

PART I

INTRODUCTION

In the three chapters comprising this introduction, we set the scene for the Mohaka ki Ahuriri inquiry. In chapter 1, we identify the area covered by this inquiry and outline the various claims and claimant groups. In chapter 2, we review the principles of the Treaty of Waitangi that are relevant to the inquiry. In chapter 3, we introduce the land of Mohaka ki Ahuriri and the people who occupied it in the mid-nineteenth century.

CHAPTER 1

THE CLAIMS AND THE INQUIRY

1.1 INTRODUCTION

There are 20 claims within the area that we have identified as the Mohaka ki Ahuriri inquiry district (map 1). They comprise roughly three groups, with some overlap between them. In the north are the Ngati Pahauwera claims, Wai 119, Wai 731, and a cross-claim by Ngai Tane, Wai 436. The central area comprises the Mohaka–Waikare confiscation district and includes the umbrella raupatu claim Wai 299 and more than 10 other claims relating to specific blocks within this area. The southern area comprises the Wai 400 claim on behalf of Nga Hapu o Ahuriri concerning the Ahuriri purchase, and the Waiohiki claim, Wai 168, on the south-eastern boundary.

In this chapter, we outline previous Tribunal inquiries in Hawke’s Bay, the development of the Mohaka ki Ahuriri inquiry, the determination of the inquiry district boundary, the claims, and the claimant groups.

1.2 PREVIOUS TRIBUNAL INQUIRIES IN HAWKE’S BAY

In 1991, it was envisaged that the same Tribunal panel would inquire into all the Wairoa ki Wairarapa claims, which were grouped under Wai 201, the umbrella claim of WH Christie and others concerning all Ngati Kahungunu land. In May 1991, by direction of the Tribunal chairperson, William (Bill) Wilson was appointed as the presiding officer of the Tribunal to inquire into the 20 claims then grouped under Wai 201.¹

In November 1991, the Mohaka River aspect of the Ngati Pahauwera Wai 119 claim was granted urgency following an application of the claimants.² In 1992, the Tribunal – comprising Bill Wilson, Georgina Te Heuheu, Bishop Manuhia Bennett, Mary Boyd, and Dr Ngapare Hopa – heard that claim over three sittings, held variously in Wellington, Mohaka, and Napier, and it released its *Mohaka River Report* at the end of that year. Then, in 1993, urgency was also granted to hear the Wai 55 claim to Te Whanganui-a-Orotu, or the Napier inner

1. Paper 2.41

2. Paper 2.53

harbour, owing to possible land sales in the claim area. The claim was heard over the course of six hearings in Omahu, Napier, and Wellington in 1993 and 1994, by the same Tribunal panel.³ The Tribunal's *Te Whanganui-a-Orotu Report* was published in 1995. With the parties unable to reach a settlement, the Tribunal held a remedies hearing in Napier in 1996 and subsequently issued the *Te Whanganui-a-Orotu Report on Remedies* in 1998. In 2001, the Tribunal had been considering sitting a further time in response to the ongoing failure of the parties to negotiate a settlement and the claimants' request for a binding order for the compulsory return of former State-owned enterprise land. The sad passing of Bishop Manuhuia Bennett in December 2001, however, left the Tribunal temporarily inquorate until enabling legislation was passed allowing for the appointment of a replacement member.⁴

While the two previous Tribunal inquiries in Hawke's Bay were fully independent of our own inquiry, they are important antecedents for it. Those inquiries dealt with claims to bodies of water adjacent to the Crown's 1851 land purchases at Mohaka and Ahuriri. The Mohaka ki Ahuriri Tribunal inquiry has addressed grievances relating to the lands themselves. Both the earlier inquiries and our own have had to examine closely the terms and understandings of those transactions, albeit from different angles. To some extent, therefore, the two previous inquiries laid much of the groundwork for our own, and this is reflected in the way in which the evidence produced for them provided much of the material for the casebook for the Mohaka ki Ahuriri inquiry.

1.3 THE MOHAKA KI AHURIRI DISTRICT INQUIRY

By mid-1995, the Wai 299 claim concerning the Mohaka–Waikare confiscation, under which the return of the Esk Forest was sought, was ready to proceed to hearing. However, in July 1995 the Tribunal's chairperson indicated that there was a difficulty in the claim proceeding 'without also considering or hearing other claimants in the district'. It appeared, he said, 'that the total claims of a district should be heard, and relief considered, before any binding recommendation is made in respect of a forest'. Because of the location of the Esk Forest in seven severances not wholly confined to the Mohaka–Waikare block, the chairperson indicated his preference for the contemporaneous hearing of claims such as Wai 400 (the Ahuriri block claim) and Wai 119 (the Ngati Pahauwera lands claim) alongside Wai 299. He also directed that Wai 168, the Waiohiki claim, be included in the inquiry because it appeared to adjoin and overlap the Ahuriri block.⁵

3. With the exception that John Ingram replaced Ngapare Hopa.

4. See the Treaty of Waitangi Amendment Act 2003, s.4. John Clarke was appointed by the Tribunal's acting chairperson on 9 December 2003.

5. Paper 2.123, p.2

1.3.1 The 'casebook' method and regional inquiries

The issue of this last direction only slightly preceded the advent of the Tribunal's 'casebook' inquiry method, which was introduced in 1996 to establish a more efficient procedure for bringing claims onto the Tribunal's hearing programme. A key aspect of the casebook method was the regional grouping of claims for inquiry and this, as we have noted, had been anticipated for the Mohaka ki Ahuriri claims. The regional grouping was intended to ensure compliance with the rules of natural justice, as well as lead to greater efficiency and economy by grouping for concurrent inquiry all the claims that related to the Crown assets of a particular geographic district. The Mohaka ki Ahuriri inquiry was the first Tribunal inquiry held under the casebook method.

According to a practice note describing the method appended to the Tribunal's 1998 *Business Strategy*, the casebook itself was intended to contain 'all the research reports which are to be presented to the Tribunal during the course of an inquiry into a claim or a group of claims' (with the exception of the evidence that the Crown presented in response to that put forward by the claimants). By way of further explanation, the note stated :

The casebook method aims to avoid the situation which has sometimes occurred whereby the Tribunal had commenced its inquiry into claims when in fact they have only been partly ready for hearing and further research has been required. Where this has occurred, the hearing process has been interrupted and delayed until the further research has been completed. Such delays, which at times have been substantial, have increased the costs of hearings for all parties involved. The casebook method is aimed, therefore, at improving the efficiency of the claims process by ensuring that all claims are adequately researched in advance of the commencement of hearings.⁶

1.3.2 The lead-up to the first hearing

The membership of the Mohaka ki Ahuriri Tribunal was formally constituted in a direction from the chairperson issued on 23 July 1996.⁷ The members appointed were Judge Wilson Isaac (presiding), John Clarke, Roger Maaka, Professor Keith Sorrenson, Dame Professor Evelyn Stokes, and John Turei. At that time, 15 claims were included within the inquiry, nine of which had already been proposed for aggregation by the chairperson the previous year. In August and September 1996, Professor Sorrenson, a historian, assessed the provisional casebook for the inquiry. Some of the reports therein were regional overviews, some had been written for the previous Mohaka River and Te Whanganui-a-Orotu inquiries (as noted

6. Waitangi Tribunal Business Unit, *Waitangi Tribunal Business Strategy* (Wellington: Waitangi Tribunal Business Unit, 1998), p 54

7. Paper 2.158

above) and some had been prepared specifically for the Mohaka ki Ahuriri claims. Professor Sorrenson was asked to decide whether what had been compiled was 'sufficient and adequate' for hearings to commence. On 10 September 1996, he certified his belief that 'the reports address the principal issues, and are of sufficient quality to enable the Tribunal to proceed to hear the Mohaka ki Ahuriri claims. I make this statement in the knowledge that not all of the evidence to be presented to the Tribunal, has yet been completed.'⁸ On 12 September, the presiding officer directed that the first volumes of the casebook be duly distributed to the Tribunal members, the Crown Law Office, and counsel for the (by now) 18 claims in the inquiry.⁹

The Tribunal's ground for choosing to proceed with the inquiry at that stage was that a large amount of research had already been filed, including a substantial amount of material derived from previous Tribunal inquiries in Hawke's Bay. We knew that further evidence was required, but we were reluctant to postpone the hearing of those groups ready to proceed, and we expected that the additional research could be completed while the hearings progressed. In hindsight, it was a difficult task to assess the casebook at a time when new claims were still being filed and added to the inquiry, and new research issues were still being identified. Nor was there a requirement at the time for statements of claim to be fully particularised. It is probably fair to say that the nine-volume casebook approved in September 1996, which contained more than 40 research reports, ended up constituting not much more than half of the documentary record for the inquiry, particularly after the Napier Hospital claim (Wai 692) was added in 1998.¹⁰ We note, however, that the Tribunal's more recent refinements to the casebook method, generally known as the 'new approach' or the 'Gisborne model', have led to greater certainty as to the sufficiency of the research at the commencement of hearings.¹¹

On 23 September 1996, the first judicial conference for the inquiry was held in Napier. It was attended by Judge Isaac, Professor Sorrenson, Tribunal staff, Crown and claimant counsel, and a number of claimants. The first two hearing dates were set and the programme for the remainder of the inquiry was discussed; at the time, there seemed good reason to be confident that all the claimant evidence would be heard before the middle of 1997.

1.3.3 The hearings

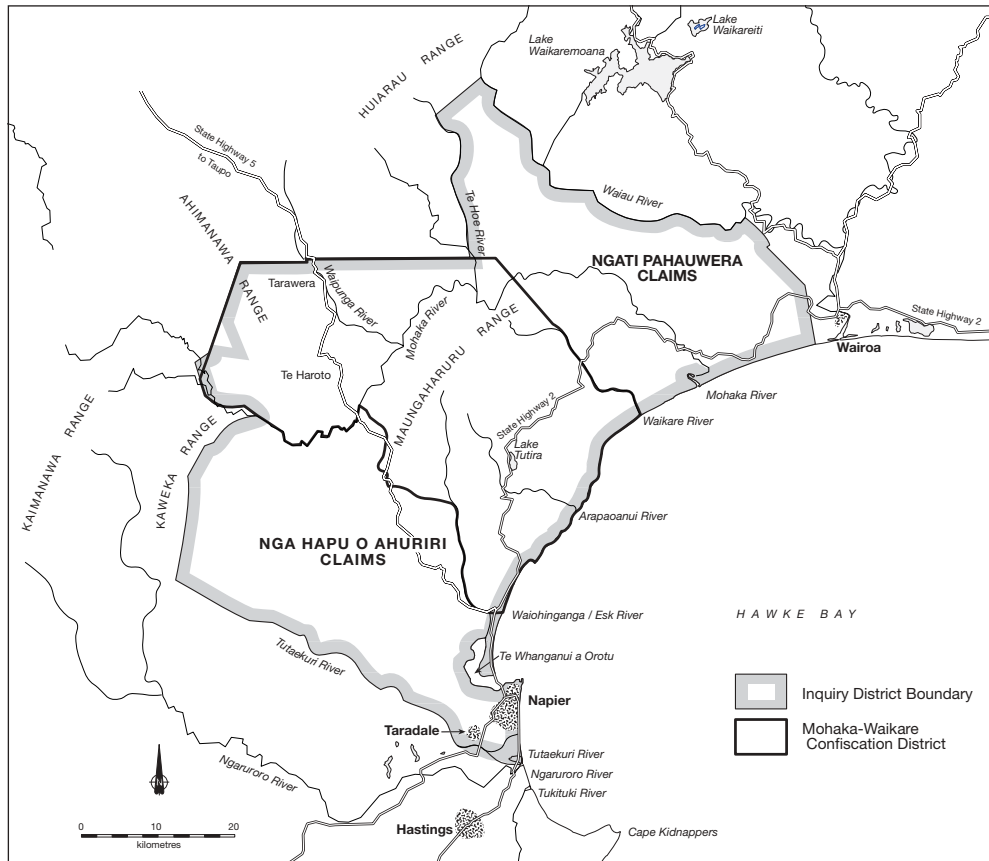
The inquiry commenced in mid-November 1996 at Tangoio Marae with the opening week of the hearing of the Wai 299 Mohaka-Waikare confiscation claim. The second week of evidence in support of Wai 299 was presented at Te Haroto Marae in late January 1997. The

8. Keith Sorrenson, 10 September 1996, Waitangi Tribunal file Wai 201/0, vol 10

9. Paper 2.164

10. The hospital claim probably accounted for half of the additional material placed on the record.

11. For example, statements of claim must be fully particularised before hearings commence, and a cut-off date for the inclusion of new claims also follows shortly on from the approval of the casebook.



Map 1: Mohaka ki Ahuriri claims inquiry area

Wai 119 Ngati Pahauwera lands claim was scheduled for April but then postponed till later in the year for budgetary reasons. However, owing to the unavailability of counsel, it did not take place until November 1997. The Wai 168 Waiohiki claim was heard in June 1997, and the Wai 400 Ahuriri claim in October (with a further two days in November to allow more time for the Crown to prepare its cross-examination). Thus, within a year, and not significantly behind schedule, the substantive case contained in the casebook had been heard, leaving the few remaining claimant groups and the Crown to complete the presentation of their evidence.

The hearing of claimant evidence was not completed until June 1999. There are several reasons for this, the most obvious of which is our decision to include the Napier Hospital services claim (Wai 692) in the regional inquiry in November 1998 after its registration earlier that year.¹² Other than that, however, we should stress that a further nine claims (including Wai 692) were included in the inquiry after July 1996. These were all filed after the issue of the first volumes of the casebook, and all required additional research.¹³ Most significantly,

12. Paper 2.303

13. Although this made a total of 24 claims, we report here on only 20, because three were withdrawn (Wai 430, Wai 488, and Wai 491) and one was reported on separately (Wai 692).

we decided in mid-1997 that additional and detailed historical evidence was required on matters raised in both the Tarawera–Tataraakina whanau statements of claim, which were filed between May and November 1996, and the hearing of the Wai 299 claim in January 1997.¹⁴ We also note that amendments to the statements of claim for Wai 168, 216, 299, and 638 were filed after those claims had been heard and that these raised new issues that in turn had to be researched and heard.

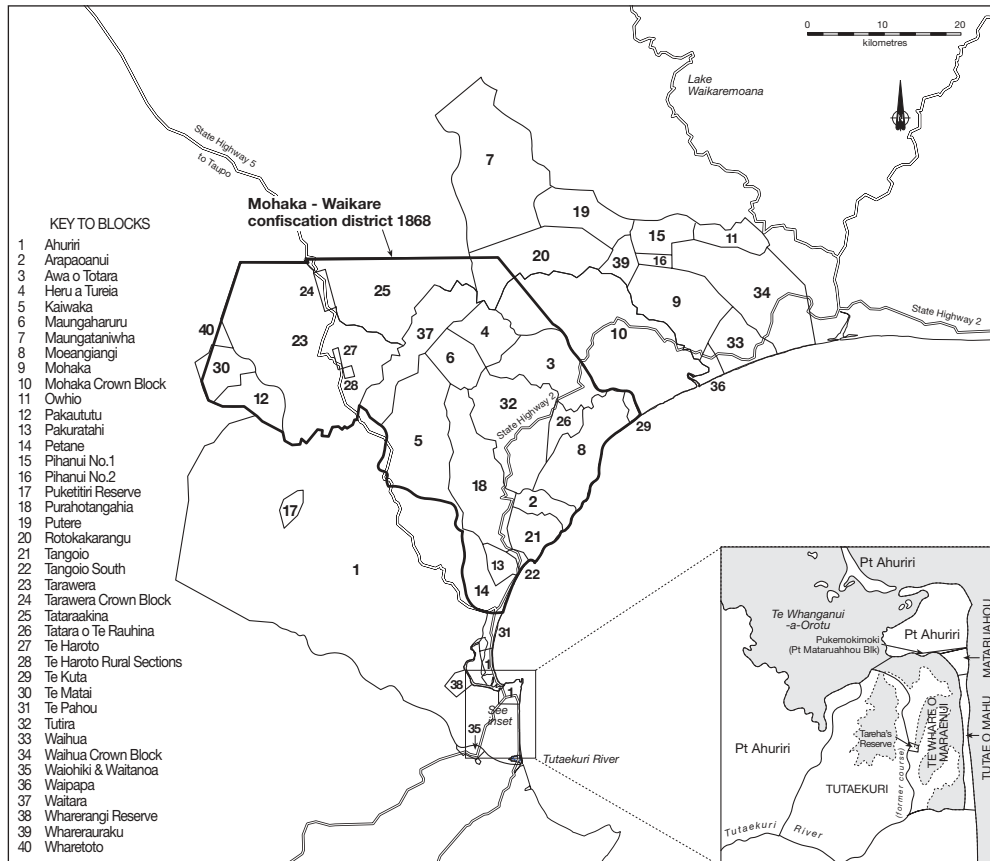
In greater detail, the progress of the hearings after 1997 was as follows. In April 1998, we returned to Te Haroto and heard further evidence over four days on the twentieth-century title disruption at Te Haroto, Tarawera, and Tataraakina. In July 1998, we heard evidence over two days at Waipahihi Marae in Taupo on the Te Matai and Pakaututu blocks. Then, in November 1998, we held a ‘wrap-up’ hearing of claimant evidence in Napier. The first half of this week dealt with the Wai 436 Ngai Tane claim and Ngati Pahauwera’s opposition to it, while the second half covered the evidence for Wai 731 (the Kupa whanau claim), Wai 318 (Mereana Amor’s claim), and Wai 732 (the Petane block claim). It also covered those aspects of the Wai 168, 216, and 299 claims that were not previously addressed during their hearing.

In May 1999, a one-day sitting was held in Napier, mainly to hear further evidence commissioned on the Mohaka–Waikare confiscation. Then, in June 1999, the claimants’ evidence in the hospital claim was also heard in Napier. A particular reason for delay here (since the hospital claim had been included in the inquiry the previous November) was that the Wai 692 claim researcher had had trouble completing her report owing to problems gaining access to documents and to officials for interviews. In any event, the June fixture marked the completion of the presentation of claimant evidence, some 2½ years after the hearings had begun. Then, over six days in July and August 1999, we heard the Crown’s evidence in response to all the claims in the inquiry. The Crown devoted almost half of this hearing to the hospital case. In November 1999, we heard closing submissions from the Crown and the claimants in Napier over a further six days, and then, finally, we heard claimant submissions in reply to the Crown’s closing submissions in Napier on 31 January and 1 February 2000.

1.4 THE INQUIRY BOUNDARY

The Mohaka ki Ahuriri district inquiry boundary was defined by the extent of the claims included in the inquiry district. Initially, having no active neighbouring inquiries, we were reluctant to set any definitive boundaries until we had heard all claimant evidence and the Crown’s response to it. In answer to a request from Crown counsel for a definition of the external boundary, the presiding officer issued a direction on 27 May 1999 (shortly before the close

14. See commission 3.29



Map 2: Mohaka ki Ahuriri claims – index map of blocks in inquiry area

of claimant evidence) stating that, at that time, it was ‘not appropriate to define with absolute certainty the claim boundaries of this inquiry district’.¹⁵ Now that the hearings have been completed, and the report finalised, we can be categorical about the lands covered in our report. They are those blocks depicted in map 2. What we have not covered, however, are the apparent interests in those lands of any claimant groups who did not appear before us (such as those of Wairoa and Waikaremoana hapu in the northern-most blocks). Those interests can be covered by future Tribunal inquiries. The same can be said of the lands outside our inquiry district that were claimed by groups we heard within it (such as the other lands to the south of the Ahuriri block claimed by Nga Hapu o Ahuriri, or the territory inland of Putere claimed by the Wai 436 claimants).

Another area of imprecision exists with the inquiry boundary to the south-east, beyond the limits of the Ahuriri block. There are several discrete areas specifically the subject of the Wai 168 claim within the entire Ngati Parau traditional territory, which extends to the south nearly as far as the Ngaruroro River. Since the Ngati Parau claimants had the option of raising

15. Paper 2.345, p2

any concerns within the wider area, we consider their claim have to been fully heard.¹⁶ But we do not believe that this view should preclude other hapu with interests in the wider Ngati Parau takiwa as far south as the Ngaruroro River from prosecuting any claims to them in any subsequent Tribunal inquiry dealing with the lands in the Heretaunga district.

1.5 THE CLAIMS AND THE CLAIMANTS

The claimants could be grouped roughly into three areas, with some overlap between them, within our inquiry district: Ngati Pahauwera in the north, the Mohaka–Waikare confiscation district claimants in the centre, and Nga Hapu o Ahuriri in the south.

1.5.1 The north: Ngati Pahauwera

First, to the north, was the comprehensive historical claim of Ngati Pahauwera, Wai 119, which covered all lands in the Ngati Pahauwera takiwa north and east of the Mohaka–Waikare confiscation district (namely two pre-1865 Crown purchase blocks and 10 post-1865 Native Land Court blocks). The Mohaka River aspect of this claim (as far inland as the Te Hoe junction) has already been reported on, in the *Mohaka River Report* of 1992. The Wai 731 Kupa whanau claim had been viewed as a case study within the broader Wai 119 claim. The Wai 436 claim of Ngai Tane was a cross-claim stemming from an internal mandate dispute within Ngati Pahauwera. As noted already, our inquiry did not include the area Ngai Tane claimed as their traditional rohe stretching to the north of the blocks claimed by Ngati Pahauwera. Another claim relating to Mohaka lands, Wai 430 (concerning, specifically, the effects of the consolidation scheme on an area within the Mohaka block known as the Rawhiti block), was incorporated into Wai 119 after the death of the Wai 430 claimant. Wai 451, a 1994 claim by Wi Huata concerning the Crown's failure to effect a settlement of the Mohaka River claim, did not form part of our inquiry. It was rejected for hearing by direction of the Tribunal's deputy chairperson in January 1995 for a number of reasons, including Mr Huata's non-inclusion in the Ngati Pahauwera representative ('section 30') committee, which had been legally mandated to pursue the river claim.¹⁷

1.5.2 The centre: Mohaka–Waikare

The central 'third' of our inquiry area was the Mohaka–Waikare confiscation district, which lay roughly between the Ahuriri block to the south, the sea in Hawke Bay to the south-east,

16. We note that the claim was further amended on 1 September 2003 to include a specific claim to Pania Reef off the coast of Napier. This amendment followed the release of Crown policy statements with respect to the ownership of the foreshore and seabed: Wai 168 R01, claim 1.1(g).

17. Paper 2.116, p 1

the Mohaka block to the north-east, and the 39th parallel or provincial boundary to the north.¹⁸ It can more or less be divided into two parts itself; namely, the blocks inland of the Maungaharuru Range that have largely remained in Maori ownership and those seaward of the range, in which comparatively little Maori-owned land remains.

A variety of claimant groups and kin groups converged in the confiscated district. An ‘umbrella’ claim concerning the raupatu exists in the form of Wai 299, the claim committee for which, the Maungaharuru Tangitu Society Incorporated, represents Ngai Tatara, Ngati Kurumokihi, Ngati Tu, Ngati Hineuru, and Ngati Pahauwera. These groups are closely related to each other, but Ngati Hineuru, in particular, strongly affiliate not only to Ngati Kahungunu but also to inland peoples such as Ngati Tuwharetoa and Tuhoe. What needs to be stressed is that Wai 299 is a pan-hapu, issue-based claim rather than a comprehensive tribal claim like Wai 119. As such, it is important to note that Ngati Pahauwera, for example, have interests within the confiscated district in addition to those described in the first of our ‘thirds’. Similarly, groups such as Ngati Tu have their own additional interests to the south of the confiscated lands in the Ahuriri block. The overlap between the Wai 299 claim and the claim of Ngati Pahauwera was a matter requiring careful management during the course of the inquiry. Once or twice, disputes arose over the extent to which Ngati Pahauwera had interests in the confiscated district, or whether the Wai 299 claim was really made out on their behalf, but such matters were always resolved satisfactorily. As an example, we note the joint memorandum of counsel and claimants in Wai 119 and 299 of 6 November 1998, which stressed the mandate of the Wai 299 committee to prosecute the claim and simultaneously acknowledged Ngati Pahauwera’s interests in the district.¹⁹

Perhaps more complicated was the relationship between Wai 299 and the proliferation of whanau claims in the confiscated district. These latter claims were Wai 191 (concerning Tarawera C9 and other lands), Wai 318 (Tarawera 1J and 10C4AC and Tatarakina 12), Wai 598 (Tatarakina 7 and 11), Wai 599 (Tarawera 7), Wai 600 (Tarawera 1F), Wai 601 (Tatarakina 2 and 5), Wai 602 (Tatarakina 6), Wai 608 (Tatarakina 8), Wai 627 (Tatarakina lands), Wai 638 (the entire Tatarakina block), and Wai 639 (the Tarawera township). We will refer to these claims for the sake of convenience as ‘Wai 638 et al’, partly because Wai 638 was an umbrella claim itself for Wai 598, Wai 601, Wai 608, and Wai 627. This tag could also apply to two other withdrawn claims: Wai 488 (Tatarakina c), which was withdrawn in December 1996, and Wai 640 (Tarawera 10B), which was withdrawn in mid-1998. Two other claims to mention are Wai 147 (Tarawera 5A) and Wai 491 (Tatarakina c), which were settled by agreement in 1995. The filing of so many of these claims in 1996 (those numbered Wai 598 to Wai 640) was perhaps a reaction to the preoccupation in the initial research with the raupatu and other events of the nineteenth century. This was somewhat at the expense of detailed focus

18. While the spelling of the name of the province has been standardised as Hawke’s Bay, the bay itself is correctly known as Hawke Bay.

19. Paper 2.297

on the fate of lands retained by Maori into the twentieth century, particularly the Tarawera and Tatarakina blocks, and the several disruptions to title in those blocks. Tensions arose between Wai 299 and Wai 638 et al in 1998, when the latter seemed to stray into the territory of the 'bigger picture' of the events at Omarunui and the confiscation. In reality, however, the story of the twentieth-century title disruption had its roots in the earlier events, and the provision of this overall context was helpful to us. Moreover, it is wrong to assume that the Wai 299 statement of claim or the Wai 299 historical evidence was silent on the events of the twentieth century. In any event, both Wai 299 and the Wai 638 et al group agreed that settlement should be at the hapu rather than whanau level.²⁰ The evidence for Wai 638 et al made an important contribution in showing the scope of the grievances to which the Crown was then required to respond.

Several other blocks were also the subject of separate claims. Wai 216 was a claim concerning the Te Matai and Pakaututu blocks made on behalf of Ngati Hineuru, Ngati Kahutapere, and Ngati Tutemohuta. These lands were included in the raupatu but were not confiscated, and were allowed to proceed for title investigation through the Native Land Court. Wai 732 concerned the Petane block, and one aspect of Wai 299 concerned the Petane block and the adjacent Te Pahou block. Both of these blocks passed through the Native Land Court just prior to the raupatu, but only Petane appears to have been included in the raupatu boundaries. The claims on the two blocks concerned alienations within them arising from the awarding of title to owners during the '10 owner' period from 1865 to 1873.

1.5.3 The south: Ahuriri

The southern 'third' of the inquiry district comprised the Ahuriri block, which was purchased by the Crown in 1851. This transaction was the subject of the Wai 400 claim, which was originally brought by Hoani Hohepa for Ngati Mahu and Ngati Hinepare but was later broadened to be made on behalf of 'Nga Hapu o Ahuriri'. While the last amended statement of claim did not give the names of the Wai 400 claimant hapu, we understood them also to include Ngati Tu, Ngati Matepu, Ngati Hineuru, Ngati Parau, Ngai Tawhao, and Ngai Te Ruruku.²¹ The interests of those hapu were certainly not restricted to the Ahuriri block, and to that extent Wai 400 was similar to Wai 299 in being a pan-hapu claim focused on the history of a particular area of land.

The other claim in this southern area was Wai 168, the claim of Ngati Parau. On one level, since the claimants defined their claim area according to their traditional boundaries, it overlapped to an extent with Wai 400. But Ngati Parau were also claimants in Wai 400 and their Wai 168 claim was targeted at specific matters and discrete areas rather than at all lands within their rohe. Only one of those discrete areas was within the boundaries of the Ahuriri block;

20. Oral statement of Wai 638 claimant counsel, Te Haroto Marae, 17 April 1998

21. See doc 011, p 3

namely, the Otatara Pa historic reserve. There are also claims to specific areas within the Tutae-kuri, Papakura, and Waiohiki blocks. The Wai 168 claimants also laid claim to that section of the Tutae-kuri River contained within their traditional rohe, but it remains unclear whether they asserted ownership to the old channel, which ran to Te Whanganui-a-Orotu, or to the new, diverted channel, which ran directly to the coast.

This southern area was of course also the location of Te Whanganui-a-Orotu, which was subject to the Wai 55 claim. There were various potential areas of overlap between Wai 55 and claims such as Wai 400, Wai 168, and – with respect to Te Pahou – Wai 299. The Wai 55 Tribunal, however, in its 1998 *Te Whanganui-a-Orotu Report on Remedies*, was deliberate in assessing these potential areas of overlap and in arriving at the conclusion that ‘no other claims to Te-Whanganui-a-Orotu exist’.²² We endorse this analysis and agree, for example, that former islands in the harbour that were part of the Te Pahou block, such as Te Roro o Kuri, are not subject to overlap from other claims. Reference to Te Roro o Kuri in Wai 400 was removed by amendment in 1996, and the fourth amended statement of claim for Wai 299 referred to Te Pahou but made no specific mention of Te Roro o Kuri.²³ A particularised statement of claim for Wai 168 filed in November 1996 explicitly excluded Te Whanganui-a-Orotu from the claimants’ request for relief.²⁴ The concerted effort on the part of the claimants to avoid overlap should come as no surprise, however, for the Te Whanganui-a-Orotu claimants are essentially the same as those involved in Wai 400, Wai 299, and Wai 168. According to the Wai 55 statement of claim, they are Ngati Parau, Ngati Hinepare, Ngati Tu, Ngati Matepu, Ngati Mahu, Ngai Tawhao, and Ngai Te Ruruku.²⁵

1.6 THE NAPIER HOSPITAL AND HEALTH SERVICES CLAIM AND REPORT

One claim in our inquiry district that we have omitted to mention in the foregoing summary is of course Wai 692, the Napier Hospital and health services claim. The writing of the *Napier Hospital and Health Services Report* preoccupied us after the end of the hearings in February 2000 until its release in mid-2001. It is not necessary to reiterate the contents of that report here, but we do note the overlap of focus between the Wai 692 and Wai 400 claims on the Ahuriri transaction and the alleged promises of collateral benefits made at the time by purchase officials. On that matter, we need only make the point that the Wai 692 claim was concerned with a very specific matter involving the Crown’s promise to build a hospital – and, by extension, the Crown’s obligations in the ongoing provision of health care – and it has been possible for us to write the two reports without undue repetition. The two reports, therefore,

22. Waitangi Tribunal, *Te Whanganui-a-Orotu Report on Remedies* (Wellington: Legislation Direct, 1998), p 8

23. Claim 1.23(c); claim 1.22(e), p 6

24. Claim 1.9(c), p 3

25. Claim 1.2(e), p 2

while written by the same panel, can be read in relative isolation and do not rely on each other for context.

1.7 THE CONTENTS OF THIS REPORT

In ordering the contents of this report, we had a number of choices. We could have addressed each claim in the inquiry in turn, but that would have been manifestly uneconomical and repetitive. We could have related the colonial experience for various kin groups in turn, but the shared experiences of many of the hapu rendered this a similarly unsatisfactory prospect. Finally, we could have related historical events chronologically for the entire district, and then assessed the merits of the claims at the end of the report. However, we were not writing a history of Hawke's Bay and, in order to report properly on the claims before us, we realised that we would have to produce a series of sub-regional narratives, while including generic and district-wide chapters where at all possible. At the end of every relevant section of narrative, therefore, we have summarised the arguments of both the claimants for that district and the Crown, and then made our own comments and findings.

The report comprises seven parts. Part I is an introductory section and includes this chapter and chapters 2 and 3. Chapter 2 sets out the Treaty principles which apply to our consideration of the claims before us. Chapter 3 provides an account of the physical and human history of the district before 1850. Part I sets the scene for the rest of the report.

Part II shifts slightly back in time and begins with an account in chapter 4 of developing Crown land purchase policy in the 1840s, particularly as it applied to Hawke's Bay. It then leads into a discussion of Donald McLean's arrival in the district and his acquisition for the Crown of the Ahuriri block in 1851. At this point, a district-wide chronology becomes impossible, because in chapter 5 we trace the aftermath of the Ahuriri transaction, including the eventual alienation of the reserves and the history of subsequent protest, rather than move straight to our account of McLean's negotiation of the Mohaka transaction, which followed Ahuriri. We complete this part of the report in chapter 6 with a review of Crown and private land transactions around the town of Napier and in the Mohaka–Waikare district before its confiscation in 1867.

Part III of our report deals with the Mohaka–Waikare confiscation district, first relating the engagements at Omarunui and Petane in October 1866 in chapter 7, and then the 1867 confiscation in chapter 8. In chapters 9 and 10, we narrate the consequences of the raupatu for both the seaward and the inland blocks of the confiscated district. In chapter 10, we carry matters forward well into the twentieth century in order to relate the history of title disruption in Tarawera and Tatarakina, which disruption was the source of many of the whanau claims to specific blocks.

Part IV of the report deals with the northern third of our inquiry, covering all of Ngati Pahauwera's historical claims (except for any issues relating to the confiscation). It traverses the period from the 1850s to the present-day, and includes the Mohaka and Waihua Crown purchases (ch 11) the Native Land Court's operations (ch 12), and twentieth-century land transactions, including consolidation and land development schemes (ch 13). In chapter 14, the claim made by Ngai Tane is addressed.

Part V contains our consideration of certain specific claims: Ngati Parau at Waiohiki in chapter 15 and public works on Tarawera and Tatarakaakina blocks in chapters 16 and 17. Part VI has a generic and district-wide focus, and deals with environmental impacts in chapter 18 and social and economic issues in the twentieth century in chapter 19.

Finally, in part VII, we close with our concluding comments, summary of findings, and recommendations.

