

CHAPTER 5

PUAO-TE-ATA-TU

5.1 SUMMARY

A key document guiding the Department of Social Welfare's approach to meeting the needs of Maori in policy, planning, and service delivery is *Puao-te-Ata-tu* ('daybreak'), the report of a ministerial advisory committee that reviewed the department in 1986. It highlighted the crisis proportions of the range of social problems experienced by Maori at that time and emphasised the need for concerted action to redress the situation – from central and local government, the business community, Maoridom, and the community at large.

The report's recommendations, all accepted by the then Minister, focus upon the need for the department to function in a bicultural manner and to share responsibility and authority for decisions with appropriate Maori people. The Department of Maori Affairs and representatives of Maori communities were envisaged as key participants in the planning and coordination of future social welfare activities.

An expectation of *Puao-te-Ata-tu* was that Maori would respond to its bicultural vision by strengthening traditional Maori structures. A particular concern identified in the report was that Maori networks were not strong enough to cope with the serious situation of many Maori children and especially young people living in Auckland in 1986.

Although *Puao-te-Ata-tu*'s recommendations were accepted by the Minister of the day, the department's commitment to their implementation had waned by the time of its restructuring in 1992, when the CFA was created. The restructured department has endeavoured to restore *Puao-te-Ata-tu*'s status as a key document, but it acknowledges it has a distance to travel before its operational style can be described as bicultural.

We consider that an informed commitment to *Puao-te-Ata-tu* was absent in the establishment of the CFA and in its operations leading up to the claim. Agency initiatives that are claimed to be consistent with *Puao-te-Ata-tu* lack the unity and depth needed to give life to the report's goals. In the north-west Auckland area in particular, agency staff's appreciation of the report's meaning for their work was neither required nor encouraged. Departmental initiatives taken since 1993 could not provide an instant remedy to the situation. Further, those initiatives offer little guidance on the issue at the heart of this claim: the Treaty rights of Maori who are removed from a tribal base.

5.2 BACKGROUND

In 1986, a ministerial advisory committee that reviewed the DSW produced the report *Puao-te-Ata-tu*. The report made 13 recommendations on how the department might meet the needs of Maori in policy, planning, and service delivery. All were accepted by the Minister of the day. Both the Crown and the claimants regarded the report as central to the claim.

The parties had different purposes in relying upon *Puao-te-Ata-tu*. The Crown sought to establish that, because the DSW generally, and the CFA in particular, are committed to the report, the claimants cannot invoke *Puao-te-Ata-tu* to support their criticisms of the agency's operations. The claimants sought to establish that the agency's professed commitment to *Puao-te-Ata-tu* is contradicted by its activities, which are inconsistent with *Puao-te-Ata-tu*'s true meaning.

The significance of *Puao-te-Ata-tu* to this claim, made under the terms of the Treaty of Waitangi, derives from the fact that the report is a considered, practical guide to the way in which the DSW should develop as a bicultural institution. While the Treaty's meaning cannot be supplanted by the opinions in *Puao-te-Ata-tu*, the report reflects a partnership approach, which accords with Treaty principles, but more especially for the purposes of this claim, the insights, advice, and cautions that the report gives on the department's relationships with Maori make it, as the director-general said, a 'key document' for the department.¹

5.3 THE RANGIHOU COMMITTEE'S ORIGINS, PROCESS, AND MESSAGE

5.3.1 Aimed at improving DSW's relations with Maori

The Minister decided to establish the Advisory Committee on a Maori Perspective for the Department of Social Welfare because of her concern at the number of complaints she had received about relationships between the department and its clients, particularly Maori clients.² Chaired by the late John Rangihau, the committee comprised five distinguished Maori and two Pakeha senior public servants. Its terms of reference were:

- to advise the Minister of Social Welfare on the most appropriate means to achieve the goal of an approach which would meet the needs of Maori in policy, planning and service delivery in the Department of Social Welfare.
- having regard to the needs of Maori and to the organisation, structure and functions of the Department . . . to:
 - 1 *Assess* the current capability of the Department in relation to the declared goal;
 - 2 *Identify* those aspects (including, for example, current practices in staffing, recruitment, staff training and development and public relations) which militate against attainment of the goal;

1. Document c1(1), para 13

2. Document E1, p 9

- 3 *Propose* a strategy for overcoming problems and deficiencies identified; and
 4 *Report* with recommendations to the Minister . . . [Emphasis in original.]³

5.3.2 Authors considered Maori viewpoints

The resulting report summarises the committee's consultative process and the essence of the responses it received:

The Committee decided that to undertake our task adequately, we had first to listen to the community. We therefore chose to travel around the country to meet the department's clients in a marae setting, believing that an oral approach to our work was the traditional approach of Maori people to which they would respond. . . .

We held a total of 65 meetings on marae, in institutions and Department offices. We spoke to staff, to community workers, to young people and to judges who sit in the Childrens and Young Persons Court.

We had countless discussions and consultations. The faces and the places have been different, the statements have been made in countless different ways, but the messages have been the same.

They have been messages of frustration, anger and alienation. They have been messages, though, which have frequently been flavoured with hope, unfulfilled expectations, pride and aroha. The angry sense of powerlessness is not matched with a sense of hopelessness.⁴

5.3.3 Serious problems revealed

The Rangihau committee was convinced of the gravity of the problems identified in its inquiry and of the urgent need for change within and outside the DSW. The strength of its message is conveyed in the preface to *Puao-te-Ata-tu*:

We comment on the institutional racism reflected in this Department and indeed in society itself. We have identified a number of problem areas – policy formation, service delivery, communication, racial imbalances in the staffing, appointment, promotion and training practices. We are in no doubt that changes are essential and must be made urgently. . . .

While we are recommending significant changes to the policies and practices of Government agencies, with particular reference to giving the Maori community more responsibility for the allocation and monitoring of resources, these will be to no avail unless that community in turn picks up the challenges and significantly strengthens its tribal networks.

We have been disturbed at the extent to which Social Welfare institutions and indeed the courts, have a clientele which is predominantly Maori. We think that as a society we cannot survive much longer if we continue to ignore these facts and the situation which give rise to them.⁵

3. Document A3, p 5

4. Ibid, p 17

5. Ibid, p 7

5.3.4 Concerted action required urgently

Highlighting the ‘crisis proportions’ of the situation and the need for an urgent and coordinated response, involving key Government agencies as well as community groups, the report continues:

Although we invited the people to talk to us about the operations of the Department of Social Welfare, discussions invariably brought out equally grave concerns about the operations of the other Government departments, particularly those working in the social area. There is no doubt that the young people who come to the attention of the Police and the Department of Social Welfare invariably bring with them histories of substandard housing, health deficiencies, abysmal education records, and an inability to break out of the ranks of the unemployed. . . . To redress the imbalances will require concerted action from all agencies involved – central and local government, the business community, Maoridom and the community at large. We make recommendations for a comprehensive approach accordingly. Our problems of cultural imperialism, deprivation and alienation mean that we cannot afford to wait longer. The problem is with us here and now.⁶

5.4 EXPERT WITNESS’S SUMMARY OF *PUAO-TE-ATA-TU*

5.4.1 Overview of *Puao-te-Ata-tu*

An expert witness called by the Tribunal, Peter Boag, was a member of the committee that wrote *Puao-te-Ata-tu*. He provided an overview of the report:

The thrust of the Report was that the whole Department should become sensitive and responsive to the needs of *all* its clients, whatever their ethnic origin. The Report was not about separatism; it was about a bicultural development. The Department’s current publication *Te Punga* sums up this objective extremely well:

‘The principles of *Puao-te-Ata-tu* have to do with:—

- the redressing of historical imbalance
- a commitment to end all forms of racism
- the allocation of an equitable share of resources to Maori
- incorporating the values, cultures and beliefs of the Maori people in all policies
- attacking and eliminating deprivation and alienation
- ensuring that Departmental recruitment, staff and training policies do not disadvantage Maori
- recognising and utilising appropriately different skills of Maori staff
- ensuring that communication practices take account of the needs of Maori and other ethnic groups
- promoting/funding schemes which harness the initiative of Maori and the wider community to address problems
- ensuring effective coordination of planning, policy and practice to tackle serious economic and social problems.’⁷

6. Document A3, pp 7–8

7. Document E1, p 13

5.4.2 A vision of biculturalism

Noting that *Te Punga* endorses *Puao-te-Ata-tu*'s thrust towards biculturalism, Mr Boag quoted the paragraphs in the 1986 report, also quoted in *Te Punga*, which set out the advisory committee's view of biculturalism:

The Committee sees Biculturalism as the appropriate policy direction for race relations in New Zealand. It is considered as the essential prerequisite to the development of a multi-cultural society.

In our view policies and social objectives rooted in the concept of multiculturalism are commonly used as a means of avoiding the historical and social imperatives of the Maori situation. These should be addressed in a context of bicultural policy.

When applied to the functioning of the Department of Social Welfare we interpret biculturalism as the sharing of responsibility and authority for decisions with appropriate Maori people.

In functional terms we are concerned that decisions should be founded on the right information obtained from the right people. We perceive a social and cultural partnership here – not separatism.

Biculturalism involves understanding and sharing the values of another culture, as well as understanding and/or preserving another language and allowing people the choice of the language in which they communicate officially.

Biculturalism also means that an institution must be accountable to clients of all races for meeting their particular needs according to their cultural background, especially, in the present case, Maori.⁸

5.4.3 Recommendations promote partnership

That vision of biculturalism clearly provides the basis for the first two recommendations made in the report:

Recommendation 1 (Guiding Principles and Objectives)

We recommend that the following social policy objective be endorsed by the Government for the development of social welfare policy in New Zealand:

‘Objective

To attack all forms of cultural racism in New Zealand that result in the values and lifestyle of the dominant group being regarded as superior to those of other groups, especially Maori, by:

- (a) Providing leadership and programmes which help develop a society in which the values of all groups are of central importance to its enhancement; and
- (b) Incorporating the values, cultures and beliefs of the Maori people in all policies developed for the future of New Zealand.’

Recommendation 2

We recommend that the following operational objective be endorsed:

‘To attack and eliminate deprivation and alienation by:

- (a) Allocating an equitable share of resources.

8. Document A3, pp 19-20, quoted in doc E1, pp 13-14

- (b) Sharing power and authority over the use of resources.
- (c) Ensuring legislation which recognises social, cultural and economic values of all cultural groups and especially Maori people.
- (d) Developing strategies and initiatives which harness the potential of all of its people, and especially Maori people, to advance.⁹

5.5 THEMES OF *PUAO-TE-ATA-TU*

5.5.1 An integrated plan for coordinated action

Mr Boag emphasised that it was necessary to read the 13 recommendations in *Puao-te-Ata-tu* in the context of the report itself, and he highlighted three important messages that they contain:

- The report represents a closely argued plan for the bicultural development of the DSW both as a Government department and as an agency whose activities touch the vast majority of New Zealanders in one way or another.
- In the committee's view, biculturalism required that responsibility and authority for decisions be shared with appropriate Maori people, that control over resources be devolved closer to the consumer, and that the institution be accountable to clients for meeting their needs in accordance with their cultural preferences. The committee believed that Maori would respond by strengthening their tribal networks and Maori management systems and, in time, the strength of the Maori family would return.
- The report's focus upon the need for coordination amongst Government departments, in which it saw the DSW playing a leading role, arose from the committee's recognition of the need to address urgently and comprehensively the mounting feelings of anger and frustration within sections of the community, particularly in the larger metropolitan areas.¹⁰

5.5.2 Accountability to the community

(1) New structures for community representation

When commenting on the major themes of *Puao-te-Ata-tu*, Mr Boag emphasised that the Rangihau committee perceived some serious defects in the department's organisation and administration, especially with regard to its accountability to the community and, in particular, to Maori. It responded with the report's third recommendation: that the existing Social Security Commission should be replaced by a differently constituted Social Welfare Commission and that district executive committees should be established.¹¹ These bodies were to have a mixed membership of officers from the Departments of Social Welfare and Maori Affairs together with community representatives.

9. Document A3, p 26

10. Document E1, p 10

11. Ibid, p 11

The Social Welfare Commission's departmental membership was to be equalled by Maori and women members. Broadly speaking, the function of the commission was to advise the Minister on policy development within the department and on the cooperation and coordination of social welfare activities across the State sector and in the community. It was also to recommend the appointment of, and oversee the work of, the district executive committees, and to allocate budgets according to those committees' priorities. To these ends, it was to consult with representatives of tribal authorities in a national hui at least once a year.¹²

The district executive committees would have a significant majority of community members, with up to nine members nominated by Maori tribal authorities and other community interests. The other two members would be the district directors of the Departments of Social Welfare and Maori Affairs. They were to be responsible, in consultation with the various tribal authorities, for assessing and setting priorities for the funding of specific family and community welfare projects in their areas. They were to draft budgets for those projects and monitor and review their effectiveness. As well, the committees were to monitor and review the appropriateness and quality of the department's services in the districts.¹³

(2) Set up, but not for long

Although the recommendation to establish the Social Welfare Commission and district executive committees was implemented, those bodies were shortlived, being disbanded by the time the CFA was established in 1992. The reasons for their abolition appear from a memorandum written late in 1990 by the then director-general of the department, John Grant, to the new Minister of Social Welfare.¹⁴ Mr Grant's memorandum, entitled 'DSW Bicultural Approach – Towards Reducing Dependency', states that, from the beginning, the commission:

was unable to perform its functions adequately and it has simply not fulfilled expectations. It is not altogether surprising, given the complexity of the policy area surrounding social welfare that members appointed on a representative (and political) basis have difficulty in coming to grips with the high policy issues involved.¹⁵

Mr Grant's assessment of the success of the district executive committees is far more positive. Their performance:

has, in some cases been very good, [but] there is considerable unevenness throughout the country. A major benefit of the committee system has been the promotion of community consultation and local responsiveness. The committees also have a valuable role in scrutinising the effectiveness of local service delivery. The consultative climate has now become established and local operating units are considerably more aware of community resources and culturally appropriate consultation requirements. I am not

12. Document A3, pp 9–10

13. Ibid

14. Mr Grant and Mr Boag were the two Pakeha members of the advisory committee that produced *Puao-te-Ata-tu* (see doc A3, p 8).

15. Document A19, app 11, p 7 (quoted in doc E1, p 12)

saying that these committees have been a failure. However I can no longer justify the heavy cost involved in maintaining the structure.¹⁶

Mr Boag concluded from that memorandum that the district executive committees were victims of a cost-cutting regime, although the benefits arising from enhanced community and client satisfaction with the department's performance could well have outweighed the monetary costs involved.¹⁷

5.5.3 Strengthening Maori tribal structures

(1) *'Tribal' message misinterpreted by the CFA*

The third aspect of *Puao-te-Ata-tu* upon which Mr Boag focused was the meaning intended by the report's emphasis on the need to strengthen Maori tribal structures. He was plainly of the view that the passage of time showed that the DSW, including the CFA, had misconstrued the report's thrust:

CFA speakers have referred continually to their commitment to *Puao-te-Ata-tu* and hence the 'traditional Maori structures iwi/hapu/whanau'.

Although the Rangihau Committee saw the strengthening of traditional tribal structures as the ideal outcome of its Report, it nevertheless saw it as a long-term rather than an immediate objective.¹⁸

Mr Boag then quoted a passage from *Puao-te-Ata-tu*'s summary of its conclusions. It appears in the report directly after the statement that 'a main thrust' of *Puao-te-Ata-tu* concerns the coordination of resources among departments and the transference of authority over the use of those resources 'closer to the consumer':

Our recommendations are based on the expectation that Maori people will respond by participating in the strengthening of their tribal networks. We believe that our recommendations will assist and encourage the re-emergence of Maori management systems with their special blending of spiritual and pragmatic values. We also believe the co-ordination of Maori and non-Maori systems offers an opportunity for this country to develop a unique social service delivery.¹⁹

(2) *Non-traditional groups generally included*

In his evidence, and in response to close questioning from Crown counsel, Mr Boag stressed that, for the most part, the report's references to Maori groups – by the use of such terms as 'tribal authority' for example – were not intended to be exclusive of non-traditional groups. The exception was explained by Mr Boag:

The principal specific reference to traditional structures . . . comes in the Report's comments on the then Maatua Whangai programme which was concerned with the nurturing of children within the family group and on the then Children and Young

16. Document A19, app 11, p 7 (quoted in doc E1, p 12)

17. Document E1, p 12

18. Ibid, p 14

19. Document A3, p 24 (quoted in doc E1, p 14)

Persons Act. The Committee expressed its strong displeasure with the Maori communities who let their young people get into trouble, often leading to them being placed in foster care or Departmental institutions, without their families accepting any responsibility for their welfare.²⁰

(3) State agencies must support Maori community

To support his point that the report was generally concerned to promote the furtherance of *Maori* participation in welfare activities, Mr Boag quoted passages from *Puao-te-Ata-tu* which reveal the committee's deep concern at the situation in Auckland in 1986:

In the Auckland area alone recent information gives cause for serious concern. The following estimates are from Auckland Police and schools:

- 300–400 unsupervised young people on the streets (about 90% Maori);
- 200–300 chronic solvent abusers;
- 1%–5% of children, on a daily basis, who should attend school not doing so. (1% is 4250 children; 5% is 21250).

Figures like these suggest that parental influence has broken down and that Maori networks are not yet strong enough to be really effective. The Committee does not see this as a matter with which the Maori community can be expected to deal themselves. It is imperative for steps to be taken to ensure that there is adequate funding in place to allow a co-ordinated strategy by the Department of Social Welfare and Maori Affairs and the Police which will promote community efforts to strengthen Maori networks and family linkages.²¹

(4) What about urban youth?

Mr Boag elaborated upon the Rangihau committee's understanding of the sort of community efforts that would be required to respond to the plight of urban rangatahi (young people). He acknowledged that the committee had reported at a time when Maori were signalling a need to restore traditional tribal structures: the Hui Taumata in 1984 evidenced this and 'it was reflected to a large extent in *Puao-te-Ata-tu*'.²²

However, Mr Boag reiterated, the committee understood that the development of tribal structures was a long-term objective. Further:

Maori can't achieve it by themselves, it's no good just sitting back and saying right by concentrating on traditional structures we can forget everything else. One of the things that I was conscious of, or the committee was conscious of, was they desperately hoped that the recommendations which they put up would in fact fix what they called the Auckland problem and in this they were influenced by the Chairman, John Rangihau whose Tuhoie has a strong presence around Mt Wellington with Tirahou and he was supremely confident Tirahou, just to name one group, would pick up their young people in Auckland and do something with them . . .²³

20. Document E1, pp 14–15

21. Document A3, p 35 (quoted in doc E1, p 14)

22. Transcript 4.4, p 16. The Maori Economic Development Summit Conference called by the new Minister of Maori Affairs at Parliament in October 1984.

23. Transcript 4.4, pp 16–17

While he agreed with Crown counsel that the emphasis at the time was on the development of iwi and taura here organisations, although that alone was insufficient, Mr Boag strongly denied the suggestion that *Puao-te-Ata-tu* advocated a preference for funding iwi-based groups over urban Maori groups.²⁴ The committee, he emphasised, saw the Department of Maori Affairs – ‘an agency that had roots into the community’ – playing a key role in identifying the ‘right people’ in the Maori community to be consulted about the performance of the DSW.²⁵

(5) ‘Tribal’ includes non-traditional groups

Crown counsel suggested that the wording in *Puao-te-Ata-tu*’s recommendations distinguished between ‘tribal authorities’ and ‘Maori authorities’ and that the emphasis was on consulting with tribal authorities except in one specific instance where the net was cast more broadly to include both tribal and urban authorities.²⁶ Mr Boag responded:

No. Maori authorities in that context as I remember it would include groups such as the Maori Women’s Welfare League, and non-tribally based groups. It talks about investment in urban and rural districts. I don’t think it talks about urban [authorities].²⁷

Accepting that other recommendations in *Puao-te-Ata-tu* use the term ‘tribal authorities’ to describe the Maori groups to be involved by the DSW in its work, Mr Boag said that the term was a ‘fairly loose’ one. He also explained why the Rangihau committee would not necessarily have envisaged the department’s future consultation being largely with tribal authorities in the narrower, traditional sense in which Crown counsel used the term:

If I take the West Auckland district or Mangere or other places like that, if you wanted to talk to someone who could represent the views of the community or some group, they are not necessarily going to a tribal authority to get that information. You are probably going to be much more pragmatic and say what does the situation look like on the ground.²⁸

Crown counsel also suggested that *Puao-te-Ata-tu* gave the message to the Government that tribal authorities, where they can provide a service, should be enabled to. Mr Boag also rejected that interpretation: ‘I don’t think we’ve talked about tribal authorities providing a service, I think we talked about a consultation process.’²⁹

24. Taura here (‘ropes that bind’) are organisations established by members of tribal groups who reside outside their traditional territory, to serve the needs of tribal members and to help them maintain active links with their home base.

25. Transcript 4.4, pp 17, 19, 20

26. Ibid, pp 20–21. See recommendation 8(b), concerning the promotion of training and employment opportunities for young Maori in urban and rural districts (doc A3, p 37).

27. Transcript 4.4, p 21

28. Ibid

29. Ibid, p 22

(6) Traditional tribal means hapu not iwi

Mr Boag went on to explain that, in the one area of the report's recommendations where traditional Maori groups were intended to be the focus (concerning the Maatua Whangai programme), the committee was firmly of the view that the strength of the traditional Maori community was in fact the hapu.³⁰ This point, which questions the rationale for a focus upon iwi in the provision of social services, has been canvassed in chapter 1 of this report.

(7) Need to be pragmatic and flexible

Mr Boag did, however, express concern:

that the Committee deliberately didn't feel it could come to grips about what to do with urbanised Maori groups. [The committee] lived in hope that somehow tribal structures would pick them up but they weren't at all sure about that . . .³¹

Elaborating on this matter, he said:

the committee expressed some nervousness about whether what it was identifying would fix the Auckland problem. Under strong pressure from the Chairman of the Committee and the senior Maori members, the Committee gave as its solution to many things, the strengthening of tribal networks, it was still aware that this would still have to stand the test of time and that there may be other solutions that should be looked for.

I alluded to it in passing that the model that came through was very much influenced by the success of Tuhoe and although that was a successful model, I think the committee felt that developments had to be in two stages, one was to reemphasise to the extent possible the still current importance of traditional groupings and basically express the faith that the sort of Tuhoe model would be followed by other tribal groupings around the countryside, and I think that the way things have emerged, and certainly in this case . . . this approach probably has been at the expense of urban groupings and that I think that in the community we probably have to rethink how we handle today's issues.

. . . If the committee was re-formed today, they would see that great strides had been made . . . they would feel that their task had been well justified in what's been happening with the resurgence in Social Welfare, but I think they'd also say that we haven't yet really got the answer to deal with our community problems. They're still there and we haven't overcome them.³²

5.5.4 A comprehensive approach to averting civil disorder**(1) Critical role for Maori Affairs Department**

Mr Boag emphasised that, for the reasons stated in *Puao-te-Ata-tu* at the conclusion of its 13 recommendations, it was of critical importance to the report's plan that the

30. Ibid

31. Ibid, p 24

32. Ibid, pp 55, 69-70

DSW develop and maintain a close working relationship with the Department of Maori Affairs:³³

This report contemplates that the social and cultural insights available to the Department of Maori Affairs will be central to the development of strategies that cannot afford to fail.

The Department of Maori Affairs can bring experience and skill in the social dimensions of the Maori world in a measure greater than that available from any other agency of Government. Combined with Social Welfare's depth of practical experience in dealing with the social situation of Maori people these two departments together face the greatest single social and cultural challenge of our times.³⁴

In light of the demise of the Department of Maori Affairs (see ch 6), Mr Boag expressed concern that the role *Puao-te-Ata-tu* envisaged for it had been left unfulfilled:

Whatever its defects, real or perceived, the Maori Affairs Department was seen as the voice of Maori within Government ranks as the agency able to provide informed advice on appropriate channels of communication with the Maori community. All departments, including the CFA, will have had to make alternative arrangements to fill the gap.³⁵

(2) Coordination of all State welfare agencies

Over and above the need for the DSW to work collaboratively with Maori Affairs, *Puao-te-Ata-tu* argues forcefully for broader coordination of State agencies' activities:

All the community groups and many of the staff to whom we spoke raised the problems of lack of inter-departmental co-ordination. . . .

We also were given a clear picture of problems that need addressing across the board. The point was made repeatedly, for example, that the clients of the Social Welfare Department or Justice, had records of indifferent health, poor educational achievements, unemployment, inadequate housing etc. These problems plainly require a co-ordinated approach from Government agencies. . . .

Although the picture varied from centre to centre, we were told by the staff about the lack of co-ordination among departments and their concern that no mechanism for co-ordination appeared to exist even when they were dealing with the same clients. Inter-departmental rivalries and jealousies seemed to interfere with any joint operation. We regard it as a matter of urgent priority for the State Services Commission to take steps to ensure more effective co-ordination among its State social service organisations.³⁶

The committee continued by saying that it had considered whether a transfer or a re-grouping of the welfare functions of the key welfare departments could be possible in order to make the delivery of welfare services more effective. It resisted recommending such an option, however, believing that the strength of the Maori

33. Document E1, pp 15–16

34. Document A3, p 14

35. Document E1, p 16

36. Document A3, p 42

family would return in time and that the concern of the DSW must be to take advantage of the tremendous drive amongst Maoridom to improve its family strength: 'Therefore, immediate and broader problems have to be addressed by departments and agencies working together to direct existing resources to best possible advantage.'³⁷

The committee then recommended that the terms of reference for the intended Royal Commission on Social Policy take account of the issues raised in *Puao-te-Ata-tu* and that the State Services Commission take immediate action to ensure that more effective coordination of the State social service agencies occurs.³⁸

(3) Need for urgent action

The final section of *Puao-te-Ata-tu*, preceding its thirteenth recommendation, is headed 'A Comprehensive Approach'. Referring to United Kingdom and United States reports on civil disorders, the Rangihau committee emphasises the need for the whole community to address the 'cultural, economic and social problems that are creating serious tensions in our major cities and in certain other outlying areas', with the Government providing the leadership and expertise to coordinate resources for the community. This is explained in these terms:

It is not enough for departments and agencies to meet around conference tables. We need the co-ordinated approach that has been used to deal with civil emergencies because we are under no illusions that New Zealand Society is facing a major social crisis.

The solutions to social problems lie in a co-ordinated attack on the problems, involving the resources of the private sector as well as the public sector and particularly of the people themselves.

The Committee has given much thought to how this co-ordinated action can be directed. The problem is so serious that in the Committee's view, it requires the attention of the Cabinet itself. . . .³⁹

(4) Recommendation 13

Recommendation 13, which follows, is in these terms:

We recommend that:

- (a) immediate action be taken to address in a comprehensive manner across a broad front of central Government, local Government, Maori tribal authorities and the community at large, the cultural, economic and social problems that are creating serious tensions in our major cities and in certain other outlying areas;
- (b) the aim of this approach be to create the opportunity for community effort to:
 - (i) plan, direct, control and co-ordinate the effort of central Government, local Government, tribal authorities and structures, other cultural structures, business community and Maoridom;

37. Ibid

38. Ibid, p 43

39. Ibid, p 45

- (ii) harness the initiatives of the Maori people and the community at large to help address the problems;
- (c) the Cabinet Committee on Social Equity and their Permanent Heads be responsible for planning and directing the co-ordination of resources, knowledge and experiences required to promote and sustain community responses and invite representatives of commerce, business, Maoridom, local Government and community leaders to share in this task.⁴⁰

Overall, the tenor of Mr Boag's evidence about the meaning of *Puao-te-Ata-tu* is captured in these statements:

what was driving the [Rangihau] committee was that if the Department could get it right with its Maori clients, it was going to get it right with all its clients, it is a question of sensitivity, communication and understanding.

[The] committee came down very firmly on the question of partnership, that it wasn't either/or, it wasn't one or the other. [It was] seeing that we should be working as a total community, with various strands within.⁴¹

5.6 PUAO-TE-ATA-TU AND THE RESTRUCTURED DSW

5.6.1 Background

The present Director-General of Social Welfare, Margaret Bazley, was appointed in July 1993, more than one year after the CFA became operational. Mrs Bazley was frank about the level of commitment to *Puao-te-Ata-tu* within the department upon her arrival:

the early impetus given by *Puao te Atatu* had gone and many Maori staff were very angry and bitter about the failure to follow through. It is difficult to speculate as to the reasons behind this failure to follow through. Suffice it to say I am committed to ensuring that *Puao te Atatu* is restored to its rightful place as a key document for the Department.⁴²

The process that the director-general set in place to this end began with four hui of all Maori staff in the department, which were attended by the senior managers. From those hui, a framework was developed to ensure that the department was a bicultural workplace, and the booklet *Te Punga* ('the anchor') was published in December 1994. Mrs Bazley stated that the department's general managers, through their performance agreements, would be held to account for the delivery of the objectives in *Te Punga*.⁴³

40. Document A3, p 45

41. Transcript 4.4, pp 67, 71

42. Document c1(1), para 13

43. Ibid, paras 14, 16

5.6.2 *Te Punga*

(1) *Indirectly relevant to this claim*

Published while the hearings of the claim were in progress, *Te Punga* was not available to guide CFA management and staff during the establishment of the agency and its first 18 months of operation. While it signposts the bicultural direction of the department from 1995, earlier departmental attitudes and conduct, including those within the CFA, did not have the benefit of *Te Punga*'s guidelines, and the relevance of the booklet to the claim is primarily to indicate future intent.

(2) *Five-year plan for a bicultural DSW*

Te Punga sets out the strategies the DSW will pursue over the next five years in order to 'anchor our bicultural approach' and meet the challenge of the Treaty of Waitangi and of *Puao-te-Ata-tu*. That challenge is described as being 'to ensure that our advice to Government, and our service delivery planning, addresses tangata whenua needs in tangata whenua terms'.⁴⁴

The aim of *Te Punga* is 'getting it right for Maori', and the examples given of what this means are these:

- Maori perspectives are a key part of policy development and service delivery,
- The Department [is] an organisation in which Maori are comfortable being Maori,
- Maori have equal access to employment opportunities within the Department,
- Cultural skills are utilised effectively and recognised,
- All staff are culturally aware and sensitive to Maori needs, customs and issues,
- Appropriate links are in place with local iwi, hapu and whanau,
- There is active promotion of policies and practices which will result in improved outcomes and greater well-being for Maori.⁴⁵

Te Punga's three main sections deal with the Justice Department's 1989 statement of the principles for Crown action on the Treaty of Waitangi; *Puao-te-Ata-tu*; and the way ahead for the department.

(3) *References to iwi and hapu*

It has already been noted that Mr Boag, an author of *Puao-te-Ata-tu*, praised *Te Punga*'s summary of the principles of that report.⁴⁶ *Te Punga*'s section on *Puao-te-Ata-tu* refers to iwi and hapu only in the following context:

[*Puao-te-Ata-tu*] emphasises the culturally defined place of the child in Maori society and views with confidence the roles of iwi, hapu and whanau in providing a strong system of succour and guidance for their children.⁴⁷

44. Document c1(b)(4), p 16

45. Ibid, p 4

46. Ibid, p 14

47. Ibid, p 13

In light of the Treaty issues raised by this claim, it is of interest that *Te Punga's* Treaty section, and the section on the way ahead for the department, concentrate on the role of iwi and, to a lesser extent, hapu. For example, the discussion of the principle of rangatiratanga focuses entirely upon iwi; the role of hapu is mentioned in the discussions of Maori representation and of consultation to pre-empt the development of Treaty grievances; and the strategies for the way ahead during the next five years emphasise the need to establish and maintain links with mana whenua iwi on service issues.⁴⁸

(4) What about non-iwi groups?

Claimant counsel asked the director-general to explain *Te Punga's* failure to mention any relationship between the Crown and Maori other than iwi. Mrs Bazley accepted that 80 percent of Maori live in cities and that Maori organisations like Te Whanau o Waipareira have been established to provide a sense of cultural cohesion and continuity in circumstances where that would not otherwise be likely to take place. She also agreed that the work of those organisations was vitally important to the well-being of urban Maori and that the department has to deal with Maori in their current 'reality', not as they were or as they could be.⁴⁹

Te Punga's focus upon iwi, the director-general said, reflects the department's legal obligation to deal with iwi as Treaty partners. The department sources that obligation to section 56 of the State Sector Act 1988 and section 396 of the Children, Young Persons, and Their Families Act 1989 (see sec 7.2). It was emphasised, however, that the department's formal relationship with iwi did not mean that urban groups were treated differently when it came to approving funding: 'we recognise the sovereignty of iwi and we deal with pan-tribal groups and a host of other groups as well'.⁵⁰

The agency's general manager also emphasised that iwi and pan-tribal groups do not get treated differently in terms of funding.⁵¹ She later acknowledged, however, that other differences between the agency's treatment of iwi and pan-tribal groups could have an indirect influence on their respective funding.⁵²

(5) The DSW's coordinating role lost

Te Punga's summary of *Puao-te-Ata-tu's* principles includes the statement that the 1986 report was about 'ensuring effective coordination of planning, policy, and practice to tackle serious economic and social problems'. However, *Te Punga* itself does not emphasise, nor set out specific strategies to further, the role of the department in promoting or participating in coordinated responses by Government agencies to welfare needs. The clear focus of *Te Punga* is therefore on making the department a bicultural workplace and on improving its links with Maori in the

48. Document c1(b)(4), pp 6, 8, 10, 17

49. Transcript 4.2, p 6

50. Ibid, pp 4, 5

51. Document c1(2), para 74

52. Transcript 4.2, p 55

community. The strategy that holds out the greatest prospect of promoting coordination between the department and other Government social agencies is a medium-term (one- to three-year) strategy promising that managers' performance agreements will include the requirement that they gain a good working knowledge of the community that their office serves and identify key results areas against which they will be measured.⁵³

5.6.3 *Te Wakahuia o Puaote-Atatu*

(1) *Protocol for bicultural policy development*

When explaining how policy-making within the DSW is informed by Maori views and experiences, the director-general referred to *Te Wakahuia o Puaote-Atatu*, which was published by the Social Policy Agency of the department in September 1994. Like *Te Punga*, this document was not available to the CFA during its establishment and early operations and so is of indirect relevance to the claim. It does, however, offer insights to the level of bicultural development attained by the Social Policy Agency – a key unit of the department – by late 1994.

The Social Policy Agency has a budget of \$8 million and approximately 100 staff, 60 of whom are involved in policy work. Elaborating on its personnel, the director-general said there is:

a very active – not a formal unit but a group of Maori staff that work very closely together. As would be in all our businesses, as you've heard that CFA have their Maori staff network, the same thing is in place in most of our offices and the other businesses are looking to establishing other regional or nationwide Maori staff networks.⁵⁴

Te Wakahuia o Puaote-Atatu 'represents a step down the road to biculturalism' within the Social Policy Agency, presenting a plan by which its staff will be able to 'ascertain and accurately present the special needs of Tangata Whenua and incorporate this knowledge into our work'.⁵⁵

(2) *Focus on tribal groups*

The document acknowledges that much has yet to be achieved in pursuit of that goal. For example, the Social Policy Agency's strategy for consultation with 'iwi and hapu' was in the process of being developed in September 1994.⁵⁶ Again, it is of interest in light of the Treaty issues raised by the claim that comparatively little mention is made in *Te Wakahuia o Puaote-Atatu* of Maori groups other than tribal groups. There are few suggestions as to when and how non-tribal groups should be involved in the Social Policy Agency's consultative processes. For example, in regard to consultation beyond Government agencies, *Te Wakahuia o Puaote-Atatu* states that a first task is

53. Document c1(b)(4), pp 20–21

54. Transcript 4.2, p 12

55. Document c3, ch 3, pp 1, 2

56. Document c3, ch 9, p 7

to determine who are the most appropriate ‘iwi and Tangata Whenua’ groups to consult with and points out that ‘An important decision here is the extent to which consultation needs to be iwi-based and the extent to which non-iwi based groups need to be involved.’⁵⁷ It then goes on to refer only to consultation with iwi and hapu – acknowledging that the strategy for achieving this has yet to be developed but referring to Te Puni Kokiri’s *Guide for Departments on Consultation with Iwi*, a document received by all Social Policy Agency staff.⁵⁸

The director-general summarised the method by which the Social Policy Agency gains input from Maori:

when we are doing policy issues we have a very separate protocol in place that the Social Policy Agency follows, to ensure that there is Maori input into all policy and on major issues they do nationwide consultation with iwi. So that there is no question of one or two or six people in Wellington deciding what is good for all iwi. On major issues of policy all iwi will have input. Now I would expect in that sort of situation that groups such as yours [Te Whanau o Waipareira] would also be consulted.⁵⁹

5.7 PUAO-TE-ATA-TU AND THE CFA

5.7.1 General manager’s understanding

The agency’s general manager at the time of the hearings, Ann Clark, stated that throughout the establishment and development of the agency, she had been very conscious of the need to ensure its service addressed the requirements of *Puao-te-Ata-tu*.⁶⁰ She had tested out her understanding of the report with ‘key players’, including Maori staff in the Social Policy Agency, the Children and Young Persons Service, and the CFA. She could not recall any discussion at that time of the needs of urban Maori who did not know their iwi affiliation, but:

There was clearly an issue about how you provided services effectively to urban Maori and in fact there are different solutions. I mean some iwi have set up taurahere, and in Wellington Ngati Kahungunu for example has a very effective social service for their members within the Wellington urban area which is one response. Another response is like Waipareira which essentially says that they’re providing services to all the Maori in the West Auckland area who mandate them to be in that position. So our response is really to be flexible, we’re not closing the door on any type of service provider. What we’re saying is these are the people with the needs, how best can those needs be met? Who are the best providers to do that? Those are the questions we ask.⁶¹

57. Document c3, ch 9, p 6

58. Document c5(b)

59. Transcript 4.2, p 11

60. Document c1(2), para 82

61. Transcript 4.2, p 65

5.7.2 References in agency documents

The agency's internal documents provide information to guide staff in their efforts to implement the principles of *Puao-te-Ata-tu*. Amongst these is the agency's *Services Planning Handbook 1993*, which states:

Puao-te-Ata-tu expresses the Department of Social Welfare's commitment to increasing Maori management over their own social service delivery, emphasising the traditional structures of whanau, hapu and iwi.⁶²

On the specific matter of contact with iwi, the agency's 1992–93 strategic plan required all area teams to develop protocols with iwi to ensure that they were aware of services planning and had opportunities to become involved in the process if they wished.⁶³

5.7.3 Application in agency's practice

(1) No requirement for staff training

Staff training on the obligations flowing from *Puao-te-Ata-tu* had not been organised on an agency-wide basis by March 1995. The north-west Auckland sub-team, which works with Te Whanau o Waipareira Trust, had not had any such training. Nor had there been any specific discussion of *Puao-te-Ata-tu* in any of the team's meetings. Team members envisaged that issues of bicultural training and the reaffirmation of the principles of *Puao-te-Ata-tu* would be addressed by the general managers' hui to be held in response to the publication of *Te Punga*.

At the time of the hearings in this claim, therefore, the north-west Auckland sub-team's understanding of *Puao-te-Ata-tu* derived in large part from the knowledge that individual members brought to their jobs from previous positions within or outside the department. The two Maori members of the sub-team stated that their own previous experience with Maori organisations was relevant to their work. One believed that he had been appointed because of his knowledge of and ability to work with Maori.⁶⁴

(2) Strategic planning varied

In sharp contrast to the north-west Auckland sub-team's approach to *Puao-te-Ata-tu* is that of the agency's central north team and its sub-teams.⁶⁵ Detailed evidence was given about how that team had asked itself where it was going and how it would know when it had got there in terms of 'the *Puao-te-Ata-tu* outcome'. The central north team considered it important to take a strategic approach to planning for iwi–Maori social service provision beyond any one year for two reasons:

62. Document c1(c)(33), para 1.2

63. Document c1(2), para 49

64. Transcript 4.3, p 90; transcript 4.5, p 31

65. The central north team covers an area from 'south of the Bombay Hills, goes down to the Mokau in the south, east towards and under Turangi and then in a straight line up to Cape Runaway, it includes the Bay of Plenty and Coromandel area' (doc c1(8), para 1).

firstly, because the agency contracts annually and secondly, as the full team makes decisions regarding any resources the Iwi/Maori staff were keen to ensure that any existing or new Iwi/Maori groups/subgroups were not being set up to fail. One result of this was that the full team decided that any additional funds we were able to secure [as a result of mainstreaming] would be targeted specifically for Iwi/Maori services. This occurred.⁶⁶

The first step the team took was to build a profile of iwi–Maori structures within the region that was used to increase awareness and to educate staff about the different role or purpose of iwi–Maori organisations. It was also used as the basis for contact with the organisations, with protocols being developed so that staff could ensure effective two-way communication. While the protocols vary according to the requirements of different organisations, protocols for Maori groups working outside iwi structures ensure they have the same opportunities as iwi groups for contact with the agency.⁶⁷

(3) Innovation preferred to uniformity

Because the very different approaches of the north-west Auckland sub-team and the central north team gave rise to different practices in consulting with Maori groups in the two areas, the agency's northern regional manager, Wendy Reid, was asked what guidelines had been given to the four northern teams about consulting with Maori service providers or potential providers. She replied:

we have encouraged innovative approaches by the team. So we've said look, this is what we want you to do, but we haven't said how to do it. We have given resources where they've been available and guidelines where they've been available but we've really wanted the teams to develop ways and then spread that knowledge and experience throughout our other teams and say look Central North's doing this, you might like to think about doing that too, and it's more that process.⁶⁸

When asked how the agency ensured that all eight of its areas gave appropriate and consistent attention to the Crown's obligations to Maori, the general manager observed that consistency of practice was not always desirable:

The thing that strikes me overwhelmingly as the General Manager is the diversity of the eight teams who service New Zealand. In terms of consistency the question I always ask is why does it need to be consistent? Now in terms of financial delegations then I have to have consistency. In terms of dealing with the needs of local iwi I would prefer not to see consistency in the sense that I would like to be assured that we have responded appropriately to the needs of that particular iwi and so there may well be a different approach, but that's a negotiated approach. So the consistency is that they sort out iwi and negotiated a protocol. The protocol may be very different . . .⁶⁹

66. Document c1(8), para 5

67. Ibid, paras 6–14

68. Transcript 4.2, p 167

69. Ibid, p 75

(4) *Other bicultural indicators*

More broadly, the general manager gave the following examples of the agency's service being consistent with *Puao-te-Ata-tu*:

the establishment of the Maori staff network, the collection of statistics on iwi affiliation and ethnicity as a non negotiable for both staff and service providers in respect of their client base, ensuring all funding was capable of equal access by Maori and other ethnic groups in New Zealand . . . ensuring the approval processes were culturally sensitive, progressing the development of iwi based child and family support services, and actively promoting with staff the need to establish protocols with iwi.⁷⁰

Very little evidence was given about the Maori staff network within the agency, although the general manager stated that the network had been consulted on the development of some of the agency's policies and that the input of Maori staff is valued.⁷¹

5.7.4 Performance can be monitored

It was explained that the agency's operational plan provided a means by which the areas' responses to Maori could be monitored:

So in terms of actually testing out and asking the question about what work had been done with iwi, looking at things like the purchase plans and the services plans to make sure that the needs of Maori were being addressed insofar as we knew what the needs were. Making sure that the services plan process actually gave opportunities for input from Maori whether that be urban Maori or rural Maori on an iwi basis.⁷²

5.8 THE TRIBUNAL'S ASSESSMENT OF *PUAO-TE-ATA-TU*

As we observed in chapter 1, the Crown's case was founded on the belief that it was giving full effect to its Treaty obligations through implementing a policy of biculturalism. We have already found that the Treaty interests of Te Whanau o Waipareira were not fully recognised by the Crown, and its status was seen as less than that of a traditional tribal group for the purposes of social policy delivery. To that extent, the Crown's obligations were not fulfilled, for the Treaty obligation is to all Maori. In this case, and for reasons given earlier, Te Whanau o Waipareira is a community which is entitled to recognition.

It may be asked, do the Crown's shortcomings reflect on *Puao-te-Ata-tu* itself, or on the way it was interpreted by the department? That question, whether the Crown was justified in relying upon the report, is not directly in issue before this Tribunal; our inquiry is simply whether Crown policy has failed to recognise such Treaty rights

70. Document c1(2), para 82

71. Transcript 4.2, p 82

72. Ibid, p 75

as Te Whanau o Waipareira may have, and whether Te Whanau o Waipareira is prejudiced as a result. However, we make the following observations.

Puao-te-Ata-tu itself does not answer the question as to whether biculturalism would have fulfilled the department's Treaty obligations. Because the Rangihau committee was directed to 'assess the current capability of the Department in relation to . . . an approach which would meet the needs of Maori in policy, planning and service delivery', its report did not discuss in detail the respective roles and rights of Crown and Maori in a Treaty-based relationship. While the principles of biculturalism and partnership it advocated reflect Treaty principles, the argument in the report is not addressed in Treaty terms.

None the less, it is understandable that the Crown should rely on *Puao-te-Ata-tu*, given its high calibre, the standing of its authors, and the status of the chairperson of the reporting committee in particular in both Maori and Pakeha worlds. The report is not diminished by our statements. Moreover, it is commendable, in our view, that the Crown has shown, or now expresses a commitment to its principles.

We commend the department for seeking a bicultural understanding and process, as reflected in its policy documents *Te Punga* and *Te Wakahuia o Puao-te-Ata-tu*. Their intention is clearly to promote affirmative action within the department and the agency to ensure Maori are not prejudiced through ignorance. However, it has constantly to be borne in mind that, in a Treaty-based relationship, a bicultural dimension to policy and practice is not an end in itself but the means to an end. *Puao-te-Ata-tu* went much further than encouraging a bicultural perspective within the department. The goal, in terms of the report, is a proper engagement between the Crown and Maori, a sharing of power and control over resources, a mutual accountability, where the relationship harnesses the potential of all Maori in the most effective manner. That in our view goes more to the heart of the Treaty as well.

The Minister's aim in commissioning *Puao-te-Ata-tu* was to improve the department's relationships with Maori clients, but the Rangihau committee realised that disparities between the development and welfare of Maori and non-Maori would not be overcome until Maori people's own social and political structures were developed and strengthened. Underlying the report, in our view (although the matter was not expressed in these terms), was a concern to maintain the rangatiratanga of Maori people, rangatiratanga being the way Maori have customarily organised their many and scattered communities and the way in which modern service delivery may still be most effective for them.

Looking to the longer term, therefore, the committee recommended that the department adopt a two-fold strategy. First, it should lead the efforts of the Crown to get its own house in order, to organise proper coordination and cooperation between Government agencies which, at that time, were each dealing with the same Maori clients in their own separate ways. This tended to render ineffective whatever support was provided, and to dissipate Maori efforts to control and manage their own affairs. Secondly, *Puao-te-Ata-tu* recommended that, in conducting its business, the department empower Maori and assist them to organise themselves appropriately, and that it make itself accountable to Maori and the wider community.

Following the wisdom of the day, *Puao-Te-Ata-tu* considered that Maori communities would build themselves up by strengthening family and tribal structures, which still seems sensible. We are not convinced, however, that the committee's desire for the strengthening of tribal organisations was such a fundamental tenet of its report as to exclude other options. The focus of the report as we read it is actually upon communities and consumers and, by building up communities, developing an effective partnership between the Crown and the people. The Auckland problem was seen as being in a class of its own and the question of how Maori might deal with it was left open; so the particular position of bodies like Te Whanau o Waipareira was not directly addressed, or placed in issue in the way that it has been brought before us.

We consider that the extent to which the tribal approach has been made a fundamental tenet is due to others who have placed that complexion on it. In doing so, they have misconstrued from the outset a fundamental concept in Maori culture – rangatiratanga, a concept at the heart of the Treaty. By believing that rangatiratanga could not be exercised outside the kinship domain, the Crown denied itself the opportunity to consider whether or not there were sufficient grounds for Waipareira to have special recognition under the Treaty. For reasons given earlier in this report, we consider rangatiratanga may be exercised in new and diverse situations. The principle, or customary value, of rangatiratanga remains the same. All that changes are the circumstances in which it is applied, and as earlier opined, Te Whanau o Waipareira is now possessed of it.

'Iwi', another key element in the interpretation of the Treaty, also seems to have been misconstrued. In the sense of 'tribe', it does not appear in the Treaty. Accordingly, there is no inherent reason why the Crown should reify the concept and negotiate with iwi at the expense of hapu in Treaty grievance contexts. More to the point, 'iwi' may well have a central place in bicultural policies and programmes dealing with Government services to a cultural group, but if these are to be Treaty driven, rangatiratanga, kawanatanga and partnership apply. Even *Puao-te-Ata-tu*, which the department relied on, dwelt not upon the wider construct of iwi at a district level but on the need for performance at the more local level of the actual community, as represented in hapu.

The problem as we identify it then is not in the prescriptiveness of the report but in the prescriptiveness of some who followed after it. Indeed, the later emphasis on tribal authorities may be due to events subsequent to the report when legislation for the recognition of iwi authorities was briefly placed on the statute books.

When read as a whole, *Puao-te-Ata-tu* presents as a beginning, not an end, calling upon the Government to maintain a search for solutions in consultation with the community, and not just with tribal authorities but with 'other cultural structures' and with 'Maoridom', and seeking that the issues be further considered by the Royal Commission on Social Policy that was then in contemplation. Thus, the report may justly stand as an important milestone in the development of the country's administration, and we see it, and the report appears to have seen itself, as just that – a milestone, and not the end of the path.

Further, a proper assessment of what might be required of the Crown in fulfilment of its Treaty obligations to Maori, the finding of a proper balance between rangatiratanga and kawanatanga, called for an honest inquiry into the facts and circumstances. In view of the magnitude of the social crisis revealed by the Rangihau committee and persisting today, it is not an adequate response overly to rely on a particular view of tribal structures as thought to have been endorsed in a report of 1986. The facts clearly call for alternative initiatives. Instead, the CFA became preoccupied with the question of how Maori ought to organise themselves (an aspect of *Puao-te-Ata-tu* that the Rangihau committee assumed Maori would decide in their own way) to the point where it failed to see the wider picture. On the facts, Te Whanau o Waipareira is clearly more than just an appropriate group to consult, even though it is not a traditional iwi; given the record of its capacity and the concentration of Maori in Auckland, it is a key player. In its closing submission, the Crown said that Waipareira did not need to assert iwi status or article 2 rights.⁷³ In the claimants' view, consultation between the Crown and Maori at the appropriate juncture and level would have avoided unwarranted assumptions and expectations in this as in other matters. The Tribunal concurs.

But what of the other tasks recommended for the department in *Puao-te-Ata-tu* – getting the Crown's affairs properly coordinated and making the department itself accountable to Maori and the wider community? In carrying these out, the department was overtaken by the restructuring of the State sector, and then its own restructuring into separate business units, during a period when commitment to *Puao-te-Ata-tu* was acknowledged to have waned. We look at these matters in the next chapter.

73. Document E7(19), para 49