and
  - 4.6.2 subject to clause 4.6.3, exclude the jurisdiction of any court, tribunal or other judicial body in relation to the historical claims and the settlement; and
  - 4.6.3 provide that the exclusion in clause 4.6.2 does not apply to the jurisdiction of the Waitangi Tribunal in so far as it relates to the steps that are necessary for the Waitangi Tribunal to complete its inquiries and report on the following:
    - (a) the Te Rohe Pōtae District Inquiry (Wai 898):
    - (b) the Taihape: Rangitīkei ki Rangipō District Inquiry (Wai 2180) and the Porirua ki Manawatu Inquiry (Wai 2220), to the extent that it relates to Ngāti Tūwharetoa's claims; and
  - 4.6.4 provide that the legislation referred to in section 17 of the draft settlement bill does not apply -
    - (a) to a redress property or the purchased deferred selection property if settlement of that property has been effected, or RFR land; or
    - (b) for the benefit of Ngāti Tūwharetoa or a representative entity; and
  - 4.6.5 require any resumptive memorial to be removed from a computer register for a redress property or the purchased deferred selection property if settlement of that property has been effected, or RFR land; and
  - 4.6.6 provide that the rule against perpetuities and the Perpetuities Act 1964 does not -
    - (a) apply to a settlement document; or
    - (b) prescribe or restrict the period during which -
      - (i) the trustees of Te Kotahitanga o Ngāti Tūwharetoa Trust, being the governance entity, may hold or deal with property; and
      - (ii) Te Kotahitanga o Ngāti Tūwharetoa Trust may exist; and
  - 4.6.7 require the Secretary for Justice to make copies of this deed publicly available.
- 4.7 Part 1 of the general matters schedule provides for other action in relation to the settlement.

4: SETTLEMENT

**MATTERS NOT AFFECTED**

**Ngāti Tūrangitukua Claims Settlement Act 1999**

- 4.8 The Ngāti Tūrangitukua Claims Settlement Act 1999 ("**Ngāti Tūrangitukua Act**") gives effect to the deed of settlement signed by the Crown and Ngāti Tūrangitukua on 26 September 1998 ("**Tūrangi Township Settlement**"). The Tūrangi Township Settlement relates to claims made by Ngāti Tūrangitukua arising from the creation of the Tūrangi Township. The parties acknowledge that the Tūrangi Township Settlement did not settle other historical claims of Ngāti Tūrangitukua.
- 4.9 The parties acknowledge and agree that -
- 4.9.1 nothing in this new deed affects the Tūrangi Township Settlement or the arrangements arising from the Tūrangi Township Settlement; and
- 4.9.2 as a hapū of Ngāti Tūwharetoa, Ngāti Tūrangitukua are entitled to benefit from the settlement evidenced by this deed.
- 4.10 The parties acknowledge that the Ngāti Tūrangitukua Charitable Trust ("**NTCT**") is the mandated governance entity for the purposes of the Tūrangi Township Settlement. To avoid doubt -
- 4.10.1 the Crown will continue to comply with all of the obligations imposed on the Crown under the Tūrangi Township Settlement; and
- 4.10.2 the Tūwharetoa Hapū Forum and the governance entity will actively support Ngāti Tūrangitukua in this position when requested; and
- 4.10.3 the governance entity and the Crown will continue to recognise NTCT as the mandated governance entity for the hapū of Ngāti Tūrangitukua on all matters relating to the Tūrangi Township Settlement (including, but not limited to, the protocol between the Department of Conservation and NTCT which provides for, amongst other things, Ngāti Tūrangitukua input into Conservation Management decision making).
- 4.11 The Tūwharetoa Hapū Forum acknowledges and agrees that it intends that the governance entity shall transfer to NTCT any cultural redress sites that fall within the exclusive area of Ngāti Tūrangitukua as soon as reasonably practicable following settlement.

**2007 Deed between the Tūwharetoa Māori Trust Board and the Crown**

- 4.12 On 28 August 1992, Ngāti Tūwharetoa entered into an agreement with the Crown whereby the title to Taupo waters (the beds of Lake Taupo (Taupomoana), Waikato River as far as the Huka Falls and its tributaries) was vested in the Tūwharetoa Māori Trust Board on trust for ngā hapū o Ngāti Tūwharetoa. That agreement was updated by a successive deed dated 10 September 2007.
- 4.13 The Crown and the governance entity agree that this settlement is not intended to have any effect on the arrangements arising from that deed and that deed was entered into without prejudice to the historical Treaty claims of Ngāti Tūwharetoa.

4: SETTLEMENT

**Deed in relation to co-governance and co-management arrangements for the Waikato River**

- 4.14 On 31 May 2010, on behalf of Ngāti Tūwharetoa and the hapū of Ngāti Tūwharetoa with interests in the Waikato River, the Tūwharetoa Māori Trust Board and the Crown entered into a deed in relation to co-governance and co-management arrangements for the Waikato River. The Crown and the governance entity acknowledge and agree that -
- 4.14.1 this settlement is not intended to have any effect on the arrangements arising from that deed; and
  - 4.14.2 the Waikato River co-governance and co-management arrangements do not preclude or limit any future relationships, agreements or arrangements that may be entered into or agreed between Ngāti Tūwharetoa and the Crown, local authorities or other persons; and
  - 4.14.3 the Waikato River co-governance and co-management arrangements do not preclude the Crown from negotiating with Ngāti Tūwharetoa or other claimants in relation to the settlement of historical Te Tiriti o Waitangi/the Treaty of Waitangi claims in respect of the Waikato River or its catchment or otherwise.

**Rights and interests in water and geothermal resources not affected**

- 4.15 The Crown acknowledges that -
- 4.15.1 particular iwi/hapū have rights and interests in specific water and geothermal resources in their rohe; and
  - 4.15.2 the Crown is presently engaged in a process of policy review and reform in relation to the management of freshwater in New Zealand that includes the consideration of issues relating to water use, allocation and rights and interests. That process includes discussions at a national level in which Ngāti Tūwharetoa are involved through, among other things, the Freshwater Iwi Leaders Group.
- 4.16 The Crown acknowledges that Ngāti Tūwharetoa own the beds of the main lakes and rivers of the volcanic plateau (being Lake Taupo (Taupomoana) and Lake Rotoaira, the main tributaries of Lake Taupo (Taupomoana) and the upper Waikato River) and that Ngāti Tūwharetoa consider these lakes and rivers are taonga tuku iho.
- 4.17 Ngāti Tūwharetoa assert that -
- 4.17.1 Ngāti Tūwharetoa are kaitiaki of the waters that flow from Tongariro maunga and the Mātāpuna, and their lakes and rivers are taonga; and
  - 4.17.2 Ngāti Tūwharetoa have a special relationship with their geothermal taonga, which came into being through the deeds of their tupuna Ngātoroirangi. They are and have always been essential for the livelihood, well-being and identity of their people. Ngāti Tūwharetoa have therefore important and enduring kaitiaki responsibilities over geothermal taonga and wish to maintain this connection forever more; and

4: SETTLEMENT

- 4.17.3 Ngāti Tūwharetoa have Treaty and aboriginal title or customary rights, in the fresh water lakes and rivers, and geothermal resources, of the area of interest.
- 4.18 One of the wider aspirations of Ngāti Tūwharetoa is for the Crown to recognise and provide for those rights and interests. This includes provision being made for the interests of Ngāti Tūwharetoa in any future policy reform in relation to water and geothermal resources, including the introduction of economic interests such as a market-based regime for resource allocation.
- 4.19 In the 2010 deed in relation to co-governance and co-management arrangements for the Waikato River, the Crown agreed that it will not, without first engaging with Ngāti Tūwharetoa in good faith -
- 4.19.1 establish a regime of tradeable rights or tradeable permits in water within the area of interest; or
- 4.19.2 establish or confer management or use rights of a nature and/or duration that in effect create rights of property in the waters of the Waikato River or Lake Taupo (Taupomoana) or Lake Rotoaira or other waters within the area of interest; or
- 4.19.3 finalise policy or introduce any legislation which in effect amounts to the privatisation of the waters within area of interest.
- 4.20 The Crown acknowledges that this settlement will not affect any rights of iwi and hapū in relation to water and geothermal water and, in particular, any rights iwi and hapū may have in relation to aboriginal title or customary rights or any other legal or common law rights, including the ability to bring a contemporary claim to water rights, geothermal resources and interests.

## 5 TE POU TUATAHI: TONGARIRO TE MAUNGA

### The Aspirations of Ngāti Tūwharetoa for Tongariro National Park

- 5.1 *Ko Tongariro te maunga*: Tongariro is the traditional name given by Ngāti Tūwharetoa to the whole of the mountain range, including its three peaks of Mount Tongariro, Mount Ngauruhoe and Mount Ruapehu.
- 5.2 Ngāti Tūwharetoa aspire to secure redress that gives effect to the true spirit of the *tuku taonga* of the mountain peaks by Horonuku Te Heuheu Tūkino IV in 1887. The Waitangi Tribunal found that the *tuku* was not an English-style gift, but an invitation to the Queen to share in the protection of Ngā Pae Maunga Tapu ("*mō te Rāhui whenua ka whakatapua nei mō te Iwi ki Tongariro*").<sup>1</sup>
- 5.3 Ngāti Tūwharetoa seek, in recognition of their mana, the restoration of their *tino rangatiratanga* and *kaitiakitanga* over Tongariro National Park by the provision of redress that includes -
- 5.3.1 fresh arrangements for the ownership and legal status of Tongariro National Park that are consistent with the intention of the *tuku* to act in partnership with the Queen; and
- 5.3.2 *tangata whenua* and the Crown acting in partnership in the governance and integrated management of Tongariro National Park, in accordance with the *tikanga* of Ngāti Tūwharetoa and other *tangata whenua*; and
- 5.3.3 appropriate protection and conservation of Tongariro National Park, in keeping with Ngāti Tūwharetoa *tikanga*. A priority is maintaining the pristine state of the peaks.

### Tongariro National Park collective iwi negotiations

- 5.4 Other than Crown apology redress, this deed does not provide for cultural redress by the Crown in relation to any of the historical claims that relate to Tongariro National Park, as that is yet to be developed in conjunction with Ngāti Tūwharetoa and other iwi and hapū with interests in Tongariro National Park.
- 5.5 The governance entity and the mandated representatives of other iwi and hapū with interests in Tongariro National Park intend to negotiate the cultural redress in relation to Tongariro National Park.
- 5.6 Ngāti Tūwharetoa and the Crown acknowledge that -
- 5.6.1 the area of interest includes most of the Tongariro National Park; and
- 5.6.2 providing redress in the Tongariro National Park for Ngāti Tūwharetoa claims is crucial to the essential completion of the comprehensive settlement between Ngāti Tūwharetoa and the Crown.

<sup>1</sup> The language used by Horonuku Te Heuheu in his letter of 23 September 1887, cited in Waitangi Tribunal's *Te Kāhui Maunga: The National Park District Inquiry Report* (2013), Vol 2, at p. 443.

5: TE POU TUATAHI: TONGARIRO TE MAUNGA

- 5.7 The Crown undertakes to enter meaningful negotiations in relation to the redress referred to in clause 5.4 within one year of the date of this deed.
- 5.8 Ngāti Tūwharetoa and the Crown further acknowledge that -
- 5.8.1 if any other iwi or hapū with interests in Tongariro National Park is not mandated after those negotiations have commenced, they may join those negotiations once mandated; and
- 5.8.2 the redress referred to in part 9 of this deed is full and final.

## 6 TE POU TUARUA: TE MĀTĀPUNA O TE WAI, TE AHI TĀMOU

### TE KŌPUA KĀNAPANAPA

#### Establishment and purpose of Te Kōpua Kānapanapa

- 6.1 The settlement legislation will establish a statutory body, called Te Kōpua Kānapanapa.
- 6.2 Te Kōpua Kānapanapa evokes the gleaming depths of Lake Taupo (Taupomoana) as the shimmering belly of the fish. This name is a reference to Te Puku o Te Ika a Māui (the belly of the fish of Māui), a Ngāti Tūwharetoa name for the central North Island, and is also evocative of the womb, symbolising the nurturing quality of the waters.
- 6.3 The vision of Ngāti Tūwharetoa for Te Kōpua Kānapanapa is founded on their relationship with the natural resources of the Taupo Catchment according to Ngāti Tūwharetoa tikanga. Ngāti Tūwharetoa are inextricably linked by whakapapa to their taonga tuku iho (ancestral treasures), including Tongariro Maunga, te mātāpuna o te wai (the source of the waters), Lake Taupo (Taupomoana) and the rivers that flow into it, Te Awa o Waikato (the Waikato River), Te Ahi Tipua (the geothermal resources), and the whenua (the land). These natural resources have their own mauri (life force), which represents their spiritual and physical wellbeing.
- 6.4 The purpose of Te Kōpua Kānapanapa is -
- 6.4.1 to restore, protect and enhance the environmental, cultural and spiritual health and wellbeing of the Taupo Catchment (as shown on deed plan OTS-575-53) for the benefit of Ngāti Tūwharetoa and all people in the Taupo Catchment (including future generations); and
  - 6.4.2 to provide strategic leadership on the sustainable and integrated management of the Taupo Catchment environment for the benefit of Ngāti Tūwharetoa and all people in the Taupo Catchment (including future generations); and
  - 6.4.3 to enable Ngāti Tūwharetoa to exercise mana and kaitiakianga over the Taupo Catchment, in partnership with the local authorities; and
  - 6.4.4 to give effect to the vision in Te Kaupapa Kaitiaki.
- 6.5 In achieving its purpose, Te Kōpua Kānapanapa must -
- 6.5.1 respect Ngāti Tūwharetoa tikanga; and
  - 6.5.2 provide for the relationship of Ngāti Tūwharetoa and their culture and traditions with their ancestral lands, water, geothermal resources, sites, wāhi tapu and other taonga.
- 6.6 Ngāti Tūwharetoa have a vision for a healthy Taupo Catchment that is capable of sustaining the whole community and that is managed in a manner that reflects Ngāti Tūwharetoa tikanga.

6: TE POU TUARUA: TE MĀTĀPUNA O TE WAI, TE AHI TĀMOU

- 6.7 The vision is founded on the following principles derived from tikanga:
- 6.7.1 **The Principle of Mauri:** the health and wellbeing of the Taupo Catchment reflects and nourishes the health and wellbeing of Ngāti Tūwharetoa:
  - 6.7.2 **The Principle of Mana:** the active protection and restoration of the relationship of Ngāti Tūwharetoa with the Taupo Catchment (including Ngāti Tūwharetoa mana whakahaere and kaitiaki role):
  - 6.7.3 **The Principle of Te Whanake:** sustainable development of Ngāti Tūwharetoa taonga, Ngāti Tūwharetoa people, and the whole community:
  - 6.7.4 **The Principle of Integrated Management:** the natural resources within the Taupo Catchment are interdependent and should be managed in an integrated manner.
- 6.8 As a commitment to a constructive ongoing relationship, Ngāti Tūwharetoa, Waikato Regional Council and Taupo District Council have agreed that Te Kōpua Kānapanapa should operate in a manner that -
- 6.8.1 reflects the mana and roles of all members and parties represented on Te Kōpua Kānapanapa; and
  - 6.8.2 reflects good faith, mutual respect and integrity; and
  - 6.8.3 enables Ngāti Tūwharetoa to exercise mana and kaitiakitanga over the Taupo Catchment, in partnership with local authorities; and
  - 6.8.4 reflects a collaborative and solution-focussed approach; and
  - 6.8.5 focuses on achieving the purpose of Te Kōpua Kānapanapa while respecting the accountabilities and responsibilities of members under legislation and in relation to constituent groups; and
  - 6.8.6 recognises the interests of other iwi, local authorities, and other entities with interests or statutory roles in the Taupo Catchment.
- 6.9 Despite the composition of Te Kōpua Kānapanapa as described in clause 6.19, Te Kōpua Kānapanapa is deemed to be a joint committee of the Waikato Regional Council and Taupo District Council within the meaning of clause 30(1)(b) of Schedule 7 of the Local Government Act 2002.
- 6.10 Despite Schedule 7 of the Local Government Act 2002, Te Kōpua Kānapanapa -
- 6.10.1 is a permanent committee and is not discharged following each triennial election; and
  - 6.10.2 must not be dissolved unless all appointers agree to Te Kōpua Kānapanapa being dissolved.
- 6.11 The members of Te Kōpua Kānapanapa must -
- 6.11.1 act in a manner so as to seek to achieve the purpose of Te Kōpua Kānapanapa; and



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- 6.11.2 subject to clause 6.11.1 comply with any terms of appointment issued by the relevant appointer.

**Functions of Te Kōpua Kānapanapa**

- 6.12 The principal function of Te Kōpua Kānapanapa is to achieve its purpose.
- 6.13 Te Kōpua Kānapanapa has the following specific functions:
- 6.13.1 to promote the restoration, protection, and enhancement of the environmental, cultural and spiritual well-being of the Taupo Catchment:
  - 6.13.2 to prepare and approve Te Kaupapa Kaitiaki that identifies the values, vision, objectives, desired outcomes and other relevant matters for the Taupo Catchment:
  - 6.13.3 to monitor the implementation and effectiveness of Te Kaupapa Kaitiaki:
  - 6.13.4 to advise local authorities and relevant agencies regarding projects, initiatives, action or research intended to restore, protect or enhance the health and well-being of the Taupo Catchment:
  - 6.13.5 to support the integrated and collaborative management of the Taupo Catchment:
  - 6.13.6 to support the integrated management of the Taupo Catchment with the management of the Waikato River and the Whanganui River:
  - 6.13.7 to engage with, seek advice from and provide advice to local authorities and other relevant agencies on matters relating to the health and well-being of the Taupo Catchment:
  - 6.13.8 to establish and maintain a register of accredited hearing commissioners:
  - 6.13.9 to participate in any statutory and non-statutory process that concerns or has implications for the health and well-being of the Taupo Catchment, including by making submissions on planning or resource consent processes under the Resource Management Act 1991:
  - 6.13.10 to carry out any functions referred to in clause 6.17:
  - 6.13.11 to take any other action that Te Kōpua Kānapanapa considers appropriate to achieving its purpose.

**Other entities**

- 6.14 There are a number of entities that have been established between Ngāti Tūwharetoa representatives, the Taupo District Council and Waikato Regional Council respectively, and other groups within the Taupo Catchment.
- 6.15 Following the signing of this deed, there will be ongoing discussions with the parties referred to in clause 6.14 to ascertain whether any rationalisation may occur.

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**Procedures**

- 6.16 Te Kōpua Kānapanapa will develop procedures focussed on promoting an integrated approach with -
- 6.16.1 the Waikato River Authority and the arrangements provided for in the Waikato River legislation; and
  - 6.16.2 Te Awa Tupua, and the arrangements provided for in the Te Awa Tupua legislation in relation to the Whanganui River catchment.
- 6.17 To avoid doubt, except as provided for in clause 6.13.2, Te Kōpua Kānapanapa has discretion to determine in any particular circumstances -
- 6.17.1 whether to exercise any function identified in clause 6.13; and
  - 6.17.2 how, and to what extent, any function identified in clause 6.13 is exercised.

**Capacity**

- 6.18 Te Kōpua Kānapanapa -
- 6.18.1 will have all the powers reasonably necessary to carry out its functions in a manner consistent with -
    - (a) this part; and
    - (b) subject to clause 6.18.1(a), the local government legislation; and
  - 6.18.2 may perform any function of a local authority if and to the extent that function has been delegated to it by the local authority.

**Appointment of Te Kōpua Kānapanapa members**

- 6.19 At settlement date, Te Kōpua Kānapanapa will consist of eight members as follows:
- 6.19.1 four members appointed by the governance entity:
  - 6.19.2 two members appointed by the Waikato Regional Council, each being an elected Council member:
  - 6.19.3 two members appointed by Taupo District Council, each being an elected Council member,
- (each organisation being an "appointer").
- 6.20 The governance entity will appoint members under clause 6.19.1 in a manner that ensures representation from across the Taupo Catchment, to the effect that at least one of the governance entity's appointments will be made from a shared hapū of Raukawa and Ngāti Tūwharetoa.
- 6.21 Appointers may, from time to time, notify Te Kōpua Kānapanapa of the names of alternate members who may attend meetings if a member appointed under clause 6.19 is not able to attend, and may act on behalf of that member during those meetings (and, for the avoidance of doubt, will have a vote at such meetings).

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- 6.22 Members of Te Kōpua Kānapanapa -
- 6.22.1 are appointed for a term of three years commencing on the 60<sup>th</sup> day after the polling day for the most recent triennial local government election, unless the member resigns or is removed by an appointer during that term; and
  - 6.22.2 may be reappointed or removed by and at the sole discretion of the relevant appointer.
- 6.23 The initial term will -
- 6.23.1 commence on the settlement date; and
  - 6.23.2 cease on the 59<sup>th</sup> day after the polling day for the next triennial local government election following the settlement date.
- 6.24 In appointing members to Te Kōpua Kānapanapa, appointers must -
- 6.24.1 be satisfied that the person has the skills, knowledge or experience to -
    - (a) participate effectively in Te Kōpua Kānapanapa; and
    - (b) contribute to the achievement of the purpose of Te Kōpua Kānapanapa; and
  - 6.24.2 have regard to the skills of any members already appointed, or to be appointed, to Te Kōpua Kānapanapa to ensure that the membership reflects a balanced mix of knowledge and experience in relation to the Taupo Catchment.
- 6.25 No action of Te Kōpua Kānapanapa is invalid because of -
- 6.25.1 a vacancy in the membership of the entity at the time of that action; or
  - 6.25.2 the subsequent discovery of a defect in the appointment of a person acting as a member.
- 6.26 Te Kōpua Kānapanapa may appoint one or more Ngāti Tūwharetoa kaumātua or kuia knowledgeable in tikanga and culture to attend meetings and act in an advisory capacity as required (but will not have a vote).
- 6.27 Te Kōpua Kānapanapa may, at its discretion and to assist in the exercise of its functions, seek advice or guidance from, or invite to their meetings -
- 6.27.1 a representative of a particular Ngāti Tūwharetoa hapū in respect of matters that are relevant to the area in which the hapū has or have mana whenua or mana moana; and
  - 6.27.2 a representative of Ngāti Rangi in respect of matters that are relevant to the overlapped catchment area (as shown on deed plan OTS-575-54); and
  - 6.27.3 a representative of the Raukawa Settlement Trust in respect of matters that are relevant to an overlapping catchment area (as shown on deed plan OTS-575-54) between Raukawa and Ngāti Tūwharetoa; and

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- 6.27.4 any other person or organisation that has the relevant skills, knowledge or attributes to assist in the work of Te Kōpua Kānapanapa.
- 6.28 Any representative referred to in clauses 6.27.1 or 6.27.3 or a person or organisation referred to in clause 6.27.4 may, at the invitation of Te Kōpua Kānapanapa, attend Te Kōpua Kānapanapa meetings, but will not have a vote at such meetings.
- 6.29 Notwithstanding clause 6.27, a representative of Ngāti Rangī referred to in clause 6.27.2 may, at any time, attend Te Kōpua Kānapanapa meetings, but will not have a vote at such meetings.
- 6.30 A representative from the Department of Conservation may attend a meeting where a matter of interest to the Department is to be discussed, but will not have a vote at such meeting.
- 6.31 The parties acknowledge and agree that -
- 6.31.1 Ngāti Rangī will have the opportunity to input into sections of Te Kaupapa Kaitiaki which are relevant to that area which overlaps between the area of interest of Ngāti Rangī and the area of interest of Ngāti Tūwharetoa (as shown on deed plan OTS-575-54) ("**overlapped catchment area**"); and
- 6.31.2 Ngāti Rangī shall have the discretion to request a dedicated section in Te Kaupapa Kaitiaki prepared by Ngāti Rangī (in consultation with Te Kōpua Kānapanapa) reflecting Ngāti Rangī's relationship and traditions in respect of the overlapped catchment area.

**Resignation or removal of Te Kōpua Kānapanapa members**

- 6.32 A member may resign by giving written notice to that person's appointer and Te Kōpua Kānapanapa.
- 6.33 An appointer of a member may remove that member from Te Kōpua Kānapanapa by giving written notice to that member, Te Kōpua Kānapanapa, and the other appointers.
- 6.34 Where there is a vacancy on Te Kōpua Kānapanapa -
- 6.34.1 the relevant appointer will fill that vacancy as soon as is reasonably practicable; and
- 6.34.2 any such vacancy does not prevent Te Kōpua Kānapanapa from continuing to discharge its functions.
- 6.35 To avoid doubt, members of Te Kōpua Kānapanapa who are appointed by the governance entity are not, by virtue of that membership, members of a local authority.

**Co-Chairs**

- 6.36 At the first meeting of each term Te Kōpua Kānapanapa must appoint two members as Co-Chairs of Te Kōpua Kānapanapa.
- 6.37 One of the Co-Chairs must be a member appointed by the governance entity. The other Co-Chair must be a member appointed by either the Waikato Regional Council or the Taupo District Council.

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6.38 Each Co-Chair -

6.38.1 is appointed for a term of three years unless the Co-Chair resigns or is removed during that term; and

6.38.2 may be reappointed as a Co-Chair.

**Procedures of Te Kōpua Kānapanapa**

6.39 Except as otherwise provided for in this deed, the procedures of Te Kōpua Kānapanapa are governed by -

6.39.1 the applicable provisions of the relevant local government legislation; and

6.39.2 the standing orders referred to in clause 6.40.

**Standing orders**

6.40 At the first meeting of Te Kōpua Kānapanapa, Te Kōpua Kānapanapa must -

6.40.1 develop principles to guide the relationships and values of Te Kōpua Kānapanapa; and

6.40.2 adopt a set of standing orders.

6.41 The standing orders must -

6.41.1 not contravene this part; and

6.41.2 respect Ngāti Tūwharetoa tikanga; and

6.41.3 subject to clauses 6.41.1 and 6.41.2, not contravene any local government legislation.

6.42 Te Kōpua Kānapanapa may at any time amend the standing orders.

6.43 Each member of Te Kōpua Kānapanapa must comply with the standing orders and be guided by the principles referred to in clause 6.40.1.

**Meetings of Te Kōpua Kānapanapa**

6.44 Te Kōpua Kānapanapa must -

6.44.1 at its first meeting of each year, agree a schedule of meetings that will allow Te Kōpua Kānapanapa to achieve its purpose and properly discharge its functions; and

6.44.2 review that meeting schedule on a regular basis to ensure that it is sufficient to allow Te Kōpua Kānapanapa to achieve its purpose and properly discharge its functions.

6.45 The Co-Chairs will preside over meetings and, if one of the Co-Chairs is absent from a meeting, the other Co-Chair will preside over that meeting.

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- 6.46 The quorum for a meeting is not less than five members, made up as follows:
- 6.46.1 at least two of the members appointed by the governance entity:
  - 6.46.2 at least one member appointed by the Taupo District Council:
  - 6.46.3 at least one member appointed by the Waikato Regional Council:
  - 6.46.4 in addition to the members identified in clauses 6.46.1 to 6.46.3, at least one of the Co-Chairs.

**Decision-making**

- 6.47 The decisions of Te Kōpua Kānapanapa must be made by vote at a meeting.
- 6.48 When making a decision Te Kōpua Kānapanapa must strive to achieve consensus among those members present and voting at a meeting.
- 6.49 Notwithstanding clause 6.48, the Co-Chairs (or one of them if only one Co-Chair is present) may determine that a decision is to be made by a 75% majority of members present and voting.
- 6.50 The Co-Chairs (or one of them if only one Co-Chair is present) may make a determination under clause 6.49 only where -
- 6.50.1 consensus has not been achieved after the third vote on the same matter; and
  - 6.50.2 in the opinion of the Co-Chairs (or one of them if only one Co-Chair is present), there has been a reasonable amount of discussion on the matter and consensus is unlikely to be achieved as a result of further discussion.
- 6.51 To avoid doubt, the Co-Chairs of Te Kōpua Kānapanapa may vote on any matter, but do not have casting votes.
- 6.52 The members of Te Kōpua Kānapanapa must approach decision-making in a manner that -
- 6.52.1 is consistent with, and reflects, the purpose of Te Kōpua Kānapanapa; and
  - 6.52.2 accords with Ngāti Tūwharetoa tikanga; and
  - 6.52.3 acknowledges, as appropriate, the mana of Ngāti Rangi in respect of the overlapped catchment area; and
  - 6.52.4 acknowledges as appropriate the principle that each hapū of Ngāti Tūwharetoa have mana whenua over their particular part of the Taupo Catchment; and
  - 6.52.5 acknowledges as appropriate the interests of all communities in the Taupo Catchment.
- 6.53 Members of Te Kōpua Kānapanapa who are also members of a local authority are not disqualified from participating in any decision-making by the local authority by virtue of being a member or participating in the making of a decision of Te Kōpua Kānapanapa.

**Declaration of interest**

- 6.54 A member of Te Kōpua Kānapanapa -
- 6.54.1 is required to disclose any actual or potential interest in a matter to Te Kōpua Kānapanapa; and
  - 6.54.2 may declare that, as a result of that interest, that member does not wish to participate in any deliberations or decisions of Te Kōpua Kānapanapa in relation to that matter.
- 6.55 Te Kōpua Kānapanapa must -
- 6.55.1 maintain an interests register; and
  - 6.55.2 record any actual or potential interests that are disclosed to Te Kōpua Kānapanapa; and
  - 6.55.3 consider, and if necessary take steps to manage, any actual or potential conflict of interest.
- 6.56 A member of Te Kōpua Kānapanapa is not precluded by the Local Authorities (Members' Interests) Act 1968 from discussing or voting on a matter -
- 6.56.1 merely because the member is affiliated to an iwi or hapū that has customary interests in the Taupo Catchment; or
  - 6.56.2 merely because the member has ownership in Māori freehold land; or
  - 6.56.3 merely because the member is also a member of a local authority; or
  - 6.56.4 merely because the economic, social, cultural and spiritual values of any iwi or hapū and their relationships with Te Kōpua Kānapanapa are advanced by or reflected in -
    - (a) the subject matter under consideration; or
    - (b) any decision by or recommendation of Te Kōpua Kānapanapa; or
    - (c) participation in the matter by the member.
- 6.57 To avoid doubt, the affiliation of a member of Te Kōpua Kānapanapa to an iwi or hapū that has customary interests in the Taupo Catchment is not an interest that must be disclosed or recorded under clauses 6.54 or 6.55.
- 6.58 In clauses 6.54 to 6.57, "**matter**" means -
- 6.58.1 any action or decision taken by Te Kōpua Kānapanapa in the performance of its functions or exercise of its powers; or
  - 6.58.2 an arrangement, agreement, or contract made or entered into, or proposed to be entered into, by Te Kōpua Kānapanapa.

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6.59 A member of Te Kōpua Kānapanapa has an actual or potential interest in a matter, in terms of clauses 6.54 to 6.57, if he or she -

6.59.1 may derive a financial benefit from the matter; or

6.59.2 is the spouse, civil union partner, de facto partner, child, or parent of a person who may derive a financial benefit from the matter; or

6.59.3 may have a financial interest in a person to whom the matter relates; or

6.59.4 is a partner, director, officer, Board member, or trustee of a person who may have a financial interest in a person to whom the matter relates; or

6.59.5 is otherwise directly or indirectly interested in the matter.

6.60 However, a person is not interested in a matter if his or her interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence him or her in carrying out his or her responsibilities as a member of Te Kōpua Kānapanapa.

**Reporting and review**

6.61 Te Kōpua Kānapanapa -

6.61.1 must report on an annual basis to the appointers; and

6.61.2 may include comments on the effectiveness of the hearing commissioners register and the appointment of commissioners from that register; and

6.61.3 must, if requested, attend an annual meeting of the governance entity and of the other appointers to report on the work of Te Kōpua Kānapanapa over the preceding year and for the forthcoming year.

6.62 The report referred to in clause 6.61 will -

6.62.1 describe the activities of Te Kōpua Kānapanapa over the preceding 12 months; and

6.62.2 explain how these activities are relevant to Te Kōpua Kānapanapa's purpose and functions.

6.63 Te Kōpua Kānapanapa will commence a review of the performance of Te Kōpua Kānapanapa, including of the extent that the purpose of Te Kōpua Kānapanapa is being achieved and the functions of Te Kōpua Kānapanapa is being effectively discharged, on the date that is three years after the completion of the approval of the first Te Kaupapa Kaitiaki.

6.64 The appointers may undertake any subsequent review of the performance of Te Kōpua Kānapanapa at any time agreed between all of the appointers.

6.65 Following any review of Te Kōpua Kānapanapa under clauses 6.63 and 6.64 -

6.65.1 the appointers may make recommendations to Te Kōpua Kānapanapa on any relevant matter arising out of that review; and



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6.65.2 Te Kōpua Kānapanapa must consider those recommendations and the extent to which action is required to address them.

**Te Kōpua Kānapanapa to be open and inclusive**

6.66 Te Kōpua Kānapanapa must operate in a manner that is inclusive of those iwi with interests in the Taupo Catchment that are not represented on Te Kōpua Kānapanapa.

**Register of Hearing Commissioners**

6.67 Te Kōpua Kānapanapa may develop and maintain a register of accredited hearing commissioners for certain applications for resource consents relating to the Taupo Catchment.

6.68 If a register is developed, the register must include appointees with skills, knowledge and experience across a range of disciplines, including tikanga Māori as well as knowledge of the Taupo Catchment.

**Appointment of hearing commissioners**

6.69 Clauses 6.70 to 6.75 apply to any application for a resource consent (including any review of the conditions of a resource consent) received that -

6.69.1 is notified, or is to be notified in accordance with the Resource Management Act 1991; and

6.69.2 is to -

- (a) use land in the Taupo Catchment; or
- (b) take, use, dam, or divert water in the Taupo Catchment; or
- (c) take heat or energy from water or from the material surrounding geothermal water in the Taupo Catchment; or
- (d) make a point source discharge to Lake Taupo (Taupomoana) or its tributaries; or
- (e) undertake any activity listed in section 13 of the Resource Management Act 1991 in relation to Lake Taupo (Taupomoana) or its tributaries; or
- (f) undertake any other activity where the relevant authority decides it is appropriate for those clauses to apply.

6.70 Where a relevant authority receives an application for resource consent referred to in clause 6.69, that authority must inform Te Kōpua Kānapanapa of that application.

6.71 When appointing hearing commissioners in relation to an application for resource consent referred to in clause 6.69, a relevant authority -

6.71.1 must have particular regard to the register; and

6.71.2 may make appointments from the register; and

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- 6.71.3 must be guided by the need for the hearing panel to reflect an appropriate range of skills, knowledge and experience, including an appropriate knowledge of tikanga.
- 6.72 The final decision on the appointment of hearing commissioners will be made by the relevant authority in accordance with the relevant appointment process set out in the Resource Management Act 1991.
- 6.73 On request from Te Kōpua Kānapanapa, a relevant authority must provide a written explanation of -
- 6.73.1 the reasons for the appointment of a commissioner in relation to a particular application; and
- 6.73.2 how clause 6.71 has been complied with.
- 6.74 To avoid doubt, persons on the register who are members of an iwi with interests in the Taupo Catchment are not automatically disqualified from appointment as a hearing commissioner by virtue only of that person being a member of an iwi with interests in the Taupo Catchment.
- 6.75 In clauses 6.70 to 6.74, "**relevant authority**" means -
- 6.75.1 a Minister appointing a Board of Inquiry under Part 6AA of the Resource Management Act 1991; or
- 6.75.2 a local authority appointing a hearing panel for the purposes of Part 6 of the Resource Management Act 1991.

**Administrative matters**

- 6.76 The Waikato Regional Council is responsible for the administrative support of Te Kōpua Kānapanapa.
- 6.77 For the purposes of clause 6.76 "**administrative support**" includes the provision of those services, including any technical support, required for Te Kōpua Kānapanapa to carry out its functions, including under the Local Government Act 2002, or any other Act that applies to the conduct of Te Kōpua Kānapanapa.
- 6.78 On the settlement date, the Crown will make a one-off contribution of \$400,000 to the Waikato Regional Council for the provision of administrative support.
- 6.79 The Waikato Regional Council must, on behalf of Te Kōpua Kānapanapa -
- 6.79.1 hold on trust any funds belonging to Te Kōpua Kānapanapa; and
- 6.79.2 account for the funds in a separate and identifiable manner; and
- 6.79.3 spend the funds in accordance with any direction given by Te Kōpua Kānapanapa.
- 6.80 All appointers must provide technical support to Te Kōpua Kānapanapa to the extent that it is reasonably practicable to do so.

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6.80A The terms of Te Kōpua Kānapanapa and Te Kaupapa Kaitiaki are provided by sections 167 to 183 and schedule 6 of the draft settlement bill.

**TE KAUPAPA KAITIAKI**

**Purpose and scope of Te Kaupapa Kaitiaki**

6.81 Te Kōpua Kānapanapa will prepare and approve a document for the Taupo Catchment ("Te Kaupapa Kaitiaki").

6.82 The purpose of Te Kaupapa Kaitiaki is to identify the significant issues, values, vision, objectives, desired outcomes and other relevant matters for the Taupo Catchment in order to -

6.82.1 promote the sustainable and integrated management of the environment in the Taupo Catchment for the benefit of Ngāti Tūwharetoa and all people in the Taupo Catchment (including present and future generations); and

6.82.2 provide for the relationship of Ngāti Tūwharetoa and their culture and traditions with their ancestral lands, water, geothermal resources, sites, wāhi tapu and other taonga; and

6.82.3 respect Ngāti Tūwharetoa tikanga in the management of the Taupo Catchment.

6.83 Te Kaupapa Kaitiaki must not include rules or methods.

6.84 In preparing and approving Te Kaupapa Kaitiaki, Te Kōpua Kānapanapa may also consider -

6.84.1 any other information or document that is relevant to the purpose of Te Kaupapa Kaitiaki; and

6.84.2 any other enactment that is relevant to the purpose of Te Kaupapa Kaitiaki.

**Effect on Resource Management Act 1991 planning documents**

6.85 In preparing, reviewing, varying or changing a regional policy statement, regional plan or district plan (including a proposed policy statement or plan), a local authority must recognise and provide for the vision, objectives, values, and desired outcomes in Te Kaupapa Kaitiaki.

6.86 The obligation under clause 6.85 applies each time that a local authority prepares, reviews, varies or changes a regional policy statement, regional plan or district plan (including a proposed policy statement or plan).

6.87 Until such time as the relevant planning documents have recognised and provided for the vision, objectives, values, and desired outcomes in Te Kaupapa Kaitiaki, where a consent authority is processing or making a decision on an application for resource consent (including any review of the conditions of a resource consent) of the type described in clause 6.69, that consent authority must have particular regard to Te Kaupapa Kaitiaki.

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- 6.88 The obligations under clause 6.85 apply -
- 6.88.1 where those policy statements or plans relate to the resource management issues in the Taupo Catchment; and
  - 6.88.2 to the extent that the content of Te Kaupapa Kaitiaki is relevant to the policy statement or plan; and
  - 6.88.3 in a manner that is consistent with the purpose of the Resource Management Act 1991.

**Freshwater values and objectives**

- 6.89 The contents of Te Kaupapa Kaitiaki do not pre-determine the identification of freshwater values or setting freshwater objectives by local authorities and their communities under the National Policy Statement for Freshwater Management 2014.

**Effect on Local Government Act 2002**

- 6.90 A local authority must have particular regard to Te Kaupapa Kaitiaki in preparing or approving long term plans or annual plans under the Local Government Act 2002, to the extent that the content of Te Kaupapa Kaitiaki is relevant to matters covered by those plans.

**Effect on fisheries processes**

- 6.91 The parties acknowledge that -
- 6.91.1 Te Kaupapa Kaitiaki will influence regional policy statements, regional plans or district plans (including proposed policy statements or plans); and
  - 6.91.2 under section 11 of the Fisheries Act 1996, the Minister (as that term is defined in section 2 of the Fisheries Act 1996) is required to have regard to regional policy statements and regional plans under the Resource Management Act 1991 before setting or varying any sustainability measures.

**Preparation of draft Te Kaupapa Kaitiaki**

- 6.92 Te Kōpua Kānapanapa must commence the preparation of Te Kaupapa Kaitiaki no later than six months after the commencement of the settlement legislation.
- 6.93 In preparing Te Kaupapa Kaitiaki, Te Kōpua Kānapanapa must -
- 6.93.1 ensure that the contents of Te Kaupapa Kaitiaki are consistent with the purpose as set out in clause 6.82; and
  - 6.93.2 operate in an inclusive manner that encourages the participation of Ngāti Tūwharetoa hapū and entities, and other interested persons and organisations; and
  - 6.93.3 give Ngāti Rangi an opportunity to provide input into Te Kaupapa Kaitiaki in accordance with clauses 6.31.1 and 6.31.2; and
  - 6.93.4 consider and document the potential alternatives to, and the potential benefits and costs of, the matters provided for in the draft Te Kaupapa Kaitiaki; and

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- 6.93.5 consult with the Department of Conservation; and
- 6.93.6 review any documents developed by any existing governance groups made up of Ngāti Tūwharetoa representatives and local authorities; and
- 6.93.7 consider whether relevant aspects of those documents should be incorporated into Te Kaupapa Kaitiaki; and
- 6.93.8 ensure that each appointer is provided an opportunity and sufficient time to review the draft Te Kaupapa Kaitiaki before it is notified under clause 6.94.

**Notification of Te Kaupapa Kaitiaki**

- 6.94 After Te Kōpua Kānapanapa is satisfied with the draft Te Kaupapa Kaitiaki, it must -
  - 6.94.1 give public notice of the draft Te Kaupapa Kaitiaki in accordance with clause 6.96; and
  - 6.94.2 make available for public inspection, the draft Te Kaupapa Kaitiaki and any other document that Te Kōpua Kānapanapa considers relevant.
- 6.95 Te Kōpua Kānapanapa may, in addition to clause 6.94.1, give public notice of the draft Te Kaupapa Kaitiaki by any other means it considers appropriate.
- 6.96 The public notice must -
  - 6.96.1 state that the draft Te Kaupapa Kaitiaki is available for inspection at the places and times specified in the notice; and
  - 6.96.2 invite submissions from any person or organisation on the draft Te Kaupapa Kaitiaki and state how they may be made; and
  - 6.96.3 specify the date by which submissions must be received, which must be a date no earlier than 20 business days after the date of the notice.
- 6.97 For the first draft Te Kaupapa Kaitiaki, unless the appointers agree otherwise, Te Kōpua Kānapanapa must comply with clause 6.94 on a date that is no later than the date that is 12 months after it has started preparing that document.

**Approval of Te Kaupapa Kaitiaki**

- 6.98 Te Kōpua Kānapanapa may, at its discretion, hold a hearing and invite those persons who made a submission to be heard at a time and place specified by Te Kōpua Kānapanapa.
- 6.99 Te Kōpua Kānapanapa must consider any written, including electronic, submissions (and oral submissions if a hearing is held) to the extent that those submissions are within the scope of the purpose of Te Kaupapa Kaitiaki, and may amend that draft Te Kaupapa Kaitiaki.
- 6.100 After it has completed its consideration of any submissions, Te Kōpua Kānapanapa must approve Te Kaupapa Kaitiaki.

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6.101 Te Kōpua Kānapanapa -

6.101.1 must notify Te Kaupapa Kaitiaki by giving public notice; and

6.101.2 may notify Te Kaupapa Kaitiaki by any other means that Te Kōpua Kānapanapa thinks appropriate.

6.102 At the time of giving public notice of the approved Te Kaupapa Kaitiaki under clause 6.101, Te Kōpua Kānapanapa will also make available a decision report that identifies how submissions were considered and dealt with by Te Kōpua Kānapanapa.

6.103 The public notice must state -

6.103.1 where Te Kaupapa Kaitiaki is available for public inspection; and

6.103.2 when Te Kaupapa Kaitiaki comes into force.

6.104 Te Kaupapa Kaitiaki -

6.104.1 must be available for public inspection at the local offices of the relevant local authorities and at other locations considered appropriate by Te Kōpua Kānapanapa; and

6.104.2 comes into force on the date specified in the public notice.

6.105 Te Kōpua Kānapanapa may request from an appointer reports or advice to assist in the preparation or approval of Te Kaupapa Kaitiaki.

6.106 The relevant appointer will comply with a request under clause 6.105 where it is reasonably practicable to do so.

**Review of, and amendments to, Te Kaupapa Kaitiaki**

6.107 Te Kōpua Kānapanapa may at any time commence a review of Te Kaupapa Kaitiaki.

6.108 Te Kōpua Kānapanapa must commence a review of Te Kaupapa Kaitiaki -

6.108.1 no later than five years after the approval of the first Te Kaitiaki Kānapanapa, or earlier if agreed between the parties; and

6.108.2 no later than ten years after the completion of the previous review, or earlier if agreed between the parties.

6.109 If Te Kōpua Kānapanapa considers as a result of a review that Te Kaupapa Kaitiaki should be amended in a material manner, the amendment must be prepared and approved in accordance with clauses 6.92 to 6.106.

6.110 If Te Kōpua Kānapanapa considers Te Kaupapa Kaitiaki should be amended in a manner that is of non-material effect, Te Kōpua Kānapanapa may approve the amendment and give public notice in accordance with clause 6.103.

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**RELATIONSHIP AGREEMENT WITH TAUPO DISTRICT COUNCIL**

- 6.111 The governance entity may enter into negotiations with the Taupo District Council to establish a relationship agreement covering -
- 6.111.1 the provision of infrastructure and other council services to communities in the Taupo Catchment; and
  - 6.111.2 the range of relevant legislation under which the Taupo District Council acts, including the Reserves Act 1977; and
  - 6.111.3 other matters of mutual interest.
- 6.112 One component of the relationship agreement could be a joint management agreement for the purposes of the Resource Management Act 1991.

**RELATIONSHIP AGREEMENT WITH WAIKATO REGIONAL COUNCIL**

- 6.113 The governance entity may enter into negotiations with the Waikato Regional Council to establish a relationship agreement covering -
- 6.113.1 the provision of infrastructure and other council services to communities in the Taupo Catchment; and
  - 6.113.2 the range of relevant legislation under which the Waikato Regional Council acts; and
  - 6.113.3 other matters of mutual interest.
- 6.114 One component of the relationship agreement could be a joint management agreement for the purposes of the Resource Management Act 1991.

**RANGITĀIKI RIVER FORUM**

- 6.115 The settlement legislation will provide for membership on the Rangitāiki River Forum as follows:
- 6.115.1 one member appointed by the governance entity;
  - 6.115.2 one member appointed by the Bay of Plenty Regional Council.
- 6.116 The member appointed by the Bay of Plenty Regional Council must be an elected Council member.

**RURUKU WHAKATUPUA**

- 6.117 On 5 August 2014, the Crown and Whanganui Iwi negotiators signed Te Mana o Te Awa Tupua and Te Mana o Te Iwi o Whanganui ("**Ruruku Whakatupua**").
- 6.118 Ruruku Whakatupua identifies Ngāti Tūwharetoa as one of the iwi with interests in the Whanganui River and provides for the participation by Ngāti Tūwharetoa in the Te Awa Tupua framework for the Whanganui River.

### RANGITIKEI RIVER

- 6.119 The Crown acknowledges that Ngāti Tūwharetoa have traditional interests relating to the Rangitikei River catchment.
- 6.120 Other iwi with traditional interests relating to the Rangitikei River catchment have yet to begin settlement negotiations with the Crown. Should those other iwi enter negotiations, Ngāti Tūwharetoa supports a collective approach by all iwi with interests in the Rangitikei catchment to sustainably manage the Rangitikei River catchment.
- 6.121 The parties agree that if, through the course of Treaty settlement negotiations, any iwi with interests in the Rangitikei River catchment develops arrangements affecting the management of the Rangitikei River catchment, the Crown and the governance entity will discuss how to provide for Ngāti Tūwharetoa participation in those arrangements.

### HAWKE'S BAY REGIONAL PLANNING COMMITTEE

- 6.122 The Hawke's Bay Regional Planning Committee Act 2015 established the Hawke's Bay Regional Planning Committee ("**Committee**"). Under that Act, one member of the Committee is appointed by the Tūwharetoa Hapū Forum. Once the governance entity is established, it will be substituted as the appointing entity. Ngāti Tūwharetoa intends that appointments will be made in consultation with the hapū who have interests within the Committee's boundaries.



## 7 TE POU TUATORU: TŪWHARETOA TE IWI, TŪWHARETOA TE HAPŪ

### TE WAI Ū O TŪWHARETOA - WAI 21

- 7.1 Wai 21 concerns Te Wai Ū o Tūwharetoa (the life giving waters of Tūwharetoa); the spring where the eponymous ancestor of Ngāti Tūwharetoa was nursed as an infant. Accordingly, it is a site of immense cultural importance for all of Ngāti Tūwharetoa.
- 7.2 While the Wai 21 claim area falls within the Ngāti Tūwharetoa (Bay of Plenty) settlement area, at the request of the claimants the claim was expressly excluded from that settlement (see section 14 of the Ngāti Tūwharetoa (Bay of Plenty) Claims Settlement Act 2005). The Wai 21 claim will be settled through this settlement as it is listed in -
- 7.2.1 the deed reconfirming mandate to negotiate the comprehensive historical Te Tiriti o Waitangi/the Treaty of Waitangi claims of Ngāti Tūwharetoa, dated 15 July 2011; and
- 7.2.2 the terms of negotiation; and
- 7.2.3 the agreement in principle.
- 7.3 The Crown will pay the governance entity \$400,000 on the settlement date. The governance entity intends to apply that amount to a trust established for the purpose of helping to restore the mauri of Te Wai Ū o Tūwharetoa spring.
- 7.4 The Crown will pay the governance entity \$600,000 on the settlement date. The governance entity intends to apply that amount to a trust established for the purpose of providing an environment remediation scholarship to improve the mauri of the spring.

### CULTURAL AND ENVIRONMENTAL REVITALISATION FUND

- 7.5 The Crown will pay the governance entity \$200,000 on the settlement date. The governance entity intends to apply all or some of that amount towards the cultural and environmental revitalisation of the cultural redress properties described as Aratiatia site A, Aratiatia site B, and Atahaka property in clauses 8.16.1 and 8.16.11.

### WHARE TAONGA

- 7.6 The Crown will pay the governance entity \$2,500,000 on the settlement date. The governance entity may, at its discretion, apply all or some of that amount towards the establishment of a Ngāti Tūwharetoa Whare Taonga by the Trust referred to in clause 7.10.
- 7.7 The parties acknowledge that -
- 7.7.1 Ngāti Tūwharetoa intend to establish a Whare Taonga to provide safe storage for taonga belonging to whānau, hapū and iwi, in accordance with their wishes and under the guidance of kaumātua versed in tikanga; and
- 7.7.2 the Whare Taonga will also be a place to exhibit Ngāti Tūwharetoa taonga currently housed in other institutions, to create new taonga, and to keep

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traditions and mātauranga Māori alive and full of meaning for younger generations; and

- 7.7.3 the Ministry of Culture and Heritage will provide general advice to the governance entity or any person or entity authorised by the governance entity where requested and where it is able to do so, on the activities being undertaken by that person or entity concerning the Ngāti Tūwharetoa Whare Taonga building and taonga collection.

**LETTER OF COMMITMENT WITH THE MUSEUM OF NEW ZEALAND TE PAPA TONGAREWA**

- 7.8 The parties acknowledge that Ngāti Tūwharetoa and the Museum of New Zealand Te Papa Tongarewa will work together to develop -

7.8.1 a shared vision for the restoration and protection of Ngāti Tūwharetoa taonga; and

7.8.2 a constructive relationship to facilitate access to, and protection of, information and taonga relating to Ngāti Tūwharetoa; and

7.8.3 a work plan towards the establishment of a Whare Taonga detailing the steps Te Papa Tongarewa will take to realise specific taonga initiatives agreed with Ngāti Tūwharetoa.

- 7.9 The parties acknowledge that the Museum of New Zealand Te Papa Tongarewa will facilitate relationships, as appropriate, between the governance entity and New Zealand and international museums, galleries and heritage organisations. In particular, Ngāti Tūwharetoa intend to establish key relationships with the Auckland War Memorial Museum and the Otago Museum.

**INTERIM CUSTODIANSHIP**

- 7.10 The parties acknowledge that -

7.10.1 by the settlement date, the governance entity will establish a trust to manage the Whare Taonga ("**Trust**"); and

7.10.2 the Trust will be composed of kaumātua and other Ngāti Tūwharetoa representatives and will be responsible for -

- (a) the storage of **taonga tūturu** in interim custodianship; and
- (b) managing the custodianship of newly found taonga tūturu; and
- (c) the relationships with hapū and other iwi; and
- (d) notification of newly found taonga tūturu.

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- 7.11 The settlement legislation will provide for clauses 7.12 to 7.15 to apply to any Ngāti Tūwharetoa taonga tūturu. For the purposes of this deed, **Ngāti Tūwharetoa taonga tūturu** means taonga tūturu found (except when found in a customary marine title area), on and from the settlement date -
- 7.11.1 within the Taupo Catchment area (as shown on OTS-575-51), but excluding -
- (a) areas where the Taupo Catchment overlaps with the Tongariro National Park; and
  - (b) areas where the Taupo Catchment overlaps with other relevant overlapping iwi, unless agreement between the Trust and the other relevant overlapping iwi is reached; or
- 7.11.2 identified as being of Ngāti Tūwharetoa origin found elsewhere in New Zealand.
- 7.12 The Trust will notify any relevant overlapping iwi (as shown on OTS-575-52) of any taonga tūturu in the custody of or received by the Trust found within the Taupo Catchment area.
- 7.13 The Trust will, in accordance with section 11(3) of the Protected Objects Act 1975, notify the Chief Executive of the Ministry for Culture and Heritage of newly found Ngāti Tūwharetoa taonga tūturu that are in the custody of the Trust or have been received by the Trust.
- 7.14 Any newly found Ngāti Tūwharetoa taonga tūturu will be held in the interim custodianship of the Trust in accordance with any arrangements decided by the Chief Executive, until ownership is determined under the Protected Objects Act 1975.
- 7.15 If the Chief Executive considers that other arrangements are more appropriate (for example, where conservation treatment is required), the Chief Executive may make other arrangements, but the Chief Executive must -
- 7.15.1 notify the Trust in writing of the proposed arrangements and the reasons for them; and
  - 7.15.2 seek and have regard to the views of the Trust on those arrangements, including working with Ngāti Tūwharetoa to identify appropriate cultural protection for the Ngāti Tūwharetoa taonga tūturu where to do so is reasonably practicable; and
  - 7.15.3 inform the Trust of its right to apply to the Māori Land Court for determination of the actual or traditional ownership, rightful possession or custody of the Ngāti Tūwharetoa taonga tūturu or for any right, title, estate, or interest in any such taonga tūturu; and
  - 7.15.4 after having regard to the views of the Trust, notify the Trust in writing of the final arrangements and the reasons for them; and
  - 7.15.5 notify the Trust in writing of any application to the Māori Land Court from any other person for determination of the actual or traditional ownership, rightful possession or custody of any Ngāti Tūwharetoa taonga tūturu to which clauses 7.11 to 7.15 applies.

## CONSERVATION REDRESS

- 7.16 Traditionally, the forests of Ngāti Tūwharetoa were highly valued mahinga kai, plentiful with birds and plants. Pureora and the Hauhungaroa ranges in particular were renowned for their rich and delicious birdlife, and a source of tribal pride and fame. The forests provided tōtara, kahikatea, maire and other woods, which were materials for waka, whare and artistic and spiritual expression.
- 7.17 Ngāti Tūwharetoa tradition records that fish were created in Lake Taupo (Taupomoana) by Ngātoroirangi when he cast the shreds of his cloak into the waters. Those fish included kōaro, inanga, kōkopu and kōura, all delicacies that Ngāti Tūwharetoa were famous for. As native fish species have declined, out of necessity Ngāti Tūwharetoa people have turned to trout as mahinga kai. Trout have therefore become a valued supplement to whānau and marae dining tables as well as a means to provide for manuhiri and to carry out traditional fishing practices.
- 7.18 Ngāti Tūwharetoa tradition records that the people of Ngāti Tūwharetoa roamed across all their lands, gathering forestry resources in the winter and moving to the lakes and rivers in the summer. This close association with the traditional rohe is reflected in the fact that Ngāti Tūwharetoa have mapped more than 2,500 wāhi tūpuna and wāhi tapu on lands that are currently managed by the Department for Conservation.
- 7.19 Ngāti Tūwharetoa express grief that the decline of native species and the lack of access to traditional places have affected the ability of Ngāti Tūwharetoa people to practise their traditions and pass their mātauranga down to younger generations.
- 7.20 Ngāti Tūwharetoa seek the restoration of kaitiakitanga and mana over the taonga currently administered by the Department of Conservation. This includes decision-making according to Ngāti Tūwharetoa tikanga, so that Ngāti Tūwharetoa are able to protect wāhi tūpuna, wāhi tapu and taonga. It also includes the ability to visit traditional places and carry out traditional practices.
- 7.21 The Western Bay area of Lake Taupo (Taupomoana) is a wāhi tūpuna of special significance to Ngāti Tūwharetoa, and the hapū who whakapapa to those lands. A large number of pā, wāhi tūpuna and wāhi tapu associated with early Ngāti Tūwharetoa tūpuna are situated on public conservation land in this area, including the land extending from the mouth of the Kuratau River around Western Bay to Kawakawa Bay and Whakaipo Bay. The hapū who consider themselves kaitiaki of these areas seek a holistic approach to managing this special cultural landscape.

### Purpose of Conservation Redress

- 7.22 The purpose of conservation redress is to recognise and provide for Ngāti Tūwharetoa mana whakahaere, tino rangatiratanga and kaitiakitanga in the governance and management of public conservation land.

### Conservation Management Strategy

- 7.23 The settlement legislation will, on the terms provided by sections 189 to 192 of the draft settlement bill, declare the following areas within the area of interest as Manaaki Whenua Tūwharetoa:

7.23.1 those parts of the area of interest shown on OTS-575-50:

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- 7.23.2 any area that becomes part of Manaaki Whenua Tūwharetoa in accordance with clause 7.24, which may include the Western Bay area.
- 7.24 The Director-General of Conservation may, by notice in the *Gazette*, declare any area to be part of Manaaki Whenua Tūwharetoa, provided that -
- 7.24.1 such area is within the area of interest; and
- 7.24.2 if, within three months of the Department of Conservation notifying the governance entity of its intention to prepare, amend or review a conservation management strategy for an area that relates to the Manaaki Whenua Tūwharetoa, the governance entity has, in accordance with section 191 of the draft settlement bill, given the Director-General of Conservation -
- (a) evidence that it has obtained written agreement from any relevant iwi governance entities or mandated iwi representatives that the governance entity and the Director-General of Conservation should have joint responsibility for preparing, amending, or reviewing a conservation management strategy for the area, to the extent that the strategy applies to the area of interest (and any necessary further information that the Director-General of Conservation has requested); and
- (b) a report setting out the process that was followed in identifying and consulting with relevant iwi governance entities or mandated iwi representatives; and
- 7.24.3 the Director-General of Conservation is satisfied that requirements of 7.24.2 have been met and considers that the identified area could reasonably be considered to be part of the Manaaki Whenua Tūwharetoa.
- 7.25 The settlement legislation will, on the terms set out in section 190 of the draft settlement bill, provide that despite sections 17D and 17F of the Conservation Act 1987 the governance entity and the Director-General of Conservation are jointly responsible for -
- 7.25.1 developing the Manaaki Whenua Tūwharetoa tikanga (in accordance with Ngāti Tūwharetoa tikanga) to apply to a conservation management strategy, insofar as it relates to Manaaki Whenua Tūwharetoa; and
- 7.25.2 preparing, amending or reviewing any conservation management strategy that applies to Manaaki Whenua Tūwharetoa.

**Te Piringa Agreement with the Department of Conservation**

- 7.26 On or before the settlement date, the governance entity and the Minister of Conservation and Director-General of Conservation will enter into Te Piringa Agreement set out in part 7 of the documents schedule, and in accordance with section 122 of the draft settlement bill.
- 7.27 A failure by the Crown to comply with Te Piringa Agreement is not a breach of this deed.

**Redress Relating to the Tongariro-Taupo Conservation Board**

- 7.28 The settlement legislation will on the terms provided by section 193 of the draft settlement bill, provide that -
- 7.28.1 Ngāti Tūwharetoa may nominate a person for appointment by the Minister of Conservation to the Tongariro Taupo Conservation Board in addition to the appointment of Te Ariki (paramount chief) of Ngāti Tūwharetoa pursuant to section 6P(5)(b) of the Conservation Act 1987; and
- 7.28.2 before making an appointment to the Board whose area of jurisdiction includes the Tongariro National Park, the Minister of Conservation must have regard to any endorsement by the governance entity of a person to be a member of the Board.
- 7.29 In the event of any change to the structure of the conservation boards, the Crown undertakes to ensure that Ngāti Tūwharetoa maintains their governance position in relation to any new structure adopted.

**FISHERY REDRESS**

- 7.30 The waterways of the central North Island were once bountiful with native fish such as kōkopu, kōura (freshwater crayfish), kōaro (whitebait), and tuna (eel). These fisheries were a vital part of the traditional staple diet of Ngāti Tūwharetoa. The fisheries were also renowned as the kai rangatira (food of chiefs) of Ngāti Tūwharetoa. Prior to the introduction of trout, catfish and other non-native fish species, the lakes and waterways within the rohe enabled Ngāti Tūwharetoa to provide ample native fish at hui, tangi and other important iwi gatherings.
- 7.31 Following the introduction of exotic fish, some native fish species have become extinct and others have dwindled. Introduced trout preyed on native fish species and competed with them for food. This has meant that Ngāti Tūwharetoa are unable to fully exercise their customary fishing rights provided for under section 14(2) of the Maori Land Amendment and Maori Land Claims Adjustment Act 1926.
- 7.32 The decline of native species has meant that Ngāti Tūwharetoa have lost a major customary source of food and can no longer provide their manuhiri with a full range of 'kai rangatira' from their region. Ngāti Tūwharetoa have also lost cultural and practical knowledge of specialist fishing and hunting practices associated with the harvesting of native fish. Ngāti Tūwharetoa consider this undermines their ability to carry out traditional practices, including the manaaki of manuhiri and the ability to provide for the wellbeing of Ngāti Tūwharetoa me ōnā whānau, hapū and marae.

**Tongariro National Trout Centre**

- 7.33 The Tongariro Trout Hatchery and Freshwater Ecology Centre Trust deed, set out in part 1 of the documents schedule -
- 7.33.1 establishes the Tongariro Trout Hatchery and Freshwater Ecology Centre Trust, with the trustees of that Trust appointed as follows:
- (a) two trustees to be appointed by the governance entity;
- (b) two trustees to be appointed by the Minister of Conservation:

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- (c) two trustees to be appointed by the Tongariro National Trout Centre Society Incorporated:
  - (d) one trustee appointed by the Downs Whānau; and
- 7.33.2 provides that, for the purposes of raising trout to harvest for significant Ngāti Tūwharetoa hui, tangi and other occasions (all being for non-commercial purposes) -
- (a) Ngāti Tūwharetoa may use a raceway at the Tongariro National Trout Centre; and
  - (b) Ngāti Tūwharetoa may use any other existing facilities that the Department of Conservation considers are not required by the Department of Conservation; and
  - (c) Ngāti Tūwharetoa may construct and manage any new facilities agreed by the trustees of the Tongariro Trout Hatchery and Freshwater Ecology Centre Trust; and
  - (d) the trustees of the Tongariro Trout Hatchery and Freshwater Ecology Centre Trust will support the capacity building of Ngāti Tūwharetoa to work with Department of Conservation staff to acquire the knowledge and develop the skills required to successfully raise and harvest trout.
- 7.34 The settlement legislation will, on the terms provided by sections 194 to 201 of the draft settlement bill -
- 7.34.1 appoint the trustees of the Tongariro Trout Hatchery and Freshwater Ecology Centre Trust as an administering body under the Reserves Act 1977 to administer, control and manage the recreation reserves associated with the Trout Centre property, subject to the Tongariro Trout Hatchery and Freshwater Ecology Centre Trust –
- (a) being incorporated as a board under the Charitable Trusts Act; and
  - (b) providing the Crown with a licence to occupy in relation to that site, in the form set out in part 8.8 of the documents schedule; and
  - (c) in relation to that site, providing the Tongariro National Trout Centre Society Incorporated with -
    - (i) a licence to occupy in the form set out in part 8.9 of the documents schedule; and
    - (ii) a registrable right of way easement in the form set out in part 8.11 of the documents schedule; and
- 7.34.2 amend the Taupo Fisheries Regulations 2004 to enable the governance entity to raise and harvest trout for non-commercial cultural and redress purposes; and
- 7.34.3 declare the Trout Centre property to be a recreation reserve subject to the Reserves Act 1977.

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- 7.35 The arrangements established under clause 7.34 -
- 7.35.1 will not affect any third party rights and interests (including ownership of assets) existing at the settlement date, including any rights that may arise under the Public Works Act 1981, or any successor legislation, in relation to Trout Centre property; and
  - 7.35.2 will not affect the Department of Conservation's biodiversity activities at the Tongariro National Trout Centre, including restocking the Tongariro-Taupo fisheries in the event of a natural disaster; and
  - 7.35.3 are not intended to diminish the Department of Conservation's current activities at the Tongariro National Trout Centre unless otherwise agreed.

**Other fishery redress**

- 7.36 Ngāti Tūwharetoa seek to preserve traditional fishing practices, including customary management of freshwater fisheries and cultural harvest. Ngāti Tūwharetoa acknowledge that this would require robust evidence as to the health of freshwater fisheries, and seek to work with the Department of Conservation to establish such a regime.
- 7.37 The Crown acknowledges the special association of Ngāti Tūwharetoa with species of fish and the fisheries in their area of interest.

**Lake Rotoaira trout fishery**

- 7.38 The Crown agrees to amend, outside of the Treaty settlement process, the licensing and permitting regime for trout fishing at Lake Rotoaira under the Taupo Fishery Regulations 2004, by -
- 7.38.1 creating a separate angler's licence for Lake Rotoaira; and
  - 7.38.2 empowering the Lake Rotoaira Trust to issue angler's licences for the Lake Rotoaira fishery; and
  - 7.38.3 setting the licence fee for Lake Rotoaira at \$0.00; and
  - 7.38.4 requiring the Lake Rotoaira Trust to continue to cover the costs of managing the Lake Rotoaira fishery through the access permit regime required under the Maori Purposes Act 1959.
- 7.39 Nothing in clauses 7.36 to 7.38 is intended to modify existing legislative frameworks.

**Mahinga Kai Fund**

- 7.40 Ngāti Tūwharetoa have identified as a key aspiration of settlement the restoration of traditional mahinga kai (food sources) and places of cultural harvest and the nurturing of mātauranga Māori concerning them.
- 7.41 The Crown will pay the governance entity \$250,000 on the settlement date. The governance entity intends to apply all or some of that amount towards enabling hapū to carry out projects to restore traditional mahinga kai, places of harvest and the practice of mātauranga Māori within the area of interest, including -



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- 7.41.1 kōura, kōaro, kōkopu, tuna and other native fish; and
- 7.41.2 native birds; and
- 7.41.3 native plants; and
- 7.41.4 other traditional resources.

## 8 GENERAL CULTURAL REDRESS

### OVERLAY CLASSIFICATION

- 8.1 The settlement legislation will, on the terms provided by sections 48 to 62 of the draft settlement bill -
- 8.1.1 declare Pureora Forest Park within the area of interest to be subject to overlay classifications as follows -
- (a) Whenuakura (as shown on deed plan OTS-575-36); and
  - (b) Part Pureora Forest Park (within the area of interest) (as shown on deed plan OTS-575-35); and
- 8.1.2 provide the Crown's acknowledgement of the statement of Ngāti Tūwharetoa values in relation to the area; and
- 8.1.3 require the New Zealand Conservation Authority, or a relevant conservation board -
- (a) when considering a conservation document, in relation to the area, to have particular regard to the statement of Ngāti Tūwharetoa values, and the protection principles, for the area; and
  - (b) before approving a conservation document in relation to the area, to -
    - (i) consult with the governance entity; and
    - (ii) have particular regard to its views as to the effect of the document on the Ngāti Tūwharetoa values, and the protection principles, for the area; and
- 8.1.4 require the Director-General of Conservation to take action in relation to the protection principles; and
- 8.1.5 enable the making of regulations and bylaws in relation to the area.
- 8.2 The statement of Ngāti Tūwharetoa values, the protection principles, and the Director-General of Conservation's actions are in the documents schedule.
- 8.3 Ngāti Tūwharetoa recognise that other iwi and hapū have interests within Pureora Forest Park within the area of interest. However, at present some of those iwi and hapū have yet to reach a settlement of their historical Te Tiriti o Waitangi/the Treaty of Waitangi claims with the Crown. Ngāti Tūwharetoa note that they would support all iwi and hapū with interests in Pureora Forest Park within the area of interest having recognition of those interests, such as by providing a further overlay classification, with the same protection principles and actions of the Director-General of Conservation.

**STATUTORY ACKNOWLEDGEMENT**

8.4 The settlement legislation will, on the terms provided by sections 29 to 47 of the draft settlement bill -

8.4.1 provide the Crown's acknowledgement of the statements by Ngāti Tūwharetoa of their particular cultural, spiritual, historical and traditional association with the following areas:

***Lakes***

- (a) Lake Otamangakau (as shown on deed plan OTS-575-38):
- (b) Lake Rotokawa (as shown on deed plan OTS-575-39):
- (c) Lake Te Whaiiau (as shown on deed plan OTS-575-40):

***Rivers***

- (d) Rangitāiki River and its tributaries (within the area of interest) (as shown on deed plan OTS-575-42):
- (e) Waikato River and its tributaries (within the area of interest) (as shown on deed plan OTS-575-46):
- (f) Waiotaka River and its tributaries (as shown on deed plan OTS-575-47):

***Mountains***

- (g) Titiraupenga Mountain (as shown on deed plan OTS-575-44):
- (h) Pureora Mountain (as shown on deed plan OTS-575-41):

***Geothermal fields***

- (i) Horomatangi geothermal field (as shown on deed plan OTS-575-37):
- (j) Rotokawa geothermal field (as shown on deed plan OTS-575-43):
- (k) Tokaanu-Waihi-Hipaua geothermal field (as shown on deed plan OTS-575-45):
- (l) Wairākei-Tauhara geothermal field (as shown on deed plan OTS-575-48); and

8.4.2 require relevant consent authorities, the Environment Court and Heritage New Zealand Pouhere Taonga to have regard to the statutory acknowledgement; and

8.4.3 require relevant consent authorities to forward to the governance entity -

- (a) summaries of resource consent applications within, adjacent to or directly affecting a statutory area; and

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- (b) a copy of a notice of a resource consent application served on the consent authority under section 145(10) of the Resource Management Act 1991; and
- 8.4.4 enable the governance entity, and any member of Ngāti Tūwharetoa, to cite the statutory acknowledgement as evidence of the association of Ngāti Tūwharetoa with an area.
- 8.5 The Crown acknowledges the statements by Ngāti Tūwharetoa of the importance of -
  - 8.5.1 the relationship of Ngāti Tūwharetoa with their land, taonga, flora and fauna within the area of interest; and
  - 8.5.2 the future generations of Ngāti Tūwharetoa as taonga to be protected by whānau, hapū and iwi.
- 8.6 The statements of association are in the documents schedule.

**PROTOCOLS**

- 8.7 Each of the following protocols must, by or on the settlement date, be signed and issued to the governance entity by the responsible Minister:
  - 8.7.1 the Crown Minerals protocol:
  - 8.7.2 the Primary Industries protocol:
  - 8.7.3 the Taonga Tūturu protocol.
- 8.8 A protocol sets out how the Crown will interact with the governance entity with regard to the matters specified in it.

**FORM AND EFFECT OF PROTOCOLS**

- 8.9 Each protocol will be -
  - 8.9.1 in the form in the documents schedule; and
  - 8.9.2 issued under, and subject to, the terms provided by sections 21 to 27 of the draft settlement bill.
- 8.10 A failure by the Crown to comply with a protocol is not a breach of this deed.

**RELATIONSHIP AGREEMENTS**

- 8.11 On or before the settlement date, the governance entity and the Ministry for the Environment will enter into the relationship agreement set out in part 6 of the documents schedule, and in accordance with section 121 of the draft settlement bill.
- 8.12 The parties acknowledge that Ngāti Tūwharetoa and the Department of Corrections will work together to develop and enter into a relationship agreement about the care and protection of, and access to, wāhi tapu situated on land administered, controlled or managed by the Department of Corrections within the area of interest.

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- 8.13 A failure by the Crown to comply with a relationship agreement is not a breach of this deed.

**LETTERS OF INTRODUCTION**

- 8.14 By the settlement date the Director of the Office of Treaty Settlements will write letters of introduction to the Chief Executive of each of the following local authorities, to introduce Ngāti Tūwharetoa and the governance entity:

8.14.1 Manawatu District Council:

8.14.2 Rangitikei District Council:

8.14.3 Ruapehu District Council:

8.14.4 Manawatu-Wanganui Regional Council.

- 8.15 The purpose of the letters is to raise the profile of Ngāti Tūwharetoa with the local authorities and advise of the aspirations of specific Ngāti Tūwharetoa hapū to work more collaboratively/closely with the local authority. The text of the letters will be agreed between the mandated negotiators and the Crown and issued as soon as practicable after the establishment of the governance entity and before the settlement date.

**CULTURAL REDRESS PROPERTIES**

- 8.16 The settlement legislation will vest in the governance entity on the settlement date -

***In fee simple***

- 8.16.1 the fee simple estate in each of the following sites:

(a) Aratiatia site A:

(b) Aratiatia site B:

(c) Five Mile Bay site A:

(d) Hautū property:

(e) Karetoto property:

(f) Part Former Tauranga Taupo School property:

(g) subject to clause 8.26, Puanga Street property:

(h) subject to clause 8.17, Tawera Street property:

(i) Te Huka North property:

(j) Tokaanu Market property; and

***In fee simple together with an easement***

- 8.16.2 subject to clause 8.19 the fee simple estate in Karapiti property, together with the Commissioner of Crown Lands providing the governance entity with a

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registrable right of way easement in gross in relation to that site in the form set out in part 8.1 of the documents schedule; and

***In fee simple subject to easements and a lease***

- 8.16.3 subject to clause 8.20, the fee simple estate in Parakiri site A subject to the governance entity providing, in relation to that site, -
- (a) the Crown with a registrable lease in the form set out in part 8.2 of the documents schedule; and
  - (b) the Taupo District Council with a registrable right to drain sewage, right to convey sewage, right to convey water, right to drain water and pedestrian right of way easement in gross in the form set out in part 8.3 of the documents schedule; and
  - (c) Unison Networks Limited with a registrable right to convey electricity and right to convey telecommunications and electronic data easement in gross in the form set out in part 8.4 of the documents schedule; and

***In fee simple subject to a covenant restricting building height***

- 8.16.4 the fee simple estate in Five Mile Bay site C, subject to the governance entity providing a registrable covenant in gross restricting building height in relation to that site in the form set out in part 8.5 of the documents schedule; and

***In fee simple subject to a conservation covenant***

- 8.16.5 the fee simple estate in each of the following sites, subject to the governance entity providing a registrable conservation covenant in relation to that site in the forms set out in parts 8.6 and 8.7 of the documents schedule:
- (a) Tauhara Mountain property;
  - (b) Te Huka South property; and

***As a recreation reserve***

- 8.16.6 the fee simple estate in each of the following sites as a recreation reserve, with the governance entity as the administering body:
- (a) subject to clause 8.21, Five Mile Bay site D;
  - (b) subject to clause 8.22, Ōnekeneke property;
  - (c) subject to clause 8.23, Ngā Puna Wai Ariki ki Tokaanu property;
  - (d) Paaka property;
  - (e) Tauranga Taupō property; and

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***As a recreation reserve subject to two licences to occupy, a lease and an easement***

- 8.16.7 the fee simple estate in the Te Kōwhai property as a recreation reserve, with the Tongariro Trout Hatchery and Freshwater Ecology Centre Trust as the administering body, subject to the trustees of the Tongariro Trout Hatchery and Freshwater Ecology Centre Trust -
- (a) being incorporated as a board under the Charitable Trusts Act 1957; and
  - (b) providing the Crown with a licence to occupy in relation to that site, in the form set out in part 8.8 of the documents schedule; and
  - (c) in relation to that site, providing the Tongariro National Trout Centre Society Incorporated with -
    - (i) a licence to occupy in the form set out in part 8.9 of the documents schedule; and
    - (ii) a registrable lease in the form set out in part 8.10 of the documents schedule; and
    - (iii) a registrable right of way easement in the form set out in part 8.11 of the documents schedule; and

***As a recreation reserve subject to easements and leases***

- 8.16.8 subject to clause 8.18, the fee simple estate in Parakiri site B as a recreation reserve, with the Taupo District Council as the administering body, subject to the governance entity providing, in relation to that site, -
- (a) the Crown with a registrable lease in the form set out in part 8.12 of the documents schedule; and
  - (b) the Crown with a registrable right to convey water, right to drain water and right to convey telecommunications and computer media, right to drain sewage, and right to collect and dispose of refuse easement in gross in the form set out in part 8.13 of the documents schedule; and
  - (c) the Taupo District Council with a registrable right to convey sewage, right to convey water, right to drain water and pedestrian right of way easement in gross in the form set out in part 8.3 of the documents schedule; and
  - (d) Unison Networks Limited with a registrable right to convey electricity and right to convey telecommunications and electronic data easement in gross in the form set out in part 8.4 of the documents schedule; and

***As a scenic reserve***

- 8.16.9 the fee simple estate in each of the following sites as a scenic reserve, with the governance entity as the administering body:
- (a) Five Mile Bay site B:

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- (b) Motutere property:
- (c) Oruatua property:
- (d) subject to clauses 8.24 and 8.25, Te Iringa o te Pouraka property; and

***As a scenic reserve subject to easements***

8.16.10 the fee simple estate in Te Huka property as a scenic reserve, with the governance entity as the administering body and subject to the governance entity providing, in relation to that site -

- (a) the Crown with a registrable right of way easement in gross and a registrable right to convey water, right to drain sewage and right to convey electricity, and right to drain water easement in gross in the forms set out in parts 8.14 and 8.15 of the documents schedule respectively; and
- (b) the Taupo District Council with a registrable right to drain sewage easement in gross in the form set out in part 8.16 of the documents schedule; and
- (c) Unison Networks Limited with a registrable right to convey electricity and right to convey telecommunications and electronic data easement in gross in the form set out in part 8.17 of the documents schedule; and

***As a historic reserve***

8.16.11 the fee simple estate in each of the following sites as a historic reserve, with the governance entity as the administering body -

- (a) Atahaka property:
- (b) Maunganamu property:
- (c) Ōmoho property:
- (d) Parikaranga property:
- (e) Taupo Courthouse property:
- (f) Te Rapa property; and

***As a scientific reserve***

8.16.12 the fee simple estate in the Tauhara property as a scientific reserve, with the governance entity as the administering body.

**PROVISIONS IN RELATION TO CERTAIN CULTURAL REDRESS PROPERTIES**

**Improvements**

- 8.17 The settlement legislation will, on the terms set out in section 79 of the draft settlement bill, provide that any improvements in or on the Tawera Street property do not vest in the governance entity:



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8.18 The settlement legislation will, on the terms set out in sections 94 and 95 of the draft settlement bill, provide that -

8.18.1 any improvements in or on Parakiri site B do not vest in the governance entity; and

8.18.2 despite the vesting of Parakiri site B in the governance entity -

(a) any improvements owned by the Taupo District Council may remain on Parakiri site B without the consent of, and without charge by, the governance entity; and

(b) any improvements owned by the Taupo District Council on Parakiri site B may be accessed, used, occupied, repaired, maintained, removed, demolished or replaced by the Taupo District Council at any time without the consent of, and without charge by, the governance entity provided that if an improvement is replaced under this clause, the replacement must be of the same size and in the same location as that improvement; and

(c) the governance entity is not liable for any matter in relation to the improvements for which they would, apart from this clause, be liable by reason of its ownership of Parakiri site B.

8.19 The settlement legislation will, on the terms set out in section 74 of the draft settlement bill, provide that despite the vesting of the Karapiti property described in clause 8.16.2, any improvements in or on that property that are:

8.19.1 owned by the permit holder under the Recreation Permit to Use Land under the Land Act 1948 dated 14 May 2014 will continue to be owned by the permit holder and will not vest in the governance entity; and

8.19.2 owned by the grantor under the Recreation Permit to Use Land under the Land Act 1948 dated 14 May 2014 will vest in the governance entity.

**Road adjacent to Parakiri site A to vest in Taupo District Council**

8.20 The settlement legislation will, on the terms set out in section 76 of the draft settlement bill, provide that, in relation to the vesting of Parakiri site A described in clause 8.16.3, on the settlement date -

8.20.1 the areas shown as "A" and "C" on OTS-575-20C (subject to survey) cease to be recreation reserves subject to the Reserves Act 1977; and

8.20.2 the area shown as "A" on OTS-575-20C (subject to survey) will vest in the governance entity in fee simple in accordance with clause 8.16.3; and

8.20.3 the area shown as "C" on OTS-575-20C (subject to survey) will vest in the Taupo District Council as a road pursuant to Part 21 of the Local Government Act 1974.

**Freedom camping at Five Mile Bay site D**

- 8.21 The settlement legislation will, on the terms set out in section 85 of the draft settlement bill, provide that freedom camping at Five Mile Bay site D is regulated by the Freedom Camping Act 2011 ("**Act**"), with the modifications set out below -
- 8.21.1 the site must be treated as if it were "conservation land" (as defined in section 7 of the Act), with references in the Act to the "Director-General of Conservation" and the "Department" to be read as references to the administering body; and
  - 8.21.2 if property is seized and impounded and not returned under the Act, section 40(5) of the Act does not apply to any proceeds from the disposal of that property; and
  - 8.21.3 section 31(2) of the Act does not apply to infringement fees resulting from infringement notices issued for infringement offences alleged to have been committed on the site; and
  - 8.21.4 subject to clause 8.21.5, a notice under section 17(1)(b) of the Act (defining conservation land where freedom camping is prohibited) must be consistent with any reserve management plan for the site (approved in accordance with the Reserves Act 1977) before it is published in accordance with section 18 of the Act; and
  - 8.21.5 despite clause 8.21.4, a notice published under section 17(1)(b) of the Act that is in force immediately before the settlement date and applies to the site, continues to have effect until it is replaced by a notice that complies with clause 8.21.4.

**Private lease in relation to Ōnekeneke property**

- 8.22 In relation to the vesting of the Ōnekeneke property described in clause 8.16.6(b), the settlement legislation will, on the terms set out in section 91 of the draft settlement bill, modify the application of section 64 of the Conservation Act 1987 so that the lease that affects the Ōnekeneke property will be treated as a private lease.

**Vesting of Ngā Puna Wai Ariki ki Tokaanu property**

- 8.23 In relation to the vesting of the Ngā Puna Wai Ariki ki Tokaanu property, the settlement legislation will, on the terms provided by section 88 of the draft settlement bill provide that, on the settlement date -
- 8.23.1 the reservation of the areas shown as A and B on OTS-575-15 (subject to survey) as a recreation reserve subject to the Reserves Act 1977 is revoked; and
  - 8.23.2 the legal road areas shown as C and E on OTS-575-15 (subject to survey) are stopped; and
  - 8.23.3 the areas shown as C, D and E on OTS-525-15 (subject to survey) vest in the Crown as Crown land subject to the Land Act 1948; and

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8.23.4 immediately following the vesting described in clause 8.23.3, the areas shown as A, B, C, D, and E on OTS-525-15 (subject to survey) will vest in the governance entity in fee simple in accordance with clause 8.16.6(c).

**Vesting of Te Iringa o te Pouraka property**

8.24 In relation to the vesting of the Te Iringa o te Pouraka property, the settlement legislation will, on the terms provided by section 103 of the draft settlement bill provide that, on the settlement date -

8.24.1 the reservation of Sections 7 and 12 Block VII Puketi Survey District (being the Waiotaka Scenic Reserve) as a scenic reserve subject to the Reserves Act 1977 is revoked; and

8.24.2 the legal road areas shown as A, D and E on OTS-575-34B (subject to survey) are stopped and vest in the Crown as Crown land subject to the Land Act 1948; and

8.24.3 the areas shown as B, C, F and G on OTS-575-34B (subject to survey) are declared to be a road, limited access road, and State Highway pursuant to section 88(2) of the Government Roothing Powers Act 1989 and shall remain vested in the Crown; and

8.24.4 the fee simple estate in the Te Iringa o te Pouraka property vests in the governance entity in fee simple in accordance with clause 8.16.9(d).

**Right of entry to the Crown for Te Iringa o te Pouraka property**

8.25 The settlement legislation will, on the terms set out in section 104 of the draft settlement bill, provide that for five years from the date of vesting of the Te Iringa o te Pouraka property referred to in clause 8.16.9(d) -

8.25.1 the Crown may enter the property, including buildings on it, with or without motor vehicles, machinery, implements of any kind, or dogs, for any of the following purposes:

- (a) species management:
- (b) monitoring pest plants or pest animals:
- (c) control of pest plants or pest animals:
- (d) wetland restoration; and

8.25.2 the Crown must give notice to the owners of the property, orally or by electronic means (as the Crown and the owners agree), at least 24 hours before entering the property or, if that is not practicable, then -

- (a) before entering, if practicable; or
- (b) as soon as possible after entering; and

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8.25.3 despite clause 8.25.2 -

- (a) the owners of the property and the Crown may agree the circumstances in which notice is not required; and
- (b) the Crown may enter without prior notice if responding to a known or suspected incursion of a pest animal.

**Puanga Street property marginal strip**

8.26 In relation to the vesting of the Puanga Street property, the settlement legislation will, on the terms set out in sections 77 and 111 of the draft settlement bill, provide that on the settlement date -

8.26.1 the reservation of Puanga Street property as a recreation reserve subject to the Reserves Act 1977 is revoked; and

8.26.2 the vesting of the fee simple estate in the governance entity shall be subject to Part 4A of the Conservation Act 1987; and

8.26.3 the width of the marginal strip created pursuant to clause 8.26.2 shall be reduced to ten metres.

**GENERAL PROVISIONS IN RELATION TO ALL CULTURAL REDRESS PROPERTIES**

8.27 Each cultural redress property is to be -

8.27.1 as described in schedule 3 of the draft settlement bill; and

8.27.2 vested on the terms provided by -

- (a) sections 69 to 120 of the draft settlement bill; and
- (b) part 2 of the property redress schedule; and

8.27.3 subject to any encumbrances, or other documentation, in relation to that property -

- (a) required by clause 8.16 to be provided by the governance entity; or
- (b) required by the settlement legislation; and
- (c) in particular, referred to in schedule 3 of the draft settlement bill.

**PART OF TAUREWA STATION IS CULTURAL REDRESS**

8.28 The value of an undefined part of Taurewa Station, being approximately 900 hectares and with an approximate value of \$2,700,000, is provided as cultural redress under this deed. The transfer value of Taurewa Station, as described in part 3 of the property redress schedule (\$8,000,000), is the total value of Taurewa Station (\$10,700,000) less the \$2,700,000 provided as cultural redress.

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**OFFICIAL GEOGRAPHIC NAMES**

8.29 The settlement legislation will, on the settlement date, provide for each of the names listed in the second column to be the official geographic name for the features set out in the third and fourth columns.

Existing Name	Official geographic name	Location (NZTopo50 and grid references)	Geographic feature type
Bulli Point	Te Poporo / Bulli Point	BH36 574921	Point
Cherry Bay	Kōtukutuku Bay	BG35 393021	Bay
Cherry Island (local use name)	Motutāhae	BG36 682144	Island
Hallets Bay (Hamuria)	Pākā Bay	BH36 595928 - 610940	Bay
Kotukutuku Stream	Kōtukutuku Stream	BG35 363004 - 393020	Stream
Mission Bay	Ōtaiātoa Bay	BH36 535897 - 557910	Bay
Rat Island (local use name)	Whakamouore	BG36 681146	Island
Unnamed	Te Mako Headland	BG35 425036	Headland

8.30 The settlement legislation will provide for the official geographic names on the terms provided by sections 64 to 67 of the draft settlement bill.

8.31 The settlement legislation will on the terms provided by section 67 of the draft settlement bill, change the name of Mission Bay Recreation Reserve to Ōtaiātoa Bay Recreation Reserve.

**CULTURAL REDRESS GENERALLY NON-EXCLUSIVE**

8.32 The Crown may do anything that is consistent with the cultural redress, including entering into, and giving effect to, another settlement that provides for the same or similar cultural redress.

8.33 However, the Crown must not enter into another settlement that provides for the same redress as set out in clause 8.16.

## 9 FINANCIAL AND COMMERCIAL REDRESS

### CENTRAL NORTH ISLAND FORESTS IWI COLLECTIVE DEED OF SETTLEMENT

- 9.1 On 25 June 2008, Ngāti Tūwharetoa signed the Central North Island Forests Iwi Collective Deed. The CNI Forests Iwi Collective Deed records the agreement between the Central North Island ("CNI") Forests Iwi Collective and the Crown to settle the historical Central North Island forests land claims. The CNI Forests Iwi Collective Deed has been given legislative effect through the enactment of the Central North Island Forests Land Collective Settlement Act 2008.
- 9.2 Pursuant to the CNI Forests Iwi Collective Deed, "on-account" financial redress was provided to Ngāti Tūwharetoa as part of their future comprehensive settlement, as provided under this deed. The "on-account" financial and commercial redress included, as more particularly set out in the CNI Forests Iwi Collective Deed -
- 9.2.1 a 23.32125% shareholding in CNI Iwi Holdings Limited, which received 176,000 hectares of Crown forest lands (valued at \$225.6 million in 2008); and
- 9.2.2 a deferred selection process for a list of commercial properties in the Central North Island and a right of first refusal for those properties not selected under the deferred selection process.

### FINANCIAL REDRESS

- 9.3 The Crown must pay the governance entity on the settlement date \$14,426,000 being the balance financial and commercial redress amount of \$25,000,000 (which represents the financial and commercial redress amount of \$77,612,740 less the CNI on-account value of \$52,612,740) less –
- 9.3.1 \$2,000,000 being the on-account payment referred to in clause 9.4; and
- 9.3.2 \$8,574,000 being the total transfer values of the commercial redress properties.

### ON-ACCOUNT PAYMENT

- 9.4 As soon as reasonably practicable after the date of this deed, the Crown will pay \$2,000,000 to the governance entity on account of the financial and commercial redress amount.

### COMMERCIAL REDRESS PROPERTIES

- 9.5 Each commercial redress property is to be -
- 9.5.1 transferred by the Crown to the governance entity on the settlement date -
- (a) as part of the redress to settle the historical claims, and without any other consideration to be paid or provided by the governance entity or any other person; and

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- (b) on the terms of transfer in part 6 of the property redress schedule; and
- 9.5.2 as described, and is to have the transfer value provided, in part 3 of the property redress schedule (and, in the case of Taurewa Station, in accordance with clause 8.28).
- 9.6 The transfer of each commercial redress property will be -
- 9.6.1 subject to and, where applicable with the benefit of, the encumbrances provided in the property redress schedule in relation to that property; and
- 9.6.2 in the case of Tauhara Recreation Reserve, the settlement legislation will, on the terms set out in sections 125 and 130 of the draft settlement bill, provide that -
- (a) immediately before transfer to the governance entity, the reservation of Tauhara Recreation Reserve as a recreation reserve subject to the Reserves Act 1977 is revoked; and
- (b) the transfer of the fee simple estate to the governance entity shall be subject to Part 4A of the Conservation Act 1987; and
- (c) the width of the marginal strip created pursuant to clause 9.6.2(b) shall be reduced to three metres.

**LICENSED LAND**

- 9.7 The settlement legislation will, on the terms provided by sections 132 to 134, and 136 of the draft settlement bill, provide for the following in relation to a commercial redress property that is licensed land:
- 9.7.1 its transfer by the Crown to the governance entity:
- 9.7.2 it to cease to be Crown forest land upon registration of the transfer:
- 9.7.3 the governance entity to be, from the settlement date, in relation to the licensed land:
- (a) a confirmed beneficiary under clause 11.1 of the Crown Forestry Rental Trust Deed; and
- (b) entitled to the rental proceeds since the commencement of the Crown forestry licence:
- 9.7.4 the Crown to give notice under section 17(4)(b) of the Crown Forest Assets Act 1989 terminating the Crown forestry licence, in so far as it relates to the licensed land, at the expiry of the period determined under that section, as if:
- (a) the Waitangi Tribunal had made a recommendation under section 8HB(1)(a) of the Treaty of Waitangi Act 1975 for the return of the licensed land to Māori ownership; and
- (b) the Waitangi Tribunal's recommendation became final on settlement date:

9: FINANCIAL AND COMMERCIAL REDRESS

9.7.5 the governance entity to be the licensor under the Crown forestry licence, as if the licensed land had been returned to Māori ownership on the settlement date under section 36 of the Crown Forest Assets Act 1989, but without section 36(1)(b) applying:

9.7.6 for rights of access to areas that are wāhi tapu.

**DEFERRED SELECTION PROPERTY**

9.8 The governance entity may, for two years on and from the settlement date, elect to purchase the deferred selection property, more particularly described in table 1 of part 4 of the property redress schedule on, and subject to -

9.8.1 the terms provided by sections 124, 126, 127, 129 and 130 of the draft settlement bill; and

9.8.2 the terms and conditions in part 5 of the property redress schedule; and

9.8.3 the governance entity providing the Taupo District Council with a registrable right to drain and convey water, right to drain and convey stormwater, and right to convey sewage easement in gross in the form set out in part 8.20 of the documents schedule.

**DEFERRED SELECTION GEOTHERMAL ASSETS**

9.9 The governance entity may, for six months on and from the settlement date, elect to purchase the deferred selection geothermal assets more particularly described in table 2 of part 4 of the property redress schedule on, and subject to, the terms and conditions in part 5 of the property redress schedule.

9.10 The governance entity acknowledges that -

9.10.1 the Crown does not own the land on which the deferred selection geothermal assets are located and that accordingly, the Crown cannot grant any rights of access over the land; and

9.10.2 the governance entity must make its own arrangements with the relevant landowner and/or other parties to obtain access to the deferred selection geothermal assets; and

9.10.3 the Crown will not be liable for any failure of the governance entity to gain access to the deferred selection geothermal assets.

**SETTLEMENT LEGISLATION**

9.11 The settlement legislation will -

9.11.1 on the terms provided by sections 124 to 131 of the draft settlement bill, enable the transfer of the commercial redress properties, the deferred selection property and the deferred selection geothermal assets; and

9.11.2 in relation to the deferred selection property, provide that immediately before any transfer to the governance entity, the property ceases to be a conservation area under the Conservation Act 1987.



**RIGHT OF FIRST REFUSAL OVER RFR LAND**

9.12 The governance entity is to have a right of first refusal in relation to a disposal by the Crown of RFR land -

9.12.1 being land in the RFR area, other than the excluded land specified in clause 9.13, that on the settlement date -

(a) is vested in the Crown; or

(b) is held in fee simple by the Crown; or

(c) is a reserve vesting in an administering body that derived title to the reserve from the Crown that would, on the application of sections 25 or 27 of the Reserves Act 1977, revert in the Crown.

9.13 The excluded land referred to in clause 9.12.1 is -

9.13.1 a Collective RFR property; or

9.13.2 a Ngāti Tūrangitukua RFR property; or

9.13.3 Part No 2 Playing Fields / Waiariki Bay of Plenty Polytechnic Campus, Horomatangi Street, Taupo.

9.14 The right of first refusal set out in clause 9.12 is -

9.14.1 to be on the terms provided by sections 138 to 166 of the draft settlement bill; and

9.14.2 in particular, to apply -

(a) for a term of 174 years on and from the settlement date; but

(b) only if the RFR land is not being disposed of in the circumstances provided by sections 149 to 155 of the draft settlement bill.

**WAITETI FARM**

9.15 The parties acknowledge that Ngāti Tūwharetoa, Raukawa and the Pouakani People share customary interests in the land underlying Waiteti Farm.

9.16 The Crown and the governance entity will, in good faith and in a manner consistent with the principles of Te Tiriti o Waitangi/the Treaty of Waitangi, use all reasonable endeavours to negotiate an agreement for sale and purchase of Waiteti Farm with the owner, Landcorp Farming Limited (**Landcorp**), by 30 November 2017. The governance entity acknowledges that –

9.16.1 the purchase of Waiteti Farm from Landcorp may be made by the governance entity or the Crown; and

9.16.2 if the Crown purchases Waiteti Farm from Landcorp, the Crown will on-sell Waiteti Farm to the governance entity under a separate agreement for sale and purchase. The purchase price payable by the governance entity to the

Crown shall be the same as the purchase price paid by the Crown to Landcorp; and

- 9.16.3 if an agreement (or agreements) for sale and purchase of Waiteti Farm is not signed by Landcorp, the governance entity and/or the Crown (as applicable) by 30 November 2017, the Crown shall not be in breach of this deed and shall have no ongoing obligations under this clause 9.16.

#### **RIGHT OF FIRST REFUSAL OVER QUOTA**

- 9.17 The Crown agrees to grant to the governance entity a right of first refusal to purchase certain quota as set out in the RFR deed over quota.

##### ***Delivery by the Crown of a RFR deed over quota***

- 9.18 The Crown must, by or on the settlement date, provide the governance entity with two copies of a deed (the "RFR deed over quota") on the terms and conditions set out in part 9 of the documents schedule and signed by the Crown.

##### ***Signing and return of RFR deed over quota by the governance entity***

- 9.19 The governance entity must sign both copies of the RFR deed over quota and return one signed copy to the Crown by no later than 10 business days after the settlement date.

##### ***Terms of RFR deed over quota***

- 9.20 The RFR deed over quota will -
- 9.20.1 relate to the RFR area; and
- 9.20.2 be in force for a period of 50 years on and from the settlement date; and
- 9.20.3 have effect on and from the settlement date as if it had been validly signed by the Crown and the governance entity on that date.

##### ***Crown has no obligation to introduce or sell quota***

- 9.21 The Crown and the governance entity agree and acknowledge that -
- 9.21.1 nothing in this deed, or the RFR deed over quota, requires the Crown to -
- (a) purchase any provisional catch history, or other catch rights, under section 37 of the Fisheries Act 1996; or
- (b) introduce any applicable species (being the species referred to in Schedule 1 of the RFR deed over quota) into the quota management system (as defined in the RFR deed over quota); or
- (c) offer for sale any applicable quota (as defined in the RFR deed over quota) held by the Crown; and
- 9.21.2 the inclusion of any applicable species (being the species referred to in Schedule 1 of the RFR deed over quota) in the quota management system may not result in any, or any significant, holdings by the Crown of applicable quota.

## **10 SETTLEMENT LEGISLATION, CONDITIONS AND TERMINATION**

### **SETTLEMENT LEGISLATION**

- 10.1 The Crown must propose the draft settlement bill for introduction to the House of Representatives.
- 10.2 The draft settlement bill will provide for all matters for which legislation is required to give effect to this deed of settlement.
- 10.3 The draft settlement bill proposed for introduction to the House of Representatives -
- 10.3.1 must comply with the drafting standards and conventions of the Parliamentary Counsel Office for Government Bills, as well as the requirements of the Legislature under Standing Orders, Speakers' Rulings and conventions; and
  - 10.3.2 must be in a form that is satisfactory to Ngāti Tūwharetoa and the Crown.
- 10.4 Ngāti Tūwharetoa and the governance entity must support the passage of the draft settlement bill through Parliament.

### **SETTLEMENT CONDITIONAL**

- 10.5 This deed, and the settlement, are conditional on the settlement legislation coming into force.
- 10.6 However, the following provisions of this deed are binding on its signing:
- 10.6.1 clauses 5.7, 9.4, 9.16, 10.4 to 10.10:
  - 10.6.2 paragraph 1.3, and parts 4 to 7, of the general matters schedule.

### **EFFECT OF THIS DEED**

- 10.7 This deed -
- 10.7.1 is "without prejudice" until it becomes unconditional; and
  - 10.7.2 in particular, may not be used as evidence in proceedings before, or presented to, the Waitangi Tribunal, any court, or any other judicial body or tribunal.
- 10.8 Clause 10.7 does not exclude the jurisdiction of a court, tribunal, or other judicial body in respect of the interpretation or enforcement of this deed.

### **TERMINATION**

- 10.9 The Crown or the governance entity may terminate this deed, by notice to the other, if -
- 10.9.1 the settlement legislation has not come into force within 36 months after the date of this deed; and

10: SETTLEMENT LEGISLATION, CONDITIONS AND TERMINATION

10.9.2 the terminating party has given the other party at least 40 business days' notice of an intention to terminate.

10.10 If this deed is terminated in accordance with its provisions -

10.10.1 this deed (and the settlement) are at an end; and

10.10.2 subject to this clause, this deed does not give rise to any rights or obligations; and

10.10.3 this deed remains "without prejudice"; and

10.10.4 the parties intend that the on-account payment is taken into account in any future settlement of the historical claims.

## 11 GENERAL, DEFINITIONS AND INTERPRETATION

### GENERAL

- 11.1 The general matters schedule includes provisions in relation to -
- 11.1.1 the implementation of the settlement; and
  - 11.1.2 the Crown's -
    - (a) payment of interest in relation to the settlement; and
    - (b) tax indemnities in relation to redress; and
  - 11.1.3 giving notice under this deed or a settlement document; and
  - 11.1.4 amending this deed.

### HISTORICAL CLAIMS

- 11.2 In this deed, **historical claims** -
- 11.2.1 means every claim (whether or not the claim has arisen or been considered, researched, registered, notified, or made by or on the settlement date) that Ngāti Tūwharetoa, or a representative entity, had at, or at any time before, the settlement date, or may have at any time after the settlement date, and that -
    - (a) is, or is founded on, a right arising -
      - (i) from Te Tiriti o Waitangi/the Treaty of Waitangi or its principles; or
      - (ii) under legislation; or
      - (iii) at common law, including aboriginal title or customary law; or
      - (iv) from fiduciary duty; or
      - (v) otherwise; and
    - (b) arises from, or relates to, acts or omissions before 21 September 1992 -
      - (i) by, or on behalf of, the Crown; or
      - (ii) by or under legislation; and
  - 11.2.2 includes every claim to the Waitangi Tribunal to which clause 11.2.1 applies that relates exclusively to Ngāti Tūwharetoa or a representative entity, including the following claims:
    - (a) Wai 18 - Lake Taupo Claim:
    - (b) Wai 37 - Ōkahukura Block:

11: GENERAL, DEFINITIONS AND INTERPRETATION

- (c) Wai 43 - Nukuhau:
- (d) Wai 61 - Kaimanawa to Rotoaira Lands:
- (e) Wai 80 - Waihaha Lands:
- (f) Wai 92 - Effects of Taupo Basin Reserves Scheme, Hydroelectric Power Development, and Local Government:
- (g) Wai 114 - Lake Taupo Fisheries:
- (h) Wai 170 - Wairākei Lands:
- (i) Wai 178 - Lake Rotoaira:
- (j) Wai 226 - Tūwharetoa Geothermal:
- (k) Wai 269 - Kaingaroa Forest:
- (l) Wai 376 - Paenoa Te Akau Lands:
- (m) Wai 398 - Tauhara Middle Block:
- (n) Wai 416 - Rangatira No. 7 Block:
- (o) Wai 480 - Conservation Management Strategy for Tongariro/Taupo Conservancy:
- (p) Wai 490 - Tokaanu Hot Springs Reserve:
- (q) Wai 500 - Tauhara Middle No. 1 Block:
- (r) Wai 502 - Tongariro National Park:
- (s) Wai 570 - Tauranga-Taupo No. 1 & No. 2B Blocks:
- (t) Wai 592 - Tauhara Middle No. 4A103, 4A104 & 4A1N Blocks:
- (u) Wai 604 - Runanga No. 2C2B1 & 2C2B2 Blocks:
- (v) Wai 629 - Rangatira A143 Block:
- (w) Wai 641 - Ngāti Hine Hapū:
- (x) Wai 665 - Tauhara Middle Block:
- (y) Wai 669 - Tauhara Middle Block:
- (z) Wai 670 - Tauhara Middle Block:
- (aa) Wai 711 - Tauhara Middle No. 4 Block (Rotoakui Reserve):
- (bb) Wai 782 - Taupo Basin Reserves Scheme, Tauhara Middle Blocks:
- (cc) Wai 797 - Lands and Geothermal Resources at Wairākei, Oruanui, Ohaaki, Tauhara, Atiamuri and Other Areas:

11: GENERAL, DEFINITIONS AND INTERPRETATION

- (dd) Wai 801 - Te Hatepe and Hinemaiaia Rivers:
- (ee) Wai 802 - Tokaanu Police Station:
- (ff) Wai 838 - Ngāti Te Rangiita Lands and Resources:
- (gg) Wai 833 - Te Moana Rotoaira and Resources:
- (hh) Wai 841 - Greater Taupo Region:
- (ii) Wai 933 - Lake Rotoaira and Wairehu Stream:
- (jj) Wai 965 - Taurewa No. 1 Block:
- (kk) Wai 998 - Crown Negotiation re Whanganui River:
- (ll) Wai 1006 - Land in Taupōnui-a-Tia Rohe:
- (mm) Wai 1027 - Land on North Side of Lake Taupo:
- (nn) Wai 1044 - Ngāti Te Ika of Ngāti Hikairo ki Tūwharetoa Lands and Resources:
- (oo) Wai 1077 - Oruanui and Associated Blocks:
- (pp) Wai 1193 - Parekaawa Lands:
- (qq) Wai 1206 - Ngāti Te Kohera Lands and Resources:
- (rr) Wai 1207 - Te Tihoi No. 3 Block:
- (ss) Wai 1260 - Ngāti Waewae Claim:
- (tt) Wai 1262 - Ngāti Hikairo ki Tongariro Claim:
- (uu) Wai 1264 - Lands in the Tongariro National Park:
- (vv) Wai 1447 - Ngāti Hinemihi Lands and Resources Claim:
- (ww) Wai 1602 - Ngāti Te Kohera Lands and Resources:
- (xx) Wai 1605 - Lands and Resources:
- (yy) Wai 1836 - Ngāti Rauhoto Lands and Resources:
- (zz) Wai 2095 - Hautū No. 3F1 Block:
- (aaa) Wai 2098 - Ngāti Te Maunga hapū Lands and Resources:
- (bbb) Wai 2142 - Lands and Resources Outside the Turangi Township:
- (ccc) Wai 2287 - Lands and Resources:
- (ddd) Wai 2318 – The Ngāti Manunui Access to Land Claim:
- (eee) Wai 2455 - The Paurini Reserve (Lakeshore Reserves Act) Claim:

11: GENERAL, DEFINITIONS AND INTERPRETATION

- (fff) Wai 2461 – The Parakiri Reserve Land Claim:
- (ggg) Wai 2464 – The Tauhara Middle No. 4 Block Claim:
- (hhh) Wai 2467 - The Taupo Control Gates Land Claim:
- (iii) Wai 2469 – The Pahautea Severance (Public Works) Claim; and

11.2.3 includes every other claim to the Waitangi Tribunal to which clause 11.2.1 applies, so far as it relates to Ngāti Tūwharetoa or a representative entity, including the following claims:

- (a) Wai 216 - Te Matai No. 1 & 2 Blocks:
- (b) Wai 358 - Tatua & Tuhingamata West Forestry Lands:
- (c) Wai 445 - Tauhara Middle Block:
- (d) Wai 575 - Ngāti Tūwharetoa Comprehensive Claim:
- (e) Wai 628 - Tahorakuri No. 2 Block:
- (f) Wai 651 - Te Reu Reu Land Claim:
- (g) Wai 781 - Atiamuri, Rotokawa, Te Haroto, Southern Kaimanawa Range, Shores of Lake Taupo, Rangitaiki and Waikato Riverbeds and their Tributaries to Kawerau, Numerous Geothermal Sources, the Kaingaroa Forest and Rotoakui Reserve:
- (h) Wai 786 - Tauhara Hapū Lands and Resources:
- (i) Wai 791 - Volcanic Interior Plateau:
- (j) Wai 832 - Tauhara Middle Block:
- (k) Wai 1059 - Te Rohe Pōtae:
- (l) Wai 1195 - Parakiri and Associated Land Blocks Claim:
- (m) Wai 1196 - Tongariro National Park Scheme Lands:
- (n) Wai 1451 - Tatua and Rangatira Blocks:
- (o) Wai 1452 - Lands and Resources:
- (p) Wai 1472 - Ngāti Wairangi Lands and Resources:
- (q) Wai 2291 - Lands and Resources:
- (r) Wai 2453 - The Halletts Bay Whānau (Native Land Act) Claims:
- (s) Wai 2498 – The Rangitoto Tuhua No. 67B 4C1B Claim.



11: GENERAL, DEFINITIONS AND INTERPRETATION

11.3 However, **historical claims**, does not include the following claims:

11.3.1 a claim that a member of Ngāti Tūwharetoa, or a whānau, hapū, or group referred to in clause 11.7.1 may have that is, or is founded on, a right arising as a result of being descended from an ancestor who is not referred to in clause 11.7.1:

11.3.2 a claim that is based on descent from the ancestor Raukawa:

11.3.3 a claim that a representative entity may have to the extent the claim is, or is founded, on a claim referred to in clause 11.3.1 and/or clause 11.3.2.

11.4 To avoid doubt, clause 11.2.1 is not limited by clauses 11.2.2 or 11.3.

11.5 This deed will provide for the settlement in full of Wai 21 - Te Wai Ū o Tūwharetoa claim.

**NGĀTI TŪWHARETOA**

11.6 In this deed, **Ngāti Tūwharetoa** means **Te iwi me ngā hapū o Ngāti Tūwharetoa**.

11.7 **Te iwi me ngā hapū o Ngāti Tūwharetoa** means -

11.7.1 every hapū, whānau or group to the extent that it is composed of individuals referred to in clause 11.7.2, including the following hapū:

- (a) Ngāti Haa:
- (b) Ngāti Hikairo:
- (c) Ngāti Hine:
- (d) Ngāti Hinemihi:
- (e) Ngāti Hinerau:
- (f) Ngāti Hineure:
- (g) Ngāti Kurauia:
- (h) Ngāti Manunui:
- (i) Ngāti Moekino:
- (j) Ngāti Parekaawa:
- (k) Ngāti Rauhoto:
- (l) Ngāti Rongomai:
- (m) Ngāti Ruingārangi:
- (n) Ngāti Tarakaiahi:
- (o) Ngāti Te Kohera:

11: GENERAL, DEFINITIONS AND INTERPRETATION

- (p) Ngāti Te Maunga:
  - (q) Ngāti Te Rangiita:
  - (r) Ngāti Te Urunga:
  - (s) Ngāti Tūrangitukua:
  - (t) Ngāti Turumākina:
  - (u) Ngāti Tūtemohuta:
  - (v) Ngāti Tūtetawhā:
  - (w) Ngāti Waewae:
  - (x) Ngāti Wairangi:
  - (y) Ngāti Wheoro:
  - (z) Te Kapa o Te Rangiita; and
- 11.7.2 the collective group composed of individuals who descend from one or more Ngāti Tūwharetoa tūpuna; and
- 11.7.3 every individual referred to in clause 11.7.2; but
- 11.7.4 does not include Ngāti Tūwharetoa ki Kawerau (Bay of Plenty); and
- 11.7.5 does not include any Ngāti Hineuru people who only trace descent to Ngāti Tūwharetoa through the tupuna Hineuru.
- 11.8 The deed of settlement will provide, for the purposes of clause 11.7.2 -
- 11.8.1 a person is **descended** from another person if the first person is descended from the other by -
- (a) birth; or
  - (b) legal adoption; or
  - (c) Māori customary adoption in accordance with Ngāti Tūwharetoa tikanga; and
- 11.8.2 **Ngāti Tūwharetoa tupuna** means an individual who exercised customary rights, predominantly in relation to the area of interest at any time after 6 February 1840, by virtue of being descended from -
- (a) Ngātoroirangi through the eponymous tupuna Tūwharetoa; or
  - (b) a recognised ancestor of any of the hapū referred to at clause 11.7.1.
- 11.8.3 **customary rights** means rights according to tikanga Māori (Māori customary law, values and practices), including -
- (a) rights to occupy land; and

11: GENERAL, DEFINITIONS AND INTERPRETATION

- (b) rights in relation to the use of land or other natural or physical resources.

**MANDATED NEGOTIATORS AND SIGNATORIES**

11.9 In this deed -

11.9.1 **mandated negotiators** means the following individuals:

- (a) Sir Michael John Cullen, Ohope:
- (b) Eruini Edward George, Rotorua:
- (c) Te Ngaehe o Te Rangi Ranginui Wanikau, Tūrangi:
- (d) Gina Alice Rangi, Rotorua; and

11.9.2 **mandated signatory** means Sir Tumu te Heuheu Tūkino VIII, Te Ariki of Ngāti Tūwharetoa, Waihi.

**ADDITIONAL DEFINITIONS**

11.10 The definitions in part 6 of the general matters schedule apply to this deed.

**INTERPRETATION**

11.11 Part 7 of the general matters schedule applies to the interpretation of this deed.

**SIGNED** as a deed on **8 July 2017**

**SIGNED** for and on behalf of )  
**NGĀTI TŪWHARETOA** by the mandated )  
signatory, in the presence of: )

---

Sir Tumu Te Heuheu Tūkino VIII  
Te Ariki o Ngāti Tūwharetoa

---

Signature of Witness

---

Witness Name

---

Occupation

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Address

**SIGNED** by )  
**TE KOTAHITANGA O NGĀTI** )  
**TŪWHARETOA TRUST** by its authorised )  
signatory, )  
in the presence of: )

---

Sir Tumu Te Heuheu Tūkino VIII  
Te Ariki o Ngāti Tūwharetoa

---

Signature of Witness

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Witness Name

---

Occupation

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Address

**SIGNED** for and on behalf of )  
**THE CROWN** by the Minister for )  
Treaty of Waitangi Negotiations )  
in the presence of: )

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Hon Christopher Finlayson

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Signature of Witness

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Witness Name

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Occupation

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Address

**SIGNED** for and on behalf of )  
**THE CROWN** by the Minister of Finance )  
(only in relation to the tax indemnities) )  
in the presence of: )

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Hon Steven Joyce

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Signature of Witness

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Witness Name

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Occupation

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Address

**Ngāti Tūwharetoa Hapū Forum mandated negotiators who support the settlement:**

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Sir Michael John Cullen, mandated negotiator

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Eruini Edward George, mandated negotiator

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Te Ngaehe o Te Rangi Ranginui Wanikau,  
mandated negotiator

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Gina Alice Rangi, mandated negotiator

**Ngāti Tūwharetoa Hapū Forum delegates and alternates who support the settlement:**

**Ngāti Tūwharetoa Hapū Forum delegates and alternates who support the settlement:**



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**Ngāti Tūwharetoa Hapū Forum delegates and alternates who support the settlement:**

**Members of Ngāti Tūwharetoa and other witnesses who support the settlement:**

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