

## CHAPTER 4

# REMEDIES EVIDENCE FOR CLAIMANTS AND THE CROWN

### 4.1 INTRODUCTION

The Tribunal in recording its 13 findings of breaches of Treaty principles by the Crown commented:

Most stem from a failure actively to protect the rangatiratanga of Ngati Turangitukua over their ancestral land . . . At the heart of this claim lies the failure of the Crown to honour many of the undertakings and assurances it gave to the owners . . .<sup>1</sup>

The Tribunal also stated in respect of possible remedies:

Clearly the claimants are entitled to be compensated for the losses and injuries they have suffered. The return of Crown land would, no doubt, be a central element in such compensation.<sup>2</sup>

The Tribunal also suggested throughout its report that there were matters such as destruction of wahi tapu and environmental degradation, which contributed to the loss of mana and rangatiratanga of Ngati Turangitukua and which cannot be compensated for in monetary terms.

In this chapter, we first outline the claimants' views on remedies, based on the framework set out in the third amended statement of claim. We then consider the evidence submitted by the Crown. In the final section, we return to the central issues of mana and rangatiratanga, in summing up the evidence presented. In the following chapter, we address the question of approaches to assessment of the remedies sought by claimants.

### 4.2 THE EVIDENCE FOR THE CLAIMANTS

#### 4.2.1 Introduction

In her closing submissions, claimant counsel set out the basis for the remedies sought in this claim:

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1. Waitangi Tribunal, *Turangi Township Report 1995*, Wellington, Brooker's Ltd, 1995, sec 21.5  
2. *Ibid*, sec 21.6

The overriding principle is that the purpose of remedies is twofold: to compensate for past wrongs and remove the prejudice by restoring the claimants to the position where they are freely able to exercise their rangatiratanga in the future.<sup>3</sup>

She also suggested that ‘prejudice’ should be interpreted broadly to embrace ‘spiritual, cultural and economic consequences’. Although the Turangi township claim could be described as a ‘modern claim’, since the events complained of occurred little over 30 years ago and within living memory, it was also a hapu-based historical claim:

As with other historical claims the ‘ripple’ effect of the loss of land and rangatiratanga has had the most profound impact, with resulting social, cultural, spiritual and economic prejudice. And, as with other historical claims, the restoration of rangatiratanga and the re-establishment of a land/economic base is required in order to remove the prejudice. The rationale for the restoration approach is . . . founded in the Treaty.<sup>4</sup>

The first claim in respect of the Turangi township, dated 25 December 1989, was brought in the name of Mahlon Nepia on behalf of the Ngati Turangitukua hapu.<sup>5</sup> Mr Nepia, who from the start has been responsible for managing the claim on behalf of the hapu, stressed in his evidence that from the outset the claim was to be run on a hapu basis. His evidence establishes that the hapu has been regularly consulted through regular claim meetings at Hirangi Marae and through the mail. All important decisions have been made through the Hirangi Marae Committee (also known as the Ngati Turangitukua Maori Committee), which is the controlling body of the hapu.

Mr Nepia explained in his evidence how what he characterised as the ‘remedies package’ was arrived at after full discussion between members at hapu meetings. The remedies sought are those set out in the third amended statement of claim. We were told that the planning of the package was necessarily fairly general at this stage. A strategic planning exercise will be undertaken as to how the hapu might realise its goals when it learned what remedies would be obtained.<sup>6</sup>

We now set out the recommendations sought by the hapu in its third amended statement of claim (see app 1), with the main points made by Mr Nepia by way of explanation.

#### **4.2.2 The return and establishment of Turangitukua House**

Turangitukua House is, by universal agreement, the first on the list of properties that the hapu seeks to have returned.<sup>7</sup> The statement of claim describes the site as ‘imbued with the sacred memory of Te Puke a Ria’. This property is of prime importance to the hapu because it symbolises Te Puke a Ria, the wahi tapu destroyed by the Ministry

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3. Document E13, para 3.4.1

4. Ibid, para 3.5.3

5. Claim 1.1(i)

6. Document E3, in particular, para 51

7. Claim 1.1(ac), paras 2–3

of Works. The graphic circumstances of the wilful destruction of this urupa are recounted in our report.<sup>8</sup>

The hapu cannot replace Te Puke a Ria and the tuahu and the other wahi tapu destroyed by the Ministry of Works, but the people can rebuild the hapu culturally.

The aim of the hapu is to rebuild Ngati Turangitukua's mana and spiritual identity by establishing Turangitukua House as a centre for the hapu. The centre is envisaged as being the headquarters for The Ngati Turangitukua Charitable Trust (see sec 4.4.5). From this centre, Mr Nepia said, the hapu would seek to deliver the services to its people made possible by a satisfactory settlement. These services would include administering education grants and scholarships and probably also programmes directed at the old people. It would be used as a conference centre for the increasing number of issues the hapu is now required to deal with. And, very importantly, it would be a learning and cultural centre to complement their marae. He also sought 'monetary compensation in this regard' but no amount was specified. However, funds to refurbish this property would obviously be needed.<sup>9</sup>

|                    |                             |
|--------------------|-----------------------------|
| Address:           | 130 Atirau Road             |
| Legal description: | CT34C/191 section 1 s035736 |
| Area:              | 2.9827 hectares             |

#### 4.2.3 Preservation and maintenance of wahi tapu

The destruction and desecration of wahi tapu was the source of significant grievances for Ngati Turangitukua which cannot easily be compensated for in monetary terms.<sup>10</sup> Recognition of the loss of the wahi tapu, Te Puke a Ria, has been acknowledged in the request for the return of the property referred to as 'Turangitukua House'. There has also been some recognition of wahi tapu in the ancillary claims process, which is reviewed below. There are also significant wahi tapu within lands administered by the Department of Conservation and the Taupo District Council. In his submission, Mr Nepia stated that the issue of monetary compensation for destruction of wahi tapu had been discussed among Ngati Turangitukua, specifically at a hui on 11 May 1996:

The answer was an emphatic no. People didn't think it was right to ask for money to compensate a spiritual loss. You cannot put a dollar figure on what a wahi tapu is worth.

The hapu is in a very awkward situation now in respect of its wahi tapu. The township has consumed many of these places. Some sites escaped the bulldozer, but there is no longer security from trespass and tampering . . .

We cannot replace the wahi tapu, but a practical thing we can do is restore and protect what is left.<sup>11</sup>

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8. *Turangi Township Report 1995*, secs 4.7.3, 8.1, and see preceding ch 3

9. Document E3, paras 52–53

10. Claim 1.1(ac), para 4

11. Document E3, paras 54–56

The Tribunal accepts that this is a sensible and pragmatic attitude and notes that there are already provisions in the Historic Places Act and Resource Management Act 1991 to preserve and protect wahi tapu.

Mr Nepia confirmed paragraph 4.2 of the statement of claim that financial assistance is sought to facilitate the rehabilitation and on-going maintenance of wahi tapu sites which are still in existence. We consider this in chapter 5.

A specific instance given by Mr Nepia was a beautification programme of the whole area surrounding the three remaining tuahu. This would involve the planting of native trees, clearing of scrub, and relocation of the adjacent rubbish tip.<sup>12</sup>

#### **4.2.4 Return of residential property so that Ngati Turangitukua people can be restored to ownership of residential land in Turangi**

Ngati Turangitukua seek the return, without cost to the claimants, of some 59 residential properties that are owned or were formerly owned by a State-owned enterprise and that have memorials on their titles pursuant to section 27B of the State-Owned Enterprises Act 1986.<sup>13</sup> These are listed in schedule 3(a) to the statement of claim. Another five properties on this schedule are owned by the Electricity Corporation of New Zealand with no memorial on their titles.

Mr Nepia stated that the aim of the hapu is to make it possible for all the whanau of Ngati Turangitukua to own a piece of ancestral land, to have a papakainga again. At present, he said, there are many Ngati Turangitukua people living in Turangi who cannot afford to own property there. He also claimed that there are also hapu members who live elsewhere who would come home, if there were family land for them to return to.

In order to ensure the benefit of settlement was distributed fairly to their whanau, and also to leave sufficient resources intact for the hapu as a whole, it was decided that a realistic proposal would be to give people the opportunity to buy back property from The Ngati Turangitukua Charitable Trust, which is described below. The trust would assist people to buy homes by operating a loan scheme on concessionary terms. In this way, it was hoped that hapu members would be able to buy their own homes preferably located on their ancestral family land.<sup>14</sup>

#### **4.2.5 Kaumatua housing**

As described in schedule 3(b) to the statement of claim, there are five such properties, two on Mawake Place and the others in Takinga Street, all adjacent to Hirangi Marae.<sup>15</sup> The hapu is anxious to take over ownership so that it can manage the kaumatua housing itself and make suitable arrangements for the old people.<sup>16</sup>

In supplementary submissions, the Crown stated:

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12. Document E3, paras 56–57

13. Claim 1.1(ac), para 7; see also schedule 3(a)

14. Document E3, paras 58–61

15. Claim 1.1(ac), schedule 3(b); see also para 7

16. Document E3, para 62

With regard to the Kaumatu[a] flats, under current government policy, the ‘discounted price’ is  $\frac{2}{3}$  of the ‘special’ valuation which is a lower valuation. The purchase price is financed by a suspensory loan of \$5,000 for each kaumatua flat, with the remainder on a normal loan to be repaid over 15 to 20 years . . .

The Office of Treaty Settlements has been advised that the Marae Trustees want the Kaumatua flats and the Kokiri Centre returned as part of the claim settlement. . . . [The options are still open, but] if the properties are to be transferred as part of the settlement, the Office of Treaty Settlements will, under current Crown policy, have to purchase the properties at full current market value in order to transfer them as part of the claim settlement.<sup>17</sup>

The kaumatua housing properties are (see fig 1):

| Address            | CT        | Legal description | Area                |
|--------------------|-----------|-------------------|---------------------|
| 35 Mawake Place    | CT28A/501 | Lot 5 DP32367     | 1467 m <sup>2</sup> |
| 37 Mawake Place    | CT25A/456 | Lot 4 DP32367     | 1217 m <sup>2</sup> |
| 33 Takinga Street  | CT24D/388 | Lot 1 DP32367     | 744 m <sup>2</sup>  |
| 33A Takinga Street | CT28A/500 | Lot 2 DP32367     | 809 m <sup>2</sup>  |
| Takinga Street     | CT24D/390 | Lot 3 DP32367     | 986 m <sup>2</sup>  |

#### 4.2.6 Compensation for Ngati Turangitukua to establish a ‘start fund’

The statement of claim states that:

Ngati Turangitukua seek a cash settlement for the purpose of investment and development of an economic base that will enable the *hapu* to restore and enhance the education, training, health, economic wellbeing and cultural strength of the people.<sup>18</sup>

In confirming this, Mr Nepia referred to the need for the hapu to become fully integrated in the commercial life of Turangi. Building up a property portfolio and establishing businesses that return a profit for the hapu is seen as a key long-term feature in hapu planning. A ‘start fund’ is seen as essential to enable the hapu to build up income-producing assets.<sup>19</sup>

#### 4.2.7 Return to the hapu of properties of note so that, as tangata whenua, Ngati Turangitukua can participate fully in the commercial life of Turangi

All but three of these properties bear section 27B memorials and are owned or were formerly owned by State-owned enterprises. The memorialised properties are listed

17. Document E17, paras 6, 8–9

18. Claim 1.1(ac), para 9

19. Document E3, paras 63–66

in schedule 4(a) and the three Crown-owned properties in schedule 4(b) to the statement of claim and are shown in figure 1.<sup>20</sup>

Mr Nepia stated that these properties all have a high profile in the town. Some would return a steady income and others have development potential. Their ownership by Ngati Turangitukua would, he said, mean that the hapu would begin to be seen at the centre of commercial life in the town, rather than at the fringes or completely invisible.<sup>21</sup>

We note first the memorialised properties in schedule 4(a) to the statement of claim.

- (a) The *Iwiheke Place* properties comprise a group of buildings which, prior to their transfer on 16 November 1990 by the Crown to the Electricity Corporation of New Zealand, were used as a hostel for Electricity Department workers. It has potential for use as a hostel or for a variety of other purposes. The total area is 1.0193 hectares, and the land is in four certificates of title:

|           |                              |         |                    |
|-----------|------------------------------|---------|--------------------|
| CT38A/43  | Lots 87, 88, 89              | DP29124 | 1913m <sup>2</sup> |
| CT38A/44  | Lots 96, 97, 98              | DP29124 | 1849m <sup>2</sup> |
| CT38A/45  | Lots 82, 83, 84, 85, 86, 104 | DP29126 | 3501m <sup>2</sup> |
| CT37B/422 | Lots 99, 100, 101, 102, 103  | DP29127 | 2930m <sup>2</sup> |

- (b) *Tautahanga Road (Telecom exchange)*: This property, immediately prior to its transfer by the Crown to a State enterprise on 5 December 1989, was vested in the Crown for an automatic telephone exchange. It is said to be in a prime residential area of Turangi. It is near the town centre. Mr Nepia suggested it has the potential to be developed in a range of ways.<sup>22</sup> The legal description is CT36C/225, lot 90 DP28176, with an area of 1171 square metres.
- (c) *33 Town Centre (post office building)*: This property, immediately prior to its transfer to a State enterprise, New Zealand Post Limited, was vested in the Crown for a post office. The property is thought to be a good long-term investment being in an excellent location in the town centre.<sup>23</sup> The legal description is CT33D/241 lot 26, DP27579, an area of 1070 square metres.
- (d) *Ohuanga Road vacant lot*: This land was a vacant lot at the time it was vested by the Crown in a State enterprise, Landcorp Management Services Limited, on 16 May 1991. It adjoins the property next referred to at 25 Ohuanga Road. Mr Nepia states that it may have development potential. Alternatively, the hapu may wish to enter into arrangements with the Taupo District Council for it to be retained as a public space.<sup>24</sup> The legal description is CT39D/500 lot 1, DP32621, with an area of 4072 square metres.

20. Claim 1.1(ac), schedule 4(a); see also para 8

21. Document E3, para 67

22. Ibid, para 68(b)

23. Ibid, para 68(c)

24. Ibid, para 68(d)

Figure 1: Properties 'of note' and kaumatua houses

- (e) *25 Ohuanga Road*: This property, immediately prior to its transfer to a State enterprise, New Zealand Timberlands Limited, was vested in the Crown for forestry purposes. It had been used as a hostel for Forest Service employees. It is in the vicinity of the town centre, adjacent to the vacant lot described above. It has the potential for development for accommodation or related purposes. The legal description is CT38D/915 lot 2, DP32621, with an area of 3.6573 hectares.
- (f) *Pony club land*: This land, prior to its being vested in the State enterprise Land Management Services Limited, was leased by the Crown for grazing purposes. The land has been the subject of a long Public Works Act wrangle between the claimants and the Crown. It is prime property on State Highway 1 as yet undeveloped. It is near to motels and could be developed for accommodation or other commercial uses. As a signpost to Turangi, Mr Nepia suggests it would profile the hapu's role there as tangata whenua.<sup>25</sup> The legal description is CT39D/483 section 70 Town of Turangi sections 1 and 2, SO28505 and sections 1 and 2, SO28506, with an area of 34.6702 hectares.

The foregoing are all section 27B memorialised properties.

We now refer to the three Crown-owned properties in schedule 4(b) to the statement of claim.<sup>26</sup>

- (a) *33 Turanga Place*: This is the Department of Conservation headquarters which Mr Nepia considers so long as it remains as such should be a good long-term rental property.<sup>27</sup> The legal description is GN773733 section 74 Town of Turangi, with an area of 5908 square metres.
- (b) *187-189 Tautahanga Road*: This was a former hospital which is currently an ambulant care centre. It is land-banked by the Crown. The legal description is CT38B/684 lot 51, DP29638, with an area of 1.3327 hectares.
- (c) *5 Wharekaihua Grove*: This is Crown owned and currently a recreational space maintained by the Taupo District Council. Mr Nepia suggested it could continue to be kept as a recreational space or alternatively developed for residential purposes.<sup>28</sup> This property is also landbanked by the Crown. The legal description is CT43B/431 lot 58, DP34051, with an area of 2428 square metres.

#### **4.2.8 Return of Crown-owned land and land owned or formerly owned by a State-owned enterprise in the Industrial Area**

Ngati Turangitukua seek the return, in fee simple without cost to the claimants, of the following five properties in the Industrial Area.<sup>29</sup> Each has a memorial over its title pursuant to section 27B of the State-Owned Enterprises Act 1986.

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25. Document E3, para 68(f)

26. Claim 1.1(ac), schedule 4(b)

27. Document E3, para 68(g)

28. Ibid, para 68(i)

29. Claim 1.1(ac), para 5; see also doc E3, paras 67-68

| Address          | CT        | Legal description           | Area                |
|------------------|-----------|-----------------------------|---------------------|
| 24 Tukehu Street | CT39B/619 | Lot 9, DP28407              | 1.3628 ha           |
| 135 Atirau Road  | CT34B/571 | Lot 12, DP61544             | 8545 m <sup>2</sup> |
| 16 Tukehu Street | CT36A/464 | Lot 10, DP28407             | 3966 m <sup>2</sup> |
| 57 Tukehu Street | CT39D/774 | Lot 31, DP28407             | 4029 m <sup>2</sup> |
| 65 Atirau Road   | CT39D/775 | Section 69, Town of Turangi | 2.0335 ha           |

Ngati Turangitukua also seek the return, in fee simple without cost to the claimants, of the following nine Crown-owned properties in the Industrial Area.<sup>30</sup>

| Address                          | CT        | Legal description   | Area                |
|----------------------------------|-----------|---|---------------------|
| 165 Atirau Road                  | CT34B/564 | Lot 1 on part lot 3, DP61544                              | 1.0426 ha           |
| 11 Dekker Drive                  | CT34B/564 | Lot 2 on part lot 3, DP61544                              | 1.7020 ha           |
| 175 Atirau Road                  | CT42D/699 | Lot 11, DP61544   | 2.4590 ha           |
| 145 Atirau Road and Dekker Drive | CT34B/563 | Lot 1, DP61544  | 23.2942 ha          |
|                                  | CT34B/565 | Lot 4, DP61544  | 1.9461 ha           |
|                                  | CT34B/568 | Lot 7, DP61544  | 2.0727 ha           |
| 112 Atirau Road                  | CT42C/437 | Section 1, SO35426  | 2600 m <sup>2</sup> |
| 150 Atirau Road                  | CT44A/734 | Section 81, Town of Turangi SO34161                       | 2556 m <sup>2</sup> |
| 29 Atirau Road                   | Proc 2936 | Part Ohuanga North 5A, block III, Pihanga survey district | 4.9665 ha*          |

\* The area given in the Crown schedule E16(d) is 4.9665 hectares but the 1995 valuation roll lists 4.1745 hectares, see document D17(b) (VNZ property information).

The location of these properties is shown in figure 2.

Claimant counsel described the Industrial Area as ‘a special case because of the Crown’s undertaking to lease the 200 acres that were required’. In schedules 2(a) and 2(b) to the third amended statement of claim, all the ‘remaining Crown and SOE land in the Industrial Block is listed’. The claimants sought ‘the return of all the land now in Crown or SOE ownership, together with compensation to enable them over time, to buy the balance of the land’.<sup>31</sup> A particular grievance was the Crown’s breach of the original undertaking to lease the Industrial Area by subsequently taking it under the Public Works Act. Mr Nepia stated:

If the Crown had not breached its undertaking to lease the land, we would still own it. More than that ... our ancestral connection with that land is of particular

30. Claim 1.1(ac), para 5.2; see also schedule 2(b)

31. Document E13, para 4.6.3.1

Figure 2: The Industrial Area

significance . . . When we lost ownership of that land, we lost control and we couldn't stop the Ministry of Works destroying tapu areas. We want ownership of the land back so that we can once again resume our proper role as kaitiaki of land.<sup>32</sup>

Mr Nepia explained that Ngati Turangitukua also saw development opportunities which might create employment and strengthen the hapu economy in future, if these lands were returned.

In paragraph 5.3 of their statement of claim, the claimants state that environmental degradation has occurred on this land and Ngati Turangitukua 'seek warranties from the Crown as to liability for environmental hazards which may subsequently emerge and undertakings as to liability for remedying currently apparent hazards'.<sup>33</sup>

In evidence, Arthur Grace told us why it is important for Ngati Turangitukua 'to get back the title to the land that was in the industrial area'. He referred to the fact that the Crown promised the hapu that the Industrial Area would be leased from Ngati Turangitukua and 'would not be taken'.<sup>34</sup> In this connection we refer to the following passage from our report:

- It is clear that at both the May and the September [1964] meetings, the owners were assured in quite categorical terms that the industrial area (by September estimated to be about 200 acres) would be taken under lease for 10 years and then revert to the owners.
- Cabinet, on 21 September 1964, approved the construction of the Turangi township including 'the lease of some 200 acres'.
- The Crown's undertaking to the Ngati Turangitukua owners that it would lease the industrial area for a term and then return it was not honoured by the Crown. On the contrary, the land required for such purposes, amounting to some 189 acres, was taken compulsorily under the Public Works Act 1928.<sup>35</sup>

Mr Grace explained that a significant portion of what is now called the Industrial Area was special to the hapu. In addition, the whole hill where the water supply reserve is now located was tapu. The hill is Kohatu Kaioraora and includes the site of Hinenamu's cave, among other wahi tapu, as well as springs which are the source of the Tokaanu River, te awa tapu.<sup>36</sup> Mr Grace concluded:

What I am trying to establish is that the importance to our hapu of getting back the industrial block is not simply because the Crown acted so badly in breaking their word about that land. It's also because there was an underlying reason why Ngati Turangitukua were so reluctant to sell the land in the first place, namely because a good proportion of it was regarded as tapu. It was our responsibility as the ancestral owners of the land to do everything we could to keep the land in hapu hands, and look after it.

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32. Document E3, para 69

33. Claim 1.1(ac), para 5.3

34. Document E4, paras 27–28

35. *Turangi Township Report 1995*, sec 4.3.2

36. *Ibid*, sec 8.7

We lost that struggle, but the significance of the land to us is ongoing. We regard it as the cornerstone of our turangawaewae, and it is very important to us that we gain ownership of it.<sup>37</sup>

In speaking of the land in the Industrial Area, Mr Nepia said that the hapu wanted to promote development of the area for the good of the people, but that cannot be done at the expense of the tapu areas. Only the people of Ngati Turangitukua know which parts of the land are tapu.

Mr Nepia described the present condition of part of the Industrial Area as follows:

For the sad truth is that parts of the Industrial Block are a real mess. For instance, the former Ministry of Works' workshop . . . is an absolute disgrace. When the MOW moved out, they took what they wanted with them and just left the site as it was. Metal, timber, waste fuel and oil were left behind. Compressed stone allows rainfall to pond and mix with the waste. The site is elevated above the Waipapa Block flats, and the Hangarito Stream drains from this area, and then flows into Lake Taupo via the man-made diversion. The building itself has fallen into disrepair and the whole place looks a sorry site. Adjacent to this site are other sites vacated by the MOW. Large concrete slabs stay embedded in the ground. The ground itself is compressed stone and rock. The site isn't much use for anything unless it is cleaned up first. Given the potential for toxicity in the debris left behind, we calculate that the clean-up operation could be an expensive one. That is why we have made the point that the clean-up liability should remain with the Crown.<sup>38</sup>

No further details were provided of the nature and extent of any contamination. We discuss the question of the liability of the Crown further at section 5.4.6.

#### **4.2.9 Compensation to enable the purchase of land in the Industrial Area no longer in Crown or SOE ownership**

The claimants seek monetary compensation to enable the purchase by Ngati Turangitukua over time of such land.<sup>39</sup> By land in 'SOE ownership', we infer that the claimants are here referring to land which does not have a memorial on the title pursuant to section 27B of the State-Owned Enterprises Act 1986.

#### **4.2.10 Change of ownership of reserve properties**

Paragraph 10 of the statement of claim states:

Ngati Turangitukua seek the return, in fee simple without cost to the claimants, of the ownership of all recreation reserves owned by the Crown in the claim area in recognition that Ngati Turangitukua are *tangata whenua* of Turangi and *kaitiaki* of the natural and spiritual environment there, provided that such reversion may be subject

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37. Document E4, para 31

38. Document E3, para 73

39. Claim 1.1(ac), para 6

to any special conditions required to guarantee the maintenance of conservation values as mutually agreed upon between the Department of Conservation and the *hapu*.<sup>40</sup>

We consider this proposal in chapter 5.

#### 4.2.11 Regime for the management of conservation lands

Paragraph 11 of the statement of claim states: ‘Ngati Turangitukua seek a recommendation that the Department of Conservation give effect to any future *hapu* management plan in the management and development of conservation lands in the Ngati Turangitukua *rohe*’.<sup>41</sup> We consider this at section 5.4.7.

#### 4.2.12 Ancillary claims

Paragraph 12 of the statement of claim states: ‘Ngati Turangitukua seek a recommendation that Land Information New Zealand (LINZ) prepare a works programme detailing the outstanding ancillary claims and the time frame within which they will be remedied’.<sup>42</sup> This is discussed in section 5.4.8.

### 4.3 THE EVIDENCE FOR THE CROWN

#### 4.3.1 Introduction

Crown counsel in his opening submissions, recognised ‘that redress is required to fairly and properly settle the Treaty claims of Ngati Turangitukua’, and ‘that the return of some land to the claimants will be an essential aspect of any redress package’.<sup>43</sup> Crown counsel also urged constraint in assessing the quantum of redress, noting that this claim involved only one *hapu*, a relatively small number of people, and some compensation had already been paid under the provisions of the Public Works Act. The evidence for the Crown included: an analysis of the *hapu* land base, size of *hapu*, and number of households affected, presented by David Alexander; a social and economic impact assessment report, presented by Dr Nick Taylor; and reports prepared by Brent Parker on compensation issues. The intention of this Crown evidence was not to contest any findings in the Tribunal’s report, but to provide further perspectives on matters that might be relevant to assessment of remedies. We comment on their evidence in following sections.

#### 4.3.2 The evidence of David Alexander

David Alexander submitted a detailed analysis of Maori Land Court records for all the lands in the Turangi district in which Ngati Turangitukua had interests. He stated

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40. Ibid, para 10; see also doc E3, paras 74–75

41. Claim 1.1(ac), para 11

42. Ibid, para 12

43. Document E12, p 1

the purpose of his evidence was ‘to provide some measures of the state of Ngati Turangitukua just prior to the development of Turangi Township’, and that his focus was ‘on land ownership and land use’.<sup>44</sup> In his review of the ownership of eight relevant blocks (Hautu 2 and 3, Ohuanga North 5, Waipapa 1, Tokaanu B1, Tokaanu Township, Waiunu, and Okahukura 3) Alexander concluded that the land base awarded by the Native Land Court to Ngati Turangitukua comprised not less than 11,664 acres.<sup>45</sup>

Claimant counsel submitted:

It is not within the scope of this hearing to address the effects upon whanau and hapu of the individualisation of title carried out under the aegis of the Native Land Court system . . .<sup>46</sup>

The Tribunal concurs with this view. The remedies sought are in respect of the actions of the Crown in taking lands of Ngati Turangitukua and other related matters, a process begun in 1964, and which proceeded under the Turangi Township Act 1964 and Public Works Act 1928. The area involved was described in schedules to the 1964 Act, although some lands outside the scheduled boundaries were also taken. The Tribunal also acknowledged in its report that compensation was paid, within the restrictive provisions of the Public Works Act, to individual owners of the Maori lands taken. There is no need for the Tribunal to review the grounds for the allocation of owners, the boundaries, or subsequent partitions of blocks in titles originally investigated by the Native Land Court. However, an understanding of the ownership lists in the various blocks has been of assistance to Ngati Turangitukua in compiling a list of beneficiaries for The Ngati Turangitukua Charitable Trust.

In his analysis of ownership lists in the Waipapa and Ohuanga North blocks that were in multiple ownership and taken for the Turangi township, Alexander concluded that ‘a rough estimate’ of the total Ngati Turangitukua population in 1964 would be between 1100 and 1500 people.<sup>47</sup> His figures were derived from the numbers of owners listed, with a multiplier between 4.5 and 5.5 to account for children and other descendants who had not succeeded to interests in those blocks. He also reviewed contemporary plans and aerial photographs, related these to title information, and identified 29 Maori households in the Turangi township area in 1964. On this basis he concluded that the proportion of Ngati Turangitukua living in the Turangi township area in 1964 was between 10 and 15 percent of the total population of the hapu.<sup>48</sup>

Claimant counsel contested Alexander’s figures of a total Ngati Turangitukua population of 1100 to 1500 and that 10 to 15 percent lived in Turangi in 1964.<sup>49</sup> In evidence for the claimants, Arthur Grace prepared a list of 42 named families, a total of 346 Ngati Turangitukua people who were living on Turangi township lands in 1964.

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44. Document E1, p 1

45. Ibid, p 14

46. Document E13, para 4.5.2.2

47. Document E1, p 20

48. Ibid, p 27

49. Document E13, paras 4.5.2.6–4.5.2.7

If the 28 non-Ngati Turangitukua spouses were also included, the total would increase to 374. He also noted that some children of these families were living away from home at the time and these were not counted. Nor were Ngati Turangitukua families living in the immediate district, at Tokaanu or elsewhere outside the Turangi township scheduled boundaries, included in this total.<sup>50</sup>

Alexander also examined the effects, in terms of land title, on Ngati Turangitukua living on Turangi township lands. Of the total 29 households, 16 were unaffected by title changes, nine houses remained on site but the size or shape (or both) of titles was changed, and four houses were removed and the lands taken. Alexander concluded that, 'while some Ngati Turangitukua households were badly disadvantaged', these 'were not representative', and suggested, 'Dislocation was felt disproportionately by some households, while the property of others was not affected at all'.<sup>51</sup>

Claimant counsel commented, 'Mr Alexander's evidence, although interesting and informative, does not illuminate the questions now before the Tribunal'.<sup>52</sup> However, Mr Alexander was careful to point out that his analysis of 'effects' was strictly in terms of effects on title to sites of houses existing in 1964, and was not an overall assessment of impact. Claimant counsel was, however, quite rightly concerned that a broader view be taken of how the Crown's actions affected the Ngati Turangitukua community:

While some of the worst suffering *was* directly related to what was happening to land that people were living on, those whose properties were *not* affected ... were nevertheless intimately connected with all of those whose properties were being taken or damaged or re-shaped, and were profoundly affected by the whole experience themselves. That is what being part of a community is about. You are part of what is happening to others, and they are part of what is happening to you. [Emphasis in original.]<sup>53</sup>

We consider Ngati Turangitukua perceptions of community under the headings of 'mana and rangatiratanga' and 'turangawaewae and papakainga' below (secs 4.4.2–4.4.3).

#### 4.3.3 The evidence of Taylor and McClintock

Dr Nick Taylor submitted a report on the social and economic impact assessment of the development of the Turangi township, prepared by Wayne McClintock and himself.<sup>54</sup> He stated clearly that this 'report does not purport to be an assessment of the impact of the development of Turangi on Ngati Turangitukua'.<sup>55</sup> Nor did his report add materially to our conclusions stated in the *Turangi Township Report 1995*. Taylor stated that his report:

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50. Document E6

51. Document E1, p 40

52. Document E13, para 4.5.2.13

53. *Ibid*, para 4.5.2.12

54. Document E2

55. *Ibid*, p 1

does not challenge the Tribunal's findings that the claimants were prejudiced by Crown activities but considers, whether, given these findings, it can also be said that such construction had some positive effect.<sup>56</sup>

Dr Taylor concluded that there were tangible benefits arising from the decision to construct a permanent town at Turangi rather than a temporary construction camp. These included bringing the public amenities and services of a small town to a rural area, the contribution to the local economy by MOW in the form of wages to employees, and payments to contractors and other service providers, the emergence of Turangi as a 'gateway for tourism in the district' especially with the establishment of the regional headquarters of the Department of Conservation in Turangi, and the 'emergence of strong community leadership and identity'.<sup>57</sup>

The claimants did not deny there were some positive benefits, but noted that in the post-MOW period employment prospects had dropped, restructuring in the 1980s reduced job opportunities further, particularly with the departure of the New Zealand Forest Service and other employers, and the associated redundancies. It is also a moot point whether the construction of the Turangi township affected the growth of tourism. It could be argued that the development of Turangi as a tourist centre would have happened anyway, but more slowly and in a more easily managed way. Claimant counsel submitted that the Ngati Turangitukua 'share of the tourist dollar might well have been rather more had it not been for the Crown's intervention', and that the existence of a large State housing area in a construction town near two prisons might have discouraged investment in tourism in Turangi.<sup>58</sup> Perceptions of benefit are not easily measured, and the claimants felt that, on balance, their losses were greater than their gains. For example, Arthur Grace referred specifically to the loss of community identity of Ngati Turangitukua.<sup>59</sup> But he was talking about mana and rangatiratanga, not the kind of community identity Dr Taylor described in the Turangi township.

#### 4.3.4 The evidence of Brent Parker

The Crown submitted two reports compiled by historical researcher Brent Parker, although he did not appear in person. Both reports provided further analysis of the amounts paid in compensation to Ngati Turangitukua owners for lands taken under the Public Works Act. One report comprised a list, with accompanying notes, of the compensation paid to certain families for their interests in various lands in the Turangi township.<sup>60</sup> The second report addressed the issue of development debt on lands in the Tokaanu development scheme taken for the Turangi township and whether compensation paid was discounted to pay off this debt.<sup>61</sup> Parker concluded:

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56. Document E3, p 1

57. Ibid, p 21

58. Document E13, para 4.5.3.8

59. Document E4, paras 16–19

60. Document E10

61. Document E21

Scheme land taken by the Ministry of Works in the course of the construction of Turangi Township had a detrimental effect on the Tokaanu Development Scheme. Large areas of the more developed and most productive land were either taken, used or damaged which had a significant impact on the ability of the scheme to function and to service the development.<sup>62</sup>

Under the statutory obligation to act in respect of Maori lands in multiple ownership, the Maori Trustee negotiated a settlement that paid the debt on lands taken, and payment for injurious affection on other scheme lands affected but not taken. ‘The claim for injurious affection, plus interest, covered the amount the affected lands would most probably have been able to provide towards decreasing the development debt.’<sup>63</sup> Parker concluded that this compensation ‘was not discounted to pay debts owing to the Tokaanu Development Scheme’.<sup>64</sup>

These reports do not provide any further information to change the Tribunal’s findings on compensation but they do serve the useful purpose to assure claimants that, within the narrow constraints of the Public Works Act, Maori owners were paid the compensation they were entitled to under that Act. The Tribunal commented that the statutory process for negotiating compensation was long and complicated, and probably not understood by many owners. The Tribunal made no finding on complaints about the Maori Trustee, and considered:

on the evidence before it, that the Maori Trustee did all and perhaps more than might reasonably have been expected of him in ensuring that the owners received the compensation to which they were legally entitled.<sup>65</sup>

The Tribunal did find:

that the Public Works Act 1928 failed adequately to recognise the relationship of Ngati Turangitukua to their ancestral land and to provide for adequate compensation for their loss of land and that such failure is in breach of the Treaty obligation of the Crown adequately to recognise and protect the rangatiratanga of the claimants, who have thereby been prejudicially affected.<sup>66</sup>

#### 4.4 REVIEW: CONCEPTS OF COMMUNITY DEVELOPMENT

##### 4.4.1 Introduction

In reviewing the evidence submitted by both Crown and claimants in relation to remedies in the Turangi township claims it became obvious to the Tribunal that there were different perceptions of what was meant by the term community. For example, when Dr Taylor spoke of ‘community leadership and identity’, he was referring to the

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62. Ibid, p 8

63. Ibid, pp 8–9

64. Ibid, p 9

65. *Turangi Township Report 1995*, sec 19.5.5

66. Ibid, sec 19.7

community of people living in the Turangi township.<sup>67</sup> The Ngati Turangitukua concept of community was expressed in terms of their marae, kinship, and ancestral ties with the land at Turangi. Their concept of community embraced not only those who live in the Turangi district, but also all those kin who may be living elsewhere and want to retain their ties with Ngati Turangitukua. This is a different population from the residents of Turangi township, although some Ngati Turangitukua live in, and participate in the Turangi township community. In the following sections we consider briefly the claimants' concern about loss of mana and rangatiratanga, the concepts of turangawaewae and papakainga, and finally an assessment of the Ngati Turangitukua concept of community development, their strong sense of identity as a hapu, and their aspirations for the future.

#### 4.4.2 Mana and rangatiratanga

Eileen Duff stated:

As a hapu we have lost our rangatiratanga. We used to be able to control and manage our own affairs on our own papakainga, but all that changed . . .

We're lumped together with the other Maori in the town. This hurts us. We have continued to identify ourselves very distinctly as Ngati Turangitukua. This is our town and our place, and the others are visitors to our place. But we don't have rangatiratanga over this place any longer.<sup>68</sup>

Much of the claimants' concern is related to loss of mana and rangatiratanga, a feeling of being marginalised in their own territory, and a desire to ensure the younger generation understand their ancestral ties to their home place, their papakainga. As Mrs Duff stated:

In everybody's mind, now, Turangi is seen as a Ministry of Works town, as if we didn't exist before. It is as though our centuries of history in this place were deleted because of that intense period of time that brought so many strangers into our land.<sup>69</sup>

She quoted a whakatauki that stressed the importance of understanding the past among the younger generation:

*Me titiro whakamuri i mua i te haerenga whakamua.*

*You must always look back before going forward.*<sup>70</sup>

She also commented on the importance of a sense of identity, remembered through place names, stories, waiata, and carvings in the whareniui, the meeting house at Hirangi Marae. For example, the mountain behind the town is Pihanga. 'She is our whaea (mother)'. She is also depicted in a prominent position in the front of the

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67. Document E2, p 21

68. Document E5, para 26

69. Ibid, para 31

70. Ibid, para 39

meeting house. Mrs Duff also referred to the ancestor Ngatoroirangi, who explored the land, climbed Tongariro, caused the geothermal heat to come there to warm him, and left many place names. ‘When Ngatoroirangi stubbed his toe on Pihanga he said Ka tuohu ahau ki te wahine (I will bow before this woman)’.<sup>71</sup> Pihanga is the maunga tapu, sacred mountain of Ngati Turangitukua, an integral part of their papakainga. She emphasised the importance of young people being able to grow up in a supportive and culturally strong environment, knowing their identity with kin and ancestral lands.

Arthur Grace, also described the need for Ngati Turangitukua to ‘regain our proper position as tangata whenua’, the need to restore their mana:

This will involve our having more economic clout, and being able to establish ourselves as an economic force in our own rohe. It will also involve our having greater control over the natural resources in this area.<sup>72</sup>

He was also concerned about the loss of rangatiratanga, and the need to restore a balance, so that the younger generation will grow up to understand both their ancestral past and the nature of the changes brought about by the influx of people into their papakainga, as well as feel a sense of identity and pride for the future.

Mr Nepia made it clear throughout his submission that he considered both the claim and any redress should incorporate all of Ngati Turangitukua:

I was quite clear from the outset that the claim needed to be run on a hapu basis. My grandmother and my uncle had given me a very strong message that it was ‘the people’ who had been affected by what happened. Their focus wasn’t on individuals or individual families.<sup>73</sup>

He saw the way ahead in presenting ‘a united front to the Crown’, and raising ‘the consciousness of the hapu so that once again we are functioning as a hapu should, with a single strategy for the benefit of everybody’.<sup>74</sup> Many of the individual and family grievances are already being dealt with in the process agreed for resolution of ancillary claims.<sup>75</sup> The remedies package proposed by Mr Nepia was seen as ‘what is necessary to set us on the road to economic and cultural health’, in other words, some compensation for ‘the Crown’s disregard’ of the mana and rangatiratanga of Ngati Turangitukua.<sup>76</sup>

#### 4.4.3 Turangawaewae and papakainga

The terms turangawaewae and papakainga were often used by claimants in the context of their wanting to restore their mana and rangatiratanga in the Turangi area.

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71. Ibid, para 34

72. Document E4, p 2

73. Document E3, para 22

74. Ibid, para 24

75. Ibid, para 77

76. Ibid, paras 82–83

We pause to consider their meanings as set out in several dictionaries of the Maori language.<sup>77</sup>

Turangawaewae was not listed as such by Tregear. The two words from which it is derived are: tu, to stand, hence turanga, standing, and wae or waewae, leg, foot (feet). Ryan listed turangawaewae with the meanings domicile, home, home turf. Williams did not list turangawaewae as a separate entry. Under tu, meanings given were stand, and be erect, as in: 'Ka tu ona waewae he stood on his feet'. Under turanga, the meaning was given as circumstance, time etc of standing. Literally, turangawaewae means a standing (place for) the feet. By an extension of this meaning the term is widely used to denote identification with a place where one has rights, where one belongs, the home place, where there are ancestral connections. Turangawaewae Marae at Ngaruawahia was so named because its development under the leadership of Te Puea in the 1920s represented a return by Waikato Maori to ancestral lands following the Waikato raupatu (land confiscation) of the 1860s.

Papakainga contains the term kainga which is often used as a synonym for papakainga. Tregear suggested that kainga was 'probably related to kai' meaning food or eating. Williams, however, stated the derivation of kainga is from ka, the place where fire has burnt, and listed a number of meanings:

- (a) Place of abode, lodging, quarters, encampment, bivouac;
- (b) Unfortified place of residence (one or more dwellings);
- (c) Country;
- (d) Home (with definite article or possessive pronoun).

Tregear listed similar meanings. Both Ngata and Biggs produced dictionaries of English into Maori, and under home listed kainga (kaainga) and wa kainga (waa kaainga). Biggs also listed haukaainga and kaainga tupu. Ngata also listed meanings for homeland as kainga tipu or whenua matua, and for homeless as kainga kore. Ryan listed kainga kore as meaning stateless. Both Williams and Biggs listed whakakainga (-kaainga) as make a home. Ryan listed meanings for kainga as home, residence, village, settlement; kainga kanohi was translated as landscape; and kainga noho meant home address, abode, address.

Papakainga is an extension of kainga to incorporate papa with various meanings related to earth and Papatuanuku, the Earth Mother. Williams suggested that papa, in the context of papakainga, originally referred to an earth floor or site of a house, and from this was derived the 'modern expression' of papakainga, meaning a living area or village. Ryan listed meanings of papakainga as original home, home base. As in the Maori language generally, the meanings of words are usually defined by the context, rather than a precise translation by single words into English. It is reasonable to assume that when Ngati Turangitukua claimants used the term papakainga, they were referring to their ancestral home territory in a broader sense, not just the village or

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77. B Biggs, *The Complete English-Maori Dictionary*, Auckland and Oxford University Presses, 1987; H M Ngata, *English-Maori Dictionary*, Wellington, Learning Media for Ministry of Education, 1993; P M Ryan, *The Reed Dictionary of Modern Maori*, Auckland, Reed, 1995; E Tregear, *The Maori-Polynesian Comparative Dictionary*, Wellington, Lyon and Blair, 1891; H W Williams, *A Dictionary of the Maori Language*, 7th ed, Wellington, Government Printer, 1971

houses where they lived. Embedded in the meanings of both turangawaewae and papakainga is a strong sense of identity which is inherited and defined by whakapapa, genealogy.

#### 4.4.4 The Ngati Turangitukua concept of community development

Arthur Grace referred to the unsettling effect of the Tongariro power project and the development of Turangi township on the hapu:

We were a close hapu, Ngati Turangitukua. The families who lived in the immediate area were all related, and even the pakeha families that lived here permanently were part of the Ngati Turangitukua community. . . .

When the Project came, it upset everything. We had been the main people of this place, but suddenly there were people everywhere who were complete strangers to us.<sup>78</sup>

Mr Grace told us that the hapu resisted pressure for Hirangi Marae to become a multi-cultural marae. However, the Ngati Turangitukua elders, in keeping with the Maori tradition of manaakitanga, decided that as the people of the project (of all races) had no place of their own in Turangi, they should be invited to use the Hirangi Marae. Ngati Turangitukua kaumatua decided it would not work for them to give up their papakainga for the establishment of a pan-tribal marae in Turangi. However, many Maori living in Turangi who are not Ngati Turangitukua have continued to participate in activities at Hirangi Marae. But there are also Maori families living in Turangi who do not participate much, if at all, because their ancestral ties are in other districts.

Arthur Grace also stressed the need to put in place methods of ensuring that the young people have the opportunity to learn about their hapu, their kawa, their waiata and their stories so that Ngati Turangitukua will be strong into the next century and beyond. It is this kind of thing which the claimants see happening at Turangitukua House when they have the resources to get it up and running as a dedicated centre for the education of their people. At present they own nothing as a hapu except their Hirangi Marae.

Eileen Duff expressed similar concerns in her evidence. She said that when she was a young girl growing up in Turangi, there were two things that Ngati Turangitukua people had which made them who they were. The first was their common ancestry which no one could take away from them. The second was the Ngati Turangitukua land which they owned together. Those things, she said, 'made us one hapu, one family'.<sup>79</sup> Mrs Duff reminded the Tribunal that prior to the coming of the project the whole of Turangi was theirs. The land was very advantageously sited near Lake Taupo. There was always tourism in the area which provided the people with options for development. Their people could come and build houses on their ancestral land and live a largely self-supporting life if necessary, just by growing food and hunting and fishing.

78. Document E4, paras 12, 16

79. Document E5, para 1

Mrs Duff also emphasised the central importance of the marae as a real focus in the lives of the people. She conceded that, with the passage of time, life at the marae was probably going to change with the major changes wrought by the second half of the century. Nevertheless, she was quite sure that the coming of the project brought about changes for her people at a much accelerated rate and of a very radical nature. Whereas, if the settlement and expansion of Turangi had developed naturally over time, a lot of changes to their Maori way of life might not have occurred at all, or would have occurred at a rate that the people were able to cope with.

The experience of my Ngati Tuwharetoa cousins around the lake, who have retained their turangawaewae, lends support to this view. They have not had to deal with the challenges from outside that we have had to deal with, and their identity as tangata whenua has never been under threat.<sup>80</sup>

Mrs Duff spoke of the benefits and detriments arising out of the loss of their land in exchange for other benefits. She acknowledged that individual landowners had been paid money in compensation and had the facilities of a new town. But the benefits perceived by the planners and engineers were not necessarily perceived as such by Ngati Turangitukua. For example, the people were assured by Crown representatives that they would be given work on the project. The trend of rural Maori people having to leave the country to get work in the city had already begun by 1964. If the younger people of the hapu could obtain work in the Ngati Turangitukua rohe they would be able to stay in their tribal district. This was a very attractive prospect for the elders whose interest always is to keep their whanaunga close to home. It was one of the main reasons why the elders agreed to some of their land being taken for the project. Mrs Duff stated that things didn't work out in the way the Crown had led the people to believe, because the Ministry of Works brought with them experienced personnel from another project. The Ngati Turangitukua people who were engaged were almost all employed on unskilled work. There were very few opportunities to learn and advance to more responsible positions. The net result, Mrs Duff said, was that the project did not deliver long-term employment benefits to her people.<sup>81</sup>

Mrs Duff has been teaching at Turangi for 26 years, and she does not consider the educational situation is any better now than it would have been had the project not come. They had local schools, including an area school for secondary school-aged children and also access to a system for government scholarships to enable children to be educated at religious Maori boarding schools. The scholarships were withdrawn when Tongariro High School was established. Some families still send their children to these schools but now it is at their own expense. Mrs Duff also told us that a health benefit derived from the project was a maternity hospital in Turangi, but that has now been closed. Expectant mothers must go to Taupo or Taumarunui or have their babies at home. Before the project came, Turangi had a doctor, a district nurse, and a

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80. Document E5, para 7

81. Ibid, para 13

chemist. ‘Nothing has changed in that regard.’<sup>82</sup> The only institutional health care now provided in Turangi is the care of the aged in the building that was formerly the maternity hospital.

Mrs Duff next emphasised that the main advantages of living in Turangi are the same as they have always been: they are the natural advantages, which are provided by the Tongariro River (which used to have beautiful rapids before the Ministry of Works excavated aggregate from the river bed near Turangi), Lake Taupo, the hot springs, and the mountains. To the extent that their beautiful waterways have changed, Mrs Duff said, they have changed to their detriment ‘because of the hydro development’.<sup>83</sup> She noted earlier evidence given about the apparently irrevocable changes to their beloved Hiranui Stream and changes to the Hangarito and Kahurau Streams. We note that matters relating to these streams are being dealt with under ancillary claims.

Mrs Duff also noted that Turangi was not without shopping facilities prior to the coming of the project. They had several general stores and in the immediate vicinity there were always shops servicing the fishing and sporting tourists who came to Turangi. She considered the shopping centre established in Turangi has not really thrived, and many Turangi people do their main shopping in Taupo, now a substantial town.<sup>84</sup>

There were sporting facilities too at Turangi before the new town was established. Most recreation was centred around the marae, which was the organisational focus for a variety of activities ranging from sports events, haka and waiata groups, social functions, and touring theatrical events. Mrs Duff commented:

So Turangi was by no means a cultural or recreational desert. The place functioned very well as an integral community, and there was always plenty going on for those who wanted to participate. So when I review all these factors I am unable to say that we were benefited by the Project in any of those ways that our old people thought we would be benefited.<sup>85</sup>

Mrs Duff was particularly concerned about ensuring that the status and respect for Ngati Turangitukua as tangata whenua be acknowledged:

There has been no civic tradition established in Turangi of proper recognition of Ngati Turangitukua as tangata whenua. Right from the days of the Ministry of Works, our identity as the people of this place has been overlooked on many, many occasions

...

We’re lumped together with other Maori in the town. This hurts us. We have continued to identify ourselves very distinctly as Ngati Turangitukua . . .

We accept that there are many citizens of Turangi who are permanently established here who are not Ngati Turangitukua but who nevertheless call this place home and

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82. Ibid, para 20

83. Ibid, para 21

84. Ibid, para 22

85. Ibid, para 25

have a right to stay. But we of Ngati Turangitukua need to have the means to establish ourselves more forcibly as the prime people of this place. I believe that it is possible to do this in a way that upholds our mana, and does not diminish others. I would like to see Ngati Turangitukua as an economic and social power in Turangi . . .<sup>86</sup>

The Tribunal does not need to be concerned specifically with the concept of a Turangi community, the people and organisations of the modern town. We do, however, express our concern that the tangata whenua, Ngati Turangitukua, feel so marginalised in their ancestral lands. In putting together their ‘remedies package’ Ngati Turangitukua have emphasised both the cultural and economic dimensions of community development as a hapu. Their community focus as a hapu is their marae, their ancestral lands, papakainga and turangawaewae, and recognition of their mana and rangatiratanga as tangata whenua in Turangi.

#### 4.4.5 The Ngati Turangitukua Charitable Trust

Mr Nepia explained that the Hirangi Marae Committee (also known more formally as the Ngati Turangitukua Maori Committee) has been ‘the controlling body of Ngati Turangitukua’. During 1997, following discussion and on legal advice, the hapu decided to establish a ‘Ngati Turangitukua Charitable Trust to carry forward the work of the Marae Committee in a more formal and legal context’.<sup>87</sup> The trust has now been registered as a charitable trust.

In a series of meetings of the hapu during August and September 1997, decisions were made to establish a list of beneficiaries of the trust through whakapapa. In a sworn affidavit, dated 18 November 1997, Mr Nepia explained that the beneficiaries entitled to be called Ngati Turangitukua could all trace their descent from Turangitukua, the man. Spouses and whangai would not be included if they were not descended from Turangitukua.<sup>88</sup> The whakapapa of 29 tupuna were all identified in a ‘master whakapapa’ as descendants of Turangitukua.<sup>89</sup> From these family whakapapa a list of 4974 living descendants has been compiled which comprises the current list of beneficiaries.<sup>90</sup> Mr Nepia noted that some whakapapa are incomplete, and there is still some work to be done to ensure this register of beneficiaries is complete and accurate.

The Tribunal has reviewed this register and The Ngati Turangitukua Charitable Trust deed, and commends Ngati Turangitukua for their considerable effort in compiling their whakapapa and register of beneficiaries. The hapu has put in place a legal identity and management structure to administer assets for the benefit of some 5000 or more people who identify as Ngati Turangitukua.

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86. Document E5, para 30

87. Document E3, para 33

88. Document E22

89. Ibid, app 7

90. Ibid, app 8