

Te Whanganui-a-Orotu Report 1995

2 Nga Hapu o Te Whanganui-a-Orotu

2.1 Te powhiri

2.1.1 Te Whakaeke (the approach)

The hearing of this claim commenced at Omahu Marae, deemed by the claimants to be the most appropriate venue, given its importance in their history and traditions. On the first day of the hearing, the Tribunal and those representing the Crown were welcomed there with all the customary ceremonial that attends any great gathering. As is usual, the kaupapa and the occasion were established in the karanga from the women of the marae and continued in the korero that followed.

In the speeches and waiata from the paepae, much was said about the identity, history, and inheritance of the people and the place, and much deference was paid to the members of the Tribunal and the Crown in such terms as `Haere mai te Roopu Whakamana i te Tiriti' (Welcome to the Tribunal, who are charged with the giving of life, meaning, and authority to the Treaty of Waitangi).

To that end, all the speeches were based on memories of the past and of those who had died. They also dwelt on the basic purpose of the gathering, and the expectations of the tangata whenua for a sympathetic hearing, with reminders to the Tribunal that upon them lay the honour of the Crown for a just outcome. In both speech and song, the tangata whenua produced their credentials as claimants and laid claim to their ancestral territory.

This was followed by the final act of welcome, the whakarata, or act of physical contact through the hongi, when hosts and visitors press their noses together, signifying the sharing of the breath of life, so that, symbolically, the breath of one becomes the breath of the other. By the end of the welcoming formalities, all the participants, claimants, Crown, and Tribunal were united by the air that they breathed and the environment that they shared. Host and visitor, tangata whenua and manuhiri, had closed the gap across the marae and the stage was set, in Maori terms, for the weightier matters of mutual interest to be discussed.

There, on the first day, the Tribunal and the Crown were welcomed as one and taken into unity in that Maori sense that nothing and nobody is a completely separate or distinct entity. As we made our respectful approach, the mass of people who gathered to greet us were representatives of every hapu of Ngati Kahungunu-ki-Heretaunga, there in support of the seven of their kin hapu on whose behalf and in whose name the claim is made.

2.1.2 The marae

The whole environment of the marae told its story about the tangata whenua. The marae itself bears the name of an `especially revered' ancestor, Mahu Tapoanui,

whose descendants were the original tangata whenua of the district before Taraia I's invasion and who is said to be 'a marker post by which the inhabitants of Te Whanganui-a-Orotu can gauge their length of occupation' (E3(a):7-8).¹

The elaborately carved meeting house or whare tipuna bears the name of Kahukuranui, while the building in which hospitality was extended and food and drink were provided (commonly called the wharekai) carries the name of Ruatapuwhahine. Both are ancestors of Ngati Hinemanu, the hapu of Renata Kawepo's wife. Renata, a teacher at Colenso's Waitangi mission station, worked both to bring his people, Ngati Upokoiri, back from exile and to resettle them at Omahu, which became his principal settlement.²

On the marae are a flag-pole and memorials to those who gave their lives in the two world wars. To one side of the marae is a wahi tapu, where stands the Church of St John's, established by Renata Kawepo, and graves of the family and ancestors of the tangata whenua. There is also a memorial engraved with the words 'Renata Kawepo and his faithful followers who fought for Queen and Country during the Hauhau Rebellion 1860-1872'. As we surveyed this scene, we were very conscious of all the symbols that tie the tangata whenua to their past and speak of their hopes for the future.

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2.2 The Maori history of Te Whanganui-a-Orotu

2.2.1 Whakapapa

Throughout the evidence of the claimants, whakapapa were used to connect with the environment, establish the identity of witnesses, identify ancestors, establish occupation and use rights, and explain spiritual concepts and tribal history.

Through the whakapapa produced by Rameka Pohatu (D12), the claimants established their identity as descendants of the first people of the area who are linked to 'the cosmos, to the land and to the waters of the region'. From Toi, the line of descent extends to Mahu, 'the very beginning of our people', who begat Orotu, who resided at Te Whanganui-a-Orotu for at least part of his life. His son, Whatumamoa, was born at Te Whanganui-a-Orotu and was one of the original owners of the land. Finally, the line descends to Turauwha, the principal chief at Otatara when Taraia, son of Kahungunu, invaded and conquered Heretaunga 14 or 15 generations before 1850 (in about 1550). By this time there were other tribes, including Ngati Awa, living side by side with Ngati Whatumamoa (D22:2-4; I9:19-20). 'As highest ranking chief on the Ngati Awa line combined with the senior line of Ngati Whatumamoa on his mother's side', Turauwha was a very important Heretaunga chief (A12:5; I9:29).

The claimants further established their descent from Tangaroa, god of the sea, down through Pania, the sea maiden, and her child Moremore, a taniwha, to link by marriage to the Toi people (D27:7; I9:29-30).

Ngati Awa shared with Kahungunu a common ancestry in the Far North and in the chiefs Kauri and Tamatea, who led the migration of Ngati Awa from Mangonui to Tauranga. Tamatea's son, Kahungunu, who was born in Kaitaia, built a second waka named Takitimu and joined his father, who was one of the greatest navigators of his day, in a journey down the east coast to Te Whanganui-a-Orotu and then inland up the Ngaruroro River (A12:6-7).³

Fearing annihilation by Taraia's war party after it had captured the upper Otatara Pa, Turauwha and his people, who had settled at the mouth of the Ngaruroro, retreated up the Tutaekuri River to the bush, leaving Taraia in possession of the Heretaunga Plains. Hunger, however, drove them back to Poraiti, where Taraia allowed them to remain. Hence the saying, 'The land is Turauwha's but the mana is Taraia's' (A12:10). Through peacemaking marriage alliances, they carefully preserved their whakapapa links with the earliest inhabitants. All the seven claimant hapu trace their descent lines from both Kahungunu and Turauwha.⁴ Ngati Awa, on the other hand, were dislodged by Taraia and moved south to become associated with Rangitane. Eventually they became known as Ngati Mamoe and moved to Te Wai Pounamu (D22:2-4; I9:19-20).

2.2.2 Waiata

A waiata tawhito (D13) in support of John Hohepa's and Rameka Pohatu's submissions (D10; D12) traces the descent of Kahungunu from Io Nui, the supreme being, to Papatuanuku and Ranginui and their god children, including Tangaroa, to the first humans and the voyagers from Polynesia who arrived on the Takitimu waka and married those already here. The line extends down to Kahungunu's parents, Tamatea Pokaiwhenua and Iwipupu Te Kura, and identifies him with the mountains, and the rivers, outlet, and hinterland of Te Whanganui-a-Orotu:

Ko wai Te Waka	Takitimu
Ko wai Te Tangata	Tamatea Arikinui
Ko wai Te Tohunga	Ruawharo
Ko wai Nga Maunga	Hikurangi Puketapu Kohukete Heipipi Haruru Mataruahao
O wai Nga Awa	Ngaruroro Tutaekuri Te Waiohinganga
Ko wai Te Ngutu Awa	Keteketerau
Ko wai Te Iwi	Ngati Kahungunu (D13)

The waiata of Te Whatu records the whakapapa of his father, Te Orotu, and his people, who occupied Te Whanganui-a-Orotu, and laments Taraia's invasion and occupation:

E hara taua i te heke / i a Taraia e
He whenua tipu he tangata / tipu - tonu
He takare taua no roto / no Heretaunga
Ma te tangata e ui / mai ki e koe
Na wai ra e kia / atu e koe
Na Tangaroanui / a Te Kore
Na waira e kia / atu e koe
Na Maikanui / a Te Whatu
Na Hoakehu ano a / Haumaitawhiti
Na Orotu a Whatumamoā
Na Tamaahuroa / a Ruakukuru
Nana te awa poka / Hauhaupounamu

E tama e tangi nei / he tangi kai pea
Kaore nei tama / he kainga i a taua
Tena nga kainga kai / nga wehewehe a o tipuna
Ko Te Huhuti ano te / taha / ki Ruahine
Ko Te Rerehu ko Tamanuhiri / ki runga ki kawera
Ko Hineiao ano ki tona / tauranga ki Tawhitinui
Ko Hinekai ano ki tona wai u / ki Te Rotokare
Ko Haumahurua ano ki Ohiwia / ki te Makoparae
Ka tau mai Taraia nga utu awa / kahawai kai Ngaruroro
Ka whati mai o / tipuna
Ki runga te tehuna tapapa noa ai

We are not of the migration of Taraia
The land is permanent, the people also are permanent
We are the principals within Heretaunga

When people ask you to whom it belongs, you reply
By Tangaroanui is Te Kore
By Maikanui is Haumaitawhiti
By Orotu is Whatumamoa
By Tamaahuroa is Ruakukuru
He made the water course Hauhaupounamu

My son who is crying, are you crying for food
There is no land my son, which is ours
There the lands which were divided by your ancestors
To Te Huhuti the side at Ruahine
Te Rerehu and Tamanuhiri at and upon kawera
Hineiao to her landing place at Tawhitinui
Hinekai to her mother's milk at Te Rotokare
Haumahurua to Ohiwia and Te Mokoparae
When Taraia came to the kahawai river mouth at Ngaruroro
Your ancestors were driven away
To the shingle banks and there squatted without right (D23)

2.2.3 Place names

In introducing evidence on the ancestors of Te Whanganui-a-Orotu, Patrick Parsons said that one of the things that had particularly impressed him in his research was that:

Time has never quite succeeded in erasing the imprints which illustrious ancestors of antiquity stamped on Te Whanganui-a-Orotu. They survive in the place names, the wahi tapu, the little-known documentation and especially in the faces of the descendants who are here in support of the Wai 55 claim today. (E3(a):3)

At the hearings and on the site visit, the claimants recounted stories of the deeds of ancestors associated with these place names and wahi tapu. The oldest names are imprints of the journeys that Mahu, Orotu, Tamatea, and Kahungunu made down the coast. Te Whanganui-a-Orotu bears the name of Orotu, an early visitor who established his people on its shores. The island Tapu Te Ranga (a sacred place where certain tohi or baptismal rites were once performed) was Tamatea's resting place on his journey down the east coast.⁵ The Keteketerau opening is connected with Tara, a descendant of Toi Kairakau. Coming down the east coast from Whangara in search of his missing dog, Tara beached his canoe at the lagoon's outlet, and, on finding that he had left at Wairoa the flute that he used to whistle his dog, clicked his tongue in annoyance (a sound known in Maori as ketekete) (A12:4). The Ahuriri opening is said to be named after a chief who was descended from Tara and who visited the district at a time of flood when Keteketerau was blocked and set his men to dig another outlet channel at the Mataruahou end of the lagoon. Ahuriri is also a common name in Polynesia for a lagoon separated from the sea by a narrow sand and boulder bank, just as Te Whanganui-a-Orotu is separated from the sea by the western and eastern spits.⁶

The name of the biggest island in the lagoon, Roro o Kuri (dog's brains), suggests that it was the scene of a feast. Facing Whareponga Bay is a promontory on Roro o Kuri named Kahungunu. In respect of the bay, there is a saying, `Kei Konei te punga o

Takitimu' (Here is the anchorage of Takitimu). A pepeha records the thoughts of Tamatea and Kahungunu on their journey inland to the Ruahine Range when they were hungry:

Nga karoro tangitararau mai i runga o Tapu Te Ranga
Nga patiki tahanui o Otiere
Nga pupu patoto o Whakaari

The many screaming seagulls above Tapu Te Ranga
The thick sided flounders of Otiere
The knocking sound of the pupu at Whakaari [Whakaari is beyond the western end of the lagoon.] (D21:5)

Ruatangahanga, a dip behind the Westshore hotel and service station, is where Mahu stopped to rest on a very hot, thirsty day and found fresh water when his dog dug a hole and began to drink. In the hole was a fish called tangahanga (D21:6).

Otatara, one of two sentinel pa that kept vigil over Te Whanganui-a-Orotu (the food source) at the northern and southern approaches to the lagoon, was a name brought from the Hokianga by Ngati Awa. After Ngati Awa came and found relations at the other sentinel pa, Heipipi, they joined together and pushed south the Rangitane and other tribes at the Waiohiki end of the lagoon and built Otatara (D40:2).⁷

Heipipi later came under attack when Taraia led his invading force south to capture the Heretaunga Plains and open them up to colonisation. Before dawn, on the beach below Heipipi, Taraia split his war party into two groups, leaving one, covered with mud and clay and black mats, lying there. At first light, a sentry in the pa mistook them for a stranded shoal of upokohu (black fish) and roused the people to go and gather the koha from Tangaroa, god of the sea and originator of all fish. Thus Taraia was able to get past Heipipi and overcome the upper pa, Hikurangi, at Otatara (D27:1-2, 6).

To the seven claimant hapu, the stories behind the place names in and around Te Whanganui-a-Orotu are a priceless taonga, an oral record of the footprints of their illustrious ancestors, who discovered and settled the area 26 or more generations ago.

2.2.4 Pania and Moremore

Mystically associated with Te Whanganui-a-Orotu is Tangaroa, who begat Ruamano, the guardian whale who led and navigated the waka Takitimu on its great voyage to Aotearoa (E3(a):12). Especially important to the claimant hapu are two descendants: Pania, the sea maiden, and her son Moremore, whom she bore for her land-based lover before the sea people turned her into a rock at the entrance to Port Ahuriri (which used to be visible at high tide). The old people said that from a boat in the moonlight when the tide was out you used to see her lying there, with her legs astride and her arms outstretched to either side, seaweed all around where her head would be. They would get hapuku from under one arm, moki from under the other, and from between her legs another variety of fish (D27:5; D38:3; E16:7-8; I9:31-32).

Moremore, a taniwha who was born with the head of a fish and the body of a human, lived in a cave in the sea just off Sturm's Gully, near the Iron Pot, and his descendants used to frequent the Ahuriri Heads in particular (D4:37). He served his people of Te Whanganui-a-Orotu as a kaitiaki and caretaker, patrolling the coastal waters and inner harbours while they gathered kaimoana and fished. Strong, recurrent themes in the evidence of older claimants were the protection that Moremore gave from the perils of the sea, the maintenance of tikanga pertaining to the gathering of kaimoana, and the close affinity that Moremore had with the Tareha family (D4:38).

According to witnesses who have seen him, Moremore could change shape and turn himself into anything. More often than not, he was a shark, stingray, or octopus, but sometimes he was a rock or a big log (D14:3; D17:2; D21:4; D26:3; D29:4; E16:6-7; E19:1). He appeared to warn them when danger was present or when they failed to observe customary rituals and protocols that conserved resources and maintained water purity (E3(a):12; E19:1-2).

Kurupai Koopu (Mrs Nelson) described an incident when, as a child, she broke the tikanga by throwing a basket of cooked food into the sea. Moremore appeared and the women slapped the water as a sign for the men to come out, no shouting being allowed. As they came out, Moremore ripped one man's leg (oral evidence, 21 July 1993).

Selina Sullivan said that they always observed the law of Moremore. 'He'll come and show himself to you then you'll know what you've done wrong and get out . . . of the water.' You could see his fins coming. 'He wouldn't attack you but he'd warn you.' Nobody was harmed by Moremore because nobody disobeyed his warning. If you had done anything wrong, like eating while someone was in the water, Moremore would appear (D14).

Moremore warned you about things you should not do, said Marjorie Joe. For instance, if you broke tikanga, Moremore would appear and you would immediately head for shore (D26:3).

Heitia Hiha recounted an incident at the Ahuriri entrance, told to him by the late Wiremu Hamutana, about an octopus that Wiremu kicked away when it approached his foot. Three times this happened and each time it grew in size. His koroua told him to get out of the water immediately. On the jetty they all saw Moremore the shark swimming in the water (D21:4).

According to Kurupai Koopu, it was Tareha's privilege to go to Pania's Rock (oral evidence, 21 July 1993). 'The way the Maori looked at it,' Hineipitia (Beattie) Nikeria explained:

that rock represents the Tareha family. I reckon that place belongs to them. They can go and fish there. They're the ones who can go right up to the rock. They're the only ones allowed. Moremore doesn't mind.
(Cited in I9:33)

The Tarehas were connected with Moremore, said Selina Sullivan, but they were the only ones. 'When we got our kinas they were not very big but plentiful. And pauas. But when the Tarehas went in they got the big ones' (D14:3).

Rangiaho Brown recalled that when people going to get kaimoana got nothing they would pick up his father, Kapi Tareha, and take him with them, and then there would be 'Oh, kai moana everywhere' (D29:4).

The Tareha family, however, suffered through Moremore's relation, Hinewera, who claimed the firstborn son of each generation of the family. Rangiaho's baby son died after a ghost, identified as Hinewera, visited them in the night (D29:5). Erueti Pene's mother Hineiaia told us how her father, Kurupo Tareha, saw Hinewera as a woman in his bathroom the night before he passed away (oral evidence, 21 July 1993). She also said that her father, who was a tohunga, would go to the channel opening and use the sea for healing. When his eight- or nine-year-old son George crushed his foot, his father took him into the sea and he was able to walk out. Everything except his big toe was healed.

An incident linking Pania and Moremore to the 1931 earthquake further highlighted the importance of these revered ancestors in the lives of the people. According to Kurupai Koopu, when they started blowing up Pania's Rock in about 1929, Pania was angry with them (D44(7):3, 4). At 8 o'clock on the morning of the 1931 earthquake, Werate Te Kape was warned when he saw Moremore in a form that he had never seen before - that of a completely black shark with no tail (I9:37-38). After the earthquake, the demolition work continued because Pania was right in the main entrance to the harbour. Although the area where Pania lived was desecrated and destroyed to allow for harbour development, for Maori the wai mauri remained.

2.2.5 The descent from Tangaroa to Tareha

The whakapapa that takes the line of descent from Tangaroa to Pania and Moremore comes further down to Hinetua and Tunui a Rangi, who was a powerful tohunga and Ngati Whatumamoia chief of Heipipi when Taraia arrived at Te Whanganui-a-Orotu (A12:6; D27:5-6). Tunui a Rangi, so it is said, would ride his ancestor Ruamano out to sea and back and tie him up at Whareponga, a cove within Te Whanganui-a-Orotu, thus demonstrating his mastery of the forces of the deep (D4:38; D27:4-5).

From Hinetua and Tunui a Rangi, the same whakapapa line comes down to Turauwha, and finally to Tareha (D4:39), who was, according to William Colenso, one of the five principal chiefs at Ahuriri in the late 1840s.⁸ Ngati Hinepare, Ngati Mahu, and Ngati Parau all descend from this line (A12:3). Many of the people of Tangoio descend from Tunui a Rangi (D27:6).

2.2.6 Archaeological evidence

Figure 3: Location of main hapu and pre-1820 polities. Based on information in PhD theses by Angela Ballara and Mark Allen.

Archaeological evidence and radiocarbon dates presented by the Crown through Pamela Bain, a conservancy archaeologist for the Department of Conservation,

indicated settlement dates of between the late fifteenth and early seventeenth centuries for major ancient pa sites in and around Te Whanganui-a-Orotu (H9:11). Excavations associated with a pa and midden on Roro o Kuri revealed evidence of very early settlement - somewhere between the twelfth and thirteenth centuries (H9:14) - while excavations of artefactual materials on Te Ihu o Te Rei indicated settlement prior to the fifteenth century (H9:15). Archaeological evidence confirmed that Te Whanganui-a-Orotu was an important place to live. Surrounding the harbour were 11 recorded pa; some, like Otatara, of spectacular size. Recorded evidence of terraced, undefended settlements was also extensive (H9:19).

Further archaeological research and field work on central Hawke's Bay pa sites was carried out with local Maori by an American Fullbright scholar, Mark Allen, in 1989 and 1990.⁹ This included limited excavation and sample collecting for radiocarbon dating, which revealed widespread pa building and occupation in the period from about 1550 to 1700, following Taraia's invasion and the split of Ngati Kahungunu into two main divisions, Te Ika a Ruarauhanga and Te Ika a Papauma, which took their names from the two wives of Taraia's father Rakaihikuroa.

Before 1550 there were two strong, well-fortified pa at each end of Te Whanganui-a-Orotu, Heipipi and Otatara, which Taraia was unable to conquer. From about 1550 to 1625, he and his followers established themselves at Otatara and built and occupied pa to secure access to and control over Te Whanganui-a-Orotu and the Tutaekuri River, the largest and most desirable resource area. The siting of the pa was related to the best type of soil for agriculture, as well as proximity to the lagoon, coast, river, and swamp. Most of the population was concentrated in six pa at or around Otatara, described by Dr Allen as a 'veritable metropolis' of a 'relatively stable chiefdom' or 'regional polity', which he referred to as Ruarauhanga. This offered 'unparalleled subsistence, security and diversity' to over 2000, and perhaps as many as 3000, persons.

A second large cluster of pa based on the freshwater inland lakes of Poukawa and Roto a Tara was built and occupied, mostly from about 1575 to 1650, by Te Ika a Papauma to secure and protect the resources and people of the second most desirable resource area. This was the period of greatest conflict between the Te Ika a Ruarauhanga and Te Ika a Papauma. The marriage of Te Whatuiapiti of Te Ika a Papauma to Taraia's daughter Huhuti in about 1625 was followed by a long period of relative peace.

Dr Allen also located four smaller coastal clusters of pa and socio-political groups on the coast at Te Awanga, Matara U'iwi, Waimarama, and Manawarakau, as well as some small individual pa sites along the Tukituki River, around Lake Hatuma, and inland towards the Ruahine Range. By linking archaeological and oral traditional evidence, he was able to demonstrate the role of pa in the formation of two large and four small polities under chiefs who could command the labour needed to build them and have some economic power over and above subsistence for the people.¹⁰ These closely related and allied polities were sufficiently strong and stable enough to deter further invasions of the region until the musket-armed taua of the 1820s (see fig 3).

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2.3 Te Whanganui-a-Orotu a taonga

2.3.1 Mahinga kai

From the earliest of times, Te Whanganui-a-Orotu was highly prized for its enormous food resources and its access to major river systems and forest areas. In the lake were extensive shellfish beds and fishing grounds; in the rivers and streams, eels and freshwater fish. At the southern end was a large swampy area renowned for eeling; a large pa tuna (eel weir) was discovered in the Tutaekuri River near the old Meeanee Mission (D21:3). The swamps provided flax and raupo, which was needed for weaving and thatching (D18). North-facing slopes fringing the shoreline and river bank terraces were house sites and cultivations; islands in the lake, especially Roro o Kuri and Te Pakake, were used as fishing bases. Te Whanganui-a-Orotu was a coveted area (D21:7); a prize that tempted many invaders and that often required assistance from neighbouring hapu to defend (I9:86). Whatu's lament ends with a tribute to this taonga:

Kia horo te haere
Nga taumata ki / Te Poraiti
Ko te kainga tena i pepehatia / e o tipuna
Ko rua te paia ko te Whanga
He kainga to te ata
He kainga ka awatea
He kainga ka ahiahi e tama e i

Go quickly to the heights of Poraiti
That is the land in a proverb of your ancestors
The store house that never closed is Te Whanga
A meal in the morning
A meal at noon
A meal in the evening (D23:2-3)

2.3.2 Seasonal occupation and use

Te Whanganui-a-Orotu, Heitia Hiha explained, was a seasonal place. People lived there during the season for gathering kai (D21:7). When the kowhai bloomed in October it was a sign that seafood was ready for gathering (oral evidence of Kurupai Koopu, 21 July 1993). When it came to the bird season, the people went up into the bush to hunt and collect food. Archaeological evidence, however, indicated that settlement in the area surrounding Te Whanganui-a-Orotu was permanent rather than seasonal (H9:19).

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2.4 Principal pa sites

Mr Parsons gave evidence locating the principal fortified pa and kainga prior to invasions by the northern tribes, who were armed with muskets, and the exodus to Mahia in about 1824 (D4:17-18; D20(a)) (see fig 5). Those occupied by Ngati Hinepare and Ngati Mahu were Tiheruheru, a canoe landing place with a kainga on the hill above it, which had the longest tradition; Ohuarau, a fortified pa on a promontory just east of Tiheruheru; and Kouturoa, a fortified pa at the southern entrance to Kouturoa Bay. At the northern end of Te Whanganui-a-Orotu were the island pa Te Iho o Te Rei, Otaia, and Otiere, which were occupied by Ngati Hineterangi, Te Hika O Te Rautangata, Ngai Te Ruruku, Ngati Tu, Ngati Hinepare, and Ngati Mahu from 1760 to 1820. Another island pa at the north end of what is now the Hawke's Bay Airport was Tuteranuku, the settlement of Paora Kaiwhata's father. Te Pakake, a low island or sandbank inside the Ahuriri Heads, was a communal gathering place in times of war (see fig 5). Ngati Hinepare, Ngati Mahu, Ngati Parau, Ngati Hawea, and Ngati Kurumokihi all occupied it when under threat of invasion. Separated from the south-western end of Mataruahou by shallow tidal waters, and with a canoe landing place nearby, was Pukemokimoki, which was fortified by Ngati Parau (D4:3-18) (see fig 5).

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2.5 Customary use rights

2.5.1 Strength and persistence

A report to the Tribunal on traditional use and environmental change by Mr Parsons was based on taped interviews with Maori elders who had accompanied their old people to gather kaimoana at Te Whanganui-a-Orotu, with supporting evidence from elderly Europeans. Their recollections stretched back to about 1920. For the years preceding, we were referred to evidence given before the Native Land Claims Commission of 1920. Oral evidence given by claimant witnesses at hearings supplemented these reports.

Pieced together, this evidence demonstrates the remarkable strength and persistence of the customary use and occupation of Te Whanganui-a-Orotu for the purpose of fishing and collecting shellfish since the 1851 Crown purchase of the Ahuriri block, notwithstanding the Crown's assumption of ownership, harbour development and reclamation, and the 1931 earthquake. Although the shellfish beds and fishing grounds were increasingly damaged or destroyed by natural and human forces, customary fishing rights continued to be exercised until about 1972, by which time the waters were so polluted that the eating of kai from them was a serious health risk.

2.5.2 The social and political order

To understand the customary fishing rights exercised in Te Whanganui-a-Orotu, it is necessary to revisit briefly the current knowledge of custom law. As Chief Judge E T J Durie, chairperson of the Tribunal, has said, it reflects the social and political order of the people and is likely to reveal a substantial religious philosophy.¹¹

In their report to the Tribunal on the Crown purchase of Ahuriri, Angela Ballara and Gary Scott showed that the social and political order in Ahuriri/Heretaunga by the late eighteenth century was complex. The major descent groups were named for the descendants of Kahungunu, but intermarriage and other forms of alliance meant they and the older tangata whenua shared the area. Mana tangata tended to pass to the conquering newcomers but the descendants of the earlier inhabitants retained their mana whenua.

Native Land Court evidence indicated that:

The land that Taraia wanted to regard as taken possession of by him was north of the north of Ngaruroro on to the Waohinganga, Titiokura and Mohaka. He had conquered to that extent. (H1:5)¹²

Taraia's descendants, known as Ngati Kahungunu or Ngati Hinepare, or by the names of other hapu, lived in the Ahuriri area. But some of these descendants made marriage alliances with tangata whenua groups further afield and gradually formed new descent groups. One of these was Ngati Whatuiapiti, who were concentrated mainly south of the old course of the Ngaruroro River, spreading towards Waipawa. Ngati Kahungunu's lands and interests, together with those of the hapu closely associated with them, tended to be concentrated within Taraia's original boundaries north of the Ngaruroro River's old course, around Ahuriri and along the Tutaekuri River to its source.

2.5.3 Ringakaha and ahi kaa

Claimant witness Toro Waaka described the process by which Ngati Kahungunu established rights to use, occupy, and control the lands and water of Te Whanganui-a-Orotu:

It was through ringa kaha [strong-arm] marriage and different compacts between hapu that the ownership and use rights to lands and water has been established. This became important to the maintenance of Ahi Kaa [long burning fires]. No hapu could bind themselves to the land without `take Tupuna' [ancestral rights] and they could not hold it without `ringa kaha'. (E14:4)

Frederick Reti explained that:

Ahikaroa means the fires that are lit and continue to burn. The term refers to occupation. The ahi ka belongs to those hapu that are represented in the claim. They hold both the whakapapa and the ahi kaa, the continued occupation. (D27:10)

2.5.4 Two classes of customary rights

In custom law, Chief Judge Durie wrote:

There were at least two classes of land rights - the right of the community associated with the land, and the use rights of individuals and families.
The land in an area belonged to the whole of the associated community.

At Ahuriri, this would have been Ngati Kahungunu-ki-Heretaunga, together with Ngati Hinepare, Ngati Matepu, and Ngati Mahu, and other smaller hapu closely associated with them. But they did not own the land in a European sense; rather the land owned them and the chiefs exercised tino rangatiratanga over it. Moreover, the land and waters of Te Whanganui-a-Orotu were perceived as one, not compartmentalised into the land and the bed of the lake or the arm of the sea as in English common law. Individual use rights were subject to the performance of obligations to the community. All users had to observe certain customs and rituals designed to protect and conserve the resource and its mauri (life force). Claimant

evidence on the use of shellfish beds, fishing grounds, and island bases in Te Whanganui-a-Orotu amply demonstrated the workings of these customs.

2.5.5 Fishing zones

Oral evidence of traditional customs collected and taped by Mr Parsons indicated that the seven claimant hapu, partly for convenience, gathered their kaimoana in areas contiguous to the ancestral lands that they occupied and cultivated on the fringes of the shoreline and that they respected the territorial boundaries of others (D4:25, 29). Ngati Tu, Ngati Matepu, and Ngai Te Ruruku had rights at the northern end of Te Whanganui-a-Orotu from Keteketerau round to Whareponga Bay; Ngati Hinepare, Ngati Mahu, and Ngai Tawhao had rights on the western shoreline; and Ngati Parau had rights at the southern end. Through intermarriage, some families exercised fishing rights in two zones (D4:28-29; see also D21:7; D32:1-2; D34:2; D35:1-2).

The Ahuriri area from the heads to the Westshore Embankment Bridge appears to have been a communal fishing area, notwithstanding the special rights of the Tareha family, who were associated with Moremore. The communal area became more important as shellfish beds and fishing grounds in other areas were damaged or destroyed by harbour and public works and the 1931 earthquake (D4:28).

2.5.6 Exercise of whanaungatanga

Heitia Hiha, in his evidence, said that 'Te Whanganui-a-Orotu was also open to other hapu of Ngati Kahungunu', including Ngati Hawea, Ngati Upokoiri, and Ngati Hinemanu from Omahu Marae:

We are all connected through whakapapa. Some hapu even have links to other iwi. These linkages are often made and remembered. For instance there are marriage ties between Ngati Hinepare, Ngati Hineuru and Tuwharetoa. However we are all linked to Ngati Kahungunu. Many of these interchanges resulted through whanaungatanga, relationships and close connections with other hapu. However the tino rangatiratanga remained with the kaitiaki, the hapu who remained to care and control the use of the area. (D21:7-8)

Frederick Reti, in his evidence, stated that:

the hapu of the Te Whanganui-A-Orotu exercised whanaungatanga by allowing neighbouring tribes, who were close relations the *privilege* to come and fish and gather food for themselves and their hapu. Mountain tribes like Hineuru through their close connection with Ngati Hinepare and Ngati Mahu would often camp at places designated for them during the summer. Ngati Whatuiapiti and Kahuranaki from Te Hauke would fish and gather around the port area and Ngati Hawea also. Ngati Tu and Ngai Te Ruruku would often take their whanaunga from Tuhoe in and around Whareponga and Keterau when they were visiting. Many Hapu used the Whanga on this basis. [Emphasis in original.] (D27:10)

Te Aranui Boyce Puna (Spooner) was told by his tipuna, who stayed at Whakaariamaunga, which jutted out of the sea at Tangoio and Arapoanui, how some would cross Te Whanganui-a-Orotu or walk across the back hills to Wharerangi to get the seasonal kai that they could not get at Aranui. They lived at Wharerangi 'for the time they had to replenish their foods', and 'had mahinga kai areas', where they would catch fish, set pa tuna, and, around August, collect fresh seagull, swan, duck, and goose eggs. They would preserve kahawai, eels, herrings, and other kai, including birds, in fat in a calabash to take back to the papakainga. When the seasons were finished they would all head back to Tangoio, Arapoanui, Tutira, and so on. That was why they could use the saying 'Ka kati Te Whanganui-a-Orotu ka tuwhera a Puketitiri' (D34:2-3).

Bevan Taylor of Ngati Tu gave evidence that nga hapu o Tangoio were:

Ngai Taatara, Ngati Kurumokihi and Ngati Tu. Ngati Tu have rights from Wairoaiti right up to Whareponga and along the northern rim of Te Whanganui a Orotu which includes Kaiarero (Bayview) and Keteketerau. (D25:2)

Some of their boundaries overlapped with those of other hapu. Ngati Tu were now the principal hapu at Tangoio. They were of Ngati Kahungunu and were one of the seven hapu of this claim. All the hapu of the claim were related. In fact, they had many links with other hapu as well. Whanaungatanga, Bevan Taylor interpolated in his brief of evidence, did not mean that they had occupation rights (D25:2). At Tangoio, most of their kaimoana came from the sea. When Bevan was young, hapu members, including his father, regularly went to the northern boundary of Te Whanganui-a-Orotu to fish and gather kaimoana. His grandfather would take him to Wairoaiti to catch crayfish, eels, and whitebait. The stream was full of eels and ran into Te Whanganui-a-Orotu. Their whanau also went to Keteketerau. Before the earthquake, Bevan's aunt used to accompany her father on a boat in Te Whanganui-a-Orotu to fish at the northern end, but the earthquake dried out most of the area where his tipuna fished (D25:2-3).

Rangiaho Brown, whose father was Kapi Tareha and whose mother was from Te Haroto, would always go to Westshore for kaimoana and sometimes to Wharerangi, 'when there were court cases down in Hastings'. She thought that:

all those people at Petane Pa are connected with that Ahuriri. Also I think Moteo around the Bay View side, it probably involves those Petane Pa Maori's and the Tangoio one's, and around that way there it would also be Wharerangi and I suppose it would come down to Waiohiki. (D29:5-6)

Selina Sullivan, who grew up with relations at Omahu, recounted how twice a month they would go by horse and dray via the Taradale road to Ahuriri to get kina and paua. They gathered flat pipi at the port, tuanga from beds in the Onekawa industrial area near the bridge, and herrings and eels from creeks. They would stay by the road with blankets for a maximum of two or three nights (D14).

Monty Murton, who lived near Park Island in the 1920s, remembered Maori from Moteo coming down each season with horses and traps to the tidal inlet into which the

Taipo Stream flowed, where they netted herrings. Before the earthquake, they would camp for two or three days on Park Island to gather sack loads of pipi and eels for the whole marae (A12:185).

2.5.7 Location of different species

The types of shellfish and fish species found in different parts of the lagoon were described in Mr Parson's report (D4:30-37), in briefs of oral evidence from claimant witnesses (D14, D16, D17, D18, D21), and in taped interviews (E19, E20, E21). Further evidence was given in response to questions at the first hearing, many of which were directed to establishing whether kaimoana in the lagoon comprised saltwater or freshwater species (D44) and whether, for the purposes of the law, the lagoon was a lake or an arm of the sea (see para 3.8). The different species gathered in the 1920s were as follows.

At the northern end of the lagoon, where the Waiohinganga River flowed in, and up river from there, were kakahi (freshwater mussels), tuna (eels), inanga (whitebait), koura (freshwater crayfish), kahawai, shrimps, and herrings. At Keteketerau, there were whekito and patiki (flounder), which were attracted by tidal seepage, and eels, which migrated to and from the sea before the outlet was blocked. In the area between Te Ihu o te Rei (Quarantine Island) and the Beacons airport, patiki were plentiful, and, in the mudflats between Westshore and the airport, whetiko were found.

On the north-west side of the lagoon, the tidal flats at Whareponga, Wairoaiti, Kopaki, Kouturoa, and Ohingora Bays were good places for gathering pipi, cockles, pupu, and other shellfish. Eels were caught on the tidal flats and in the creek where hinaki were set. At Whareponga Bay and in the creek itself, whitebait, herrings, mohohao (freshwater flounder), mussels, crayfish, and a few shrimps were caught. The tidal flats at Wairoaiti were excellent for netting flounder. After the Kaikoura Stream was diverted into Ohingora Bay, mohohao went upstream with the tide and were netted on the outgoing tide. Below the Hinewaka cliffs was a mussel bed, and where the Taipo Creek entered the tidal inlet between the Wharerangi and Park Island cemeteries was an abundant source of pipi, eels, and herrings.

The streams entering the lagoon at the southern end, including Saltwater Creek and Purimu Stream, served as a seed bed and nursery for young flounder. There were also marekoroua (round pipi), whetiko, and herrings in the southern reaches.

The Ahuriri Estuary between the heads and the Westshore Embankment Bridge was considered the best place for pipi, while kuku were plentiful in the vicinity of the sailing club. Tuangi (round cockles) were found near Pandora Point and elongated white pipi near the bridge.

An abundant supply of kaimoana could be had by wading into the tidal flats in the 1920s, and few people fished from boats. There were crayfish at Tapu Te Ranga and patu (big horse mussels) on the bottom of the lagoon, masses of which were exposed by the earthquake. The Tareha family used Roro o Kuri as a camping place when they netted flounder. Heitia Hiha remembered that his grandparents talked about owning islands and reserves in the lagoon and using them for camping and gathering kaimoana. They also talked about Te Whanganui-a-Orotu as it was before the

seawater levels increased, and they knew the places where they could get kakahi (freshwater mussels), for example, in the Poraiti Hills. No one had personally gathered kaimoana from low-lying islands like Te Mara a Tawhao or Matawhero.

2.5.8 The continued exercise of fishing rights after the earthquake

Evidence from claimants made it clear that many Maori families continued to exercise their customary fishing rights in Te Whanganui-a-Orotu and gather shellfish at Westshore and Port Ahuriri after the earthquake, despite the erection of notices and warnings from the district nurse or the inspector. Wini Te Reo Spooner, who grew up at Wharerangi in the late 1930s and early 1940s, described how in those days whanau of Ngati Hinepare and Ngati Mahu living in kainga along the edge of Te Whanganui-a-Orotu (Te Kopaki, Roto Whenua, Paparakaitangi, Wharerangi, and Poraiti) would roster themselves to gather food along its eastern shores. Some would go to Te Whanganui-a-Orotu for mahi kaimoana and others to Omaranui to cultivate kumara, while some of the men would go to Puketitiri to hunt pigs and snare birds. Manmade tracks from Wharerangi to Park Island, Poraiti, Roto Whenua, Kouturoa, and Te Kopaki were used by his people to get to Te Whanganui-a-Orotu on their trips for kaimoana. He would accompany his grandparents to Ahuriri to gather kina, kuku, paua, pipi, and whetiko (D35:1-3).

Marjorie Joe went there with her whole whanaunga to gather shellfish, as did Te Rima o Hurae Whenuaroa from Moteo. In those days, he told us, there was quite a community at Moteo. From there they used the back road across the Puketapu Bridge, past the Puketapu Hotel, then over towards Wharerangi. They would cut across the top of the hills to where there was a big spur and drop straight down to Te Whanganui-a-Orotu, which was less than a day's travel away. After the earthquake, they went around the main beach to the Iron Pot, where there used to be a lot of kina and paua. There were plenty of whetiko towards the old bridge across the estuary and a lot of pipi in the Iron Pot, and flounder used to breed in the area below Pandora Bridge (D36:3).

Heitia Hiha, who grew up in Petane, collected pipi, tuangi, and whetiko near the southern end of the Embankment Bridge, gathered kaimoana along Harding Road, and netted and speared flounder on the eastern side of the bridge, but he didn't always have easy access to mahinga kai areas in the Ahuriri Estuary because they were not allowed the use of the farm roads and the areas near the pump house when the whole area was drained (D21:3-4).

Wiari Anaru, who had lived at Kaiarero (Bay View), collected pipi and tuangingi at the railway embankment bridge until they started to deteriorate, and a lot of people gathered kina at the Iron Pot/Harding Road area (D32:1).

'After the earthquake,' Beattie Nikerae said:

we carried on gathering kai moana for awhile until they decided about the hospital. It stopped the Maoris coming there. The hospital discharged its sewer into the sea there. . . . It stopped us getting kai moana there. (Cited in D4:55)

Selina Sullivan said:

I'll tell you what killed the food there was those boats. You see the Moteo Maoris, they got their pipis right across from the wharves there. No matter how deep, the Ngati Mahu and Ngati Hinepare got it - where that channel comes in on that side. But it was those boats. And then one time my daughter and I went to get some pipis. We went along picking up these things and I had a look - toilet paper! That stopped me going there. (D4:55-56)

Polly Rakuraku explained that the earthquake did not destroy their kaimoana altogether:

When the hospital emptied out there it killed the seafood. Then when they put those farms on the lagoon they emptied all their stuff into the creek there and it came down. We had to stop getting kai moana. They put a notice up there not to gather the seafood. They put a board there. Don't go there, its polluted. The pakeha reclamations destroyed our food source. (D4:56)

In the end, it was the draining and reclamation of the inner harbour and the pollution of the estuary, rather than the earthquake, that deprived the claimants of their customary rights of access to and use of the shellfish beds and fishing grounds and bases in Te Whanganui-a-Orotu. By the 1960s, all that remained of their centuries-old foodstore had been totally destroyed or seriously contaminated. As they saw it, in failing to protect this taonga, the Crown had been in breach of both article 2 of the Treaty and the fishing rights granted to them by the 1851 deed of sale. In Heitia Hiha's words:

An invitation to share a meal is not a licence to take the whole harvest.
(D21:13)

We agree.

Figure 4: McLean's 1851 Hawke's Bay purchases

Waitangi Tribunal, Department of Justice, Wellington.