

CHAPTER 1

BACKGROUND TO THE JANUARY 2005 HEARING

1.1 INTRODUCTION

In June 2004, the Tribunal heard claims regarding the Crown's recognition of the mandate of the Nga Kaihautu o Te Arawa Executive Council (the 'executive council') to negotiate claims on behalf of all Te Arawa. We reported on these claims in August 2004. We found that there had been serious flaws in the process adopted by the Crown to assess and recognise the mandate of the executive council. We did not, however, consider that these flaws were so fundamental as to constitute a breach of the principles of the Treaty.

In our findings, we sought to provide a way forward for the Crown and Te Arawa, by which they could build on the progress they had already made toward negotiations, and resolve the outstanding mandating issues which had been the subject of our inquiry. Principally, we considered that the executive council needed to undertake a process of mandate reconfirmation. We suggested that a hui of kaihautu members be called at which they should discuss issues of the composition, representivity and accountability of the executive council, and vote on the reconfirmation of its mandate. We also made a number of other suggestions and recommendations relating to particular iwi/hapu, which are set out in section 1.3 below.

We gave the claimants the opportunity to return to the Tribunal without further application for urgency, should they consider the Crown had failed to respond adequately to our suggestions. On this basis, various applications for a resumption of the inquiry were received between September and December 2004. On 7 December, we granted the claimants' request for a resumption. The present report deals with allegations that the Crown failed to substantively address the suggestions and recommendations of the Tribunal contained in the *Te Arawa Mandate Report* of August 2004, and considers information provided by parties on recent developments to do with the Te Arawa mandate.

1.2 BACKGROUND TO THE JUNE 2004 HEARING

A full description of the evolution of the VIP project was given in our *Te Arawa Mandate Report*.¹ Here we give a brief background to provide a context for the present inquiry.

1. Waitangi Tribunal, *The Te Arawa Mandate Report* (Wellington: Legislation Direct, 2004), pp1–38

In 1999, the volcanic interior plateau (VIP) project was initiated by prominent central North Island (CNI) iwi figures, namely Bishop Manuhua Bennett, Tumu Te Heuheu, and Rangiuiira Briggs. Bishop Bennett was representative for the Rotorua or north region, Tumu Te Heuheu represented the Taupo or south region, and Rangiuiira Briggs represented the Kaingaroa or central region. The purpose of the VIP project was to expedite the settlement of Treaty claims relating to the substantial amount of forestry land in the district. In September 1999, Wai 791, a claim relating to the various land alienation themes present in the CNI region, was registered with the Waitangi Tribunal by the VIP leaders.

At the same time, counsel for the VIP project filed a memorandum with the Tribunal proposing a process which varied from normal Tribunal procedure of the time. In September 2001, after two judicial conferences, the Tribunal issued a direction according priority to all CNI claims, including Wai 791.

Meanwhile, in early 2000, discussions took place between the Wai 791 claimants and Crown officials over the possibility of CNI claims being progressed without any further involvement by the Tribunal. In 2002, a number of informal discussions were held between the Minister in Charge of Treaty of Waitangi Negotiations (MICOTOWN), Tumu Te Heuheu and others in order to consider the possibility of progressing CNI claims through direct negotiations. Rawiri Te Whare, presumably in his role as project manager of the VIP project, was apparently asked by Mr Te Heuheu to attend these discussions.

As a result of these meetings, Mr Te Whare was asked by Mr Te Heuheu to initiate contact with the five CNI iwi: Tuwharetoa, Te Arawa, Tuhoe, Ngati Manawa, and Ngati Whare. Two hui were held in November 2002 at which the progress of the VIP project to date was discussed. Twenty-three 'pre-mandating hui' were held by the VIP project on CNI marae in early 2003, at which attendees were asked to vote in support of the VIP's proposed process, and 'interim representatives' were elected to represent iwi/hapu.

The MICOTOWN met with CNI iwi again in Taupo on 23 April 2003. At the meeting, the Minister acknowledged the enormous amount of work that had been done to date, and made clear the Crown's wish that any settlement be comprehensive. She advised that iwi must now undertake a mandating process, and hoped that by early June 2003 each CNI iwi would be able to give a clear indication as to whether they would be progressing to formal negotiations.

In May 2003, Mr Te Whare began to develop a mandating plan for CNI iwi, to be implemented in the second half of the year. On 22 May, Mr Te Whare presented an outline of the plan to the Te Arawa interim representatives. About the same time, OTS officials met with a number of CNI interim representatives, emphasising the need for a robust mandating process, and noting that it was for claimant groups to run their own process. As we described in the *Te Arawa Mandate Report*, from this point a split within the VIP project manifested itself. Crown officials continued to deal with Rawiri Te Whare in respect of mandating matters relating to Te Arawa, eventually leading to recognition by the Crown of the mandate of Nga Kaihautu o Te Arawa Executive Council to negotiate the settlement of all Te Arawa claims.

Between July and September 2003, a series of mandating hui were held by the iwi/hapu of Te Arawa, resulting in the election of 98 delegates. These 98 elected hapu representatives were elected to a body called Nga Kaihautu o Te Arawa (the 'kaihautu'). In this report, we refer to the elected members of the kaihautu as 'kaihautu members'.

At a meeting on 16 September 2003, the kaihautu members met to elect delegates from their number to sit on a kaihautu executive council. The kaihautu executive council was the body which was to lead the mandating process and subsequent negotiations with the Crown. This was called Nga Kaihautu o Te Arawa Executive Council (the 'executive council'). The actual negotiations with the Crown, however, would be carried out by a negotiation team of between five and eight negotiators appointed by the executive council. This negotiation team was sometimes referred to as the 'kaiwhakarite'.

On 1 December 2003, the executive council submitted a deed of mandate to the Crown for assessment.² The iwi/hapu of Te Arawa which had mandated the executive council and were thus included in its deed of mandate were:

Iwi/hapu	Number of kaihautu members
Ngati Tuara/Ngati Kea	5
Tuhourangi/Ngati Wahiao	7
Ngati Tarawhai/Ngati Rongomai	6
Ngati Pikia	10
Ngati Tahu–Ngati Whaoa	8
Ngati Te Roro o Te Rangī	8
Ngati Uenukukopako	6
Ngati Rangiteaorere	6
Ngati Tuteniu	11
Ngati Whakaue	11
Ngati Rangitihī	2
Ngati Te Ngakau/Ngati Tura	5
Ngararanui	2
Ngati Rangiwewehi	11
Total	98

Table 1: Te Arawa iwi/hapu that mandated the executive council

Additionally, the deed noted that the executive council did not yet represent Ngati Makino, Waitaha, and Tapuika, three iwi/hapu of Te Arawa which had not elected kaihautu members in September 2003. The deed noted that one executive council seat was being held open for each, to accommodate them should they resolve to mandate the executive council at any point in the future.

On 1 April 2004, after OTS officials had completed their mandate assessment, MICOTOWN and the Minister of Maori Affairs (MOMA) formally recognised the executive council's

2. Document A130

mandate. The claims that were the subject of the Tribunal's *Te Arawa Mandate Report* were made in response to this decision by the Crown. Some of the claims considered in that report were concerned with the overall Crown process leading to the recognition of the mandate, others with the consequences of the process for specific kin or claimant groups, and others with the Crown's settlement policy (especially its 'large natural groupings' policy). These claims were heard by the Tribunal in June 2004 at Rotorua, and were reported on in the August 2004 *Te Arawa Mandate Report*.

1.3 TRIBUNAL FINDINGS, SUGGESTIONS, AND RECOMMENDATIONS OF AUGUST 2004

In the following section, we summarise our findings, suggestions and recommendations from the *Te Arawa Mandate Report* in order to provide a foundation for our later discussion of the arguments of the claimants, the Crown and the executive council, when, as we will explain, the Te Arawa mandate inquiry was resumed in January 2005.

In our August 2004 report, we considered the role and responsibility of the Crown in the mandating process. We recognised that achieving a mandate is essentially an internal matter for iwi. However, we considered that the Crown has a duty to ensure that mandating processes are consistent with the principles of the Treaty of Waitangi. This requires the active scrutiny and immediate correction of errors at every stage of the mandating process, not just in the final mandate assessment. We saw the role of the Crown as particularly crucial where, as is the case within Te Arawa, there are already fragile relationships within and between iwi/hapu groups.

In the case of the Te Arawa mandate, we found that the Crown had failed adequately to identify and address critical issues surrounding the representivity and accountability of the executive council to the kaihautu (the members of which were ultimately accountable to the iwi/hapu), and that these were at the core of claimant dissatisfaction. In our view, the mandating process had not allowed the people of Te Arawa adequate opportunity to debate and discuss these important matters.

We did not, however, find that these flaws in the mandating process constituted a Treaty breach, resulting in actual prejudice to the claimants. Nor did we consider that the Te Arawa mandating process itself was beyond rectification. We recognised, for example, that the election of kaihautu members had for the most part been fair, and that these members generally had the authority to speak on behalf of their iwi/hapu. We believed that the process need not have returned to square one, but only as far back as was necessary.

Rather, in order to assist the Crown and Te Arawa build on their progress to date and move forward towards negotiations and settlement, we ended our report with a number of suggestions for correcting problematic aspects of the process.

We believed there was a fundamental need for reconfirmation of the executive council's mandate. To achieve this, we suggested that a properly advertised hui of all kaihautu members be held, at which members could vote to reconfirm the mandate.

We specifically suggested that only the 98 kaihautu members, not all members of Te Arawa iwi, should vote on reconfirmation:

The obvious question is how this 'reconfirmation' should occur. Unfortunately, we do not think it would be practical for a hui of all Te Arawa to make this decision, for two reasons. First, a mandating process has been gone through which has, for the most part, fairly elected kaihautu representatives. Those people, as noted by TPK, hold the mandate and should be able to speak on behalf of their iwi/hapu. Secondly, an open hui of all Te Arawa would run the severe risk of being overtaken by those whose agenda is only to take matters back to square one. This should not be allowed to occur, because we think that, if mandating had to begin anew, it would totally undermine the momentum now built up towards settlement amongst a significant number of Te Arawa. A return to square one would run the risk of destabilising matters further.³

We made a number of suggestions regarding the notification and conduct of the reconfirmation hui:

- ▶ it should be properly notified with no less than 14 days' notice of agenda, date, time and venue;
- ▶ it should have an independent chair, who should carefully manage the agenda;
- ▶ the Crown and the executive council should decide on an appropriate venue, possibly in consultation with the Te Arawa taumata and Te Pukenga Kaumatua o Te Arawa; and
- ▶ independent observers should be present to record all outcomes.

We also specifically suggested that, in developing a reconfirmation process, the Crown and executive council consult with the taumata, in recognition of the mana of its leaders.

We recognised that the proportionality of iwi/hapu representation on the executive council was a fundamental issue, and suggested that this may be addressed by a preliminary vote of kaihautu members on the following matters:

- ▶ whether any groups jointly represented on the executive council should be uncoupled and represented separately;
- ▶ whether any additional executive council seats for those hapu not currently represented would need to be created, and how such decisions should be made; and
- ▶ whether any such adjustments would demand a corresponding adjustment of the existing composition of seats.⁴

We suggested that there would then need to be a series of votes on the rules of the executive

3. Waitangi Tribunal, *The Te Arawa Mandate Report*, p113

4. *Ibid*, p114

council, especially the rules governing the accountability of the executive council to the elected kaihautu, and of the negotiation team to the executive council.

In general, however, we recognised that it was for the iwi/hapu of Te Arawa themselves to decide how best to develop a reconfirmation strategy which accorded with tikanga. We considered that the crucial matter was that any decisions made by the executive council regarding its own composition and accountability had to be transparent, in order that the people of Te Arawa could see the process and rationale by which such decisions were reached.

We then made a series of findings and comments in response to each claimant group.

With respect to the taumata, we recognised that they had much to offer Te Arawa in assisting the executive council resolve issues of accountability and representivity. We did not make any specific recommendation in response to the taumata's key complaint that it had been sidelined and replaced as facilitator of the mandating process. However, in response to the taumata's concerns regarding facilitation, we suggested that Crown needed, at the outset of the reconfirmation process, to assure itself that the facilitators had a good measure of acceptance amongst the claimant community.

We then addressed the concerns of Ngati Makino, whose negotiations with the Crown had lapsed in 1998 and who had been waiting since then to resume negotiations. We considered that the Crown had both a moral and a Treaty obligation to negotiate with Ngati Makino separately and contemporaneously with the rest of Te Arawa. We suggested that, if Ngati Makino agree, Waitaha and Tapuika should be invited to join their negotiations. We also suggested that the Crown ensure that the deed of mandate expressly excluded the claims of Ngati Makino.

With respect to Waitaha, we disagreed with the argument that the Crown had altered its 'large natural groupings' policy to their disadvantage. We did, however, see a need for a more flexible application of Crown policy, particularly bearing in mind 'the extent of Waitaha's traditional differences with the rest of Te Arawa'. We suggested that the Crown should afford priority status to negotiations with Waitaha, dependent on the findings of the Tauranga Moana Tribunal. That Tribunal released its report in August 2004 and, with regard to Waitaha, found that:

Waitaha's rohe straddles two inquiry districts and they have, from the nineteenth century to the present day, been estranged from the mainstream of Te Arawa tribal organisation. It may therefore be preferable for Waitaha to negotiate a separate settlement with the Crown, if that is their desire and if their claims cannot be considered in the central North Island inquiry.⁵

Although at the time we were not aware of the Tauranga Moana Tribunal's findings, we nevertheless understood why Waitaha claimants felt that their mana had been usurped by the

5. Waitangi Tribunal, *Te Raupatu o Tauranga Moana Report* (Wellington: Legislation Direct, 2004), p 408

executive council's inclusion of their claims in the deed of mandate against their will. We suggested that the Crown ensure that the deed of mandate expressly excluded the claims of Waitaha.

With regard to Ngati Rangiwewehi, who did not file a claim in the inquiry but who nevertheless objected to aspects of the mandating process, we expected that their concerns would be addressed to some extent by the voting we proposed on the rules governing the accountability of the executive council to the kaihautu members.

In respect of the Wai 996 claimants of Ngati Rangitihi, who disputed the mandate of the elected Ngati Rangitihi kaihautu members to represent them, we acknowledged that Ngati Rangitihi had held a reconfirmation hui on 17 June 2004, but that the outcome of that hui was under dispute. We recommended that a further mandating hui be held for the iwi, at which they could decide whether or not to elect kaihautu members and participate in the executive council mandate. This hui was to be properly notified, and held at an appropriate venue with a neutral chair and independent observers and minute takers.

We did not see a need to comment on the claims of Ngati Tuteniu, Ngati Tamakari and Ngati Whaoa – all of whom objected to being jointly represented (or 'coupled') with other hapu on the kaihautu, and sought separate representation by their own kaihautu members – as they were to be addressed by the kaihautu at the reconfirmation hui. We did note that the issue of the coupling and uncoupling of hapu was an internal matter, but one which needed to be discussed and debated by kaihautu members.

Finally, we made provision for the claimants to apply for a resumption of the inquiry should the Crown fail to follow our suggestions:

we give the claimants the opportunity to return to the Tribunal, without having to make a further application for urgency, should the Crown fail to make an adequate response to our suggestions.

If it does so fail, not only will it be in breach of the Treaty but it could also risk promoting entrenched division between the claimants (and their not insignificant number of supporters) and the executive council that will take many years to overcome.⁶

1.3.1 Background to 12 January 2005 hearing

The next section describes events following the release of the Tribunal's August 2004 *Te Arawa Mandate Report*, leading up to the resumption of the Tribunal's inquiry on 12 January 2005. This section is concerned first and foremost with the overall reconfirmation process undertaken by the executive council. Specific issues regarding iwi/hapu are mentioned in passing here, but are addressed in greater detail under separate headings in chapter 3.

6. Waitangi Tribunal, *The Te Arawa Mandate Report*, p112

1.3.2 First OTS report to Ministers

Immediately following the release of the Tribunal's report in August 2004, OTS officials reported to MICOTOWN and MOMA with their preliminary comment, including a summary and analysis of the Tribunal's recommendations.⁷ They described the idea of a reconfirmation hui as 'reasonable', and noted that OTS officials were soon to meet with the executive council to discuss the practicalities of implementing the Tribunal's suggestion. With regard to the Tribunal's recommendation that the Crown negotiate separately with Waitaha and Ngati Makino, officials advised that the Tribunal's recommendations had been made with 'little analysis'⁸ and warned that separate negotiations would have 'potentially significant implications for the stability of the executive council's mandate, the Crown's ['large natural groupings'] policy framework and resourcing of the Office of Treaty Settlements'.⁹

1.3.3 Te Arawa taumata's 20 August paper

In light of the Tribunal's suggestion that the executive council consult with the taumata in developing a reconfirmation process, the taumata sent a memorandum to OTS and the executive council on 20 August, setting set out its suggestions for an appropriate reconfirmation strategy.¹⁰ The paper included quite a number of detailed suggestions, including, inter alia:

- ▶ the suggestion that an independent facilitator, or team of facilitators, should be appointed to lead the reconfirmation process, rather than just an independent chair;
- ▶ a proposed list of candidates for such a facilitation team;
- ▶ that, given the importance of the issues at stake in the reconfirmation process and the lack of proportionality on the kaihautu, a simple majority vote of kaihautu members would be insufficient. Instead, the taumata suggested 'a 75% majority of Kaihautu Hapu should be required for each of the votes to be passed';
- ▶ that a consultation paper should be produced and circulated to all kaihautu members, and such a paper should include the views of all interested parties, including the executive council, the Crown, and the Ngati Whakaue cluster;
- ▶ the suggestion that more kaihautu seats were required for Ngati Rangitihī;
- ▶ that a review of hapu representation on the kaihautu should take place, to take account of the resignation of some kaihautu members, and to accommodate separate representation for groups which were currently jointly represented;
- ▶ that hapu which were currently coupled should meet separately to determine support from within each hapu for uncoupling, before the issue be taken to the kaihautu for determination;

7. Document c2, exhibit 1

8. Ibid, p7

9. Ibid, p2

10. Document c2, exhibit 6

- ▶ a model for proportionate representation of hapu on the kaihautu, with a total of 42 seats;
- ▶ provision for dispute resolution and arbitration between groups if required;
- ▶ the suggestion that debate occur within the kaihautu on a number of issues including rules of accountability, and whether to stay in the Tribunal process; and
- ▶ the need for consideration of whether groups should have a right of withdrawal from the kaihautu.

1.3.4 Second OTS report to Ministers

On 30 August, OTS officials again reported to MICOTOWN and MOMA.¹¹ This report outlined a reconfirmation proposal that had been jointly developed by OTS and the executive council, in consultation with TPK, for the approval of the Ministers.¹² The proposed reconfirmation process consisted of three stages:

- (a) The first stage of the proposed strategy was the reassessment by the executive council of its own composition. The report noted that this reassessment had in fact already taken place, at a meeting of the executive council of 25 August 2004.¹³ At this meeting, the executive council had resolved to make a number of changes to its composition, increasing the allocation of seats for Ngati Pikia and Ngati Rangiwewehi, and removing the seats which had until then been held for Ngati Makino, Waitaha and Tapuika. The revised structure was later adopted, and is set out in table 2. The provision of extra seats was intended to bring the proportionality of representation on the executive council more into line with the size of population of each iwi/hapu (based on statistics from Te Ohu Kaimoana).
- (b) Next, the executive council would consult with key groups in Te Arawa on the revised executive council structure and the proposed reconfirmation process. These groups would include the Te Arawa Maori Trust Board, Te Pukenga Kaumatua, Te Kotahitanga o Te Arawa Waka, and the Te Arawa taumata. Officials from OTS and TPK were to attend these consultation hui.
- (c) Finally, four regional reconfirmation hui were to be held, at which the reconfirmation strategy would be discussed and voted on by kaihautu members. The 'four-region approach' was favoured over a single hui, officials stated, in order that regional issues could be better addressed and to allow kaihautu members greater opportunity to be heard. Only kaihautu members would be allowed to vote on the proposed reconfirmation strategy. The reconfirmation hui would be facilitated by an independent chair and attended by a TPK observer. The executive council would meet to review its rules,

11. Document c2, exhibit 2

12. Document c5, p3

13. Ibid, p4

1.3.5

particularly those regarding accountability to the kaihautu and iwi/hapu, within four months of the reconfirmation hui.

The report made passing reference to the taumata's paper of 20 August, noting that the proposed strategy would 'demonstrate that measures have been taken to respond to the key concerns of the Te Arawa taumata, through both the revised executive council structure and the consultation process'.¹⁴

With regard to the Tribunal's recommendations in respect of Ngati Rangitihi, officials expressed the view that the reconfirmation hui of 17 June had in fact been sufficient to demonstrate Ngati Rangitihi's support for the executive council. Regarding Ngati Makino, Waitaha, and Tapuika, officials considered it appropriate that the executive council now cease to hold open seats for those iwi/hapu, thereby recognising their decisions to not mandate the executive council.

On 31 August, MICOTOWN wrote to the executive council, agreeing that its proposed reconfirmation strategy as outlined in the ORS report was a 'suitable way forward' for Te Arawa.¹⁵ The same day, MICOTOWN wrote to the taumata encouraging their participation in the reconfirmation process.¹⁶

1.3.5 Draft reconfirmation document

The executive council released a draft reconfirmation document on 3 September, and circulated it to groups within Te Arawa.¹⁷ Essentially, it reflected the three stage reconfirmation process outlined in the ORS report to Ministers of 30 August. With regard to the second stage of the reconfirmation strategy, the consultation stage, the document notified parties that two consultation hui would be held, at which the executive council would hear feedback from the trust board, Te Pukenga, Te Kotahitanga, and the taumata. The draft reconfirmation document stated that 10 days' notice of the consultation hui would be given, although we note that it is dated 3 September 2004, just six days before the first consultation hui was held.

Lastly, the draft strategy proposed that the four regional reconfirmation hui be held over the weekend of 2 and 3 October. A finalised reconfirmation document, setting out the reconfirmation process agreed to in the light of the consultation hui, was to be circulated to kaihautu members by 17 September 2004.

1.3.6 Consultation hui

The two consultation hui were duly held on 9 and 14 September at the Four Canoes Hotel in Rotorua. The first was attended by 34 people, including representatives of a number of

14. Document c2, exhibit 2, p7

15. Document c2, exhibit 3

16. Document c2, exhibit 4

17. Document c2, exhibit 7

iwi/hapu, the Te Arawa Maori Trust Board, and the kotahitanga. While no taumata members were able to attend this hui, their counsel, Ms Hall and Mr Taylor, did attend. The second consultation hui was held at the same venue on 14 September and was attended by 44 people from a number of iwi/hapu, including taumata members Pihopa Kingi, Pirihira Fenwick, and Malcolm Short. Two OTS officials and an observer from TPK were present at both hui. The minute-taker was Nero Panapa, operations manager of the kaihautu.

Both hui began with a presentation by Rawiri Te Whare on the executive council's reconfirmation strategy, as described in the draft reconfirmation document, followed by discussion and feedback. Discussion focused on issues of the representivity and proportionality of the executive council. Counsel for the taumata, Ms Hall, expressed her views that the executive council was not adhering to Tribunal suggestions, that there should be hui at which the executive council and the taumata could both put forward their reconfirmation strategy proposals, and that the four-region approach did not reflect the structure of Te Arawa. Ms Hall's arguments were put to OTS officials in writing on 15 September, along with 17 signed submissions from individuals opposing the executive council's reconfirmation strategy.¹⁸

Following the consultation hui, the chair of the Te Arawa Maori Trust Board wrote to the Crown and executive council expressing support for the executive council's reconfirmation strategy.¹⁹

1.3.7 Ngati Whakaue cluster withdraw

At the same time that the consultation hui were held, there was an important development with respect to Ngati Whakaue, one of the two largest Te Arawa iwi. According to the statistics employed by the executive council, Ngati Whakaue constitute around 27 per cent of the total population of Te Arawa.²⁰ We understand that there are six koromatua (principal) hapu of Ngati Whakaue: Ngati Pukaki, Ngati Te Roro o Te Rangi, Ngati Tunohopu, Ngati Te Hurunga Te Rangi, Ngati Taeotu, and Ngati Te Rangiwhaho.²¹

Te Kotahitanga o Ngati Whakaue (the 'Ngati Whakaue cluster') represent 15 registered claims made on behalf of Ngati Whakaue constituent hapu. We understand that these hapu are: Ngati Te Hurunga Te Rangi, Ngati Taeotu, Ngati Te Kahu, Ngati Tunohopu, Ngati Pukaki, Ngati Karenga, Ngati Waoku, Ngati Rautao, Ngati Hika, Ngati Ririu, and Ngati Te Rangiwhaho. Whether or not the cluster represents Ngati Te Roro o Te Rangi, a koromatua hapu of Ngati Whakaue who do not have a specific registered claim, is a matter of contention between the cluster and the Crown.

On 12 September, Ngati Whakaue held a hui-a-hapu and resolved to withdraw from the kaihautu and the executive council mandate. Two days later, the chairman of the Ngati

18. Document c2, exhibit 13

19. Document c2, exhibit 11

20. Document c2, exhibit 15, p9

21. Documents c16–c18, c22

1.3.8

Whakaue cluster wrote to OTS to advise the Crown of this decision.²² At a further hui on 21 November, Ngati Whakaue endorsed the resolution to withdraw. On 26 November, MICOTOWN wrote to the chairman of the Ngati Whakaue cluster, formally acknowledging the decision of 11 hapu of Ngati Whakaue to withdraw.²³ More detail on the withdrawal of the Ngati Whakaue cluster is given in section 1.3.13.

1.3.8 Reconfirmation document

Following the two consultation hui on 9 and 14 September 2004, and in advance of the four regional reconfirmation hui, the executive council circulated its finalised reconfirmation document to kaihautu members on 22 September, approximately 10 days before the first hui.²⁴ For the most part, the strategy remained essentially the same as in the draft reconfirmation document of 3 September. There was, however, one major change. After the four regional reconfirmation hui, a hui-a-kaihautu would be held, at which the executive council would report back to kaihautu members on the regional hui. Thus, to the original three-stage process was added a fourth stage.

The reconfirmation document set out the rules and procedure for voting at the regional reconfirmation hui. After the reconfirmation document had been discussed and debated by the hui, a single vote of kaihautu members would be held to receive and adopt the reconfirmation document. No proxy votes would be allowed. By voting to receive and adopt the reconfirmation document, the kaihautu members would be agreeing to implement the five proposals contained in it:

- ▶ to adjust the composition of the kaihautu executive council;
- ▶ to adjust the proportionality of the kaihautu executive council;
- ▶ to undertake a review of the executive council's deed of trust in terms of its accountability back to kaihautu members;
- ▶ that no further mandating hui be held for Ngati Rangitihi; and
- ▶ that no seats be formally retained for Ngati Makino, Waitaha, and Tapuika.

The proposed new composition of executive council seats (identical to that described in the in 30 August OTS report to Ministers and the 22 September draft reconfirmation document) was shown in a table in the reconfirmation document. We reproduce it here as table 2.

1.3.9 Regional reconfirmation hui

The regional reconfirmation hui were held at four Rotorua marae over two days in early October. On 2 October, the east region hui was held at Ruamata Marae in the morning, and the

22. Document c2, exhibit 38

23. Document c2, exhibit 45

24. Document c2, exhibit 15

Iwi/hapu claimant group	Percentage of Te Arawa population	Original number of seats	Proposed number of seats
Whakaue	27	5 in total:	5 in total:
Ngati Whakaue iwi		2	2
Ngati Te Roro o Te Rangī hapu		1	1
Ngati Tura/Ngati Te Ngakau hapu		1	1
Ngararanui		1	1
Pikiao	27	2 in total:	5 in total:
Ngati Pikiao iwi		1	4
Ngati Tarawhai/Ngati Rongomai		1	1
Tuhourangi	9	3 in total:	3 in total:
Tuhourangi iwi		2	2
Ngati Wahiao hapu		1	1
Ngati Rangiwewehi	9	1	2
Ngati Tahu–Ngati Whaoa iwi	7	1	1
Ngati Rangitihī iwi	6	1	1
Ngati Uenukukopako iwi	1	1	1
Ngati Rangiteaorere iwi	1	1	1
Ngati Tuteniu		1	1
Ngati Tuara/Ngati Kea	1	1	1
Total	88*	17	21

* The remaining 12 per cent of the Te Arawa population are made up of Ngati Makino, Waitaha, and Tapuika, for which executive council seats were no longer being allocated

Table 2: Composition of executive council seats

coast region hui was held at Uenuku Punawhakareia Marae in the afternoon. On 3 October, the west region hui was held at Waiteti Marae in the morning, and the south region hui was held at Te Pakira Marae in the afternoon. Fifty-nine kaihautu members were among the 150 to 180 attendees at the four hui. According to the TPK report, all kaihautu members were sent notice of the hui and an agenda on 17 September 2004.²⁵

Each hui followed the same agenda. First, Rawiri Te Whare presented the executive council's reconfirmation document. This was followed by an 'open floor' discussion, and then a vote by kaihautu members on whether to receive and adopt the reconfirmation document.

Following the Tribunal's suggestions, all hui were facilitated by an independent chair and minute taker, and were attended by an observer from TPK. Draft copies of the minutes were circulated to Donna Hall, Richard Charters of Ngati Rangiwewehi, and Nero Panapa of the kaihautu for clarification and correction. The minutes were then circulated to all parties.

At the first hui, Ms Hall sought to have a position paper she had prepared on behalf the taumata formally received. A motion to that end failed, but Ms Hall was able to refer to her paper as she responded to the executive council's proposal during the open floor discussion. Similarly, Ms Hall also spoke to her paper at the three remaining regional hui. Her position

25. Document c2, exhibit 18, p2

1.3.9

Region	Te Arawa iwi/hapu	Total number of Te Arawa kaihautu members	Number of Te Arawa kaihautu members who voted		
			For	Against	Abstentions
East Region	Ngati Whakaue	3			Did not participate in the voting
	Ngati Te Roro o Te Rangi	7	2	1	
	Ngati Uenukukopako	6	3	0	
	Ngati Rangiteaorere	6	0	4	
	Ngati Tuteniu	11	5	2	
	Total for East Region	10	7	7	
Coast Region	Ngati Pikiiao	10	5	2	
	Ngati Tarawhai/Ngati Rongomai	6	3	0	2
	Total for Coast Region	8	2	2	
West Region	Ngati Whakaue	8			Did not participate in the voting
	Ngati Tuara/Ngati Kea	4	4	0	
	Ngati Tura/Ngati Te Ngakau	5	3	0	
	Ngararanui	2	2	0	
	Ngati Rangiwewehi	11	0	7	
	Total for West Region	9	7	7	
South Region	Tuhourangi/Ngati Wahiao	6	1	3	1
	Ngati Rangitahi	2	2	0	
	Ngati Tahu/Ngati Whaoa	8	6	0	
	Total for South Region	9	3	1	
Overall total		95*	36	19	3

* We note that the total of 95 kaihautu members listed here differs by three from the total of 98 kaihautu members listed in the executive council deed of mandate of December 2003. Eight Ngati Te Roro o Te Rangi members were listed in the deed of mandate, whereas seven are listed here. Similarly, five members were listed in the deed of mandate for Ngati Tuara/Ngati Kea, here there are four, and seven members were listed for Tuhourangi/Ngati Wahiao, here there are six.

Table 3: Regional reconfirmation hui voting results by iwi/hapu

paper asserted that the executive council had failed to put alternate views to the kaihautu members during the reconfirmation process.²⁶ The key points raised in her paper were for the most part based on the issues raised in the taumata's paper of 20 August, referred to in section 1.3.3. They included:

- ▶ The need for the Te Arawa governance entity to be representative, proportional, and of a manageable size. To this end, Ms Hall attached the taumata's 20 August proposal for a 42-seat governance body.
- ▶ The issue of uncoupling hapu, especially Ngati Whaoa and Ngati Tahu, as suggested by the Tribunal in the *Te Arawa Mandate Report* of August 2004.
- ▶ The assertion that another mandating hui was required for Ngati Rangitihi, again, as suggested by the Tribunal in our August 2004 report.
- ▶ The proposal that a 75 per cent majority of kaihautu members should be required on key matters such as the signing of the terms of negotiation and the appointment of negotiators.
- ▶ The argument that the four-region approach was a 'divide and conquer strategy', splitting the interests of some large hapu. Instead, a full hui of all kaihautu members was required.
- ▶ The issue of whether Te Arawa should withdraw from the Tribunal process urgently needed to be discussed and addressed.

Of the 58 kaihautu members who voted on the resolution to adopt the executive council's reconfirmation strategy, 36 voted in favour, 19 against, and three abstained. The fifty-ninth kaihautu member attending the hui did not vote.²⁷

The 11 kaihautu members for Ngati Whakaue did not participate in the voting at the regional reconfirmation hui. They did, however, briefly attend the east and west regional hui in order to table a letter confirming their withdrawal from the kaihautu. At the time of the regional reconfirmation hui, Ngati Whakaue had resolved to withdraw from the kaihautu and all 11 Ngati Whakaue kaihautu members tendered their resignation from the kaihautu shortly after the hui, on 6 October. We note that at the time of the regional reconfirmation hui the withdrawal of Ngati Whakaue from the kaihautu had not yet been formally recognised by MICOTOWN, and in fact was not recognised until 26 November. Nevertheless, we consider that Ngati Whakaue made their intention to withdraw quite clear to the kaihautu members at the regional reconfirmation hui. At the south regional hui, for example, Rawiri Te Whare advised the audience that Ngati Whakaue members had attended two earlier hui to announce their withdrawal from the kaihautu.

Table 2 of the OTS report to Ministers of 21 October 2004 gave the voting results by iwi/hapu. We reproduce it on the facing page as table 3.

The TPK observer reported to OTS on the four hui on 14 October, detailing, among other

26. Document c2, exhibit 16, p1

27. Document c2, exhibit 21, p6

1.3.10

things, hui notification details, prior circulation of the reconfirmation document, the use of an independent chair and minute taker, issues raised in the general discussion following the executive council's presentation, and an analysis of the voting results.²⁸ The TPK report concluded that the hui were conducted in an 'open, transparent and fair manner', and that the results of the hui demonstrated 'significant support amongst the people of Te Arawa for the kaihautu executive council's proposal'.²⁹

1.3.10 Hui-a-kaihautu

The hui-a-kaihautu was held on 20 October at Kearoa Marae in Rotorua. At the hui, the executive council presented a report to kaihautu members on the results of the four regional reconfirmation hui.³⁰ All kaihautu members were notified of the date and venue of the hui-a-kaihautu on 5 October. Once again, there was an independent chair and minute-taker, and an independent TPK observer who later reported to OTS officials.³¹ Between 40 and 50 kaihautu members attended the hui-a-kaihautu.

The executive council report presented at the hui outlined the reconfirmation process to date and the outcome of voting at the four regional hui. It concluded that the resolution at the regional hui to adopt the reconfirmation document had been passed by a 'convincing majority', and that 'the composition of the kaihautu executive council and its proportionality of representation have been reconfirmed'.³² In the report, the executive council expressed its commitment to addressing specific iwi/hapu issues and generic procedural issues which had arisen out of discussion at the regional hui.

The TPK observer present at the hui-a-kaihautu recorded that several issues regarding the support of various iwi/hapu for the executive council were also discussed:

- ▶ Te Ururoa Flavell advised the hui that eight of the 11 Ngati Rangiwewehi kaihautu members had resolved to withdraw from the kaihautu, and that Ngati Rangiwewehi would now pursue their claims through the Waitangi Tribunal (detailed in section 1.3.18);
- ▶ there was some discussion over the ramifications for the kaihautu of Ngati Whakaue's withdrawal, and it was concluded that there were no ramifications as the Crown was still prepared to negotiate with the executive council; and
- ▶ with regard to the position of Ngati Tamakari (a Ngati Pikiiao hapu which opposed Ngati Pikiiao's support for the kaihautu as described in section 5.3.5), it was considered that this was an issue for Ngati Pikiiao to resolve internally. A Ngati Pikiiao kaihautu member at the hui-a-kaihautu advised that this matter had been addressed.³³

28. Document c2, exhibit 18

29. Ibid, pp10-11

30. Document c2, exhibit 19

31. Document c2, exhibit 20

32. Document c2, exhibit 19, p9

33. Document c2, exhibit 20

1.3.11 Third OTS report to Ministers

On 21 October, OTS officials reported to MICOTOWN and MOMA on the progress of reconfirmation, outlining the outcomes of the four regional hui and the hui-a-kaihautu.³⁴ They noted continuing opposition to the executive council's reconfirmation strategy from the taumata, the Ngati Whakaue cluster and a number of other iwi/hapu, including Ngati Rangiwewehi, Ngati Rangiteaorere, Ngati Wahiao, and the Wai 996 claimants of Ngati Rangitihī. The report also noted that a number of hapu of Ngati Pīkiao opposed the executive council, namely Ngati Tamakari, Ngati Te Takinga, Ngati Rongomai, and Ngati Hinekura. We describe the positions of each of these groups in chapter 3. Despite the opposition of these groups, the report concluded that the reconfirmation had demonstrated that there was 'broad support' among Te Arawa for the executive council's mandate to negotiate.³⁵

After considering the OTS report, MICOTOWN and MOMA advised the executive council and the taumata in letters of 22 October that they considered that the reconfirmation had been fair and robust, and that the executive council had the 'broad support of the people of Te Arawa'.³⁶

1.3.12 Amendment of executive council deed of trust

The executive council held a special meeting on 27 October to formally amend its deed of trust, making provision for the adjustments to its composition. Three seats were added for Ngati Pīkiao, and one for Ngati Rangiwewehi.³⁷

1.3.13 Ngati Wahiao withdraw

On 29 October, Ms Hall advised OTS officials that kaihautu members for Ngati Wahiao and Ngati Rangiteaorere had resigned from the kaihautu, signalling the withdrawal of their iwi/hapu from the executive council mandate.³⁸ Subsequently, on 19 November, Ngati Wahiao held a hui at which a majority voted to withdraw from the kaihautu. Their decision was formally recognised by MICOTOWN in a letter of 26 November.³⁹

1.3.14 Fourth OTS report to Ministers

On 23 November, OTS officials reported to MICOTOWN and MOMA, updating them on progress with the executive council mandate.⁴⁰ This report noted the recent withdrawal of Ngati

34. Document C2, exhibit 21

35. Ibid, pp 8–12

36. Document C2, exhibits 22, 23

37. Document C5, exhibit 47

38. Document C2, exhibit 49

39. Document C2, exhibit 51

40. Document C2, exhibit 35

Whakaue and Ngati Wahiao from the kaihautu, anticipated the imminent withdrawal of Ngati Rangiwewehi, and noted the division among Ngati Rangiteaorere. It estimated that the executive council mandate currently represented just over half the total population of Te Arawa. After evaluating both the strategic policy implications and practical viability of continuing to negotiate with the executive council, the report recommended that the Crown proceed to settlement negotiations with the executive council. We discuss this report further below, where we examine officials' reasoning in making this recommendation.

1.3.15 Terms of negotiation

Three days later, on 26 November, terms of negotiation between the executive council and the Crown were signed.⁴¹ The terms of negotiation are not legally binding and do not create a legal relationship, but rather set out the scope, objectives and general procedures for formal discussions between the Crown and executive council.

The key section of the terms of negotiation, for the purposes of the current inquiry, was the definition of Te Arawa. Clause 6 of the terms of negotiation listed the following iwi/hapu as being included under the executive council mandate. The structure of the list of iwi/hapu was quite different to that given in the executive council deed of mandate of December 2003 (described in section 1.2). Many more individual hapu were listed, Ngati Tarawhai and Ngati Rongomai were listed separately where they had been coupled in the December 2003 list, and most significantly, two 'levels' of iwi/hapu were given:

- ▶ *Ngati Tuara/Ngati Kea*: Ngati Ngata.
- ▶ *Tuhourangi*: Ngati Hinemihi, Ngati Tumatawera, Ngati Taoi, Ngati Tuohonoa, Ngati Uruhina, Ngati Tionga, Ngati Te Apiti.
- ▶ *Ngati Whakaue*: Ngati Te Roro o Te Rangi, Ngati Ngararanui, Ngati Tuteaiti, Ngati Tura, Ngati Te Ngakau.
- ▶ *Ngati Rangiwewehi*: Ngati Kereru, Ngati Te o Kotahi (contingent on the outcome of the 12 December 2004 hui-a-iwi to reconsider support for the executive council).
- ▶ *Ngati Uenukukopako*: Ngati Te Kanawa, Ngati Hauora.
- ▶ *Ngati Rangiteaorere*: Ngati Tuteniu.
- ▶ *Ngati Tahu/Ngati Whaoa*: Ngati Tahu, Ngati Whaoa, Ngati Pareauru, Ngati Rahurahu, Ngati Mataarae, Ngati Maru, Ngati Te Rama.
- ▶ *Ngati Rangitahi*: Ngati Mahi, Ngati Tionga.
- ▶ *Ngati Pikia*: Ngati Te Takinga, Ngati Paruahanui, Ngati Rangiuuora, Ngati Tamateatutahi, Ngati Kawiti, Ngati Whakahemo, Ngati Wahatuoro, Ngati Hinekura.
- ▶ *Ngati Tarawhai*: Ngati Hinehua.
- ▶ *Ngati Rongomai*: Ngati Rakeiao.

41. Document c2, exhibit 46

Clause 7 specifically excluded the following iwi/hapu:

- ▶ Ngati Makino, Waitaha, and Tapuika.
- ▶ *Ngati Whakaue*: Ngati Te Hurunga Te Rangi, Ngati Taeotu, Ngati Te Kahu, Ngati Tunohopu, Ngati Pukaki, Ngati Karenga, Ngati Waoku, Ngati Rautao, Ngati Hika, Ngati Ririu, Ngati Te Rangiwaho.
- ▶ Ngati Wahiao.

Clause 10(c) listed every registered claim to be included in the negotiations. It gave a comprehensive list of all Te Arawa claims, even those which had been registered by groups outside the executive council mandate. However, clause 10(c) specified that the claims listed would only be negotiated ‘insofar as they relate to Te Arawa (as defined in paragraph 6 above)’.⁴² In other words, the comprehensive list of claims in clause 10(c) was qualified by the definition of Te Arawa in clauses 6 and 7.

Briefly, the rest of the terms of negotiation included, inter alia:

- ▶ a definition of the Crown for the purposes of the negotiations;
- ▶ a background of events leading to the mandate to negotiate;
- ▶ guidelines for reporting by the executive council to OTS on mandate maintenance matters;
- ▶ proposed subject-matter for negotiations;
- ▶ definitions of negotiation milestones;
- ▶ an outline of the executive council’s strategy, ‘Whakakotahitanga’, by which it proposed to ensure that the diversity of views and interests of Te Arawa iwi/hapu would be represented in negotiations;
- ▶ guidelines for communication between the executive council and the Crown;
- ▶ guidelines for managing overlapping claims in the negotiation process;
- ▶ a recognition that the executive council did not have a mandate to act as a governance structure to receive settlement assets; and
- ▶ a waiver of other avenues of redress, specifically the Tribunal’s CNI inquiry.

1.3.16 Ngati Te Roro o Te Rangi

Ngati Te Roro o Te Rangi is one of the six core ‘koromatua’ hapu of Ngati Whakaue. Following the signing of the terms of negotiation, the chairman of the Ngati Whakaue cluster wrote to MICOTOWN expressing ‘great regret and concern’ at the inclusion of Ngati Te Roro o Te Rangi and certain Ngati Whakaue registered claims in the terms of negotiation.⁴³ On 21 December, MICOTOWN replied, noting that Ngati Te Roro o Te Rangi had not voted on the resolution of the 12 September hui at which Ngati Whakaue resolved to withdraw from the kaihautu.⁴⁴

42. Ibid, p 4

43. Document C2, exhibit 47

44. Document C2, exhibit 48

1.3.17

Further, MICOTOWN understood that Ngati Te Roro o Te Rangi continued to support and actively participate in the executive council, and accordingly, the Crown continued to recognise their mandate for the executive council.

1.3.17 Ngati Rangiteaorere

On 29 October, Ms Hall had advised OTS officials of the resignation of kaihautu members for Ngati Wahiao and Ngati Rangiteaorere, signalling the withdrawal of both groups from the executive council mandate.⁴⁵ Subsequently, the withdrawal of Ngati Wahiao was formally recognised by MICOTOWN, as we described in section 1.3.13. At the 5 December annual general meeting of the Mataikotare Trust (Mataikotare is a marae of Ngati Rangiteaorere), a vote was taken on Ngati Rangiteaorere's support for the executive council mandate.

OTS officials considered that notification for the hui of 5 December at which a vote was taken on withdrawal from the kaihautu 'did not meet the standards for mandating purposes'. Nevertheless, officials considered that the outcome of the vote at the hui was indicative of 'ongoing core support' within Ngati Rangiteaorere for the executive council mandate, and that there had been no valid resolution to withdraw.⁴⁶ They advised the Ministers that they would continue to monitor the situation.⁴⁷

1.3.18 Ngati Rangiwewehi withdraw

On 19 October, the chairman of Te Maru o Ngati Rangiwewehi wrote to OTS advising the Crown of the 10 October decision of the executive committee of Te Maru o Ngati Rangiwewehi to withdraw from the kaihautu.⁴⁸ Officials replied to the letter, seeking clarification on the process by which the decision was reached. In response, Ngati Rangiwewehi held a well-advertised hui on 12 December 2004 at which attendees voted unanimously in favour of withdrawing from the kaihautu. Accordingly, on 21 December 2004 MICOTOWN formally recognised Ngati Rangiwewehi's withdrawal.⁴⁹

While Ngati Rangiwewehi were provisionally included in the terms of negotiations of 26 November 2004 (described in section 1.3.15), OTS manager Heather Baggott advised us that they will be removed from the terms of negotiation in due course.⁵⁰

45. Document c2, exhibit 49

46. According to OTS figures, 60 attendees voted against the motion that Ngati Rangiteaorere withdraw from the kaihautu and 53 voted in favour.

47. Document c2, exhibit 37, p3

48. Document c2, exhibit 53

49. Document c2, exhibit 59

50. Document c2, p19

1.3.19 Fifth OTS report to Ministers

On 20 December, a further report to Ministers from OTS officials provided an update on mandate issues.⁵¹ It noted the withdrawal of Ngati Rangiwewehi, unanimously confirmed at a well-advertised hui of 12 December. As we described in the previous section, officials considered that the Ngati Rangiteaorere hui of 5 December did not meet appropriate standards for mandating purposes, and that there was ongoing support for the kaihautu.

The report also noted an ongoing debate within Ngati Tuteniu over support for the executive council mandate, and the desire of a number of individual Te Arawa registered claimants to pursue claims through the Waitangi Tribunal rather than support the executive council mandate.

1.4 SUMMARY

The key points made in this chapter are as follows:

- ▶ In our August 2004 *Te Arawa Mandate Report*, we found that there had been serious flaws in the process by which the Crown recognised the mandate of the executive council to negotiate claims on behalf of all Te Arawa. However, we did not find that these flaws were so fundamental that the Crown was in breach of the principles of the Treaty of Waitangi.
- ▶ We suggested in our report that the executive council call a hui of all kaihautu members to reconfirm its mandate. In respect of this reconfirmation hui, we made a number of suggestions relating to notification, conduct, and other procedural details. We also suggested that another mandating hui be called for Ngati Rangitahi, and that the Crown negotiate contemporaneously with Ngati Makino and afford priority status to negotiations with Waitaha. We suggested that, if Ngati Makino agree, Waitaha and Tapuika should be invited to join their negotiations.
- ▶ On 3 September 2004, the executive council circulated to parties a draft reconfirmation document, which described the strategy by which they proposed to reconfirm their mandate. This document had been developed jointly with Crown officials from OTS and TPK.
- ▶ The draft reconfirmation document was discussed with other Te Arawa groups at two consultation hui held on 9 and 14 September.
- ▶ Following this consultation process, the executive council prepared a final reconfirmation document on 22 September. This document detailed proposed changes to the representation of iwi/hapu on the executive council (including the removal of seats being

51. Document c2, exhibit 37

1.4

held open for Ngati Makino, Waitaha, and Tapuika); proposed that a review of the rules governing the accountability of the executive council to the kaihautu take place; and proposed that no further mandating be held for Ngati Rangitihi.

- ▶ At four regional reconfirmation hui held on Rotorua Marae on 2 and 3 October, a majority of kaihautu members voted to adopt the executive council's reconfirmation document. From a total of 98 kaihautu members elected in September 2003, 58 voted at the reconfirmation hui: 36 voted in favour of the executive council's reconfirmation document, 19 against, and three abstained.
- ▶ A final hui-a-kaihautu was held on 20 October, at which the executive council reported back to kaihautu members on the outcome of the reconfirmation hui.
- ▶ The executive council amended its deed of trust on 27 October to reflect the changes to its composition which had been approved at the regional reconfirmation hui.
- ▶ On 26 November, the terms of negotiation between the executive council and the Crown were signed. The terms of negotiation included a list of all iwi/hapu of Te Arawa which the Crown considered were currently represented by the executive council.
- ▶ Between the release of our August 2004 report, and the January 2005 hearing at which the inquiry was reconvened, three Te Arawa iwi/hapu had their withdrawal from the executive council mandate formally recognised by MICOTOWN. The withdrawal of Ngati Wahiao and Ngati Whakaue was recognised on 26 November. The withdrawal of Ngati Rangiwewehi was recognised on 21 December 2004.
- ▶ Members of other iwi/hapu dispute their inclusion in the executive council mandate.
- ▶ In April 2004, the executive council was mandated to represent approximately 88 per cent of Te Arawa. As at January 2005, the Crown considered that the executive council was mandated to represent 'just over half' of Te Arawa.