

TE WAHANGA TUPUNGA O TE TIRITI
A TREATY DEVELOPMENT RIGHT

Previous page: Development in the twentieth century – Ohakuri Dam and powerhouse on the upper Waikato River, with pine forest beyond the hydro storage lake and farm land in the foreground. The full image is reproduced in black and white on page 1180.

In previous parts of this report, we focused on issues of autonomy and of land administration and alienation. Here, we turn our attention to considering the question of a Treaty development right and, if such a right exists, the kinds of Crown obligation that might attach to it. The question is central to many of the claims submitted to us, which concern the right of Maori of this region to be protected in their utilisation of their lands and resources in the new economic opportunities that arose as a result of colonisation.

In the Rotorua and Taupo districts of our inquiry region, relatively significant areas of Maori land had been retained by the early twentieth century. Much of the region was well-endowed with natural resources, which included indigenous forests, geothermal resources, waterways, and natural scenic attractions. These were identified as having significant economic development potential, even in the late nineteenth century. During the twentieth century, new developments, improved technology, and greater scientific understanding brought new opportunities to utilise resources and lands for economic development.

In spite of this apparently significant potential, claims before us raise issues about the extent to which Maori of this region were able to utilise their retained properties and taonga in these opportunities to develop and prosper, as the Treaty of Waitangi envisaged. Central North Island Maori needed to be able to participate and benefit from development opportunities in changing modern circumstances, and control and participate in managing and setting objectives for the development of their properties and resources. Participation in such opportunities was also necessary in order to develop as a people, according to their preferences and as part of exercising their rangatiratanga over themselves and their resources. Autonomy (the theme that underpins the rest of our report) is an

important aspect of development issues, both in retaining the necessary ability to participate in development opportunities at a decision-making and management level, and because development is itself necessary for people to maintain and exercise their autonomy.

We acknowledge that, in general, development extends to more than just economic development. The development of individuals and communities is generally agreed to also include cultural, social, educational, and political development. This is increasingly recognised in domestic and international thinking. Nevertheless, the economic aspects of development opportunities – and the right to participate in them – are a major focus of the claims submitted to us. Historically, it has been assumed that economic well-being is a major factor in maintaining a degree of independence and control over one's destiny, and that it provides the means for access to and control of development. In the mid-nineteenth century (although not exclusively at that time), it was considered a truism that economic wealth was a major contributor to other forms of well-being. Economic prosperity and independence provided the means, and much of the freedom, for other forms of cultural, political, and social well-being, including the ability to choose how they would be expressed. This remains an important factor in development issues today. We will explore the extent to which the Treaty, and the circumstances in which it was signed, reflect this point.

There are four chapters in this part of the report. In chapter 13, we consider Treaty standards generally in relation to a claimed Treaty right of development, the extent of such a right, what – if any – Crown duties might attach to this, and how these duties might be assessed. We follow this, in chapters 14, 15, and 16, with a consideration of the main development opportunities that arose in the region, and the claims submitted to us about the ability of Central

North Island Maori to participate in these opportunities. In chapter 14, we consider development opportunities in farming, before moving on to explore participation in tourism and indigenous forestry in chapter 15, and power generation and exotic forestry in chapter 16. We also consider these opportunities in terms of the changing economic and policy contexts of the twentieth century.

In this stage one inquiry, our intention has been to consider Treaty development issues in a generic context. Particular claims and cases have been used to illustrate trends and issues where they are relevant. Our focus has been on creating a framework that can be used to consider Treaty development issues in the region generally and to assist the assessment of Crown actions and policies. It has not been possible, given this approach, to specifically address all development opportunities and claims in the region. The claimants have accepted this approach at this

stage of our inquiry. We, in turn, accept that in some cases parties may wish to pursue more detailed inquiries, either in negotiations or as part of a later stage of this inquiry.

Many of the claims before us concern a number of overlapping issues that are also considered in other parts of this report. These include issues of land and resource loss and inadequate forms of land title, the loss of ownership or authority over non-land resources such as waterways and geothermal resources, and environmental impacts. Many of these issues have their origin in the large-scale power generation, farming, and forestry development initiatives that were undertaken in this region. All are closely linked with Maori participation in development opportunities. While we acknowledge that these factors are often closely interlinked, the focus of this part of the report is on issues of alleged Treaty development rights.