

Chapter 2

Ngapuhi and Ngawha

2.1 **The Claimants**

2.1.1 The claimants are the trustees of Parahirahi C1 Maori reservation for and on behalf of the whanau and hapu having an interest in the Ngawha geothermal resource and specifically the following hapu of Ngapuhi:

- Tamehana Tamehana for and on behalf of Ngati Hine hapu;
- Ellen Reihana for and on behalf of Te Hikutu hapu;
- Rewa Marsh for and on behalf of Te Uri Taniwha hapu;
- Bob Cassidy for and on behalf of Te Mahurehure hapu;
- Ron Wihongi for and on behalf of Te Uriohua hapu;
- Tu Kemp for and on behalf of Ngati Rehia hapu;
- Katarina Sarich, Te Arama Pou, Te Haua Witehira, Manga Tau for and on behalf of Ngai Tawake hapu;
- Werata Hauraki for and on behalf of Ngati Hau hapu;
- Bishop Waiohua Te Haara for and on behalf of Ngati Rangi hapu; and
- Joe Pinemau for and on behalf of Ngati Tautahi hapu.

Seven of the foregoing submitted evidence and appeared before the tribunal. Their evidence was supported by that of nine other kaumatua and kuia. The genealogical and geographic spread of the claimants and the other elders extended over the entire Ngapuhi tribe. Although no hapu mandate to speak was offered or requested, the tribunal would accept that the claimants and the other elders did have ties either directly or indirectly to all of the 136 or more hapu of Ngapuhi.

As a claimant group they became known as nga hapu o Ngawha; but they did not on that basis claim exclusive ownership of the Ngawha geothermal resource or that rangatiratanga over the resource was vested solely in them. On the contrary, they asserted that the resource is, and always has been, shared by all the hapu of Ngapuhi.

2.1.2 A further claim was lodged by Mr Brown and Mrs Robertson and is recorded as Wai 123. These persons claimed on their own behalf and that of the direct descendants of Ihaia Hita. Their claim focused on the question of ownership of the Ngawha springs. They endorsed the relief and recommendations sought by nga hapu o Ngawha, but only in so far as they recognised the status of the claimants as descendants of Ihaia Hita and members of Te Uriohua, being at the same time owners and kaitiaki of the Ngawha springs. Since they rejected the assertion that the Ngawha springs resource was owned

Ngawha Geothermal Resource

in common by all Ngapuhi, they decided to lodge a separate claim limiting it to themselves and to those who are both descendants of Ihaia Hita and members of Te Uriohua.

2.2 **Ngapuhi and Ngawha**¹

2.2.1 The tribunal was told many times that the Ngawha geothermal resource is a taonga (valued possession, see 2.6) and a taonga for all of Ngapuhi. It was also told that its primary surface manifestation at Ngawha was discovered by the Ngapuhi ancestress Kareariki. It was Kareariki who first recognised the benefits of the springs at Ngawha for the healing of ailments and in the treatment of the after effects of child birth. The kaumatua who gave evidence in person all claimed descent from the union between Kareariki and her husband Uenuku-kuare.

2.2.2 Professor Hohepa gave the following genealogy and commentary:

6.0 The Genealogy of Kareariki

1. The majority of the elders who gave evidence stated that Kareariki found and developed the geothermal pools. Which of the several Kareariki is the relevant one?

Nukutawhiti 2 = Hineariki

Ngarunui Moerewarewa Rongomai

Ngaruroa Tuwharepapa Kahukura

Ngarupaewhenua Tuwharekakaho Whetuporoa

Hikuiti Tokooterangi Tangiora

Taura Tauraitepo Rangikotea

Tauratu Opengaiti Tahuhunuiorangi

Tawakehaunga 1 = Kareariki 1 Kawa

Hauangiangi = Tauramoko = Ihengaparaoa Whautere

Rahiri Uewhati 1 = Tahuao

Uenuku-Kuare = Kareariki 2

Uewhati 2 Maikuku Hauhaua Taamure Ruakiwhiria

Ngawha Geothermal Resource

- 2.2.3 It was said that the Ngawha springs form a central component in the cultural relationship between the hapu of Ngapuhi and their traditional territory. These hapu see themselves as kaitiaki (guardians, see 2.5) of the springs at Ngawha, especially the hapu of Te Uriohua and Takotoke who have traditionally lived in and about the springs area. But by the same token these springs have also been used by all of the hapu of Ngapuhi down from the time of Kareariki to the present. Counsel for the claimants elaborated:

To whom does the Ngawha geothermal resource belong? Kaumatua witnesses for the claimants took the view that the taonga was a taonga belonging to the hapu of Ngapuhi. See eg. evidence of Ngati Haua Paora Witehira (A54(N)). Professor Hohepa cast his net wider, saying that the geothermal resource was "a taonga of every descendant of Kareariki" (notes of cross-examination by Mr Salmon QC). This would have included all of the tribes of the Taitokerau.

Professor Hohepa was adamant however that this was not an end to the matter. The mana and rangatiratanga in respect of the Ngawha geothermal resource belonged, in his view, to the hapu who are the actual Kaitiaki of that resource. All of the key decisions in respect of that taonga rested, in his view, with the hapu on the ground. Thus, although all of the Taitokerau tribes derive cultural and spiritual sustenance from Ngawha and although all might claim a right of access to Ngawha, the ultimate prerogative of management and control vests in the hapu of Ngawha. The paradigm proposed by Professor Hohepa reflects the way in which the hapu of Ngawha have administered their resource. You have heard in evidence that, from time immemorial, the hapu of Ngapuhi and beyond have attended the springs in order to partake in the healing powers of that resource. The hapu of Ngawha, as kaitiaki of that resource, have nurtured it so as to ensure continued access. Management and control is however the prerogative of the hapu of Ngawha. The fact that they have managed and controlled the resource for the benefit of all does not diminish the prerogative itself. (C13:21-22)

- 2.2.4 Use in these terms was held to reflect a belief in the quite magical qualities of the waters of Ngawha. But it also reflected the fact that Ngawha has traditionally been seen as lying at the crossroads between the eastern and western sectors of Ngapuhi, people who over the centuries travelled to visit each other and to support each other in times of trouble. Te Uriohua and Takotoke, in particular, have long been recognised as occupying this pivotal position.
- 2.2.5 It was further explained that Ngapuhi have always believed in a connection between the surface manifestation of the resource at Ngawha and other surface manifestations, for example at Omapere. This inter-connectedness was first established and maintained by the taniwha Takauere who was said to live at Omapere, but whose tail would "whip" at Ngawha and at other places. Kaumatua Paengatai Wihongi put it this way:

I etahi wa, ka huri he wiwi e tere ana. E anga atu ana te wai, e tere ake ana te wiwi. I etahi wa ka karawhiu te hiku ki Te Ngawha. He Kaitiaki i nga waiariki I etahi wa ka karawhiu te hiku ki Hokianga, ki Te Waimate. E karawhiu ana

hoki ki nga roto o Te Ngawha. Ko nga tohu, ko nga tumutumu o nga kauri kei kona tonu ana. (A54(m))

Such metaphorical allusion expresses the idea that the Ngawha springs are not a single isolated or discrete phenomenon. They are indeed the face or eye of the taonga, but its whatumanawa or heart is below the ground and connected to other surface manifestations throughout the tribal district. In sum, the Ngapuhi tradition asserts that the underground aquifer and its primary surface manifestation at Ngawha is a unity, and one which has always been considered a taonga.

2.3 **Ngapuhi Iwi**

Since the basis of the claim lies in the foregoing statement that the Ngawha springs are a taonga of the Ngapuhi tribe, we continue with a brief account of the tribe, relying on the commissioned evidence of Professor Hohepa and on evidence submitted to us by the elders at the Kotahitanga marae. The three major frames of reference for Ngapuhi identity appear to be those of:

- geographical boundary;
- migration canoe; and
- genealogical linkage.

Geographical boundary

2.3.1 Professor Hohepa quotes the following extended proverb, in which a ring of mountains are the "chiefly landmarks of Ngapuhi":

The house of Ngapuhi was erected so that Papatuanuku, the earth mother, is the floor. The mountains are the pillars [and] Ranginui, the skyfather gazing down, is the roof. Puhanga Tohora (Whale spume) looks to Te Ramaroa a Kupe (Kupe's eternal beacon); Te Ramaroa looks to Whiria (Plaited), the taproots of strife, and the bastion of Rahiri (Ngapuhi's founding ancestor); Whiria looks at Panguru and Papata - to where the trees lean, standing in the westerly winds; Panguru-Papata - looks at Maungataniwha (the *Taniwha* mountain range), Maungataniwha looks at Tokerau (Hundred worms or north) Tokerau - looks at Rakaumangamanga (multi branched tree); Rakaumangamanga - looks at Manaia (named after an ancestor Manaia); Manaia - looks at Tutamoe; and Tutamoe looks at Puhanga Tohora. (B25(a):3)

These mountains stand as ramparts watching the territory between them; and they stand as symbols of the mana of Ngapuhi.

Migration canoes

2.3.2 (a) Matahourua

"Kupeariki is the person, Matahourua is the canoe, Ngapuhi is the *iwi*" (B25(a):3). Matahourua was a double hulled canoe (the name itself means double hulled), while Kupe means navigator. The wives of Kupe were Hineiteaparangi and Kuramarotini. Kupe sailed to Aotearoa from Hawaiki after battles with Hoturapa and after he had stolen Hoturapa's wife, Kuramarotini. He had decided to voyage here to search for the fish of his ancestor, Maui-Tikitiki-o-Taranga. Legend has it that while Kupe was navigating the sea of Tawhaki he saw something glistening in the eastern part of the ocean. On sailing closer he saw that it was a mountain whose cliffs shone in the setting sun. He named the mountain Te Ramaroa, the eternal beacon of Kupe. Much later the harbour was named Hokianga, the returning place of Kupe (B25(a):3-4).

The original population of Ngapuhi, then, would have been made up of settlers brought by Kupe. Professor Hohepa told us that according to Tuhirangi Ngapua the name Ngapuhi itself was a reference to the two puhi (chiefly virgins), Kupe's wives, Hineiteaparangi and Kuramarotini (B25(a):5). After many adventures Kupe and a few of his canoe companions went back to Hawaiki. The majority however remained to hold the land.

Professor Hohepa cited a genealogy from Kupe to the principal ancestor of Ngapuhi, Rahiri, recorded by Aperahama Taonui in 1848:

Kupe

Matuu

Makaro

Maea

Maahu

Nukutawhiti

Papatahuriho

Papatahuriake

Mouriuri

Morekareka

Morakitu

Whiro

Toi

Apa

Raurukitahi

Kauea who was made a taniwha and travelled below the earth: his exit is south of Kerikeri

Ta Kauea ko

Te Tokooterangi

Te Rangi Taumuhumu

Te Rangi Tauwhanga

Te Hekana

Poupa

Waitangi Tribunal Reports

Maroro
Te Ika Taurangi
Awa
Awanuiarangi
Rakeitapunui
Tamakitera
Puhimoanaariki
Te Hauangiangi
*Rahiri (B25(a):5)*³

(b) Ngatokimatahourua/Ngatokimatawhaorua

"Nukutawhiti is the person, Ngatokimatawhaorua the canoe and Ngapuhi is the iwi" (B25(a):6). The origin of the name Ngatokimatawhaorua refers to the adzes (nga toki) which were used to refashion Kupe's canoe, Matahourua, subsequent to its return to Hawaiki. Kupe's sailing instructions were handed down through several generations to Nukutawhiti and Ruanui, who thus eventually came together direct to Hokianga. The wives of Nukutawhiti were Hineariki and Aniwaniwa or Niwa. His esoteric minders or taniwha were Niua and Araiteuru, while his other main minder, Puhimoanaariki, returned to Hawaiki. Puhimoanaariki was also known as Puhi Te Aewa (Puhi the surfer) because of her having to surf to avoid the nets of Kahukura when she was leading Ngatokimatawhaorua from Hawaiki. This taniwha Puhimoanaariki is also credited with being the origin of the name Ngapuhi. Her second name is the origin of Ngati Te Aewa, the name adopted by Ruanui's people as their tribal name (but later replaced by the tribal names Te Rarawa and Te Aupouri) (B25(a):6-9).

(c) Mamari

"Ruanui is the man, Mamari (or Ngatokimatawhaorua) the canoe and Ngapuhi is the iwi" (B25(a):9). Mamari was also a double hulled canoe and Nukutawhiti was the ritual expert or tohunga. One account has it that Mamari came before Ngatokimatawhaorua and was escorted here by the two taniwha Niua and Araiteuru; and then on arrival the two taniwha went back to fetch Ngatokimatawhaorua. It is said that Ruanui was an in-law relation of Nukutawhiti.

When the descendants of Ruanui became more numerous and they separated from the descendants of Nukutawhiti, they took the name Ngati Te Aewa, then Ngati Ruanui, and much later, Te Rarawa. Because of the wars between other descendants of Nukutawhiti and Ruanui, Te Aupouri also came into being. In the light of such ties it is not possible to separate Te Rarawa and Te Aupouri completely from Ngapuhi (B25(a):9-10).

Ngawha Geothermal Resource

(d) Mataatua

"Toroa is the man, Mataatua is the canoe and Ngati Awa the people. Puhi is the man, Mataatua is the canoe and Ngapuhi is the people" (B25(a):10). It was Toroa's younger brother, Puhi, who brought Mataatua to Northland after an argument with him over gardens and agricultural lands in the vicinity of the canoe's land fall in the Bay of Plenty. When the Mataatua reached Tokerau it sank in the Taipa river where it remains to this day.

Some say it is this Puhi (Puhiariki), the grandfather of Rahiri, who is the foremost progenitor of Ngapuhi (B25(a):10-11).

(e) Takitimu

One of the kaumatua in his evidence named Takitimu as a canoe of Ngapuhi. This canoe under the command of Tamatea-mai-tawhiti first landed at Awanui near Kaitaia and later sailed down the East Coast before finally returning to the north. From the children of Tamatea-mai-tawhiti and his wife Te Kura come Takitimu links to all the tribes of Taitokerau. These include the ancestors Puhikaiariki and Puhimoanaariki (B25(a):11).

- 2.3.3 Whatever the canoe or ancestral origin, all major descent lines converge on Rahiri and his two sons Uenuku-kuare and Kaharau. It was these three who determined the mana, the genealogies and the territory of Ngapuhi. The name 'Ngapuhi' itself can, however, claim many origins. First of all there are the chiefly women (nga puhi), Hineiteaparangi and Kuramarotini. Secondly there is the taniwha Puhimoanaariki and her secondary name Puhiteaewa.

Thirdly there are Puhimoanaariki, Puhikaiariki and Puhitaniwharau - brothers in some accounts, successive generation names in others - all making claim to the name 'Ngapuhi'. Fourthly there is the Puhi of the Mataatua canoe. There may yet be others.

Genealogical linkage

- 2.3.4 While the foregoing paragraphs indicate a range of common origins and territory the totality does not add up to a clear unitary structure, either pyramidal or segmentary in outline. There is, for instance, no single founding ancestor, dynasty, mountain, lake or even canoe providing a symbolic origin. There are, on the other hand, significant political units among the Ngapuhi people and these are the hapu (which may be glossed as subtribe). Hapu are descent systems which interlock such that any individual is likely to belong to a multiplicity of hapu. Moreover there is indeed leadership in hapu, albeit of a charismatic kind. It will depend in any one case more on a leader's capacity to meet the needs of the group than on claims to a superior lineage or to primogeniture.

Waitangi Tribunal Reports

As a consequence, hapu units within and between the major sectors of Ngapuhi are in a state of dynamic equilibrium, waxing, waning and coalescing as they have done for centuries. Professor Hohepa quotes the Ngapuhi idiom "Ngapuhi-kowhao-rau" (Ngapuhi of the 100 holes) by way of explaining hapu autonomy within the maximal group (Ngapuhi) that is the '100' holes of a fishing net, where each hapu represents a kowhao, and the whole net is Ngapuhi.

Beyond the mundane issues of control over people and property, there are also the shared histories, spirituality, metaphysical "minders", guardians and landscapes. In Ngawha all are present, and it is precisely this, Ngapuhi say, that makes the Ngawha springs and the total geothermal resource a taonga for them. It is unique. Indeed it is a talisman for the whole tribe; hence their long held and ardent desire to have it protected.

2.3.5 As already indicated, Nukutawhiti and Ruanui and their followers settled in and about Hokianga after their arrival from Hawaiki, apparently not without a good deal of enmity festering between them. Several generations after the death of Nukutawhiti and Ruanui, Rahiri, a descendant of Nukutawhiti, married Ahuaiti and begat Uenuku-kuare who married Kareariki: the "discoverer" of the Ngawha springs (2.4.2).

2.3.6 Uenuku grew up with his mother at Pouerua, Ngawha and Waitangi. When adult he went in search of his father Rahiri. He found him in Hokianga, and also his step-brother Kaharau. Inevitably these two sons of Rahiri quarrelled, which in turn led to a division of territory between them and their followers. Professor Hohepa says the two sectors of Ngapuhi were created here, with Uenuku's descendants at Taumarere and those of Kaharau at Hokianga. These are the two parts of Ngapuhi mentioned in the proverb:

Ka mimiti te puna o Hokianga, ka toto ki Taumarere; ka mimiti te puna ki Taumarere, ka toto ki Hokianga.

(When the spring of Hokianga dries up, that of Taumarere fills up; When the spring of Taumarere dries up, that of Hokianga fills up.)

This refers to the ancestral human spring which, because of kinship links, flows from Hokianga to Taumarere providing support in adversity. At the same time the proverb also refers to the underground waterways linking Hokianga and Taumarere, the pathway of *taniwha*.

2.3.7 Maikuku, the first daughter of Uenuku-kuare and Kareariki, was raised as a puhi at Ruarangi near Waitangi. Her protected home was a cave below the village. News of her beauty and fame reached Huatakaroa of Tokatoka at Whangaroa and so he came to court her. They married and one of the descendants of their union, Te Ra, named his hapu after his father, "Te Uriohua (takaroa)". The children of Maikuku and Hua provide genealogical links to all the major hapu from Hokianga to the Bay of Islands, to Whangarei, and to Whangaroa. They include Ngai Tawake, Ngati Tautahi and Ngai Takotoke, prominent claimants to Ngawha together with Te Uriohua.

2.4 **The Springs**

Discovery

- 2.4.1 We introduce this section by quoting a proverb given us by kaumatua Manga Tau, for it seems to encapsulate the traditional, and also contemporary, Ngapuhi view of Ngawha:

Ko Moi te maunga
Ko Ngawha te tangata
He aroaro wahine
He ara mahana (A54(l))

Moi is the mountain
Ngawha is the person
The passage to the womb of a woman
Is a warm passage (B36)

Metaphorically, a claim is being made, first for the association of warmth with the most vital part of the female body and thus with the source of human life itself, that is the Ngawha waters are life giving and healing; and second, for the association of these waters with a source deep within the Earth Mother, Papatuanuku.

- 2.4.2 Professor Hohepa's authority on the discovery of the Ngawha springs is Hemi Whautere. Whautere identifies himself thus:

My father's name is Witehira Tauahiku, from Mataraua, Kaikohe, a chief of Ngapuhi. My name as I stand is Hemi Whautere, from Mataraua, Kaikohe, and Ngapuhi... I want to talk about some old stories, about an important *taonga* within Ngapuhi, about the chiefly bathing waters, to which the [people of] the land hurry to those bathing waters. The reason I want to talk about those waters is because it has been discovered that the important *taonga* is there in New Zealand, giving wellbeing and health for the people according to those who witness it, be they Pakeha or Maori, and also to me, standing here. (B25(a):33-34)

We continue with a summary from Professor Hohepa's translation of Whautere's account. Kareariki lived with her husband, Uenuku-kuare, and their children in the area which at that time, said to be the 16th century, was covered in bush and rich in bird life. One day Kareariki came upon the springs, tested them and discovered their curative powers, particularly those giving relief to mothers with post-parturition pains. Kareariki later killed some of her female slaves who thereupon became taniwha in a nearby lake, collectively taking the form of a kauri log known to this day by the name Takauere. After Kareariki lost her pet dog Kaipahau (killed for food), she kept hearing his spirit barking night and day.

Whether allegory, myth or history, such statements serve to impart ownership rights, certainly on the basis of discovery and subsequent unbroken occupation and control

Waitangi Tribunal Reports

over whatever resource was regarded as essential for the people's well-being. And none has been more valued by Ngapuhi than the springs at Ngawha.

Taniwha

- 2.4.3 Taniwha loom large in Ngapuhi thinking and are referred to by many of their elders. The most relevant taniwha for this case is the log Takauere. Professor Hohepa says they are regarded as "esoteric minders", protectors of important places, which then have their importance enhanced by the presence of taniwha. Taniwha have their own idiosyncracies, sexual characteristics and innate powers. They may create their own routes (above and below ground) and their own forms. Thus Takauere not only travels underground to nearby Lake Omapere, he can also expand so that his head is there and the presence of his tail may be seen 'whipping' in the lakes adjoining the springs as noted above.
- 2.4.4 One of the more profound aspects of the taniwha phenomenon is that it expresses the traditional view, confirmed by kaumatua Karewa Marsh, Ronald Wihongi, Anaru Sarich, Ngatihaua Witehira and others, that the underground resource and its surface manifestation is holistic and undivided. There can be no springs with all their miraculous healing powers that do not derive from a source deep within Papatuanuku. Karewa Marsh quotes the following aphorism:
- Ko te Ngawha te kanohi o te taonga, engari ko tona whatumanawa, ko tona mana hauora, no raro.
- Ngawha is the eye of the taonga, but its heart, its life giving power, lies beneath (the surface). (A54(d))
- And she adds that "I know in my heart that this is so".
- 2.4.5 It is asserted that only ancestors of exceptional mana can create or summon and control taniwha. Kupe, Nukutawhiti and Ruanui all had such powers. Taniwha-creating mana came down to Kareariki and possibly to her daughter Maikuku. Kareariki's actions in despatching her slaves, whence Takauere, are significant. Her dog, Kaipahau, is also significant. He becomes another minder of the pools. Both Kaipahau and Takauere and other mokaikai (minders) have changed the whole characteristics of the pools in the eyes of Ngapuhi to more than pools of medicinal and personal value, indeed to objects of esoteric protection over the mana, tapu and wairua of the Ngapuhi people.
- 2.4.6 All the traditional accounts of the evolution of Ngapuhi from the time of their arrival from far distant Hawaiki allow the proposition that the Ngawha springs and the total geothermal resource have lain within Ngapuhi territory and under continuous Ngapuhi control. The tribunal heard no contrary view.
- 2.4.7 Ngapuhi history points conclusively to the discovery of the springs themselves by one Kareariki. And as already stated Kareariki can be located on the genealogical map of

Ngawha Geothermal Resource

Ngapuhi, both as a descendant of the founding ancestors of the tribe and as a famed ancestress in her own right.

2.4.8 But for Ngapuhi the springs have always been much more than a resting place at the cross roads in their territory. They have been revered and protected for their seemingly miraculous life giving powers. That this should have been so for generations of their forebears imparts a spirituality, indeed a tapu quality, to the springs for the Ngapuhi of today. They see themselves as trustees of a tribal taonga and thus speak of it as much in metaphorical as in colloquial terms. We turn, therefore, to consider the question of trusteeship.

2.5 **Rangatiratanga and Kaitiakitanga**

2.5.1 In the context of Treaty claims and Treaty issues generally, the word in Maori most commonly used as an equivalent to trusteeship is rangatiratanga. The meaning of rangatiratanga has been explored at length since the New Zealand Maori Council submitted its *Kaupapa : Te Wahanga Tuatahi* to government in February 1983. In *Kaupapa* it offers a philosophical basis for relating the Treaty of Waitangi to Maori land tenure - a basis, moreover, for all current Maori land legislation. And at the heart of this is the following statement about the nature of rangatiratanga:

Just as the Crown has found meaning in the concept of sovereignty, so the Maori people find meaning in the concept of rangatiratanga. In the Treaty, the Maori people's 'full' 'exclusive' and 'undisturbed possession' (of 'lands', 'estates', 'forests', 'fisheries', and 'other properties') is rendered by: 'te tino rangatiratanga'. However, while rangatiratanga may indeed mean 'possession', it also means much more than that, today, as in 1840. In its essence it is the working out of a moral contract between a leader, his people, and his god. It is a dynamic not static concept, emphasizing the reciprocity between the human, material and non-material worlds. In pragmatic terms, it means the wise administration of all the assets possessed by a group for that group's benefit: in a word, trusteeship. And it was this trusteeship that was to be given protection, a trusteeship in whatever form the Maori deemed relevant.⁴

And with respect to landed assets it adds:

The rights and privileges granted to the Maori people in the Treaty apply in the fullest sense to land. The protection afforded by the Crown - the guarantees - are needed as much today as ever.

Maori land has several cultural connotations for us. It provides us with a sense of identity, belonging and continuity. It is proof of our continued existence not only as a people, but as the tangatawhenua of this country. It is proof of our tribal and kin group ties. Maori land represents turangawaewae.

It is proof of our link with the ancestors of our past, and with the generations yet to come. It is an assurance that we shall forever exist as a people, for as long as the land shall last.⁵

Waitangi Tribunal Reports

For its part, the Waitangi Tribunal has discussed the meaning and significance of rangatiratanga in many of its reports, sometimes at considerable length. In its *Ngai Tahu Sea Fisheries Report 1992* the tribunal quoted from a very full discussion of rangatiratanga in the tribunal report on the *Muriwhenua Fishing Report 1988* and added certain comments of its own. This tribunal adopts what has been said in these two reports in so far as it is relevant to the issues before it. An important element of rangatiratanga is described in the *Muriwhenua Fishing Report* and may be repeated here:

"Te tino rangatiratanga o o ratou taonga" tells of the exclusive control of tribal taonga for the benefit of the tribe including those living and those yet to be born. There are three main elements embodied in the guarantee of rangatiratanga. The first is that authority or control is crucial because without it the tribal base is threatened socially, culturally, economically and spiritually. The second is that the exercise of authority must recognise the spiritual source of taonga (and indeed of the authority itself) and the reason for stewardship as being the maintenance of the tribal base for succeeding generations. Thirdly, the exercise of authority was not only over property, but [over] persons within the kinship group and their access to tribal resources.⁶

Finally, the tribunal in its *Ngai Tahu Sea Fisheries Report*, which adopts the foregoing passage, also noted that rangatiratanga "includes management and control of the resource".⁷

- 2.5.2 Having regard to the present case, however, such discussion needs to be extended to embrace other aspects and concepts of the tribal political system: as they were at 1840, and then during the lengthy period following the advent of the Maori Land Court in 1865 down to the present. During this time the Maori people have been introduced to the processes (and consequences) of, inter alia, individualisation of tribal title, title 'improvement' and the formation of trusts.
- 2.5.3 As was to be accepted later by the Maori Land Court, recognition of 'title', in pre-contact times, was based on the twin factors of discovery or conquest, and occupation. One without the other would have been insufficient. A tribal or subtribal group that could successfully assert and sustain such a claim would be regarded as exercising their 'mana whenua' (literally authority over the land). Having first secured a domain for itself, a group would then set about ensuring its political integrity and its survival. The effectiveness of its organization to achieve these ends would in turn be proportional to the effectiveness of its rangatiratanga in all relevant spheres of social action. Thus the care for and fostering of resources was an integral part (but only a part) of rangatiratanga, and where resources were clearly demarcated, the rangatiratanga in respect of them could equally well be described as kaitiakitanga (guardianship).
- 2.5.4 It may also be noted that given the ends of group integrity and survival, sharing in the

Ngawha Geothermal Resource

common wealth did not mean that shares in an arithmetic sense were ever allocated to individuals, let alone shares with the contingent right to transfer them out of the group altogether. If rights in, and access to, resources *were* transferred it was always done by the chiefs and elders, the rangatira and kaitiaki, for a political purpose, such as to cement an alliance.

And like alliances in general they had to be maintained by an on-going reciprocity. Otherwise, of course, rangatiratanga (and kaitiakitanga) could be lost in war; nothing was permanent or immutable either in the realms of the sacred or the secular.

2.6 **Taonga**

2.6.1 Resources, the objects of protection and conservation, acquired a value heightened by the formal attention paid to them by ritual prohibition and sanction, mythical explanation and the like. Accordingly they were known as taonga (valued possession or anything highly prized) and invested with an aura of spirituality. The word 'anything' is used advisedly for taonga may include any material or non-material thing having cultural or spiritual significance for a given tribal group. Previous cases before the tribunal have thus included land, forests, fisheries, the Maori language and literature - all regarded as taonga, objects of guardianship, management and control under the mana or rangatiratanga of the claimant group, hapu or iwi.

2.6.2 Such a nexus then, of hapu, rangatiratanga, kaitiakitanga and taonga was given explicit recognition in the Treaty. Moreover, no Maori signatory to the Treaty could have had reason to doubt that the Crown would protect that nexus for as long as the Maori required it.

Article 2 of the Treaty is clear on this point. That said, the present case is novel to the extent that the taonga is a geothermal resource. What therefore remains to be considered is whether the foregoing general statements can be applied to this particular resource.

2.6.3 Kaumatua evidence is relevant. For example, Ngatihaua Witehira said:

Our ancestors [knew] that the heart of Ngawha is underground. They are channels of hot water flowing underground. They knew and believed that it was one taonga, underground and up on the surface of the ground. It has been said that the hot pools represent the eye of the taonga. But its heart is in, is within the depths of mother earth. If we abuse the very heart the pain will affect the heart, the eyes. It is all one treasure [taonga]. It belongs to all tribes of Nga Puhi - these are the histories of those taniwha. These are the histories of this taniwha like Takauere who moves underground from hot springs to hot springs. (B36; A54(n))

Here the resource is held to be a unity and a taonga, subject to the jurisdiction of Ngapuhi hapu.

And again, another kaumatua, Kereama Rankin said:

The Springs, indeed the entire underground geothermal resource is a taonga to us. You have heard of its miraculous healing powers and I can confirm in my long experience as Kaitiaki of that taonga, that everything that these Kaumatua have told you is the truth. I believe that its healing powers, God-given, are sourced deep within in our Mother Earth. Any interference in that spiritual source is a desecration of our taonga. (A54(q))

For Mr Rankin, a kaitiaki like his father before him, the geothermal resource is a unitary taonga about which, furthermore, there is a profound sacred quality over and above that of the secular. The special powers of the pools lie not in the pools themselves, but are God-given and derive from the underground resource. For both kaumatua, too, the taonga is held to be possessed of a life-force or mauri (for example having a 'heart' exercising healing powers); yet another basic ingredient in the traditional guardianship, management and control exercised under rangatiratanga.

A final observation may be made regarding the unitary character of the geothermal resource. Since the springs themselves lay within the territory over which Ngapuhi had always exercised unchallenged their rangatiratanga, it follows that in their view such rangatiratanga would have extended over the entire resource equally above and below the surface of the land and throughout the extent of its manifestation. This, we believe, was the position at 1840 and, the claimants say, it is still the case today. On all major counts, then, the Ngawha springs and the underground resource are a taonga for Ngapuhi.

2.7 **Individualisation of Title**

2.7.1 On the other hand, the foregoing propositions have also to be seen in the light of the actions of the Maori Land Court involving the award of title to the land in and about the springs and the subsequent orders of succession, partition, and sale.

Transactions involving the Parahirahi blocks will be dealt with in detail in the next chapter. However a preliminary point might be made with respect to the award of title to the claimants to any block of tribal land. As may be understood from the statement above about the pre-Maori Land Court era, the simple act of awarding title and naming individual owners has generally dissolved in one stroke the rangatiratanga and kaitiakitanga over the land and its resources. It has exposed individuals to the responsibilities of being both owners and trustees of the tribal heritage at the same time without, however, requiring them to be accountable to beneficiaries, and without protecting them from their own possible prodigality and loss of their community's means of survival.

2.7.2 In the present case there has been the added consequence of the owners failing to be informed of the implications of the separation in law of the springs from the underground resource, further undermining their value system and regard for their

Ngawha Geothermal Resource

taonga. That some of the owners nevertheless have long appreciated the predicament that they were facing in these terms and have wished to find some resolution is perhaps remarkable. We pursue these themes in outline, limiting ourselves to reactions by Ngawha-based rangatira to opportunities as they found them; opportunities at odds with those which had traditionally governed tribal life.

- 2.7.3 The first recorded commercial intrusion into the Ngawha area would appear to have resulted from Pakeha interest in exploiting the mineral resources there. This in turn brought about a series of surveys. Figure 2 shows ten blocks of land owned by Ngawha and associated hapu which were surveyed between 1868 and 1895 (A45). The first three blocks to be surveyed were to the north of Tuwhakino. They were Ngatokaturua (1868), Waikahikatea (1868) and Waiwhariki (1869). Then followed the survey of the Tuwhakino block in 1872 immediately to the north of the Parahirahi block and the Otutaorau and Tokakopuru blocks to the east of Parahirahi in 1873 followed by the Parahirahi block later in 1873 (3.2.1).

The surveys having been completed thus far, Heta Te Haara, Paora Ngai and Wi Raukawa, all of Ngati Rangi, then applied to the Maori Land Court to have the ownership of the Tuwhakino block determined. This was done on 15 July 1873. The block was 1086 acres in extent. On its southern margin a triangular area of five acres was cut out and included in the Parahirahi block. This small area later became the Parahirahi C block, discussed in chapter 3.

2.8 **Ownership and Sale**

- 2.8.1 The result of the application was the immediate award of title to Heta Te Haara solely. Thus in one swift decision the court converted one man's rangatiratanga into a valuable personal estate, severed from all other tribal considerations. It was also sufficient to set in train a series of leases and subdivisions, the granting of mining rights to Pakeha prospectors and ultimately, during the next 20 years, sale. It can be noted that when in 1894 Te Haara sold the final 621 acres of his estate, he made no reservation of the hot springs on the land. Alienation was total (3.5).

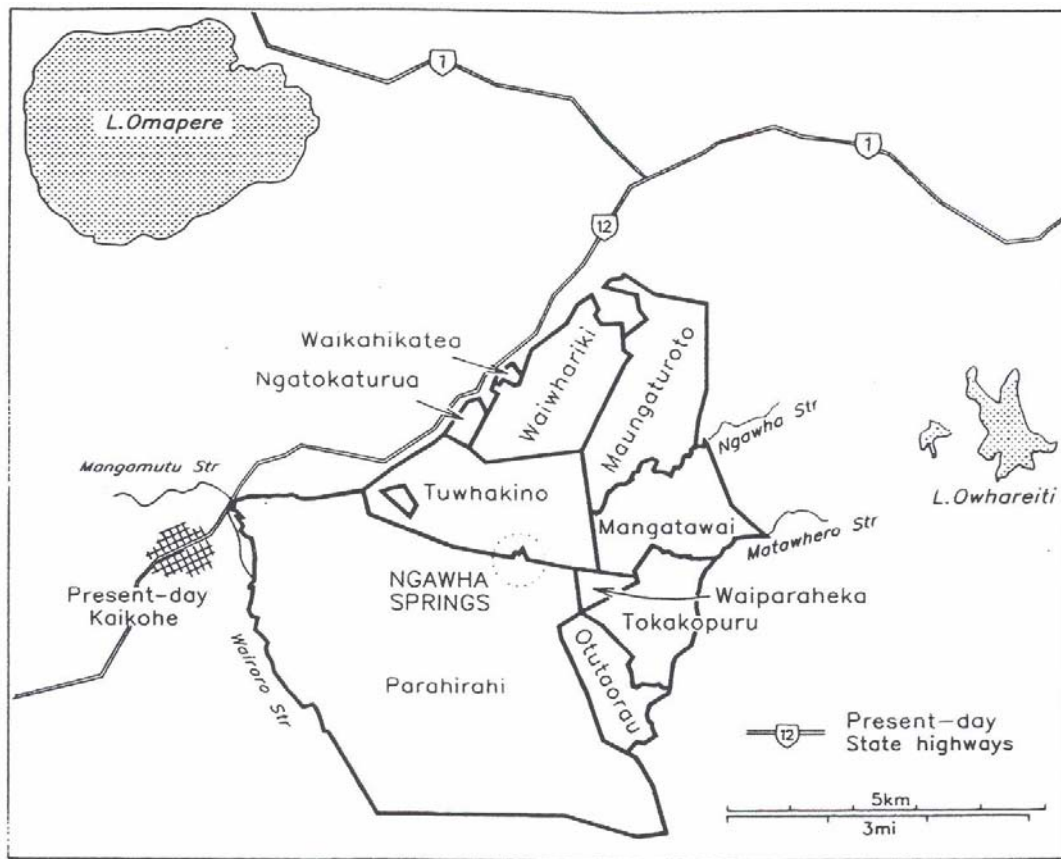


Figure 2: Maori land blocks at Ngawha

Figure 2: Maori land blocks at Ngawha

- 2.8.2 However, there was still the Parahirahi block and in this instance not one, but 37 owners were named on the memorial of ownership: 36 of Te Uriohua and one of Ngati Rangihapu. At this time, November 1874, there was a restriction on alienation (3.6.2). Early in the following year various owners applied to the court to have the Parahirahi block subdivided and to settle the question of whether or not owners had equal shares (3.7.3).
- 2.8.3 What is apparent, then, is the pivotal role filled by the court in making kaitiaki into "owners" and determining the extent of their kaitiakitanga. Nevertheless what these kaitiaki did manage to achieve was a reservation of the five acre Parahirahi C block plus the springs they contained, and an inalienability of it without the assent of the Governor (3.7.7). Yet rangatira (and kaitiaki) were now inextricably caught up in a web of legal constraints and commercial opportunities. For example one, Hirini Taiwhanga, became a free ranging entrepreneur, acting as middle man between the Land Purchase Office and his co-owners while at the same time taking a commission for his trouble (3.8.3).
- 2.8.4 The record also shows how owners were dividing themselves into sellers and non-

Ngawha Geothermal Resource

sellers, with the latter appearing to have at least some regard for exercising a guardianship role over the springs, as distinct from being dissatisfied with a low price being offered for their shares. Kaumatua Ronald Wihongi put it this way:

This [Parahirahi block] was the land that was bored by the Government. In the past ... nine years. Our ancestors lived on this land. Five acres of this property was surveyed from the main block of Parahirahi for bathing pools. That is why it is called Parahirahi C. The purpose for which it was surveyed out, it was because our ancestors knew, that if these pools were surveyed out, they will hold on to their sacred [possession] forever. Their desire was that they should retain the whole of their sacred possession. The hot springs above the ground, and all the ... hot streams under the ground. In their minds, if they were to hold on to where the outlet of this sacred possession was, they will retain it all, right down into the bowels of the earth. That was why they had this great desire to hold on to the five acres of Parahirahi C forever more. It was because of the sacredness, the prestige and the awe, of the hot water and pools of the Ngawha, "the hot pools of Ngawha". They knew immediately, the bubbling hot waters, the waters of Ngawha were those that came from the very heart of the earth. They knew the stories about Takauere. Who went underground, from Ngawha, to that hot pool. He had to swim in warm water, hot water, these are the waters under the ground and the waters above the ground. They are one and the same, waters under the ground and waters above the ground, they are one and the same. There is no importance to the Ngawha if there [are] no swirling hot pools underneath. (B36:52-55; A54(a))

2.8.5 However, in 1894 the hapu found themselves bereft of four of the five acres in Parahirahi C referred to by Mr Wihongi, together with their kaitiakitanga over the taonga the land enclosed, for it had all passed to the Crown by deed of purchase. The circumstances of this are discussed in the following chapter. Thus in a relatively short time surveys, subdivision, the award of title to groups of co-owners, ignorance of procedure, pressure from the Crown and others to sell, reduced to 804 acres (including the one acre left in C block) the rangatiratanga and kaitiakitanga hitherto exercised for centuries over a turangawaewae several thousand acres in extent. Today only 15.05 acres remain as Maori freehold land (3.18.2).

2.9 **Reaction to Loss**

2.9.1 Some, however, were not persuaded that this was in fact the case and they continued to occupy the land around the springs, that is, the four acres adjoining their own one acre. More than that, in 1926 they petitioned Parliament to enquire into the apparent loss of the four acres. It was to no avail. Undaunted, 11 owners of the one acre block, known as Parahirahi C1, then sought to reserve it. This time, 23 December 1926, they were successful.

2.9.2 By August 1935 nine of the 12 original owners⁸ in Parahirahi C1 were dead and not succeeded to. Judge Acheson held a sitting of the Native Land Court at Kaikohe on 27 August 1935 to supervise the election of a committee of management. The judge did not

appoint successors to the deceased owners because the "large gathering present" was reportedly unanimous in the view that sales of interests might take place if succession orders were made. The court was asked not to appoint successors. Twelve representatives of the original owners then met and elected from their number a committee of five. The court recommended the issue of an order-in-council under s298(1) Native Land Act 1931 appointing them a committee of management for the Native reservation (Parahirahi C1) (A50(a):99-100). The minutes of the meeting also record that it was decided by the hui that two honorary European members be appointed to the committee by the domain board (which in December 1934 had been set up under s34 of the Public Reserves, Domains and National Parks Act 1928 to administer the four acres) on the condition that the board allow two committee members to act as honorary members of the domain board. It was hoped this would lead to good relations and management of the two hot springs areas. The meeting "expressly stipulated" that none of the foregoing arrangements was to be taken as a waiver of their claim to the balance of the original Parahirahi C block. They continued to claim that it was never sold by them, but was included in the land awarded to the Crown "without their knowledge or consent" (3.15.7).

As the previous paragraph indicates, there was to be no resiling from efforts to recover the four acres, begun with the 1926 petition and followed in 1929 and 1931. Each failure prompted another attempt, a pattern continued through the war years of 1939, 1941, 1942, 1944 to 1946. Leaving aside detail for further discussion, something may be said at this juncture about the rangatiratanga and kaitiakitanga of the Ngawha hapu, chief among them being the Uriohua and Ngati Rangi.

- 2.9.3 Where customary land tenure had been part and parcel of tribal political organisation with chiefs and elders holding rights of administration for the tribal good, individualisation of title through the Maori Land Court gave unfettered rights to those fortunate enough to be named as owners. It would seem from the record that there was comparatively little desire to exercise rangatiratanga and kaitiakitanga over land in general whenever alienation was in prospect. As against that, however, there has also been a clear intention to retain trusteeship over the springs, at least on the Parahirahi block. This intention has been steadfast over at least two generations to date and underlined by a continuous stream of petitions and protests, not over the comparatively vast acreage surrounding the springs acquired by the Crown, but certainly over the four acres of the five acre Parahirahi C block containing the springs themselves.
- 2.9.4 The sense of rangatiratanga and kaitiakitanga held by the descendants in the land would appear to be further demonstrated by their acts of occupation of the Crown's four acres (until evicted) and by their deliberate setting up of a management committee for the one acre Parahirahi C1 block instead of allowing a further diminution of trusteeship through succession to deceased owners. At least this much has been consistent and is reflected in the personnel of the claimants, the witnesses, and the character of the claim made in the petitions for the return of the four acres in the Parahirahi C block.

Ngawha Geothermal Resource

We may now look more closely at the roles of the Crown and the Court in the acquisition of the land at Ngawha.

References

1. According to Professor Hohepa, Ngawha is a self-explanatory descriptive placename, that is, a place that has boiling springs as well as other volcanic activity (B25(a):29).
2. Hongi Hika, Paratene Te Ripi and Hone Heke were all sponsors and supporters of the Anglican faith among the Ngapuhi people; they believed that the springs are a God-given healing resource and that Ngapuhi have the stewardship of it.
3. Aperahama Taonui "He Pukapuka Whakapapa mo nga Tupuna Maori" ms 120, Auckland Institute and Museum Library, Auckland, p 59ff
4. New Zealand Maori Council "Kaupapa: Te Wahanga Tuatahi" February 1983, National Library, Wellington, p 5
5. Above n 4 p 10
6. *Report of the Waitangi Tribunal on the Muriwhenua Fishing Claim (Wai 22) (Muriwhenua Fishing Report)* (Wellington, 1988) p 181
7. "The Ngai Tahu Sea Fisheries Report 1992" (Wai 27) 5 *WTR* (Wellington) p 100
8. Tane Haratua's share, mentioned in the court records, does not appear on the court order itself, where it was incorrectly added to that of Tane Marupo (A50(a):54; B35:44; B34:101-102). The court order, therefore, lists 11 rather than 12 owners.