

TE IKA WHENUA RIVERS REPORT



TE  
IKA WHENUA RIVERS  
REPORT

WAI 212

WAITANGI TRIBUNAL REPORT 1998



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

A Waitangi Tribunal report

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The waiata on page v, *Te Waiata Aroha*,  
was composed by Harehare II of Ngati Manawa

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Te Waiata Aroha

*Kaore te mokemoke te tuohu noa nei e  
I te po roa, i te po makariri e  
Tu mai e hika ka haere taua e  
E hoa ma e, katahi hanga kino e  
Ko aku koiwi kau te tirohia mai na e  
Taka ka roto nei ka mawherangi au e  
Wai ka kite ake i te whui a te atua e  
Pa mai ki ahau whakahiangongo ai e  
Ka mate te marama ka kohiti ko te toru e  
E waha e hika ka haere taua e  
Nga roa mania i raro o Neketuri e  
Ka hoki taua kite whare huri ai e*

*Tangi a te ruru ra kei o hokihoki mai e  
E whakawherowhero ra i te putahitanga  
Naku nei ra koe i tuku kia haere  
Te puritia iho nui rawa te aroha  
Te ua i te rangi ko te ua i aku kamo  
Kei whea e tau to kupu mana nei  
Hei toko i au puta rawa i tawhiti e  
Ripa ki Horomanga tai tata rawa mai*



Te Waiata Aroha

So lonesome and crestfallen now am I  
Through this long winter's night  
Stand forth O Son so that I may caress you  
O friends all, what woeful state is this  
'Tis only my wasted frame you now gaze upon  
Whilst all within is in turmoil

There was no warding off the gods' affliction  
And thus stricken I am slowly pining away  
The waning moon has brought forth the bitter cold  
Wherefore on my shoulders climb dear one and let us go  
Over the winding plains below Neketuri  
Winding our homeward way and there to meditate

The call of the owl yonder is oft repeated  
Hooting out there where the trails meet  
It was I who allowed you to go  
When my deep love should have detained you  
The rain from the heavens is now matched by my tears  
Where dear one is the fulfilment of your promise?  
To sustain me until I emerge afar off  
With the divide of Horomanga looming nigh



LIST OF CONTENTS

Letter of transmittal.....	xiii
<b>CHAPTER 1: THE CLAIM AND THE CLAIMANTS .....</b>	<b>1</b>
1.1 The claim .....	1
1.2 The claimants .....	3
1.3 The relief sought .....	5
1.4 Waitangi Tribunal hearings.....	6
<b>CHAPTER 2: NGA IWI ME NGA AWA O TE IKA WHENUA .....</b>	<b>9</b>
2.1 Identity.....	9
2.2 Ancestors.....	9
2.3 The rivers: a major food source .....	12
2.4 The mauri of the river .....	13
2.5 The rivers: a means of transport and communication .....	13
2.6 Customary use rights .....	14
2.7 Mana and rangatiratanga over the rivers .....	15
2.8 Conclusion .....	16
<b>CHAPTER 3: UPHEAVALS AND CHANGES, 1812–1920 .....</b>	<b>17</b>
3.1 Introduction .....	17
3.2 The military period .....	17
3.3 The Native Land Court period.....	22
<b>CHAPTER 4: FROM AN EEL TO A FORESTRY CULTURE .....</b>	<b>33</b>
4.1 The planting of the Kaingaroa State Forest, 1921–39 .....	33
4.2 The Ngati Manawa land development scheme .....	34
4.3 The Murupara project.....	35
4.4 The corporatisation of the forestry industry.....	36
4.5 The ‘permit culture’.....	37
<b>CHAPTER 5: CROWN EXPROPRIATION OF WAI TIPUNA FOR POWER GENERATION ..</b>	<b>41</b>
5.1 Introduction .....	41
5.2 The Crown assumes the right to control the use of rivers for power generation.....	41
5.3 State development of hydroelectricity.....	43
5.4 The development of the Aniwhenua and Wheao schemes .....	47
5.5 Consent process for the Aniwhenua and Wheao schemes.....	50
5.6 Public consultation .....	54
5.7 The Crown’s right to exercise kawanatanga.....	55

CONTENTS

<b>CHAPTER 6: THE LOCAL POWER SCHEMES: CLAIMANT CONCERNS AND CROWN RESPONSES</b> .....	59
6.1 Claimant concerns .....	59
6.2 The diversion of the Rangitaiki into the Wheao .....	59
6.3 Lack of consultation over Aniwhenua and Wheao schemes .....	61
6.4 Consultation over the Kioreweku project .....	64
6.5 Eel depletion and the eel replenishment scheme .....	67
6.6 Crown submissions .....	77
6.7 Third party submissions .....	78
6.8 Claimant submissions .....	78
6.9 Issues arising from claimant concerns .....	79
<b>CHAPTER 7: RIPARIAN RIGHTS</b> .....	81
7.1 Riparian ownership in the claim area .....	81
7.2 <i>Ad medium filum aquae</i> rule .....	82
7.3 Natural water incapable of ownership .....	83
7.4 Maori view of ownership .....	84
7.5 Customary rights of hapu .....	86
<b>CHAPTER 8: ISSUES: TE TINO RANGATIRATANGA</b> .....	87
8.1 Tino rangatiratanga over the rivers as at 1840 .....	87
8.2 The rivers as taonga of Te Ika Whenua .....	88
8.3 Did the Crown fail to protect Te Ika Whenua's customary and Treaty rights to the rivers? .....	88
8.4 Did Te Ika Whenua voluntarily relinquish tino rangatiratanga over the rivers? ...	90
8.5 Overlapping claims .....	97
8.6 Conclusion .....	99
<b>CHAPTER 9: ISSUES: TREATY GUARANTEES AND KAWANATANGA</b> .....	103
9.1 Introduction .....	103
9.2 Title and Treaty guarantees .....	103
9.3 Control of natural resources and Treaty guarantees: the Crown's case .....	104
9.4 Duties and obligations in the exercise of kawanatanga .....	105
9.5 Did the Crown fail to meet its Treaty obligations to Te Ika Whenua? .....	108
9.6 The Kioreweku project .....	112
9.7 The retireti and customary fishing rights .....	112
<b>CHAPTER 10: ISSUES: RIGHT TO DEVELOPMENT</b> .....	115
10.1 Introduction .....	115
10.2 Development – a Treaty right .....	116
10.3 The nature of Te Ika Whenua's interest in the rivers .....	121
10.4 The Crown's obligations to Te Ika Whenua .....	129

CONTENTS

<b>CHAPTER 11: FINDINGS AND RECOMMENDATIONS</b> .....	133
11.1 Introduction .....	133
11.2 Treaty principles .....	133
11.3 Findings .....	135
11.4 Commentary .....	138
11.5 Consideration of relief sought .....	140
11.6 Costs of bringing this claim .....	143
11.7 Recommendations .....	143
<b>APPENDIX I: STATEMENT OF CLAIM</b> .....	149
<b>APPENDIX II: RECORD OF INQUIRY</b> .....	151
Record of hearings .....	151
Record of proceedings .....	153
Record of documents .....	158
<b>APPENDIX III: PARTITIONS AND SALES OF RIPARIAN BLOCKS</b> .....	169
Index .....	177

LIST OF ILLUSTRATIONS

<i>Fig 1:</i> Location map .....	<i>facing page 1</i>
<i>Fig 2:</i> Powhiri, first hearing, Tipapa Marae (manuhiri) .....	2
<i>Fig 3:</i> The claimants (tangata whenua) .....	3
<i>Fig 4:</i> Tangiharuru meeting house, Tipapa Marae .....	4
<i>Fig 5:</i> The Tribunal (first hearing) .....	5
<i>Fig 6:</i> Tributaries and special places in Te Rohe o Ngati Manawa .....	10
<i>Fig 7:</i> River routes of Nga Puhī, 1818–23 .....	18
<i>Fig 8:</i> River routes of military incursions, 1865–72 .....	19
<i>Fig 9:</i> Maori place names .....	23
<i>Fig 10:</i> Purchases of riparian blocks compiled .....	26
<i>Fig 11:</i> The area affected by the 1886 Tarawera eruption .....	29
<i>Fig 12:</i> Tangi at Karamuramu on the banks of the Rangitaiki River, near Fort Galatea .....	30
<i>Fig 13:</i> Eels drying on a line at Rangitahi Pa, circa 1920 .....	31
<i>Fig 14:</i> Indigenous and exotic forests .....	32
<i>Fig 15:</i> Trout fishing on the river bank at Murupara, near Galatea .....	38
<i>Fig 16:</i> Hydroelectric power schemes on the Rangitaiki River system .....	40
<i>Fig 17:</i> The Wheao scheme – the Flaxy Dam .....	45
<i>Fig 18:</i> The Wheao scheme – the Rangitaiki canal .....	45
<i>Fig 19:</i> The Aniwhenua Falls .....	51
<i>Fig 20:</i> The Aniwhenua powerhouse and falls .....	51
<i>Figs 21, 22:</i> Eels retrieved from the grilles of the Aniwhenua Dam .....	68
<i>Fig 23:</i> The Aniwhenua Dam .....	74
<i>Fig 24:</i> The Aniwhenua hydro generation scheme and electricity supply areas .....	131
<i>Fig 25:</i> Hohepa Waiti with hinaki .....	144
<i>Fig 26:</i> Kathy Ertel and Bert Messent with a retireti board .....	144
<i>Fig 27:</i> An eel trap .....	144
<i>Fig 28:</i> Partitions and sales of riparian lands .....	<i>following page 182</i>



The Waitangi Tribunal  
Wellington

The Honourable Tau Henare  
Minister of Maori Affairs

and

The Honourable Douglas Graham  
Minister in Charge of Treaty of Waitangi Negotiations

Parliament Buildings  
Wellington

Tena korua

We have pleasure in presenting to you the Waitangi Tribunal's report on the Te Ika Whenua rivers claim.

Our report traverses the extent of Te Ika Whenua's customary rights over the rivers, the guarantees given by the Crown under the Treaty of Waitangi, and the lack of any recognition of any rights to rivers other than those provided under common law. We background the acquisition of the title to the beds of the rivers through the *ad medium filum* rule and the Crown's acquisition or control over them through legislative means.

We have found that there have been breaches of the principles of the Treaty and have set out these findings and our recommendations in chapter 11 of the report.

Heoi ano

LIST OF ABBREVIATIONS

AC	<i>Appeal Cases</i>
AJHR	<i>Appendices to the Journals of the House of Representatives</i>
CA	Court of Appeal
ch	chapter
DLR	<i>Dominion Law Reports</i>
DNZB	W H Oliver (ed), <i>The Dictionary of New Zealand Biography</i> , Wellington, Allen and Unwin and the Department of Internal Affairs, 1990
doc	document
F Supp	<i>Federal Supplement</i>
fig	figure
fn	footnote
fol	folio
Knapp	<i>Knapp's Reports</i>
LS	Department of Lands and Survey file
ltd	limited
MA	Department of Maori Affairs file
MS	manuscript
NZED	New Zealand Electricity Department
NZLR	<i>New Zealand Law Reports</i>
NZPCC	<i>New Zealand Privy Council Cases</i>
OECD	Organisation for Economic Cooperation and Development
p, pp	page, pages
P	president of the Court of Appeal (when used after a surname)
PC	Privy Council
pt	part
s	section (of an Act)
sec	section (of a book, report, etc)
sess	session
US	<i>Reports of Cases in the Supreme Court of the United States of America</i>
vol	volume
Wai	Waitangi Tribunal claim