CHAPTER 1

INTRODUCTION

1.1 He Whiritaunoka

We have called this report *He Whiritaunoka* in the hope that it will mark the beginning of the next stage in the lives of Whanganui Māori, in which they will move beyond conflict with the Crown, and raruraru (difficulties) of their own, to fulfil their aspirations for a future full of harmony, unity, and cultural revival.

Where does the name *He Whiritaunoka* come from? Let us begin with the literal meaning of the Māori words: 'whiri' means to twist or plait and 'taunoka' is the name of the native broom, *Carmichaelia australis*. The stem of this shrub is pliable – as the image on the cover shows.

But *He Whiritaunoka* is layered with meaning that is historical, metaphorical, and symbolic. In 1865, just after fighting had ceased in Whanganui during the New Zealand wars, the Whanganui rangatira Hōri Kīngi Te Anaua set about diplomatic moves to secure peace and unity. Journeying up the river to see Te Pēhi Tūroa, who had fought against the Government, he stopped at Te Pēhi's pā Ōhinemutu, a Whanganui River settlement near Pīpīriki that was razed during military operations. He tied a knot in a taunoka, and said, 'I have made this knot that there may be peace inland of this place.'[1] His act of twisting the supple stalks together symbolised hope that conflict between Māori and Pākehā, and between Māori, would come to end. Māori invoked this act and what it signified for many years to come; 'whiritaunoka' became the word that referred to the long process of reconciliation and reunification in the wake of the wars.

We have the temerity to hope that our report might also be 'he whiritaunoka' – a symbol that peace and better times lie just ahead.

Kia tau te rangimārie i runga i a tātou katoa.

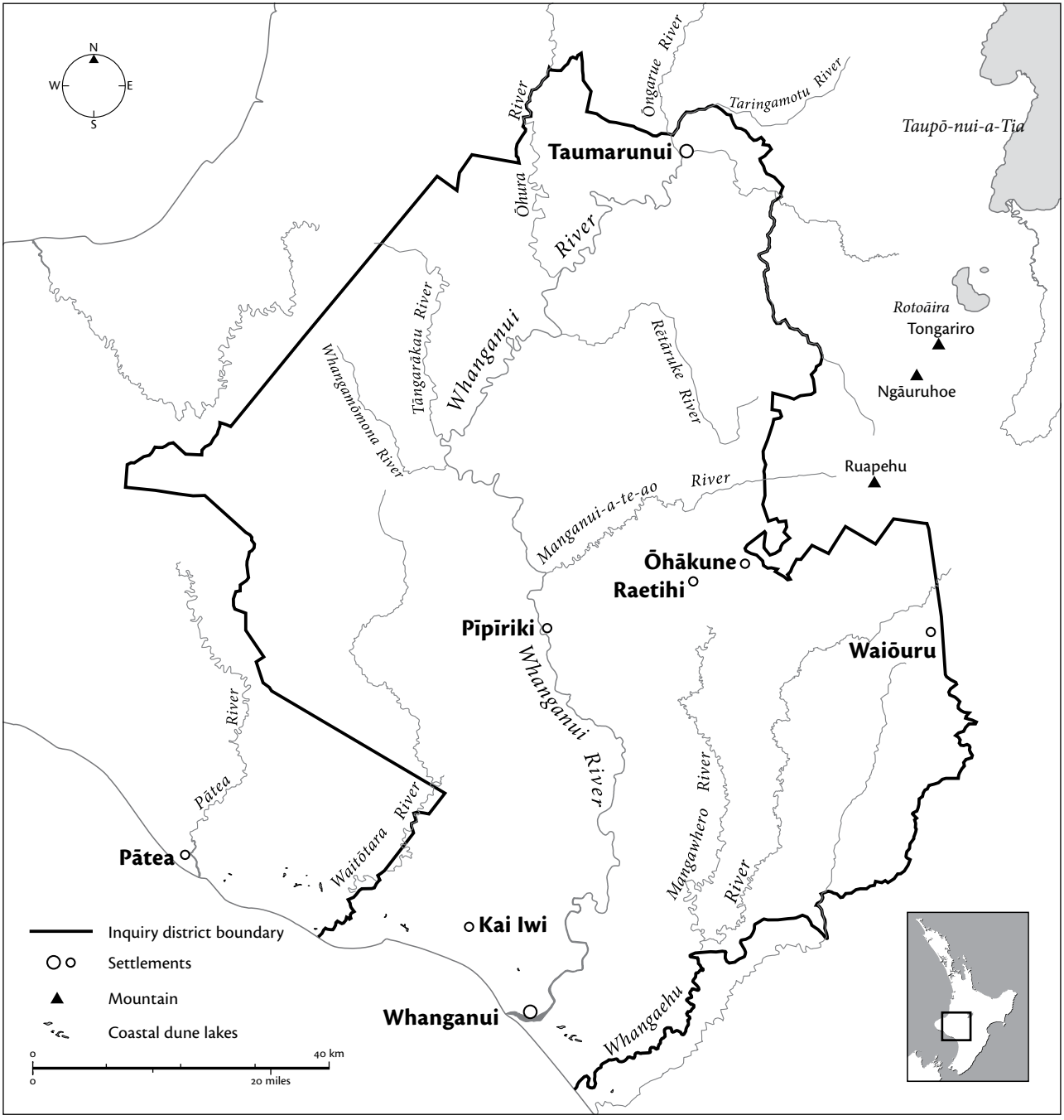
1.2 Preamble

In this introduction, we cover three topics.

First, we explain who the claimants were and outline what their claims were about.

Secondly, we say what struck us most in this inquiry. We give a snapshot of evidence we found especially resonant and distinctively of this inquiry district.

Thirdly, in a section we call 'Housekeeping', we outline the history of this inquiry. This section is procedural, administrative, and legal in nature, rather than about the substance of the claims. We need to review some matters of process to give context for this report, and record some quite unusual steps that we took along the way. However,



Map 1.1: The Whanganui inquiry district

a reader concerned with only the claims themselves can skip 'Housekeeping' and go straight to chapter 2.

1.3 The Claimants

The many claimants in this inquiry are Māori men and women who devoted time, energy and resources over many years to an important cause: pursuing justice on behalf of their tūpuna, and the uri (descendants) of those tūpuna who are alive today.

The claims were variously brought on behalf of whānau, individual hapū and iwi, and groups of hapū and iwi. Some came to us in the name of particular tūpuna. Others came in the names of entities that reflect aspects of Māori life in the modern age – trusts, boards, societies, incorporations, and owners of particular land blocks.

1.3.1 He korowai – the ancestral cloak

When this Tribunal first came to the region to commence the process of inquiring into land claims, it was evident to us that, since the Waitangi Tribunal's inquiry into the Whanganui River, hapū and iwi had been involved in a process of redefinition. In the River inquiry, some groups had become unhappy about the representation of their interests through the Whanganui River Trust Board, and rejected what they saw as an undue emphasis on the ancestral river siblings Hinengākau, Tamaūpoko and Tūpoho. We saw a desire for other ancestors – Ruatipua, Paerangi o te Maungaroa, Tamahaki, Uenuku, and Tamakana – to come to the fore.

It was a period when groups needed to focus on the relationships between them, and to settle any differences. They needed to find ways of moving forward with a sense of common purpose, while still maintaining their separate identities and mana. We saw, over the years of working together with the hapū and iwi of this inquiry district, how their relationships steadily strengthened. This came about as a result of the work of many individuals – and also, we thought, as a result of the shared experience of tangata whenua participating in this district inquiry.

For all participants, the Waitangi Tribunal process, stretching over years, was both an experience and an education. We all became immersed in the rich tapestry of ancestral life. As the Tribunal sat at different marae and heard whakapapa and histories, tangata whenua from across the rohe listened too. We became acquainted with all the tūpuna, and learned how they responded to the many challenging experiences of the past. The lives that those old people led continued to speak to their uri, enhancing their mana, and reminding them of their connections through time and across strands of whakapapa. Through them, people made sense of their lives and their connection to land, and – in pursuing their claims – what they were seeking to re-establish in a modern context.

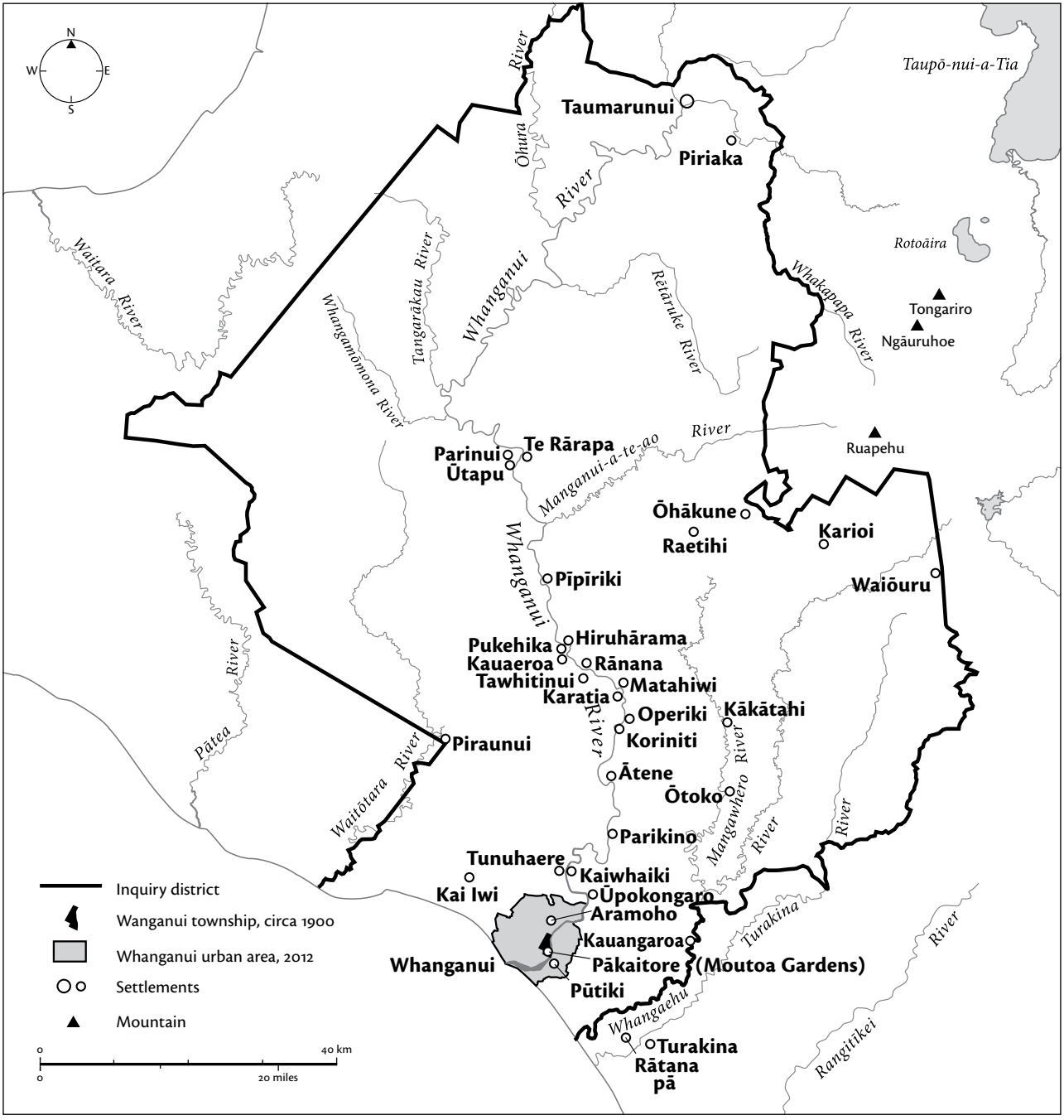
Exactly how and with whom iwi choose to identify will always be a matter for them, but we discerned in all the stories and images common threads: links between the present and the past; between individuals and their kin groups; and between kin groups. The English metaphor 'common threads' is very like 'te taura whiri a Hinengākau' (the plaited rope of Hinengākau). The image is one where many ties interweave to create a larger, stronger textile: this evokes how iwi and hapū interconnect, woven together, yet autonomous; related, but from different points of origin. Those unfamiliar with Māori society sometimes struggle to come to grips with how people experience community in this way. For the Māori who came before us in this district inquiry, it was fundamental to their existence as a people, and part of their everyday reality.

1.3.2 Ngā whenua, ngā awa – the land and rivers

When we speak of 'Whanganui', we refer to the broad expanse of land that stretches towards the source of the ancestral river and spreads out into the hinterland.

It is first and foremost an ancestral landscape, in which the Whanganui River is the dominant feature. This saying, heard time and again, expresses how the river really is the people who have lived there for generations:

I rere mai te awa nui
mai i te Kāhui Maunga ki Tangaroa
Ko au te awa,
Ko te awa ko au[2]



Map 1.2: The location of Māori communities in Whanganui

For as long as the great river
has run its course from the noble assemblage of ancestral
mountains to the sea
I am the river,
and the river is me[3]

From the source of the river emerges another source of ancestry. The Kāhui Maunga – Tongariro, Ruapehu, and their companion mountains – are themselves tūpuna. There are other ancestral rivers besides Whanganui – Whakapapa, Whangaehu, Manganui-a-te-ao, Mangawhero, and Waitōtara, to name but five – as well as many wetlands and lakes.

Each part of the landscape is named for tūpuna and incidents of lore. It is land that has since colonisation been designated as blocks, many named after tūpuna. It is land that now features towns, farms, and conservation estate, including the great expanse of Whanganui National Park.

It is a landscape that gives identity and mana.

It is also a landscape that is the source of grievance.

1.3.3 Te ao hurihuri – Whanganui Māori of today

In 2006, Māori made up a quarter of the population of the Whanganui district.[4] Te Āti Haunui-ā-Pāpārangi was the iwi with whom people living in the district primarily identified, numbering 3,306. Ngāti Tūwharetoa was next, with just over 2,000 people. More than two thirds of Te Āti Haunui-ā-Pāpārangi, however, were living outside Whanganui. In total, there were 10,434 people who identified as Te Āti Haunui-ā-Pāpārangi. By 2013, that number had increased to 11,691.[5]

Although we address the social data about Whanganui Māori in chapters 21 and 27, and although we hesitate to recite facts about Māori disadvantage at the very beginning of a report that in many ways celebrates the uniqueness and splendour of Whanganuitanga, we nevertheless decided to put some sobering facts upfront. It is the task of the Waitangi Tribunal to shed light on the interactions that comprised the process of colonisation in New Zealand. In this report, we illuminate as never before what happened between the Crown and the Māori people of this region. We think it is important to acknowledge from the outset that, 175 years since the Treaty was signed, the construction of the New Zealand of the twenty-first century has not brought equal levels of prosperity and wellbeing to the Māori people of this region.

The data comes mostly from the 2006 census. At that time, Māori had lower incomes, were more likely to work in low-skilled jobs, and were more likely to be unemployed than non-Māori. While Māori and non-Māori were equally likely to be in receipt of a benefit, non-Māori beneficiaries were more likely to be on a pension or superannuation, whereas Māori beneficiaries tended to be on benefits that are not age-related, like the unemployment, domestic purposes, and sickness benefits.

Māori in Whanganui, as in all of New Zealand, were significantly less healthy than non-Māori. Mortality rates in 2006 were twice as high for Māori as for non-Māori. For some diseases the difference was much higher. Māori men died on average nearly nine years earlier than non-Māori men, while Māori women died nearly eight years earlier than non-Māori women.

Māori in Whanganui were less likely to achieve success in education than non-Māori. Both nationally and in our inquiry district, Māori in 2006 were significantly more likely to be expelled, stood down, or excluded from school. Non-Māori school leavers in our inquiry district were more than twice as likely as Māori to be qualified to enter university, and around a third more likely to have NCEA level 2 or above. Whanganui Māori aged 15 or older were significantly less likely than Whanganui non-Māori of the same age to hold tertiary, trade, or school qualifications.

Māori in Whanganui also had lower standards of housing than their non-Māori counterparts. Of Whanganui Māori households, 45 per cent were renting, compared to just 21 percent of non-Māori households, and Māori renters were nearly twice as likely to have as their landlord Housing New Zealand. Māori also seemed to experience more crowding than non-Māori: half of Māori households of five or more people had three or fewer bedrooms, compared to just under a third of non-Māori households of five or more.

In short, Māori were worse off than non-Māori.

Although Whanganui Māori have made considerable efforts to preserve and nurture their culture and language, the majority cannot speak or understand te reo Māori. Some (15.8 per cent) did not know their iwi.

This inquiry district comprises over 2 million acres. In 1840, Māori owned all of it. In 2004, they owned just over 237,000 acres, or about 11 per cent.[6]

Looking at all this data, the question naturally arises: how did Māori in this district come to be so badly off? And the next question – *the* question for this Waitangi Tribunal – is to what extent the Crown was responsible. This report seeks to provide answers.

1.4 The Claims

The claimants alleged that the Crown breached the principles of the Treaty from the outset. There were many claims, and most alleged a string of breaches across time. There were also many discrete claims that related to local areas and particular actions or events, some within living memory.

1.4.1 A Treaty exchange?

The claimants' starting point was their view of the meaning and effect of the Treaty of Waitangi and how it applied to them. They said that they did not cede te tino rangatiratanga through the Treaty, though the Crown continued to act as if they had done so. It assumed power to act on their behalf, and excluded them from the political institutions of the colony. This usurpation of Māori authority expanded in the twentieth century, as the Crown delegated to local authorities power to manage and control land, rivers and the environment.

1.4.2 Crown purchase and war

They said that the Crown unfairly acquired the land around the Wanganui township through a purchase that was finalised in 1848, many years (and with much confusion) after the New Zealand Company first tried to buy the land. The purchase was pushed through in an atmosphere of tension following a military clash between Whanganui Māori and imperial troops in 1847. The troops were maintaining a garrison in the town at the time. Then conflict erupted in the 1860s – this time with Māori sometimes fighting each other, most famously at Moutoa Island in 1864. This left a bitter legacy that was, the claimants maintained, of the Crown's making.

1.4.3 The Native Land Court and more land alienated

The claimants were unanimous as to the damage caused after the introduction to the district of the Native Land Court in the late 1860s. Large-scale alienation of land quickly followed (and in some cases coincided with) the court's sittings. More land alienation continued into the twentieth century, leaving Māori with the fraction of land that remains in their ownership today.

1.4.4 Land and rivers taken, used, or restricted

The twentieth century, they said, was when the Crown took actions that decisively undermined their tribal estate and te tino rangatiratanga. Foremost among these was the compulsory and unjust acquisition of land for scenic reserves and other public works. There was also, they said, the coercive and unfair creation of native townships at Taumarunui and Pīpīriki; the forcible and unfair vesting of their land in bodies in which they had little or no authority; and the unfortunate and unsuccessful implementation of various development schemes. On top of this, various Crown actions caused harmful environmental effects to land and waterways, and tangata whenua were unfairly excluded from management decisions about the Whanganui National Park from the time of its inception in the 1980s.

1.4.5 Social services and socio-economic outcomes

Finally, they believed that the Crown's provision of health, education, housing and other social services was inadequate and unequal, in both the nineteenth and twentieth centuries.

Through these actions and inactions, the claimants

considered that the Crown caused them to be marginalised in their ancestral rohe (territory), and was responsible for the deprived and scattered state in which many find themselves today.

1.5 What Struck Us Most

It is difficult to summarise the experience of being part of an inquiry of this dimension. We met so many people, went to so many places, heard so much evidence, in order to come to the findings set out in this report. We cannot capture it all, even in a report of this size. We shared so much: tears, laughter, disagreement, food, tangi, wisdom, and love. The hearings are a slice of life that will remain always in the memories of those who took part. We set out here the facts and our opinions in thousands of words, but many of the feelings we felt, the jokes we heard, the hands we clasped, and the hongi we shared, will remain only in the hearts and minds of those of us who were there.

As a Tribunal, we witnessed the ongoing commitment of these communities to their Whanganuitanga. We saw a core of dedicated young people – young to us anyway – whose knowledge and commitment will see them become the rangatira and tohunga of tomorrow. Even in the years when our hearings were happening, we were seeing the process of the old guard giving way to the new. We were grateful to them all, because their leadership enabled our hearing process to run smoothly and productively on the many marae that hosted us.

Many of the claims we heard about were about the experiences of communities in their localities. Accordingly, the report as a whole reflects local experiences as far as possible. Nevertheless, when we came to look back over the inquiry, there were two general impressions that we wanted to note.

1.5.1 First, that Māori remained optimistic and creative

While there were diverse responses to the arrival of Europeans in the Whanganui district, most rangatira were willing to accommodate – and some encouraged – settler communities. They looked to the benefits they could gain, and were curious to learn about the new ideas and new ways of doing things. It was rare to see chiefs completely opposed to settlers, even after their initial expectations of how Pākehā would live cooperatively with them were dashed. However, common to all the hapū was determination to retain authority over their land. Rangatira were keen to engage in transactions, but only so long as they were in control of the situation.

The changes that gathered around them were ineluctable, though, and they generally meant incremental diminution of Māori authority. Even so, the history of this region tells the story of people who never gave up looking for opportunities to benefit from the changes, and to turn them into a win for te tino rangatiratanga.

In the 1860s and 1870s, tangata whenua adapted their own institutions to new circumstances. Hui and komiti and rūnanga took on new roles under the leadership of men such as Metekīngi Paetahi, and enjoyed considerable support. Others preferred to work through the institutions of the Kīngitanga.

Even after the wars of the 1860s, Māori leaders continued to seek ways to assert authority in the political process as it directly affected them, especially deciding who owned the land and whether to sell it. Influential in this sphere was the famous military leader Te Keepa Te Rangihiwinui, known to Pākehā as Major Kemp. He did not speak for all hapū and iwi in the district, but he expressed a commonly-held desire when he asserted that Māori institutions ought to be given recognition in the political machinery of the colony. His brainchild, Kemp's Trust, was a classic instance of using Pākehā law (the law of trusts) to suit the Māori purpose of holding on to Māori land as a collective.

Whanganui support for the idea of land councils at the end of the nineteenth century was another instance of Māori reaching out to new concepts to find ways to exercise control over their land. Despite the experience of much of the foregoing period, when most of the land passed from their ownership, Māori seized every opportunity that colonial politics offered to take back some

authority. Another effort to manage their landholdings was their support for creating specially designated townships, a scheme which they hoped would yield an income and protect their land from sale. Whanganui Māori support for these initiatives demonstrated their belief that they would find a way not only to benefit from colonisation, but to have a say in how that would be achieved.

Such optimism was evident as recently as the 1980s, when Whanganui Māori engaged with the Crown in discussions about creating the new national park in their rohe as a Māori national park. Optimism notwithstanding, they carried on preparing their Waitangi Tribunal claims about how the Crown wrongfully acquired the land that eventually became Whanganui National Park.

1.5.2 Secondly, how the colonists refused to share power

We were equally struck – though perhaps not surprised – by the extent to which colonial authorities took advantage of the optimism Māori displayed.

The generosity and optimism of tangata whenua was perhaps even more evident in Whanganui than elsewhere, as they extended their customary manaaki to the newcomers from the outset. They employed the metaphor of marriage between Māori land and Pākehā settlers on formal occasions, and helped the new settlers to get established.

There was no answering generosity or integrity on the part of the authorities. Negotiating the final stages of the Whanganui purchase in the late 1840s, officials duped Māori about how much land was changing hands, paid them a poor price, and kept the military there to underscore the new power dynamic. Before long, colonial authorities assumed political power and created political institutions that did not include Māori. Those institutions passed legislation that established ways of acquiring Māori land and resources that minimised the means for opposition. It was by no means a continuous march of oppression and dispossession, for there were meanderings and movements back and forth with different governments, different policies, and different trends in legislation. In hindsight, though, it all has an air of inevitably that flowed from the colonists' adamant refusal to share power.

There were real opportunities to do so, especially around the turn of the twentieth century, with the dynamism of the Kotahitanga movement, and bicultural leaders such as Āpirana Ngata and James Carroll coming to the fore. The Crown created Māori land councils, in which Māori were well represented, and in Whanganui Māori responded with enthusiasm and vested a great deal of land in their council. The transformation of the land councils to land boards, in which Māori had little authority, must have been particularly galling for Whanganui Māori, who vested so much of their land in the council in the expectation that it would be an institution that they could influence. Instead, they lost control of their remaining land for long periods. Similarly, the native townships, for which tangata whenua at Pīpīriki and Taumarunui had high hopes, became sites of marginalisation.

The Crown moved right away from the idea that Māori would be protected in the use and ownership of their land. They viewed scenic Whanganui as a resource for everybody, not its owners, to enjoy, and bought even reserved land indiscriminately. Exploiting Māori and their resources in the Whanganui district was by this time a habit. Even in the 1980s, when the Treaty had attained a different status in our country, the Crown created Whanganui National Park without a significant role for Māori – even though 'a very "[M]aori" national park' seemed briefly to be a genuine prospect.[7]

Only now are Māori in Whanganui beginning to be able to exercise authority in their rohe. The Whanganui River settlement will provide more scope for them to influence the river environment than they have had since the nineteenth century. New leaders are emerging, and Whanganuitanga is revitalising. Soon, 175 years after it signed the Treaty, and after much water has flowed under the bridges that span the Whanganui and the other ancestral waterways of this region, the Crown will shortly sit down at the table with Whanganui Māori to work out with them – really for the first time – what Treaty partnership might look like in this whole region.

1.6 Housekeeping

In the following sections, we outline the history of this Tribunal's inquiry into the Whanganui land claims. We explain its relationship with the Whanganui River Inquiry, and how the inquiry into Whanganui land developed. We took a number of unusual steps along the way that need to be noted, and we also came to an understanding with the claimants about the scope of the report. This section provides background and concerns legal, procedural, and administrative matters. It is not about the substance of the claims.

1.6.1 Where the Waitangi Tribunal came in

By the mid-1990s, the Waitangi Tribunal had heard and reported on a handful of historical claims, following the expansion of the Tribunal's jurisdiction to inquire into Crown actions from 1840. The landmark *Ngai Tahu Report* was released in 1991, but the Tribunal was beginning to consider how historical claims could be heard together in whole districts, rather than proceeding claim by claim. Some claims, however, warranted exceptional consideration, and the Whanganui River claim was one of them.

1.6.2 The Whanganui River inquiry

Nine trustees of the Whanganui River Māori Trust Board, and kaumatua Hikaia Amohia, brought the Whanganui River claim on behalf of Te Āti Haunui-a-Pāpārangi as a whole, and it was registered in December 1990.[8] The Trust Board was established under the Whanganui River Trust Board Act 1988 following a commission of inquiry into how the Crown acquired ownership of the river – only the latest of many inquiries, petitions, and court cases on the same subject dating back to 1873. The Act empowered the Trust Board to

> deal with outstanding claims relating to the customary rights and usages of Te Iwi o Whanganui in respect of te Awa Whanganui River including the bed of the River, its minerals, its water and its fish.[9]

Though the claim raised matters concerning the land, the Tribunal decided to focus on the river in a dedicated urgent inquiry.[10] From March to July 1994, the Tribunal held hearings at marae up and down the river.

1.6.3 *The Whanganui River Report*

In its *Whanganui River Report*, issued in 1999, the Tribunal found that Te Āti Haunui-a-Pāpārangi were denied rightful ownership of the Whanganui River through Crown actions that breached Treaty principles. The people owned the whole river, and not simply its bed. That right of ownership was based on universal principles of law – principles that were further guaranteed in the Treaty of Waitangi. 'Contrary to some popular opinions, New Zealand was not colonised on the basis that rivers were publicly owned.'[11] The English law that was applied in New Zealand recognised the territorial possession of indigenous peoples and that riverbeds were owned by the riparian owners to the centre line, from the tidal reaches to the source. The Tribunal found that, following the establishment of responsible government in New Zealand, successive parliaments enacted statutes affecting rivers. One such statute, in 1903, vested the bed of all navigable rivers in the Crown: the interests of Māori were expropriated without consultation or compensation.[12]

In the opinion of the majority of the panel, it was important that any remedy acknowledged the unique aspects of the case. Because the Whanganui River is, from its source to the sea, central to the lives and identity of the river people, the Tribunal considered that exceptional consideration was warranted. They looked for a solution in the Resource Management Act 1991, but found none. Instead, they proposed recognition of the authority of Te Āti Haunui-a-Pāpārangi in appropriate legislation, which should include recognition of their right of ownership of the river. Existing use rights and public access should also be protected. Two options were proposed for implementing these provisions, both involving major roles for the Whanganui River Maori Trust Board in the management of the river. The Tribunal recommended that the parties enter into negotiations.[13]

In a dissenting opinion, one member was unable to

support any proposal involving Māori ownership of natural water:

> It is an unfortunate reality that the Whanganui River is both the tangible focus of Atihaunui spiritual and physical wellbeing and the main arterial trench of a very large drainage system in industrialised contemporary society.

The member recommended that the Crown give serious consideration to an equal sharing of the ownership of the riverbed and advocated that the Crown and claimants jointly establish a body through which all rights and responsibilities of legal ownership could be exercised.[14]

1.6.4 The Whanganui River settlement

The Whanganui River is the passion and lifeblood of most of the claimants in our area, so it was a huge milestone for them to settle their Whanganui River claim with the Crown. Terms of settlement were agreed in August 2012.[15] A deed of settlement was initialled in March 2014, and signed later that year.[16]

The settlement, called *Ruruku Whakatupua: Te Mana o te Awa Tupua*, sets out a framework for establishing the Whanganui River as a single, indivisible legal entity, from the mountains to the sea. The settlement will also allow for the creation of Te Pou Tupua, the 'human face' of Te Awa Tupua, which will act and speak for the river. Te Pou Tupua will comprise representatives of Whanganui Māori and the Crown, symbolic of the Treaty relationship. It will be supported by a strategy group consisting of representatives from iwi, local and central government, commercial and recreational users and environmental groups. Legislation, which will give effect to these terms, is expected to be introduced to parliament in 2016.

1.6.5 The Whanganui land inquiry

After the river inquiry was completed, plans for an inquiry into land claims commenced. In the intervening years, the Tribunal received many more claims concerning land issues.

(1) *Planning, research, and pleadings*

In 2002, planning began for the historical research that would be conducted in support of the inquiry.[17] Once Judge Wainwright was appointed presiding officer of the inquiry, she commissioned a series of research reports, as did the Crown Forestry Rental Trust (on behalf of the claimants) and the Crown. The Tribunal and Crown Forestry Rental Trust reports were filed in 2004, and the Crown reports followed in 2006. In total, 59 research reports were filed, many with voluminous supporting papers. Research reports from other inquiries were also placed on the Whanganui record of inquiry.

With substantial research now to hand, the Tribunal required counsel for the various claimant groups to cooperate in the production of a joint statement of claim on common issues and separate particularised statements of claim on behalf of each group.[18] The Crown's statement of response set out its position.[19] From these documents, the Tribunal produced a 'statement of issues' – a series of questions that would clear away the areas where the claimants and the Crown were in agreement, and focus on where they differed.[20]

(2) *Determining the inquiry boundary*

From 2002, the parties discussed with the Tribunal the boundary of the inquiry district. There were a number of issues to consider. Around the Whanganui inquiry district lay five others: Taranaki to the west, Te Rohe Pōtae to the north, National Park to the north-east, Taihape to the east, and Porirua ki Manawatu to the south-east. As usual, a careful process was needed to establish where the boundaries should be drawn, to ensure that the claims of groups with interests in the border areas would be fully heard.

The boundary first proposed in April 2002 covered the core Whanganui area, bounded by the Whangaehu River in the east and the Ōkehu Stream in the west, extending as far north as the Waimarino block.[21] Following discussions with the parties over some months, this boundary underwent a number of changes, with some additions and exclusions.[22] Ultimately,

- The western boundary was extended so as to include some blocks that were heard previously in the Taranaki inquiry (the Kaitangiwhenua and Waitōtara blocks, as well as some neighbouring blocks to the north). Issues relating to this land would be heard in so far as they related to Whanganui claims.
- The northern boundary was extended so as to include land where both Whanganui and Ngāti Maniapoto groups claimed interests, namely, the Kōiro, Ōpatu, and Ōhura South blocks, as well as Taumarunui township.
- The eastern boundary was extended to include land earmarked for the Taihape inquiry, in order to accommodate Ngāti Rangi's preference to have all their claim issues heard in the Whanganui inquiry, including those relating to the Murimotu and Rangiwaea blocks, and the Karioi Forest.

Finally, however, due to the extent of overlapping interests between Taupō and Whanganui groups, and issues of representation, it was decided that it was necessary to create a separate sub-district around the Tongariro National Park. The Whanganui and National Park Tribunals would sit together to hear evidence common to both, but Ngāti Rangi claims in respect of certain blocks would be heard in the National Park inquiry alone.

(3) *Appointing a panel*

Judge Carrie Wainwright was appointed presiding officer in 2001. Dr Angela Ballara was appointed a member of the panel in 2005, followed by Dr Ranginui Walker in 2006. In February 2007, Professor Wharehuia Milroy was appointed as the fourth and final member.

(4) *Hearings*

For the purposes of preparing and presenting evidence, and to facilitate funding from the Crown Forestry Rental Trust, the claimants organised themselves into regionally based 'clusters'. These became known as the southern, central, and northern clusters. Ngāti Rangi prepared and presented its evidence and its case as a separate entity.

At our first hearing, we sat together with the National Park Tribunal to hear traditional evidence at Raketāpāuma Marae on 20 February 2006.

Whanganui Tribunal hearings recommenced with the evidence of the southern cluster, presented over four weeks in August and September 2007. Central cluster evidence followed, over five weeks from March to May 2008; and the northern cluster presented evidence over three weeks in the months of October and November 2008. Ngāti Rangi gave its evidence in one week in March 2009. Hearings concluded with four weeks of Crown evidence from May to August 2009. The Tribunal heard the closing submissions of all parties in three weeks from October to December 2009.

In addition to appearances and briefs of evidence from witnesses presenting 59 research reports, we received 327 briefs of evidence from the claimants, 225 of whom appeared before us in person. (A full description of clusters and the claims brought, as well as the hearings and evidence presented, can be found in appendixes I and II.)

With a few exceptions, all hearings were held at marae across the district.

(5) *Discrete remedies*

During our hearings we attempted to engage parties on a number of issues that we hoped would result in the settlement of small, discrete claims well ahead of the major Treaty settlement for tribes of the area. We asked the claimants to identify any issues that were small-scale, self-contained, and relating only to one particular group. Also necessary was that the remedy would involve the return of assets that were owned by the Crown. The discrete claims process was to run alongside the Tribunal's main hearings, hopefully resulting in the Crown providing early remedies to the claimants. The claimants identified 19 claims that they considered met these criteria. Disappointingly, the Crown delivered only one discrete remedy before the end of hearings. However, it was a very considerable one: the return to tangata whenua of 23 hectares (56 acres) comprising the former Pūtiki Rifle Range. (The discrete remedies process is more fully described in chapter 23, and

a full list of discrete remedies applications is set out in appendix IV.)

(6) *Crown concessions*

The Crown made a number of concessions on major issues during the inquiry, but they tended to go only some of the way towards meeting the claimants' position. For example, the Crown said that, in the Whanganui purchase, it breached the Treaty and its principles by failing to inform Whanganui Māori that it was not in fact purchasing the area that the Spain commission had recommended, but was paying the same price for twice as much land.[23] This went only part of the way to meeting the claimants' position. Issues relating to the purchase remained live between the parties at the end of hearings. The Crown made similar, partial concessions on other issues, and many differences between the parties remained. These form the focus of our report.

(7) *Our earlier report on aspects of the Wai 655 claim*

While we were hearing the Crown's evidence in mid-2009, there was a development that prompted us into action. In May 2009, the Waitangi Tribunal declined an application to hold an urgent inquiry into a claim brought by the Wai 655 Ngā Wairiki claimants. They opposed the inclusion of Ngā Wairiki in the Ngāti Apa Treaty settlement on the ground that their inclusion prevented them from joining their Whanganui kin, to which some affiliated more, in a Whanganui settlement. We were told that it was only a matter of weeks before the Ngāti Apa settlement legislation was delivered to Parliament, which would bar us from further inquiry into the claim. Even though it was plain that we could not address their claims fully in the time available, we thought it necessary to say something about the Ngā Wairiki claims then, because the settlement legislation ruled out their inclusion in this report.

We issued a report that allowed the Wai 655 claimants to see some of our thinking on the evidence we received that related to their issues. Our focus was on how Ngā Wairiki identity was affected by Crown actions. This involved looking at the extent to which Ngā Wairiki were known to Crown officials who negotiated the Rangitīkei-Turakina purchase in 1849, their experience in the Native Land Court, and the effects of Crown actions on their identity into the twentieth century.[24]

We concluded that Ngā Wairiki was a separate iwi, though allied to and much intermarried with Ngāti Apa. The proximate causes of their decline as an independent group were Crown actions, particularly the negotiation of the Rangitīkei–Turakina purchase. Ngā Wairiki were not sufficiently compensated for that purchase, nor was land set aside for their use. These actions constituted a breach of the Treaty principles of good faith and active protection, and undermined the ability of Ngā Wairiki to survive as a group with separate identity.[25]

For completeness, in this report we discuss Ngā Wairiki where that group arises in the context of other people and events we look at, and we complete our account of how Ngā Wairiki related to those groups where necessary. However, we make no findings on the Wai 655 claim.

(8) *This report*

In early 2010, with hearings behind us, the claimants informed us that they hoped, within a year, to be able to enter into negotiations with the Crown to settle the claims in this inquiry. The Crown estimated that it would take more than a year for negotiations to get underway, but it still appeared then that they would commence long before we could complete our report on all the claims. It was generally agreed, though, that it was important for the parties to receive our report before they negotiated a settlement. We entered into discussions about what kind of report we could deliver in the time available.

We discussed the possibilities with the parties and their counsel.[26] In the end, it was agreed that we would limit coverage to the subject areas that all considered were particular to Whanganui, and would be most likely to influence the settlement quantum. The claimants put forward the matters that they wanted the report to cover as a matter of priority: the origins and identity of hapū and iwi, and the nature and extent of their customary interests; political engagement; the Whanganui and Waimarino

purchases; the vesting of land in the twentieth century; and the creation and management of the Whanganui National Park.[27] Those became our focus.

However, as is so often the way, events did not unfold as expected. Iwi in Whanganui became immersed in negotiations to settle the Whanganui River claim, which ebbed and flowed over a number of years before settling last year. This delayed the commencement of settlement negotiations on the land claims, and in fact these are only now, in mid-2015, getting underway. Meanwhile, on the Tribunal side, a period of unprecedented activity with urgent inquiries resulted in the allocation of staff to other work, and other human factors also intervened, so that writing this report took considerably longer than expected.

Once it became apparent that the immediate need for a quick report to inform negotiations had changed, we engaged once more with the parties, ascertained their views, and expanded coverage.

The only topics this report does not now address are these: the Emissions Trading Scheme and the foreshore and seabed – both of which were adjourned *sine die* in the course of the inquiry as they were affected by legislation and other inquiries; the Tongariro Power Development Scheme, on which the National Park Tribunal reported in 2013; the environment, although we do report on Whanganui National Park and issues there with te tino rangatiratanga and the Department of Conservation; and fisheries. We do not report on the Whanganui River because that was the subject of the previous major inquiry, and we have not reported on other rivers and waterways in the area which raised similar issues. We do report on a particular 'local issue' claim concerning the Whangaehu River. Some topics (the main trunk railway; public works; and local government and rating) do not have their own chapters, but we address them in the context of local issues (to which we devote four chapters), and as part of other large subject areas. For example, we discuss the main trunk railway in chapters on Crown purchasing, nineteenth and twentieth century Māori land policy, and in various examinations of public works takings for railway.

The report is in three volumes. We need say nothing about their content that is not easily ascertained from the index. A feature that demands a brief explanation, though, is what we have called 'matapihi' (windows). There are four, and each one is intended to cast a shaft of light on to a uniquely Whanganui topic that came out of claims. They are interpolations between chapters that we hope are accessible and of particular local interest.

In the introduction to the glossary, which precedes this chapter, we explain how we have used the Māori language in this report.

Notes

1. David Young, *Woven by Water: Histories from the Whanganui River* (Wellington: Huia, 1998), p 90; Waitangi Tribunal, *The Whanganui River Report* (Wellington: GP Publications, 1999), p 154
2. Document A128 (Waitai), p 5
3. Translation by Waitangi Tribunal.
4. 'Ethnic Group by Age, 2006 Census', Statistics New Zealand, http://nzdotstat.stats.govt.nz/wbos/index.aspx, accessed 4 August 2015
5. Statistics New Zealand, 'Iwi (Total Responses) and Iwi Groupings, for the Maori Descent Census Usually Resident Population Count, 2001, 2006, and 2013 Censuses (RC, TA, AU)', http://nzdotstat.stats.govt.nz/wbos/index.aspx, accessed 2 September 2015
6. Document A66(e) (Mitchell and Innes), p 3
7. The commissioner of Crown lands used these words when he spoke to an Ātihaunui delegation about the proposed park in 1984: Waitangi Tribunal, *The Whanganui River Report*, 1999, p 242.
8. Hikaia Amohia, Archie Taiaroa, Raumatiki Henry, Kevin Amohia, Hoana Akapita, Te Turi Ranginui, Brendan Puketapu, Michael Potaka, John Maihi, and Rangipo Mete-Kingi, claim concerning the Whanganui River, 14 October 1990 (Wai 167 ROI, claim 1.1); Chief Judge Eddie Durie, memorandum directing claim be registered, 11 December 1990 (Wai 167 ROI, memo 2.1)
9. Hikaia Amohia, Archie Taiaroa, Raumatiki Henry, Kevin Amohia, Hoana Akapita, Te Turi Ranginui, Brendan Puketapu, Michael Potaka, John Maihi, and Rangipo Mete-Kingi, claim concerning the Whanganui River, 14 October 1990 (Wai 167 ROI, claim 1.1), p 2
10. Waitangi Tribunal, *The Whanganui River Report*, p 8
11. Ibid, p 335
12. Ibid, pp 335–337
13. Ibid, pp 341–344
14. Ibid, pp 345–347
15. Whanganui Iwi and the Crown, *Tutohu Whakatupua*, 30 August 2012

16. Whanganui Iwi and the Crown, *Ruruku Whakatupua: Te Mana o te Awa Tupua*, 5 August 2014
17. See document A30 (Phillipson)
18. Statement 1.5.5
19. Statement 1.3.2
20. Statement 1.4.2
21. Memorandum 2.3.17, pp 1–2
22. Memorandum 2.5.8; pp 5–14; memo 2.5.10, pp 2–3; memo 2.5.15, pp 2–10; memo 2.5.18, p 2
23. Paper 3.3.118, p 41
24. Waitangi Tribunal, *Report on Aspects of the Wai 655 Claim* (Wellington: Waitangi Tribunal, 2009), pp 12–25
25. Ibid, pp 29–30
26. Memoranda 2.3.104, 2.3.110, 2.3.112, 2.3.116, 2.3.117, 3.4.10, 3.4.20, 3.4.92, 3.4.93, 3.4.95, 3.4.96, 3.4.97, 3.4.98, 3.4.99, 3.4.100
27. Paper 3.4.10, p 4