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THE POLITICS OF IWI VOICE

**A thesis presented in partial fulfilment
of the requirements for the degree of**

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(Ngati Tama, Ngati Toa, Nga Ruahine, Te Atiawa)

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Abstract

This doctorate thesis *The Politics of Iwi Voice* focuses on the struggle of a modern, urban iwi authority to secure political recognition from other iwi and the Crown as it attempts to assert an independent iwi voice, and exercise mana and tino rangatiratanga. The responses of the local iwi/Maori community, the Crown, and others to the re-emergence of the new iwi entity are critically examined.

The thesis demonstrates how a small iwi group resists attempts to assimilate into a broader coalition of iwi, hapu, whanau and marae interests, preferring instead to maintain and develop its own distinctive identity. It uses the iwi Ngati Tama to exemplify the diaspora of an iwi, and shows how iwi identity and fortunes are buffeted by both iwi and urban contestations as well as changing political directions. The study suggests that a Ngati Tama future away from its homeland will depend primarily on the development of pragmatic adaptive and innovative strategies, and a fervent resolve to retain a distinctive identity, while participating in a dynamic and often oppressive environment.

This thesis concludes that to maintain a distinctive iwi presence its members should have the right to decide who best represents them. An iwi is considered an appropriate vehicle to represent its members and manage its interests. In order to survive in a constantly changing environment, an iwi must be dynamic, flexible, relevant, and meet the needs of its membership. Further, its leadership should be focused on negotiating relationships in good faith - including third party interventions - and seeking pathways that will advance its interests into the future.

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A shared vision is a pathway forward.

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CHAPTER ONE: INTRODUCTION

BACKGROUND

This introductory chapter sets the scene for what is to follow. A background section briefly outlines the context in which the thesis topic was chosen. The thesis purpose and the research question follow, and then the theoretical context utilised is then discussed. The methodology adopted in this research provides the analytical framework and, lastly, there is an overview of relevant literature.

This study is about the development of a modern urban iwi and its impact on the local Maori community and wider society - including the Crown - as it attempts to assert an independent iwi voice, and exercise mana and tino rangatiratanga. It is also about how tribes in this situation organise themselves, relate to other relevant groups, manage resources, and improve the overall wellbeing of the group and its members.

PURPOSES OF THE RESEARCH

The main purpose of this research is to examine the development of tribal identity and the tribe's interaction with the Crown and other iwi and Maori groups, and the Crown's (and others') response to a new iwi authority. More

than summarising the history of relationships between the Crown (and others) and the iwi, this research considered events that shaped the attitudes and achievements of the various groups and individuals. The study explores those political dynamics from the perspective of an iwi asserting its voice and autonomy.

There is a focus on the concerns, attitudes, aspirations and barriers confronting an iwi authority as it asserts its voice, and an exploration of how those matters have been resolved. An important part of the research is formed by issues such as the role of conventional tribal structures and other Maori institutions in a contemporary setting, including leadership styles and personalities involved. While the tension between an iwi and other Maori group interests is examined, the specific intention of the study is to identify the lessons to be learned from iwi, Maori and the Crown inter-relationships, and the subsequent implications for policies and programmes aimed at promoting tribal development.

A group of people based in Wellington of Ngati Tama descent had been committed to the resurgence of iwitanga and as a result were keen to learn more about their tribal identity and their origins, as well as to promote a Ngati Tama polity. Tensions arose as the Ngati Tama descendants asserted their own autonomy in preference to a collective Taranaki voice, and over the voices of other non-Taranaki originating tribes, such as Ngati Toa. The experience of Ngati Tama ki te Upoko o te Ika Incorporated Society, is used as an example throughout the study. As a relatively small iwi, and one, which

was only re-unified in 2002, the society struggled to come to terms with other iwi and Maori groups in the Wellington region, and to assert a measure of autonomy and control over its own affairs.

For Maori, a cultural identity based on tribal origin has been more relevant than the notion of a homogenous 'Maori' identity. This is partly a reaction to the impacts of urbanisation but also a consequence of tribal claims against the Crown for breaches of the Treaty of Waitangi. In addition, the fourth Labour Government advocated in 1984 tribal development as a pathway for Maori social, economic and cultural advancement. It heralded a resurgence of tribal pride with people wanting to learn more about their own tribal history, language and song.¹

It is hoped that this research will add to the knowledge base for tribal development, tribal relationships, and the dynamics between the Crown and Maori sectors; and as a consequence lead to improved understandings and greater opportunities for both. Insights from this research may be useful to those involved in seeking improved responsiveness to Maori issues (e.g. in tribal development and mandating processes) including planners, analysts and advisors in the private and public sectors.

Maori resources - cultural, economic and social - can be used more effectively, to work through institutional barriers, to provide avenues of guidance, set out options and communicate those in such a way that Maori people themselves can work through the issues that confront and concern them.²

¹ Durie M, 1998a, p55

² Stokes E, 1985, p6

RESEARCH QUESTION

The key research question is:

In order to maintain a distinctive iwi presence in a modern urban environment, how do iwi members retain the right to decide who best represents them?

Related questions include: What constitutes an iwi? Is an iwi authority the relevant body? Who does an iwi authority actually represent? What decisions does an iwi authority make, and not make? What are the criteria for iwi membership? What rights or responsibilities do iwi members have to assert an iwi 'voice' vis-à-vis other iwi/non-iwi groups? How are those rights enforced and monitored? These and other related questions formed the basis of the questionnaire used for interviewing ten participants (see Appendix III).

A secondary issue considered is the fairness and relevance of a claim-mandating process involving a non-iwi body with different interests to that of a small, marginalised iwi intent on gaining acceptance from other groups, but also achieving the best outcome for its members.

The rationale for this study originates from the premise that even in modern times the validity of Maori cultural constructs are derived from tribal experiences, traditions and methodologies and depend to a large extent on societal norms that incorporate whanau, hapu and iwi structures.

This research illustrates how an iwi authority resisted attempts to assimilate into a broader coalition of iwi, hapu, whanau, marae and other interests, preferring instead to maintain and develop its own distinctive identity. The research also shows the extent to which the interests and aspirations of an iwi have been supported by the Crown and others.

A Wellington land claim (i.e. the Port Nicholson Block Claim) was the catalyst and the setting for this research. Land has always been a distinctive cultural symbol as well as an economic base, around which Maori passions and aspirations are often displayed. The claim illustrates the extent to which an iwi authority was able to assert its identity, develop, gain a mandate, and become an accepted entity.

The experiences of other urban tribes (such as Ngati Whatua in Auckland and Pakakohi and Tangahoe in South Taranaki) are also assessed with respect to the impact on iwi of Crown policies, the extent to which the partnership arrangement with the Crown was beneficial and applicable, and the influences of other iwi and non-iwi groups.

THREE CASE STUDIES

This thesis features three case studies: Chapter Four, Developing a Claim, Chapter Five, Securing a Mandate and Chapter Six, Mana Whanau. The first two case studies (Chapters Four and Five) focus on Ngati Tama ki te Upoko o te Ika as an illustration of a wider view; that is, how an iwi authority is buffeted

by opposing forces. The third case study relating to the Wakapuaka land block has common themes, and is similar in nature to the other two cases but at a whanau, rather than iwi level, with the issues subsequently flowing through to, and impacting on, the experiences of Wellington's Ngati Tama iwi.

Case Study I: Developing a Claim

The development of a Wellington land claim is the subject of the first case study, discussing aspects of Waitangi Tribunal claims. The Treaty of Waitangi Act 1975 established the Waitangi Tribunal. It is a permanent commission of inquiry charged with making recommendations on claims brought by Maori relating to actions or omissions of the Crown that breach the promises made in the Treaty of Waitangi. Wellington claims include iwi, hapu, whanau, marae, and pan-Maori interests, and in particular two specific Ngati Tama claims. The period extends from 1987, when the first claim was lodged, through to the Tribunal hearings in 1998 and the release of the Tribunal's report in 2003. The findings of the Waitangi Tribunal report and the establishment of a broad coalition of claimant groups to negotiate and settle the claim with the Crown are the main points of examination.

Relevant to this case study are the processes and operations of the claimant working party, its membership, its establishment, the work it carried out, and its subsequent evolution into a formalised mandate team. The study shows the early workings of a larger dominant group (and its leadership) in

maximising its position and relationships against the aspirations of smaller, less influential groups.

Case Study II: Securing a Mandate

The second case study involves the detailed accounts of the Port Nicholson Block Claim team (PNBC), which formed from the claimants' working party and its processes related to seeking a mandate from individual beneficiaries throughout the country irrespective of iwi, hapu, and whanau status. An examination is made of the mandate team's selection process, the Crown's assessment and recognition of the Deed of Mandate, and the Terms of Negotiation agreed by the Crown and the PNBC.

The key outcome of this scenario was that the Crown mandate was given not only to the major claimant community coalition, represented by Port Nicholson Block Claim (PNBC), but also to the two small Ngati Tama groups (Ngati Tama ki te Upoko o te Ika and Ngati Tama Te Kaeaea Trust), which both sought to retain their own identity and independence, as a matter of policy.

Case Study III: Mana Whanau

The Wakapuaka land block is the third case study explored in the thesis. It is based around a Ngati Tama whanau group in the South Island. Central to this case study is the question: What is the role of iwi vis-à-vis the role of whanau? The case study shows how this whanau group, intent on exercising mana and

tino rangatiratanga and upholding its rights, was able to do so through asserting its voice in the face of many challenges.

The case study chronicles in some detail the experiences of the whanau, and its dealings with the Crown. The protection of the 18,000-acre South Island Wakapuaka land block was at issue, enabling continued provision for the whanau and others living on the land. Interaction with the Crown (i.e. Parliament, government departments), and its agents (e.g. Native Land Court), and other iwi (e.g. Ngati Koata) is explored from a whanau perspective.

The whanau's experiences in this process are highlighted, as are key events relating to the whanau's ownership of the block. These include the effects of partitioning the block and of key court decisions; attempts at legal redress through petitions and appeals; the Crown's apparent favouritism of certain groups; and the implications for future generations of whanau members, including iwi.

THEORETICAL CONTEXT

Several theoretical approaches and concepts have been used as the basis for this research, including the design of institutions, agency theory, interest group theory and pluralism. As the founding document of New Zealand,³ the Treaty of Waitangi is also a key reference for the purposes of this thesis in

³ Department of Health, 1992, p22; Royal Commission on Social Policy, July 1987, p19

examining the historical and contemporary experiences of an iwi and its relationship with the Crown, as well as other iwi and Maori groups.

The Treaty of Waitangi and other Protocols

The right to retain authority and independence is sourced in the status of Maori as tangata whenua, the indigenous people of New Zealand, whereby self-determination (rangatiratanga) denotes authority held by the hapu and iwi. Given this independence from the Crown, tino rangatiratanga involves self-determination practices that are decided upon by iwi, hapu and whanau, and are neither defined, nor gifted, by the Crown.⁴

Those inherent rights were reconfirmed in the 1835 Declaration of Independence,⁵ where signatories declared their mana and rangatiratanga. The Declaration, a pan-tribal document, envisaged rangatira meeting annually to make protocols or laws and also confirmed that they would not allow the exercise of any other authority unless delegated to another entity.

Subsequently, the tribal position was encompassed within the provisions of the Treaty of Waitangi, which reaffirmed tino rangatiratanga for hapu. The Treaty brought the concepts of tino rangatiratanga and sovereignty together, and signalled the creation of a foundation for negotiating a new relationship of co-existence between Maori and the Crown. This relationship has variously

⁴ Potter, 2003, p149

⁵ Chiefs of the northern Tribes of NZ signed the Declaration of Independence on 28 October 1835, which recognised tribal sovereignty. Witnessed by the Crown Resident, the Declaration was the forerunner to the Treaty of Waitangi of 1840.

been regarded as the reconciliation of two potentially conflicting culturally framed sets of expectations.⁶

The Draft Declaration on the Rights of Indigenous Peoples⁷ reinforces article two (self-autonomy) of the Treaty of Waitangi. As well as granting the right to participate fully in the political life of the nation along with all its other citizens, this gives indigenous peoples the right of self-determination.⁸ The exercise of that right includes the right to autonomy or self-government in matters that relate to internal affairs. It also includes the right of indigenous peoples to participate in procedures determined by them in decision making about matters that may affect their rights, lives and destinies.⁹

The Treaty of Waitangi has significant implications for iwi, hapu and whanau development. It forms the basis for the special relationship between iwi and the Crown based on mutual benefits and a common desire to prosper, not necessarily as one people, but as one nation. In that context, the three relatively short Treaty articles (referring to government, self-autonomy and equity), “secure governorship for the Crown, autonomy for Maori, and citizenship for all”¹⁰ and are applied here as a basis for examining tribal development. The Treaty has received increasing attention since 1975 when the Treaty of Waitangi Act established the Waitangi Tribunal.

⁶ Williams, 1991, p192

⁷ United Nations Draft Declaration on the Rights of Indigenous Peoples, UN Doc. E/CN.4/sub. 2/1994/2/Add.1.

⁸ Ibid, Part 1, Article 4

⁹ Quentin-Baxter A, 1998, p22

¹⁰ Durie ET, 1991, p156

The Act heralded a new period in the recognition of the place of the Treaty in the operations of Government, and alerted the Crown to both obligations and risks in respect to Maori people. However, during the mid to late nineteenth century, Crown breaches of the Treaty, whereby massive tracts of land had been unjustly seized, led to growing legal and political action from Maori. That eventually culminated, a century or more later, in successive governments attempting to rectify past wrongs and grievances related to the Treaty. In addition, governments have had to actively respond to, rather than just observe, Maori demands for greater autonomy.

A Treaty-based approach is used in this thesis as a useful theoretical construct. Drawing on the three Treaty articles of government, self-autonomy and equity, as well as iwi, hapu and whanau perspectives and the Crown inter-relationship, it forms the basis for analysing the research data.

Iwi, Hapu, Whanau

The foundation stones of conventional Maori society were the organisation of iwi (tribe), hapu (sub-tribe) and whanau (family). Descent groups included in the wider iwi arrangement involved a common ancestor. That ancestor established mana whenua (guardianship and ownership of land) over a large geographical area. Each iwi then contained several hapu, which divided smaller tracts of territory between them. Historically, hapu were the main political and economic forms of organisation. They lived together, but not

always, and acted as a single group in war and in food production.¹¹ Beyond whanau, hapu and iwi were confederations of tribes that shared a common waka history, another organisational form of importance during the earlier migratory voyages from East Polynesia to Aotearoa.

Male and female descent lines were both recognised traditionally (mana tane and mana wahine respectively), as were genealogical ties (whakapapa). The latter involved an extremely complex body of knowledge, and accordingly each iwi, hapu and whanau had specialist genealogists (tohunga) responsible for its preservation and transmission to future generations. Korero (oratory) and waiata (song) were other methods of preserving and transferring Maori values and beliefs. For example, knowledge consisting of creation myths, the deeds of demi-gods, and the struggles, journeys and battles of more direct ancestors served to tie the iwi, hapu and whanau to the surrounding land and endowed mana whenua. Those stories and songs not only provided the whanau with a sense of identity but also powerful examples of the ihi (power) of the mauri (spiritual power) of te ao Maori (Maori world).

As conventional tribal structures, iwi, hapu and whanau have stood the test of time. However, they have not been frozen in time. They are neither static, nor inflexible. Rather they are constantly evolving and are part of a more complex and dynamic process. For example, extended and multi-generational whanau groupings are a reflection of both individual and group identity.

¹¹ Buck, 1949

The Maori political and social system was always dynamic, continuously modified like its technology in response to such phenomena as environmental change and population expansion.¹²

Changes to iwi, hapu, and whanau took place in response to the arrival of the European, the introduction of new technology, and urbanisation. In the changing circumstances of the nineteenth century, Maori adapted their lifestyle as the need arose but often in response to crisis or imposition. Changes were both pragmatic solutions to problems posed by the changing environment, and innovative responses to a constantly adaptive culture. Iwi, hapu and whanau structures formed touchstones for this process. Each was an institution in itself, with separate but correlating organisational structures. Each structure had clear functions, leadership, and specialist knowledge and advice, which contributed to the operations of that organisation. Affiliation to a particular iwi, hapu and whanau was constant though the emphasis shifted according to context and purpose.¹³

Iwi

The largest structure constructed and operated by Maori within tribal contexts is the iwi, a territorial and political unit consisting of related hapu, which can also trace their descent from a common eponymous ancestor.

Maori iwi and hapu were two of the categories of descent groups – groups of kin linked primarily by their direct descent from a common ancestor – through which Maori organised their lives.¹⁴

¹² Ballara, 1998, p17

¹³ Buck, 1949

¹⁴ Ballara, 1998, p21

As the political unit of Maori society co-operative principles are fundamental to governance and operations within the iwi. In modern times, and especially since 1984, the iwi is often called upon to liaise with local, regional and central government organisations on a range of matters pertaining to the wellbeing of tribal members. The iwi operates as a unified kinship group beyond the hapu structure, and comprises one or more hapu and many whanau.

According to Ballara,¹⁵ iwi are considered peoples or nations, but the meaning is often translated within the literature as 'tribes'. Iwi in the eighteenth century were conceptual groups; i.e. they were a wider category of people who thought of themselves as sharing a common identity, based on descent from a remote common ancestor. Often a tribe would take its name from that ancestor, as is the case with Ngati Tama (incorporating the three Ngati Tama iwi entities in Taranaki, Wellington and the South Island), which derives its name from Tama-ariki, a captain of the Tokomaru waka. Tribes occupied a unique position in society as the tangata whenua of particular localities, and were recognised as such in the Treaty of Waitangi. In recent times, the status and usefulness of tribal structures has been underlined in the process of devolution of state services.

Government placed an emphasis on tribal policies and tribal delivery mechanisms during the 1984-1994 Decade of Maori Development, which heralded a major transformation in approaches to Maori social, cultural, and economic advancement. Tribal development became the preferred vehicle for

¹⁵ Ibid, pp 17, 336

Maori development on the assumption that no matter where they lived, Maori individuals would be able to relate to at least one tribe and therefore have more reliable access to social services.¹⁶

According to Statistics New Zealand,¹⁷ eighty percent of the 604,110 people of Maori descent included in the 2001 Census reported one or more tribal affiliations. The remaining twenty percent did not know the name(s) of their tribe. Ngapuhi is the largest tribe, with 102,981 members, followed by Ngati Porou with 61,701 members. Ngai Tahu, the fourth largest tribe overall, is the largest South Island tribe with 39,180 affiliates. In 2001, the majority of the Maori- descent population lived in the North Island (eighty-six percent), with one-quarter living in the Auckland region and a further thirteen percent living in the Waikato region. Most tribal members lived in urban areas, with proportions ranging from eighty-eight percent for Te Atiawa to eighty-one percent for both Ngati Awa and Tuhoe.

Some tribes are very large, while others are comparatively small. Over fifty percent of tribes have 1000 members or more, and eight tribes record or have membership of at least 20,000. Some tribes are growing at a fast rate such as Ngai Tahu. Between 1991 and 1996 Ngai Tahu increased its membership from 20,000 to 29,000, and then to 39,180 by 2001. In Wellington, Ngati Toa (with 2,766 members) and Te Atiawa (1,233) were the only tribes listed in the 2001 Census that held tangata whenua status in the area. Ngati Tama

¹⁶ Durie, 1998a, pp94-95

¹⁷ Statistics New Zealand. 2001 Census of Population and Dwellings: Iwi (Volume 2), November 2001

featured only in Taranaki (777) and the South Island (393).¹⁸ Table 1.1 lists the ten largest iwi by population in 2001, which includes people not necessarily resident in their rohe (traditional land).¹⁹

Table 1.1 The ten largest tribes in New Zealand

Ngapuhi	102,981
Ngati Porou	61,701
Ngati Kahungunu	51,552
Ngai Tahu	39,180
Waikato	35,781
Ngati Tuwharetoa	29,301
Tuhoe	29,259
Ngati Maniapoto	27,168
Te Atiawa	17,445
Ngati Awa	13,044

Source: Statistics New Zealand; 2001 *Census of Populations and Dwellings*

Hapu

Related whanau groupings, descend from a common ancestor and form hapu (sub-tribes). A hapu is a subset of iwi members and a collective of whanau groups that is the economic unit of Maori society. Being part of a hapu that is

¹⁸ Idem

¹⁹ Idem

localised in a defendable designated area, “stressed the blood ties, which united the families for the purpose of co-operation in active operations and in defence”.²⁰ Best,²¹ Firth,²² and Buck²³ both suggest that over time whanau became or grew into hapu configurations. After describing how whanau typically expanded until they had to be considered hapu, Sir Peter Buck (1949) wrote:

If all went well, the hapu expanded still further in succeeding generations making it necessary for groups to separate from the original settlement and take up land in neighbouring localities. Thus the original hapu expanded into a number of hapu. Each hapu was believed to have one chief who also had his place in tribal hierarchy.²⁴

According to Ballara,²⁵ the recognition of the importance of hapu involved some acknowledgement that the role of the tribe had changed, and that descent groups had waxed and waned over time. Ballara²⁶ considered hapu to be clans or tribes rather than ‘sub-tribes,’ and regarded them as corporate as well as conceptual groups; groups of people who thought of themselves as a group because of their kin links through descent, but who combined in concrete ways to perform various functions for their defence, their self-management, as well as to conduct relations with the outside world and in many of their important economic affairs. Hapu were independent politically, and while hapu retained their importance in Maori communities they acknowledged no higher authority than that of their own chiefs.

²⁰ Idem

²¹ Best. 1924, p340

²² Firth. 1959, pp111-112

²³ Buck, 1949, pp333-335

²⁴ Buck, 1949, p333

²⁵ Ballara, 1998, p19, 336

²⁶ Ibid, p336

Mahuika²⁷ described hapu membership not so much in terms of which hapu an individual wished to belong, but in which one wished to live. Further, the consanguine tie was never made 'invalid' as long as one could establish that it existed.

Whanau

The whanau comprises several generations from grandparents (kaumatua and kuia), and parents (matua) to children (tamariki) and grandchildren (mokopuna). Whanau, often denoted by the term family, is the fundamental social unit of Maori society,²⁸ in much the same way as family is regarded as the basic unit of most other societies.

Firth considered whanau a social unit of great cohesion since its members were few, ranged only through three or four generations, and were usually bound together by the closest of kinship. Having a common whakapapa (i.e. descent from a shared ancestor) is important in any description of whanau. Although a modern variation of the term whanau emphasises the formation of a cohesive group rather than direct blood ties, for land succession purposes evidence of common descent and whakapapa are necessary prerequisites.²⁹ Metge³⁰ argued that the term whanau had various definitions, and reflected the diverse range of relationships that existed in different circumstances; e.g.

²⁷ Mahuika, 1992, p54

²⁸ Hohepa and Williams, 1994, p16

²⁹ Firth, 1959, p110

³⁰ Metge, 1995, pp52-56

a set of siblings; all the descendants of a relatively recent ancestor but not their spouses and whangai; all the descendants of a recent ancestor and their spouses and whangai; all the descendants of a recent ancestor and whangai who interact together on an ongoing basis; descent groups known as hapu and iwi; and the nuclear family.

The functions of the whanau extended to providing support and succour of individual members, taking care of and being responsible for the upbringing of family members, managing the family's property, organising family events and activities, and dealing with the family's internal problems and conflicts.³¹ The main functions of the whanau, as espoused by Walker,³² are procreation and nurturing. Traditionally whanau priorities ensured the safety of both the young and the aged and secured the continuation of the whanau into the next generation.

Whanaungatanga is the process by which whanau ties and responsibilities are strengthened and is based on the principle of all members of the whanau - young and old - individually and collectively supporting and working alongside each other. In that way, the whanau is an important model for collective responsibility and co-operation. Empowering whanau also depends on active leadership. In the search for collective and individual Maori identity, the whanau has often become fragmented over time.

“With that fragmentation goes the depth of communication, the warmth of the close-knit whanau, the shared meanings and values, indeed the

³¹ Ibid, pp68-72

³² Walker R, 1990, p63

core beliefs about identity that have shaped what it means to be Maori from time immemorial".³³

In more recent times, conventional Maori social organisational structures such as iwi, hapu and whanau have changed and evolved from operating within the communal life of the kainga in a rural setting to more modern urban-based co-operatives; corporate, commercial-oriented land incorporations; and family trusts.

Identity

The prevalence of the dominant European culture in New Zealand has served to reduce the significance of cultural values and beliefs for Maori. While the practices and policies of successive governments oppressed Maori, those same practices and policies conceivably strengthened and encouraged Maori in their struggle for recognition as tangata whenua and for tino rangatiratanga. In that sense, Maori were able to retain their identity, their cultural practices (e.g. marae) and their social organisation (e.g. iwi), as well as to overtly display their defiance to assimilative and arrogant attitudes.³⁴

Within Maoridom there are some groups established by Government, such as land incorporations, which seem to benefit from a privileged relationship with the Crown - sometimes at the expense of more conventional tribal groups. As a result, the latter feel pressure to compromise their independence in order to

³³ Durie A, 1997, p160

³⁴ Collier, 1996, p35

secure a more favoured status. Spicer³⁵ was aware of such an oppositional process. In his view, persistent identity systems were maintained due to attempts to assimilate or incorporate smaller groups into society's dominant group. In that sense, groups that have a strong and resilient identity system are able to survive.

Land is a common symbol and cause, which over the centuries has continually motivated Maori to struggle for their rights and their identity. However, the quest for identity and distinctiveness is never just a search for fixed boundaries and quantifiable properties.³⁶ Identity is closely linked to land. The history of any tribe is about land ownership but equally land alienation. The Ngati Tama iwi authority is exemplified in this thesis because its tupuna were banished from the land as a result of settler encroachment. An inability to withstand the circumstances of the prevailing social environment led to the group's demise, diaspora, and subsequent loss of land, as well as the loss of other cultural symbols such as kainga, marae and urupa.

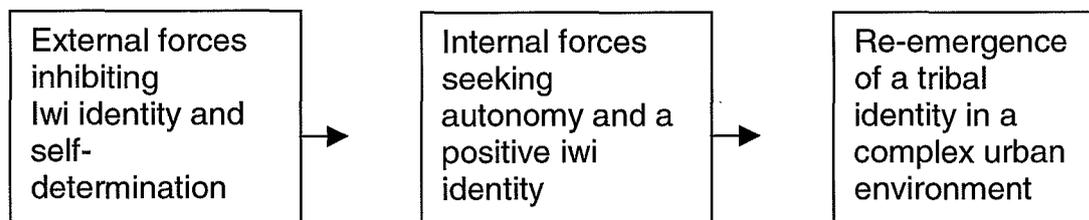
Arohia Durie has outlined certain distinguishing features in her description of what constitutes a Maori identity: knowledge of ancestry (whakapapa); knowledge of matua tupuna; knowledge of connections to whanau, hapu, and iwi; connections to turangawaewae; acknowledgements by iwi, hapu and whanau of reciprocal kinship connections; shareholdings in Maori land; upbringing; facility with te reo Maori; understanding of tikanga-a-iwi; active participation in Maori organisations; commitment to fostering Maori

³⁵ Spicer, 1971

³⁶ Novitz, 1989, p286

advancement; and freedom of choice.³⁷ While a generic description of Maori culture could be misleading given that Maori is not a unified group, such features nevertheless grant a sense of community. Differences need not mask similarities. Tribes constantly undergo changing circumstances. Tensions arise when other Maori organisations, especially those that owe their origins to Crown decisions, attempt to assert authority, or when individuals must retrace the steps of their forebears in order to reconnect with whanau, hapu and iwi. Tribal identity in a complex and modern urban setting is exposed to various demographic, political, economic and commercial imperatives.

Figure 1.1 Tribal re-emergence



As shown in Figure 1.1, external factors generally have the effect of inhibiting tribal growth and development, and reaffirming the status quo. At the same time, there are also emergent pressures from within an iwi to be processed and accepted in order to build tribal identity and realise iwi goals and aspirations. (External forces may support iwi identity but only in situations where the forces are not compromised, which is rare).

³⁷ Durie, Arohia, 1997, p159

The example of Ngati Tama provides an illustration of an iwi seeking to know who it is, what it wants, where it is going, what resources it requires, and how to overcome resistance in all its guises. The Crown, keen to retain its established networks and relationships in which it may have invested heavily over a period of time, may not be inclined to develop a new relationship - especially if it were not in the interests of a favoured group that opposed the re-emergence of that new entity. A non-iwi group that represents the interests of an iwi might fear losing its membership and resources if a new iwi's relationship were formed with the Crown, and could therefore provide opposition. Even those groups that support the new entity might do so guardedly, in order not to threaten their own positions. This concept is illustrated more clearly in the following Table 1.2:

Table 1.2 Forces at work

	External forces inhibiting development	Internal forces seeking self-determination
Change	Resistant to change	Constant adaptation and transformation
Leadership	Professional/academic; not aligned to tribal goals	Limited experience, committed to tribal goals
Organisation	Corporate and commercial basis	Conventional tribal structure
Size	Large population	Few in numbers
Resources	Well resourced	Poorly resourced
Relationships	Proven over time	No record based on whanau and hapu
Examples	Crown, govt depts, Ahu Whenua Trusts	Iwi, hapu and whanau
Goals	Maintain status quo	Tino rangatiratanga; iwi identity & development
Attitude	Controlling	Iwi-centric

This study shows how a dominant group actively protects its position and hard-earned relationships against the aspirations of a competing group seeking to reaffirm its own identity and assert tino rangatiratanga. It demonstrates how, acting in self-interest, the groups interacting with the smaller iwi exhibit certain attitudes and behaviours consistent with protecting resources, resisting change and retaining the status quo.

Institutional Design

Considering this study is about iwi development, iwi validity and iwi identity, it is important to examine the relevance of iwi as an institution for Maori. Iwi structures cannot be viewed in isolation from whanau and hapu organisational structures. The three social constructs of iwi, hapu and whanau persevere – in a recognisable form if not an unchanged state. They are the building blocks of Maori society and a basis for social, economic and political development. The role of other groups claiming to represent iwi or Maori interests, in particular land and other property, is always an issue. Land incorporations and Ahu Whenua trusts, set up under Maori Land Court legislation, are examined to highlight their structural and political differences.

Hood and Jackson³⁸ categorised agency types in terms of classic public bureaucracy, independent public bureaucracy, and private or independent bureaucracy. The former Department of Maori Affairs was an example of a classic bureaucracy on the basis of its direct ministerial control and co-

³⁸ Hood and Jackson, 1991, p6

ordination. It was a core central government department that had policy-making as well as operational functions. The Maori Land Court and the Waitangi Tribunal are current examples of independent public bureaucracies. This analysis is justified on the basis of their more attractive employment benefits, limited 'red tape', independence from Government policy (other than expressed in legislation), and their 'arms length' distance from politics. Kettl³⁹ described the preference for 'arms-length' bureaucracy as 'government by proxy'. Independent public bureaucracies face specific reporting obligations under the Public Finance Act 1989. They are not subject to the State Sector Act 1988, as core departments are, and their employees are not public servants. Shareholding land incorporations are examples of private or independent bureaucracy. The establishment of such bureaucracies by government departments or 'stand-alone' entities is not a new phenomenon. Seldom though has it advantaged iwi.

Early experiences of restructuring occurred in 1852 with the passing of the New Zealand Constitution Act. Although the Treaty of Waitangi had been signed in 1840 with the British Government, the Constitution Act twelve years later provided machinery for authority to be devolved to a settler government representing not only the settlers but also Maori. The goodwill and trust established between Maori and the British Colonial Office was of limited value in the new arrangement. Maori found that when their views were deemed to stand in the way of 'progress' they were ignored or legislated out of contention, and successive Maori delegations to London were soon to

³⁹ Kettl, 1988, p1

discover that justice could not be dispensed there; instead the Parliament of New Zealand decided matters specific to New Zealand.⁴⁰

The question arises whether, and if so how, private or independent bureaucracies in New Zealand reflect and respond best to iwi. For example, should an Ahu Whenua trust⁴¹ be organised to provide a broad range of services for its shareholders and beneficiaries or should the responsibilities of the trust be more narrowly defined? And, what about non-shareholders and non-beneficiaries? Should an Ahu Whenua trust operate as a parallel institution to iwi? How can such a trust adequately reflect or represent iwi (e.g. in the way it is organised and managed by iwi) and provide its services in a culturally sensitive, appropriate and responsive way? As Boston et al⁴² ask, “is it possible to guarantee equal citizenship rights or does administrative pluralism, however well intentioned, necessarily result in equivalent cases being treated differently?”

Agency Theory

Agency theory concerns the relationship between a principal (e.g. shareholder) and an agent of the principal (e.g. company's manager). Agency theory is grounded in the belief that social and political life can be understood as a series of ‘contracts’ (or agreed relationships) in which one party (the principal) enters into exchanges with another party (the agent). For example,

⁴⁰ Durie M, 1992, p6

⁴¹ This is the most common Maori land trust. The purpose of an Ahu Whenua Trust is to promote the use and administration of the land in the interest of the owners.

⁴² Boston et al, 1996, p142

a government agency (principal) seeks out iwi (agents) to perform certain tasks that the agency lacks the resources and access to networks to undertake. In this way, agency theory has been influential in the New Zealand public sector reforms.⁴³

Pratt and Zeckhauser⁴⁴ sought to explain relationships in society as a series of contractual relations between principals and agents, which specified obligations and arrangements including systems of incentives and disincentives. Those contractual arrangements were more beneficial because agents could provide for more efficient production through their existing expertise and specialisation. The architects of government thereby aimed to design the machinery of government in a way that ensured that the agents acted in the interests of the principals.

The critical point to note about agency theory is that agents act in the principal's interests and in the public interest, but not at the agent's expense. Its key implication for this thesis lies in first defining the Crown's interest or objectives as related to iwi. In its decision to use an agent, the principal (i.e. the Crown) would need to consider cultural appropriateness, the agent's independence, the quality of information for decision-making, and its acceptance to an iwi. However, there is a view that concepts of the public interest and trust in governmental relations may be undermined by extensive

⁴³ Ibid p16

⁴⁴ Pratt and Zeckhauser, 1985

use of agents and may not be the best way to deal with concerns about self-serving bureaucracy.⁴⁵

Independent private bureaucracies with varying degrees of autonomy are often considered to be 'less democratic' and less open to public scrutiny than core bureaucratic departments and iwi. An agent therefore needs to have clear accountabilities to iwi and a degree of openness to Maori.

Interest Group Theory

Most theorists have perceived the State as a powerful institution with its own interests and objectives, which were then imposed on the rest of society. According to some theorists, the main impulse for State decision-making came from interest groups (e.g. iwi) pressing for policies that would suit them best. The role of government was limited to providing a forum for group competition and to brokering between groups. The State was seen as a 'weather-vane' State, blown in the direction determined by the sum of the forces of interest groups putting pressure on it.⁴⁶

The interest group system consists of groups whose members share common interests of concern. Mulgan⁴⁷ described three schools of interest group theory: corporatist theory, market-liberal theory, and pluralism. Schmitter⁴⁸ identified corporatist theory as a state in which the political system officially

⁴⁵ Boston, 1995; Martin, 1995; Kriebel, 1996

⁴⁶ Mulgan, 1997, p13

⁴⁷ Mulgan, 1994

⁴⁸ Schmitter, 1974

vested power in private organisations. Those legitimised interest groups determined public policy. Interest groups may be 'institutionalised'. In the corporatist state, interest groups were formally recognised by the State, usually in statute, and were given rights to represent that interest. Their origins might not have been related to community or broad societal initiatives. The market-liberal model is based on a view of the public interest that said governments should resist being influenced or 'captured' by interest groups as they seek to advance their self-interest at the expense of the public interest. That model was associated with public choice theory,⁴⁹ centred on the rational pursuit of individual interests in a free market. The role of the market-liberal state is to provide a 'level playing field' and set the necessary, but minimal, rules of the game.

Pluralism

Studies in the United States and elsewhere of what have been described as 'persistent peoples' in 'cultural enclaves'⁵⁰ serve to illustrate a special case of what Van den Berghe⁵¹ describes as 'pluralism'; i.e. the co-existence of interdependent, autonomous groups as:

A set of properties of societies wherein several distinct social and/or cultural groups co-exist within the boundaries of a single polity and share a common economic system that makes them interdependent, yet maintain a greater or lesser degree of autonomy and a set of discrete institutional structures in other spheres of social life.

⁴⁹ Buchanan, 1978; Olson, 1982

⁵⁰ Castile and Kushner, 1981

⁵¹ Van den Bergh, 1973, p961

In a refinement of pluralism, Keyes suggested that it is useful to distinguish between plural societies in which ethnic groups occupy fixed social strata and have rigid boundaries, and pluralist societies in which groups and individuals choose freely whether or not to participate in ethnic activity:

If the members of a non-assimilating ethnic enclave are of sufficient number, they may seek to separate themselves from the society in which they are located to organise themselves into separate political entities.⁵²

Mulgan⁵³ described the classical pluralist approach as being based on an open exchange of views from a range of largely privately organised interests. The pluralist state was more or less a passive recipient of those pressures, and responded to the pressure that was brought to bear.

In New Zealand people live their lives within a diversity of groups with differing interests and values. There are several assumptions of a pluralist perspective – a plural society, a plural state, and a multi-faceted approach to power. Mulgan⁵⁴ referred to the two sets of values implicit in pluralism: that people have interests and that those interests should be met through the political system, and that people are by and large the best judges of their long term interests and wants. Those values implicitly underlie pluralist analysis. Attention naturally focuses on whether people exercise equal or unequal political power or whether their wants and interests receive equal or unequal attention from the government.

⁵² Keyes, 1981, p12

⁵³ Mulgan, 1994, p195

⁵⁴ Mulgan, 1997, p17

The version of pluralism used here recognises that as well as belonging to one New Zealand public, New Zealanders - as members of a complex plural society - also belong to other sectional groups and interests, which are of equal and sometimes more value to them, and for which they may look to their government for protection and enhancement.⁵⁵ Interest group theory relates to the very nature of a pluralistic society in which differing values and interests affect the State, and determines how political institutions respond to pressures and influences from interest groups.⁵⁶

The use of the phrase 'cultural pluralism' by Boston et al⁵⁷ is relevant to New Zealand in regard to the maintenance of cultural diversity and cultural options, and in particular the nurture and protection of minority cultures and their distinctive values, language, art, customs, traditions, ceremonies, symbols, etc. Central to protecting these latter ideals is that the granting of special collective rights might be necessitated, despite such rights being in conflict and inconsistent with universal rights for all citizens.

The competing interests of iwi and other Maori groups can be seen from such a perspective, as part of a pluralist interest group structure. One of the roles of government is to consider the interests of groups that can not effectively represent themselves, and recognise that some interest groups organise themselves better than others and to greater impact.

⁵⁵ Ibid p13

⁵⁶ Pross, 1986; Blank, 1994; Mulgan, 1997; Kriebel, 1996

⁵⁷ Boston et al, 1996, p141

Particularly relevant to this research is the work of Pross. He described the collection of interests in a particular field as a 'policy community', defined as that part of the political system that by virtue of its functional responsibilities, its vested interests, and its specialised knowledge acquires a dominant voice in determining government decisions in a specific field of public activity.⁵⁸

Pross divided the policy community into a sub-government, consisting of the government agencies and institutionalised interest groups that formulate policy advice and carry out programmes; and the attentive public that is less strongly demarcated but includes groups that would be affected by, or were otherwise interested in, certain policies - but that did not usually participate in their formulation to the same extent. The attentive public serves to monitor and react to policy, and has value in usually representing more diverse perspectives than a consensus seeking sub-government.

Related to this is the concept of insider and outsider interest groups, as advocated by Grant.⁵⁹ He suggested that insider groups are accepted as legitimate by government while outsider groups are not. Insider groups tend to be routinely consulted and have ease of access to the policy process and tend to rely on different tactics to generate attention. Blank⁶⁰ defined the 'attentive public' as that segment of the public, which is informed and interested in policy issues, either as a general interest (such as Maori land policy) or a specialised interest (such as tribal claims).

⁵⁸ Pross, 1986, p98

⁵⁹ Grant, 1984

⁶⁰ Blank, 1994, p18

Although unrealistic to expect for all Maori to fully develop a detailed knowledge of technical and complex claim issues, Tong⁶¹ considered that the role of the expert in a democratic society was to bring the attentive and less attentive members of the public into the policy process in a meaningful way, in order to express their interests and preferences. Maori have an interest as members of an iwi (a specialised interest), as well as a wider public interest.

Ashton⁶² and Blank⁶³ expressed concerns about the perceived lack of public participation and engagement with the policy community in the United Kingdom (UK). The work of Cooper et al⁶⁴ expressed similar concerns about the notion of the 'democratic deficit'. The governments of New Zealand and the United Kingdom both have obligations to consult with their populations, including minority populations and ethnic groups. Diverse interests ensure that trade-offs will never be decided solely on the basis of public consultation. Cooper et al.⁶⁵ recommended several routes to increased public participation in allocation decisions including community councils, public meetings and open governance.

Leadership is critical to the emergence of a new organisation such as iwi. For example, Fox, Aull and Cimino stressed that the leadership of ethnic nationalisms is often held by acculturated middle-class professionals who

⁶¹ Tong, 1986, p39

⁶² Ashton, 1992

⁶³ Blank, 1994

⁶⁴ Cooper et al, 1995

⁶⁵ Ibid p31

reconstitute their ethnicity and broadcast new symbols of identity and forms of organisation to an ethnic following.⁶⁶

The above-mentioned theoretical approaches provide a platform for gaining insight into the nature of an iwi's attempt to re-affirm and rebuild its identity. Those issues are discussed in greater depth in subsequent chapters.

METHODOLOGY

The methodology adopted in this research informs the analysis of the re-emergence of an urban iwi in modern times, and the assertion of an iwi voice. A methodology was developed to capture the relevant experiences, to explore that perspective and to provide an appropriate analytical framework.

Data Collection

The collection of data for examining the issues was primarily, but not exclusively, via the examination of primary sources. Data was collected from unpublished official records deposited in the National Archives; unpublished private papers including those deposited in the Alexander Turnbull Library; official publications, e.g. Appendices to the Journals of the House of Representatives, parliamentary debates, Census publications, various statutes of New Zealand, New Zealand Government Gazettes, annual reports, reports of the Waitangi Tribunal, and various other government departmental

⁶⁶ Fox et al, 1981, p207

reports; newspapers and periodicals; manuscripts; and interviews with key people. Attempts were also made to collect data from private documents including personal diaries and journals, papers and minutes from a range of organisations including government departments, Crown entities, non-governmental organisations, iwi and other interest groups, and individuals.

Analysis

Data was analysed and discussed in light of a conceptual framework centred on the principles of the Treaty of Waitangi, but including several theoretical considerations such as agency theory, interest group theory and pluralism. The experiences, attitudes and behaviours of key people were examined with reference to those analytical models.

The following six questions, using Ngati Tama ki te Upoko o te Ika Incorporated Society as the example, summarise the main points from the questionnaire (see Appendix III). These questions were then used as the basis for interviewing the ten research participants, and assessing the appropriateness of iwi and/or non-iwi to best represent Maori interests.

1. In resisting attempts to assimilate into a broader coalition of iwi, hapu, whanau, marae and other interests, why would an iwi prefer to maintain and develop its own distinctive iwi identity?
2. Did Ngati Tama ki te Upoko o te Ika constitute being an iwi? (i.e. what are the key components of being an iwi, and to what extent is an iwi an organic product of conventional Maori society?)

3. Is Ngati Tama ki te Upoko o te Ika the relevant body to best represent the iwi's interests today? (i.e. who and what did the society actually represent?)
4. What decisions did an iwi authority make, and not make? (i.e. what were the criteria for iwi membership?)
5. What rights or responsibilities did iwi members have to assert an iwi voice vis-à-vis the rights of other iwi/non-iwi groups? How were those rights enforced?
6. To what extent did Ngati Tama ki te Upoko o te Ika promote iwi identity and development?

Research Participants

There were ten participants interviewed. Participants were generally selected on the basis of their iwi membership, where they lived, their place of residence and whether or not they were politically active. It was important to seek a balanced representation of information for this research. To that end, three politically active members of PNBC who are also beneficiaries of the Wellington Tenth Trust were interviewed along with three runanga members of the society. The remaining four participants were two general members of the society, a member of Ngati Tama in Taranaki, and another with no whakapapa connections with iwi in Wellington or Taranaki. Three of the participants were Wellington Tenth Trust beneficiaries. Four participants were female and six were male. The average age of all participants was fifty-seven years, and the youngest was a forty-two year old male.

The following table provides a summary of the relevant characteristics of the ten research participants:

Table 1.3 Characteristics of Research Participants

Participant	Iwi	Resident	Politically Active
1	Ngati Tama ki te Upoko o te Ika (general member)	Porirua	No
2	Ngati Maniapoto	Bay of Plenty	Neutral
3	Te Atiawa	Hutt Valley	Yes
4	Ngati Tama ki te Upoko o te Ika (runanga member)	Hutt Valley	Yes
5	Te Atiawa	Wellington	Yes
6	Te Atiawa	Hutt Valley	Yes
7	Te Runanga o Ngati Tama	Taranaki	No
8	Ngati Tama ki te Upoko o te Ika (runanga member)	Porirua	Yes
9	Ngati Tama ki te Upoko o te Ika (general member)	Hutt Valley	Yes
10	Ngati Tama ki te Upoko o te Ika (runanga member)	Hutt Valley	Yes

Reflexivity and the Role of the Researcher

E kore au e whakarongo ki Nga Poutama, korero rau; he mano kei roto atu, he mano kei waho mai.⁶⁷

I will not listen to Nga Poutama because they have many tales inside and many tales outside, meaning one cannot get at the facts when many different versions of a situation are heard.

Nightingale and Cromby (1999) defined reflexivity as a term used to explore the ways in which a researcher's involvement with a particular study influenced, acted upon and informed the research. It describes a situation in which the position of the researcher affects the research. In this way, "our observations are affected by us being the observer, and by our relationship to

⁶⁷ Mead & Grove, 2001, p31 (A Ngati Tama whakatauki)

what is observed.”⁶⁸ Reflexivity requires an awareness of the researcher’s contribution to the research, but also acknowledging the impossibility of remaining ‘outside’ of one’s subject matter while conducting the research.

Smith (1999) said, “Being a Maori researcher does not mean an absence of bias. It simply means that the potential for different kinds of biases needs to be considered reflexively”.⁶⁹ In this context, my role as a researcher requires some comment. I am of Ngati Tama, Ngati Toa, Nga Ruahine and Te Atiawa descent, and was Secretary/Treasurer of Ngati Tama ki te Upoko o te Ika Society Inc. Information about the society for this thesis was principally sourced from my own experiences and observations as a participant in the society. As Secretary/Treasurer of the society, I also took notes of meetings held by the society including records of meetings with key stakeholders like Ngati Toa. Consequently, the version of events as contained in this thesis was largely from the perspective of the society. I believe this to be a real strength of this dissertation, the focus of which is the experiences and aspirations of a small, fledgling iwi striving for recognition against substantial odds.

Considering reflexivity is concerned about the relationship between the person engaged in the research and the people or groups who are the object of that research, then it is doubtful whether an ‘outsider’ coming into that situation without ‘insider’ motivations could possibly hope to come to a reliable understanding of the issues, people and events under study. All communities have their own subtle and sophisticated ways that are often not sufficiently

⁶⁸ Nightingale and Cromby, 1999, p228

⁶⁹ Smith LT, 1999, p8

appreciated. Nonetheless, I was aware of the need to reflect on the ways in which my own values, experiences and interests shaped the research. This led me to reflect on various issues such as the extent to which the research question could have been investigated differently, and to what extent this would have given rise to a different understanding of events under investigation.

As the researcher, I have tried to not only 'take a step back' in order to maintain a degree of objectivity, but to be self-conscious as well. My access to people, processes and events was an attempt, at times, to strategically go 'inside' to elicit certain views and information and in doing so to make a meaningful contribution to academic literature with those observations. Kaupapa Maori approaches to research, such as this, are based on the assumption that research involving Maori people, as individuals or communities, should set out to make a positive difference for the researched.⁷⁰ In that sense, the literature on kaupapa Maori research is relevant as it championed Maori values and attitudes in order to develop a Maori research framework that was culturally safe.

Social sciences have sought to emulate the physical sciences by maintaining a separation of subject and object, known as the positivist model. Its adherents favour quantitative methods whereas anti-positivists use qualitative methods. Kaupapa Maori research is by its very nature, and not surprisingly, imbued with a strong anti-positivist stance.⁷¹

⁷⁰ Smith LT, 1999a, p191

⁷¹ Smith LT, 1999, p6

The value of an insider's view to a research topic is the particular perspective I have sought. It is a unique perspective, recognising that Ngati Tama might have had its own set of questions that needed answering or desired a way to voice concerns and aspirations as they related to the research. Nonetheless, it is likely that this account of events could indeed be described from another standpoint.

The lack of representation of the viewpoints of other iwi and organisations involved in the events considered may be thought of as a drawback. However, to provide a full representation of those views was considered unnecessary. Time may be considered a limitation in that this thesis provides a snapshot of recent events and experiences over a relatively short period of time only. A longer study period may produce information and changes that either reinforce the conclusions of this thesis or reframe them in an alternative perspective.

Treaty-Based Structural Framework

The Treaty-based structure shown in table 1.4 is an attempt to model appropriate arrangements for iwi. It is a theoretical construct that forms the basis for analysing the data from the research. The framework is a composite of the three articles of the Treaty of Waitangi (government, self-autonomy and equity) and includes key aspects from iwi and the Crown and/or its agents. It also incorporates Crown interests and the interests of iwi, hapu and whanau.

Table 1.4 Treaty-Based Structure

Treaty	Crown	Iwi, Hapu and Whanau
Government	Crown-recognised individuals representing iwi/Maori interests.	Mutually agreed conventional iwi functions, structures, and leadership.
Self-autonomy	Low iwi engagement in Crown consultative processes.	Exercise authority in respect of their affairs. Active engagement.
Equity	Crown agencies favoured over iwi. Token protection of iwi interests	Active guardianship and promotion of their interests. Preservation of their cultural values and beliefs.

This framework also provides the basis from which the semi-structured interview schedule was developed; i.e. it provided the context in which the key research question could be addressed. While the research tested the relevance of that framework, the process explored the acceptance of an asserted iwi voice through a local claim mandating process.

RELEVANT LITERATURE

The source of primary material for the research was mainly the proceedings of the Native Land Court. The Court Minute Books from Taranaki, Mokau Waitara, Otaki, Wellington and Nelson were drawn on in this research. Books

and articles providing background and contextual information were the main secondary source of information, including those authored by Smith (1910), Buck (1962), Grey (1974), Burns (1980), Ballara (1990), Jones & Biggs (1995), and Belich (1996), among others.

Other secondary sources were mainly the Waitangi Tribunal records of inquiry, in particular the Wellington (Wai 145), Taranaki (Wai 143), Chatham Islands (Wai 64), and top of the South Island (Wai 102) claims. These Waitangi Tribunal reports provided invaluable information and pathways to access other information, including the authors of those reports and other contacts.

Several seminal works focusing on Ngati Tama throughout the country have appeared in recent times. These include a number of reports that arose largely through Treaty of Waitangi claims. They build on previous research undertaken by earlier generalist writers. Any study about one particular group is challenging because its history, traditions and whakapapa may be intertwined with those of other groups.

Whanganui a Tara me Ona Takiwa: Report on the Wellington District

The Waitangi Tribunal report⁷² entitled *Whanganui a Tara me Ona Takiwa: Report on the Wellington District*, made a direct impact on Ngati Tama in Wellington. It has become central to gaining an understanding of the

⁷² Waitangi Tribunal. *Te Whanganui a Tara Me Ona Takiwa: Report on the Wellington District*, 2003

Wellington situation as it relates to the various tribal groupings and relationships. It is a watershed report in that it serves as a useful tool, notably for the Crown, but also for some iwi and Maori groups in developing and confirming iwi and Maori relationships with the Crown and other agencies.

Released in 2003, the report on the Wellington District addresses thirteen claims (including two from Ngati Tama groups) relating to the area covered by the New Zealand Company's 1839 Port Nicholson Deed of Purchase, as extended in 1844 to the southwest coast. The inquiry area consists of the takiwa (district, or environs) of Te Whanganui a Tara (Wellington Harbour or Port Nicholson), including Wellington and the Hutt Valley. The report deals with the complex process by which land was acquired from Maori, and with issues relating to the administration and alienation of Maori reserves.

The Waitangi Tribunal originally formed to hear the claims consisted of Bill Wilson (presiding), Professor Gordon Orr and Georgina Te Heuheu, with Bishop Manuhua Bennett joining shortly after the inquiry began. Mr Wilson and Mrs Te Heuheu subsequently resigned from the Tribunal. As a result of those resignations, Professor Keith Sorrenson and John Clarke were added, and Professor Orr succeeded as presiding officer. The claims were heard between 1991 and 1999. Bishop Bennett died at the end of 2001, before the report was ready for release.

The report takes a chronological approach, beginning with the history of Maori occupation of the area to 1840. First is an examination of the complex process

by which the New Zealand Company acquired title to the Port Nicholson Block. Second the history of the reserves set-aside for Maori in the area, and then claims relating to the Wellington harbour and foreshore are examined. Lastly the findings in relation to claims of Treaty breaches are made, and those findings and recommendations summarised.

The Waitangi Tribunal found that the 1839 Deed by which the New Zealand Company purported to have purchased the Port Nicholson block was invalid, conferring no rights on the Company or its settlers.⁷³ However, from 1840 Company settlers began arriving at Port Nicholson, and quickly came into conflict with local Maori who discovered that the land they occupied and cultivated had been sold to the new European settlers.

Despite an investigation by a Crown-appointed land claims commissioner that revealed many of the deficiencies in the Company's supposed purchase, the Crown agreed to a process whereby Maori would release their interests in 67,000 acres of land to the Company in exchange for £1,500 'compensation'. The Tribunal found that that process was deeply flawed, and was carried out without the informed consent of Maori.⁷⁴ Furthermore, in 1848 a Crown grant was issued to the Company covering not just the 67,000 acres but also the whole of the Port Nicholson block, said to contain around 209,000 acres. Maori retained only 20,000 acres of reserves. That Crown grant deprived

⁷³ Ibid, p69

⁷⁴ Ibid ppxvii - xix

Maori of approximately 120,000 acres they had never sold or consented to give up, which the Tribunal found to be in breach of Treaty rights.⁷⁵

Another issue covered in the report is the conflict over Heretaunga (the Hutt Valley). In the early 1840s, Ngati Rangatahi and Ngati Tama, which had close ties to Ngati Toa of the Porirua area, occupied parts of Heretaunga. During that time, Crown officials failed to recognise the rights of Ngati Rangatahi and Ngati Tama in Heretaunga, where they lived on land claimed by the New Zealand Company and its settlers.

In 1846, Governor Grey pressured both groups into leaving the Hutt Valley. Ngati Rangatahi left only under threat of attack by Crown forces. The Tribunal found that the Crown failed to recognise or protect the interests of Ngati Rangatahi and Ngati Tama, which were required to surrender their land without consent, and who received either inadequate compensation or, in Ngati Rangatahi's case, no compensation. In addition, the Tribunal found that the Crown failed to adequately recognise Ngati Toa's interests in the Port Nicholson block.⁷⁶

The report also deals with Maori reserves in Wellington. Part of the New Zealand Company's original plan for the settlement of Port Nicholson was that one tenth of the land acquired by the Company would be set aside as native reserves, which came to be known as 'tenths'. The Crown subsequently assumed responsibility for those tenths reserves.

⁷⁵ Ibid p483

⁷⁶ Ibid p482

Another category of reserves (known as 'McCleverty reserves' after the Crown official who set them aside for Maori) was placed under the direct control of Maori owners, the bulk of which were later either sold or taken for public works. Government officials, on behalf of Maori who were the beneficial owners of those reserves, administered the tenths reserves.

In 1851 and 1853, the Crown appropriated twenty-three acres of valuable urban tenths land as endowments for hospital, educational and religious purposes. The Maori beneficial owners did not consent to the appropriations, received little benefit from the endowments, were not compensated until 1877, and even then received inadequate compensation. The Tribunal found that those appropriations were in breach of Treaty principles.⁷⁷

For most of the twentieth century, the tenths reserves were placed under perpetually renewable leases for twenty-one year terms, a system which effectively alienated that land from its Maori beneficial owners in perpetuity. Furthermore, the beneficial owners received below-market rents due to the setting of rents at a fixed percentage of the value of the land at the start of the twenty-one year term. Rent could therefore rise to reflect increased land values only once every twenty-one years. The legislation, which imposed the perpetual leasing regime without the consent of the Maori beneficial owners of the reserves, was found to be in breach of the Treaty.⁷⁸

⁷⁷ Ibid pp482 - 483

⁷⁸ Ibid p486

Other related matters discussed in the report include the taking by the Crown of land for the Town Belt and other public reserves without the consent of, or payment to, Maori; the creation of reserves in Palmerston North for some Wellington Maori to replace tenths reserves in Wellington which had been sold by the Crown; the taking of Maori reserved land for public works purposes; and issues relating to the management of Wellington Harbour, including the reclamation of much of the foreshore.

The Waitangi Tribunal concluded that serious breaches of the Treaty by the Crown occurred in the Port Nicholson block, and that they combined to entitle the various claimants to substantial compensation. The Treaty of Waitangi breaches affected Te Atiawa, Ngati Toa, Ngati Tama, Ngati Rangatahi, Taranaki and Ngati Ruanui. The Tribunal recommended that representatives of those groups enter negotiations with the Crown to settle the Treaty grievances.⁷⁹

Taranaki Report: Kaupapa Tuatahi

The Waitangi Tribunal report entitled *Taranaki Report: Kaupapa Tuatahi*⁸⁰ was a key report for the Taranaki-based tribes that settled in Wellington from the 1820s. The report introduced the main aspects of the claim: the forty-year war; continuing expropriation (e.g. of land); muru (confiscation of Maori land); validity and legality of war; raupatu (conquest); the prejudice to claimants; and, finally, the remedy.

⁷⁹ Ibid p 493; pxxvi

⁸⁰ Waitangi Tribunal. Taranaki Report: Kaupapa Tuatahi, 1996

The report then discussed the first government land purchases in the New Plymouth area; the events in Waitara and Waitotara that led to war; the extent of the Taranaki wars; confiscation; compensation; additional purchases of land (1872-81); the sacking of Parihaka; Government's reconstruction of Maori matters (i.e. returning Maori land to Maori but retaining control over its use and alienation); land tenure reform and its impact on land sales and land rights of various hapu; and reparation. Finally, the report dealt with relationships, both present and future, with respect to achieving claim settlement. In its overview of the report, the Waitangi Tribunal stated that:

The quantification of property loss, personal injury, social impairment, and forfeited development opportunities may assist the consideration of comparative equities between claimant groups, but it is not necessarily determinative of the measures appropriate for relief in any one case today. As we consider further at the end of this report, in resolving historical claims a pay-off for the past, even if that were possible, may not be as important as the strategies required to ensure a better future.⁸¹

When the report was released in 1996, it was hailed by many as one of the Tribunal's most important. Indeed, the Minister in Charge of Treaty of Waitangi Negotiations at the time, the Honourable Douglas Graham, urged all New Zealanders to read it. It dealt with twenty-one claims concerning the Taranaki district and canvassed the land wars and confiscations in the area, as well as the events of Parihaka.

⁸¹ Ibid p13

The Tribunal that heard the claims was made up of Chief Judge Eddie Durie (presiding), Bishop Manuhua Bennett, Emarina Manuel, Professor Gordon Orr and Professor Keith Sorrenson. Twelve Hearings were held between September 1990 and June 1995, and the report was presented to the Minister of Maori Affairs and the claimants on 11 June, 1996. The Tribunal found that the Taranaki claims could be the largest in the country, and that:

There may be no others where as many Treaty breaches had equivalent force and effect over a comparable time. For the Taranaki hapu, conflict and struggle have been present since the first European settlement in 1841. There has been continuing expropriation by various means from purchase assertions to confiscation after war. In that context, the war itself was not the main grievance. The pain of war can soften over time. Nor was land the sole concern. The real issue was the relationship between Maori and the Government. It was today, as it had been for 155 years, the central problem.⁸²

The Waitangi Tribunal dealt with the grievances of eight main hapu groupings: to the north from the Tokomaru waka were Ngati Tama, Ngati Mutunga, Ngati Maru and Te Atiawa; in central Taranaki from the Kurahaupo waka was Taranaki; and in the South from the Aotea waka were Nga Ruahine, Ngati Ruanui and Nga Rauru. The complaints stemmed from land confiscations that took place during the 1860s land wars, which began in Taranaki before extending to other parts of the country. In fact, armed initiatives did not cease in the region for an unparalleled nine years, and the Tribunal commented on the effect that that had on local Maori:

If war is the absence of peace, the war has never ended in Taranaki, because that essential prerequisite for peace among peoples, that

⁸² Ibid p1

each should be able to live with dignity on their own lands, is still absent and the protest over land rights continues to be made.⁸³

The confiscations came with an undertaking that the lands necessary for hapu survival would be returned without delay, but the Tribunal found that the promise was not maintained. Instead, many hapu were left with no land to live on and became squatters on Crown land:

Taranaki Maori were dispossessed of their land, leadership, means of livelihood, personal freedom, and social structure and values. As Maori, they were denied their rights of autonomy, and as British subjects, their civil rights were removed. For decades, they were subjected to sustained attacks on their property and persons.⁸⁴

The Waitangi Tribunal thus saw land deprivation and disempowerment as the main foundation of the claims:

By 'disempowerment,' we mean the denigration and destruction of Maori autonomy or self-government. Extensive land loss and debilitating land reform would likely have been contained had Maori autonomy and authority been respected, as the Treaty required. Maori autonomy was pivotal to the Treaty and to the partnership concept it entails.⁸⁵

The Waitangi Tribunal considered that an endowment, which provided adequately for tribal autonomy in the future was what was important, not payments for individual benefit. While the Tribunal thought that, based on legal principles, some billions of dollars were probably owed for the land, leaving aside exemplary damages or compensation for loss of rents and the devaluation of annuities, it accepted that such a quantum of damages would

⁸³ Ibid p2

⁸⁴ Ibid p11

⁸⁵ Ibid p3

not be possible and recommended only that “generous reparation be made”.⁸⁶

In the report’s conclusion the Tribunal considered that:

The settlement of historical claims is not to pay off for the past, even were that possible, but to take those steps necessary to remove outstanding prejudice and prevent similar prejudice from arising; for the only practical settlement between peoples is one that achieves reconciliation in fact.⁸⁷

Acting on the Waitangi Tribunal’s recommendation for a negotiated settlement between all the various Taranaki hapu it was decided, after much consideration, that each hapu would negotiate and settle their claims separately with the Crown.

Specific Ngati Tama Reports

Three earlier reports also provided useful information. They had been written specifically for the three separate Ngati Tama groups involved in the three distinct sets of negotiations with the Crown with respect to three discrete claim areas. Dr Giselle Byrne’s (1995) report commissioned for Taranaki’s Ngati Tama Iwi Development Trust Wai 143 claim was entitled *Ngati Tama Ancillary Claims*. Tony Walzl’s (1997) report for Wellington’s Ngati Tama Te Kaeaea Wai 377 claim was called *Ngati Tama in Wellington*. Miriam Clark’s (1999) report prepared for the South Island’s Ngati Tama Manawhenua Ki te Tau Ihu Trust claim was simply entitled *The Manawhenua Report*.

⁸⁶ Ibid, p315

⁸⁷ Idem

Ngati Tama Ancillary Claims

Historian Dr Giselle Byrnes⁸⁸ wrote the report concerned with the Mohakatino Parininihi Block and the Mokau Mohakatino No1 Block. Commissioned by the Waitangi Tribunal, the report focuses on the Taranaki claim (Wai 143), and investigates the events that led to the 1882 decision by the Native Land Court to vest the Mohakatino Parininihi Block and the Mokau Mohakatino No1 Block, which Ngati Tama claimed by ancestry, in Ngati Maniapoto.

Ngati Tama Ancillary Claims begins with an outline of the Wai 143 claim, the history of Maori occupation of the area, and the impact of land sales on Ngati Tama; and then divides into two separate sections. The first section investigates the decision of the 1882 Native Land Court and the circumstances surrounding that Hearing; and the application of the 1840 rule in determining whether Ngati Tama title over the two Blocks had been fully extinguished by the invasion of the Waikato and Maniapoto tribes or whether the resettlement of Ngati Tama constituted a valid re-establishment of its ancestral title.

The second section considers events after 1882; in particular the implications of leasehold arrangements which may have existed at the time; the degree to which exemptions from the provisions of the Native Land Alienation Restriction Act 1884 contributed to the further alienation of Ngati Tama lands;

⁸⁸ Byrnes G, *Ngati Tama Ancillary Claims*, Wai 143 M21, 1995

the sale of land west of the Mangakawhia stream to the Mokau Coal Estates Co Ltd by the Waikato Maniapoto Maori Land Board; and the extent to which the Crown fulfilled its obligations to protect Ngati Tama lands north of the confiscation boundary and, if it failed to meet its obligations the extent to which that contributed to the alienation of land.

An amendment to the Wai 143 claim was made to investigate the alienation of Section 94, Pukearuhe Town Belt (Maraerotuhia) and the means by which that was affected. Ngati Tama claimed that Maraerotuhia was part of its traditional estate and should be returned accordingly.⁸⁹

Ngati Tama in Wellington (1820-1920)

The report, entitled *Ngati Tama in Wellington (1820-1920)* and written by historian Tony Walzl was presented on behalf of the Ngati Tama Te Kaeaea Trust to the Waitangi Tribunal in May 1997, supporting its Ngati Tama claim.⁹⁰ The report examined the early history of Wellington from a Ngati Tama perspective. This was in response to, and in the context of, the Wai 145 Wellington Tenths claim whereby the evidence was presented as a general narrative and focused on the Te Atiawa perspective.

The report covers five main points. The first relates to Ngati Tama's settlement at Te Whanganui-a-Tara, its relationship with other Maori groups in the area, and the extent to which it remained after the departure of some of

⁸⁹ Byrnes G, Ngati Tama Ancillary Claims, Wai 143 M21b, 1995

⁹⁰ Walzl T, Ngati Tama in Wellington (1820-1920), Wai 377 H7, 1997

their number to Wharekauri-Rekohu (the Chatham Islands). The second point made is the role of Ngati Tama in the 1839 New Zealand Company transactions. Thirdly is the evidence given to the Spain Commission by (and about) Ngati Tama, and of the implications of the commission's findings for Ngati Tama. The fourth point relates to the role of Ngati Tama in the establishment of the reserves, including both the Wellington Tenths and the McCleverty Awards, and the extent to which individuals of Ngati Tama and/or Ngati Tama as a group received compensation money. Lastly, is the extent to which Ngati Tama remained in Te Whanganui-a-Tara after the 1840s; the extent to which its members returned to Taranaki and elsewhere, and for what purpose; and the extent to which the Native Land Court named Ngati Tama individuals beneficial owners of the Wellington Tenths.

Walzl's evidence was also used extensively by Ngati Tama ki Te Whanganui-a-Tara in its Wai 735 statement of claim, as it was the first and only comprehensive text on the history of Ngati Tama in Wellington.

The Manawhenua Report

Miriam Clark, who had earlier researched the arrival of Scottish immigrants to Wellington, was contracted by Ngati Tama Manawhenua Ki Te Tau Ihu Trust to research and write its Waitangi Tribunal report (1999)⁹¹ as part of the Northern South Island Inquiry. The report relies heavily on the numerous reports in Wai 102 and Wai 56 written by John and Hilary Mitchell and the

⁹¹ Clark M, The Manawhenua Report, Wai 723 A1, 1999

Rangahaua Whaanui series District 13 Reports by Dr Grant Phillipson. The Wai 785 (Northern South Island) inquiry concerns eight comprehensive iwi claims from the area also known as Te Tau Ihu o te Waka. The claimants comprise Ngati Koata, Ngati Rarua, Te Atiawa, Ngati Kuia, Ngati Tama, Ngati Toa, Rangitane and Ngati Apa. The report investigates the events, which led to the migration of Ngati Tama from Poutama in North Taranaki during the 1820s, and the subsequent conquest and settlement of Te Tau Ihu by Ngati Tama and others.

There are four parts to the report. Part One explores the origins of Ngati Tama from the time of migration from Hawaiki on the waka Tokomaru, settlement in Taranaki, and relationships with other iwi. Part Two concerns the migration south from Taranaki to Whanganui-a-Tara in the early 1820s and then on to the South Island in the later 1820s and early 1830s. Part Three relates to the settlement of Ngati Tama in the South Island up to 1840. Part Four concerns Ngati Tama activities post-1840, its relationship with the Crown and other iwi, and the assertion of its manawhenua rights.

While the Manawhenua Report focuses primarily on Ngati Tama, the iwi's history was intertwined with that of other local iwi. The report therefore makes reference to them in terms of how or if their actions affected Ngati Tama. Interestingly, the relationship with Ngati Tama elsewhere in the country was less clear.

Rekohu: A Report on Moriori and Ngati Mutunga Claims in the Chatham Islands

Issues considered in the Tribunal's Rekohu Report⁹² are unique and complex; some highly significant so. For example, according to Justice Eddie Durie the Tribunal looked carefully at the claim by Moriori and, with respect to their origins, considered that Moriori were Maori and of the same Polynesian stock, but unique as Maori through the development of a distinctive culture.

The scientific evidence is compelling: Moriori were the same people as Maori but, through isolation, they were unique as a Maori tribe.⁹³

This report looks closely at the period soon after the signing of the Treaty of Waitangi in 1840 and the annexation of Rekohu in 1842, and includes an account of the Ngati Tama and Ngati Mutunga invasion of the Chatham Islands in 1835. Some 900 people on a British trading brig in two boat trips from Te Whanganui a Tara landed at Rekohu with guns. Moriori numbered about 1,600 people at the time.

The Moriori made no objection to the insurgency and it seems were willing to have the newcomers amongst them. Later, however, the insurgents attacked the Moriori who in turn offered no resistance. A peaceful people with plentiful food and no competitors, Moriori had outlawed warfare centuries before. European sailors had led the invaders to believe that the Moriori were good

⁹² Waitangi Tribunal, Rekohu: A Report on Moriori and Ngati Mutunga Claims in the Chatham Islands, 2001

⁹³ Ibid p21

for slaves. As a result, the Moriori population was reduced to less than 200 within 30 years.⁹⁴

Ngati Mutunga witnesses suggested that Ngati Tama initiated the killings and that the conquest began before the second boatload, carrying Ngati Mutunga arrived. (Ngati Tama were not represented in the inquiry and accordingly made no reply. They left the island over a century ago, resettled in Taranaki, and did not return).⁹⁵

The reference to Ngati Tama not being at the inquiry was repeated often throughout the report. When discussing tenure reform, the Tribunal stated:

We note that Ngati Tama made no claim to this Tribunal in respect of Chatham's issues. They sold their share of the land and permanently left the islands before the tenure reform could have other than initial effects.⁹⁶

When the 'Chatham's Maori' returned to Taranaki to hold onto their Taranaki land, they chose not to return to Rekohu.

By a stroke of luck, half their ancestral land lay beyond the confiscation land. The Rekohu land that they sold to Europeans, and in fact, they had purported to sell a large part of it even before they left for Taranaki, needing money for the voyage.⁹⁷

The findings of the Rekohu report, particularly references that Ngati Tama was not represented in the Waitangi Tribunal's Rekohu inquiry, have been a catalyst for those of Ngati Tama descent from Wellington becoming motivated to research the Wellington claim.

¹⁴ Ibid p1

¹⁵ Ibid p42

¹⁶ Ibid p179

¹⁷ Ibid p3

Orakei Report

Ngati Whatua of Auckland had a similar story to that of Ngati Tama in Wellington. Both were urban iwi, and both lost their land. The Waitangi Tribunal's report on the Orakei claim⁹⁸ was the Tribunal's first 'old land claim'. The claim, which tells the story of Orakei, is unique in that it covers national policy from 1840 to the present day. The Orakei Act also recognises the "special relationship of [the Orakei hapu of Ngati Whatua] with the land".⁹⁹

The people of Ngati Whatua over the years had been told often enough that they had lost their land because of several factors including: the winds of change, and the growth of Auckland, modern technology, and native inexperience; and that the tribe's dispossession had been rationalised to the extent that while they were conquerors, they were also recent immigrants, a dying race, better off in the country 'to live the free life they prefer', and that they needed to 'divest themselves of their trappings, which included of course their land, in order to progress'.¹⁰⁰

The history of Orakei was marked by persistent attempts to uphold tribal authority, the restoration of which was a key issue for the Tribunal to address. The tribe also sought to speak and socially and economically advance through its own institutions. The issue, however, was whether the Ngati Whatua Trust Board had a mandate to represent its people. The Tribunal pondered whether

⁹⁸ Waitangi Tribunal, Report of the Waitangi Tribunal on the Orakei Claim, November 1987

⁹⁹ Waitangi Tribunal, 1987, p119

¹⁰⁰ Idem

tribal authority was resurrected on the creation of the Ngati Whatua Trust Board.

We think it was not. Though it was clear to us from the responses we received that the people expected the board would become the modern embodiment of their traditional tribal authority, we find the authority of the board is not in fact the full authority.¹⁰¹

The Ngati Whatua Trust Board was simply the caretaker of the assets vested in it by its empowering Act, and the distributor of largesse to its beneficiaries. The Tribunal found no demurrer from the suggestion that the Trust board should be the embodiment of the tribal authority,¹⁰² and recommended “small recompense indeed”.¹⁰³ “Yet it would be a major step to implementing the principles of the Treaty, that the tribal right long denied should now be re-affirmed in a realistic way and that the Crown should move in no unstinting manner to promote the re-establishment of the tribe it displaced”.¹⁰⁴

Pakakohi and Tangahoe Settlement Claims Report

In 2000 the Waitangi Tribunal released its *Pakakohi and Tangahoe Settlement Claims Report*.¹⁰⁵ The Tribunal found that the Crown’s decision to accept the right of Ngati Ruanui to settle historical claims in south Taranaki on behalf of Pakakohi and Tangahoe was the right one.

¹⁰¹ Ibid, p176

¹⁰² Ibid, p177

¹⁰³ Ibid, p198

¹⁰⁴ Idem

¹⁰⁵ Waitangi Tribunal, *Pakakohi and Tangahoe Settlement Claims Report*, November, 2000

At issue, though, were the claims by Pakakohi (Wai 758) and Tangahoe (Wai 142), which reflected a significant difference of opinion between the two claimant groups on the one hand, and the Crown and the Ngati Ruanui working party on the other, as to who represented the two traditional kin groups. The Tribunal heard the claims in November 2000 as a matter of urgency after the Crown and Ngati Ruanui had signalled an intention to sign a \$41 million settlement that month. The Tribunal had earlier that year attempted to resolve the matter by facilitating a mediation process between the parties, but that process had been unsuccessful.

The two claimants groups, Te Runanganui o Te Pakakohi Trust Inc and Te Iwi o Tangahoe Inc, had argued that they should have been given an opportunity to negotiate and settle their own claims with the Crown in their own right. The claimants also alleged that the Crown's decision not to negotiate separate settlements with them was in breach of the Treaty. The Tribunal had found that the overwhelming majority of Tangahoe and Pakakohi people supported the proposed settlement, that both groups had limited support, and that the claimants had not demonstrated a mandate to represent Pakakohi and Tangahoe in settlement negotiations. However, it was clear that those two organisations had for many years been the standard bearers of their traditions.¹⁰⁶ Nonetheless, the Tribunal found that there was insufficient evidence that the Crown's decision to recognise the mandate of the Ngati Ruanui negotiating body to represent these groups was 'unsafe'.¹⁰⁷ Te Puni

¹⁰⁶ Ibid, p66

¹⁰⁷ Idem

Kokiri had earlier concluded that there was not strong evidence that Tangahoe and Pakakohi were iwi in their own right.¹⁰⁸

In endorsing the Crown's mandating decisions, the Tribunal nevertheless recommended that discussions between the parties continue in order to find ways to better express the importance of the Pakakohi and Tangahoe traditions to Ngati Ruanui in the Deed of Settlement.¹⁰⁹ According to the Tribunal, were those traditions not factored in, a real danger would exist that "the Pakakohi and Tangahoe identities would be written out of Taranaki history". That, said the Tribunal, would create a fresh grievance out of the settlement of an old one.¹¹⁰

International Literature on Indigenous Peoples

In North America there is a growing body of literature relating to tribes seeking recognition from the American and Canadian governments. James Clifford in *The Predicament of Culture* (1998) described the American Mashpee tribal situation and the quest for recognition as a tribe.

In August 1976, the Mashpee Wampanoag Tribal Council sued in a federal court for possession of about 16,000 acres of land constituting three-quarters of Mashpee, Cape Cod. An unprecedented trial ensued, the purpose of which was not to settle the question of land ownership but rather to determine

¹⁰⁸ Waitangi Tribunal, 2000, p21

¹⁰⁹ Letter from the Waitangi Tribunal to Hon Parekura Horomia and Hon Margaret Wilson dated 14 November, 2000

¹¹⁰ Waitangi Tribunal, 2000, p66

whether the Mashpee Indians met the legal definition of a tribe. Should they meet it, they could sue for the return of land granted to them in 1685. The defence argued that the Mashpee Wampanoag had intermarried with so many different groups over the years that it was no longer genetically the same as the original Mashpee. The lawyers also claimed that the Mashpee had not maintained its traditions. After a forty-day trial, the judge declared that the Mashpee Wampanoag did not meet the legal definition of a tribe and therefore had no standing to sue. The case was dismissed.¹¹¹

The Mashpee might have lost the case but they did not abandon the effort to reclaim their native lands. In 1979 the U.S. Supreme Court declined to hear its case so a subsequent suit was filed in 1982, which met with failure. Undeterred, the Mashpee tried again. The suits and subsequent appeals also had the effect of clouding land titles in Mashpee for years, halting development in the town and creating bitterness between Indian and non-Indian residents of Mashpee. In 1990, the tribe submitted its recognition petition to the Federal Bureau of Indian Affairs. The Bureau responded to the petition with a letter asking the tribe to provide more genealogical information and more evidence of it as a community. Six years later the Bureau received the tribe's response, and in return placed the tribe on the agency's "ready for active consideration" list.¹¹² A further twelve years followed until on March 31, 2006, after a thirty-one year struggle, the 1,468-member tribe finally won preliminary recognition. The *Boston Globe* reported that the announcement, "was greeted with tears, howls of jubilation, and the beating of drums by tribal

¹¹¹ Clifford, 1988, p277

¹¹² Ibid, pp277-280

members. 'We've been waiting so long,'" one eighty-nine year-old Wampanoag sobbed.¹¹³

The Mashpee suit was one of a group of land claim actions filed in the late 1960s and 1970s, a relatively favourable period for redress of Native American grievances in the courts. The Mashpee action was similar in conception to a much-publicised suit by the Passamaquoddy and Penobscot tribes laying claim to a large portion of the State of Maine. The legal basis of this suit was the Non-Intercourse Act of 1790. This paternalistic legislation, designed to protect tribal groups from unscrupulous whites, declared that alienation of Indian lands could be legally accomplished only with permission from Congress. The Act had never been rescinded, although throughout the nineteenth century it was often honoured in the breach. The Passamaquoddy and Penobscot tribes suit, after direct intervention by the United States President Jimmy Carter and five years of hard negotiations, eventually resulted in the tribes receiving \$81.5 million and the authority to acquire 300,000 acres of their lands.¹¹⁴

Although the Mashpee claim was similar to the Maine Indians', there were crucial differences. The Passamaquoddy and Penobscot were generally recognised Indian tribes with distinct communities and clear aboriginal roots in the area. It was not so clear for the Mashpee claimants.

¹¹³ Boston Globe, 1 April 2006

¹¹⁴ Clifford, 1988, p278

Although tribal status and Indian identity have long been vague and politically constituted, not just anyone with some native blood or claim to adoption or shared tradition can be an Indian ...Indians of Mashpee owned no tribal lands. They had no surviving language, no clearly distinct religion, and no blatant political structure. Their kinship was much diluted. Yet they did have a place and a reputation. The Mashpee could offer as evidence surviving pieces of Native American tradition and political structures that seemed to have come and gone. They could also point to a sporadic history of Indian revivals continuing into the present.¹¹⁵

Although Canada has an international reputation for treating aboriginal people fairly, it may be undeserved suggests Sterritt.¹¹⁶ Since 1967, the significant gains in aboriginal rights recognition has occurred largely because of court decisions. Those court victories have sometimes led to an erosion or denial of rights through subsequent self-government legislation and public policy, usually after years of negotiations and generally benefiting few tribes.¹¹⁷

Having fought since 1878 to convince successive governments to recognise and deal with their aboriginal title, the Nisga'a of Northwestern British Columbia (BC) sued the Attorney General of BC in 1969 for recognition of its rights to land.¹¹⁸ In 1973, the Supreme Court of Canada was split:

Three members of the Supreme Court of Canada agreed that the Nishgas had an existing aboriginal title derived from original occupancy and use; and "three held that whatever title the Nisga'a may have had, had since been terminated".¹¹⁹

¹¹⁵ Ibid, p289

¹¹⁶ Sterritt, 2002, p2

¹¹⁷ Ibid, p4

¹¹⁸ Calder et al v. Attorney General of British Columbia (1973)

¹¹⁹ Morse, 1989, p62, 72

As Morse said, “although the [Nishga] claim was rejected by a bare majority of the Court, six of the seven judges supported the argument that aboriginal title was recognised by the common law of Canada.”¹²⁰ The Calder court decision confirmed that the claim of aboriginal peoples to aboriginal title had merit. Within six months the federal government of Canada issued a new comprehensive claims policy. The claims process was implemented where claims to Aboriginal title had not been addressed through treaty or agreement with the Aboriginal community. Sometimes those claims were accompanied by claims for varying forms of self-government. The Nunavut Land Claims Agreement reached in 1993 provided 17,500 Inuit with 350,000 square kilometres in the North West Territories and provided for the establishment of the Nunavut, a distinct territory under its own government, which came into being on 1 April, 1999. In addition, it provided for compensation of \$1.17 billion over 14 years and gave the Inuit rights to resource royalties, hunting rights and the management of land and environment.¹²¹

Overall, Canada’s 1973 Comprehensive Claims Policy was marginally successful, but time proved that inadequacies existed. The dilemma facing the government was that “on the one hand, the Department of Indian Affairs had to defend the federal government’s authority and purse, on the other hand it was required to protect Indians and lands reserved for Indians”.¹²² Not all responses to those comprehensive claims processes had been positive. Many people felt that they were developed without substantial consultation or input

¹²⁰ Ibid, p629

¹²¹ Behrent, 2000, p3

¹²² Morse, 1989, p637

from the First Nations and were biased, unfair and inefficient with too much control being given to the federal government. There had been a large backlog of claims waiting to be determined and the process was costly and time-consuming.¹²³ The Nisga'a was the first Indian community to finalise treaty negotiations with the federal and provincial governments of Canada, and to have their treaty ratified on 11 May, 2000.

In *Delgamuukw v. Attorney General of British Columbia* (1997), the Gitksan and Wetsuweten peoples filed a major title and rights action in the Supreme Court of BC in 1984. The hereditary chiefs who claimed self-government and aboriginal title to land in British Columbia asked the court for recognition of their interest in 58,000 square kilometres of land. The claim was based on their historical use, traditional ownership, and a collection of oral histories (*adaawk*) and dance (*kungax*). The Province of BC sought a declaration that the plaintiffs had no right to or interest in the territory. The chiefs sought a court resolution because, in part, of the failure of the comprehensive claims policy. The BC government policy denied the existence of aboriginal rights and title, and the Gitksan could not negotiate a settlement of its land claim, although Canada had accepted its claim as valid in 1977.¹²⁴

The court case pursued by the Gitksan-Wetsuweten to establish rights over their territory ended on June 30, 1990. The decision handed down by Chief Justice McEachern on March 3, 1991 shocked and outraged the native population of Canada. McEachern stated that aboriginal rights existed only at

¹²³ Asche, 1999, p56

¹²⁴ Sterritt, 2002, p8

the "pleasure of the Crown," and that they may be extinguished whenever the intention to do so was clear and plain.¹²⁵ The Assembly of First Nations described the decision as "made from the colonial era, a gross and arrogant miscarriage of justice, a retrograde step".¹²⁶ The Gitksan and Wetsuweten tribes appealed McEachern's decision to the British Columbia Court of Appeal, and the Supreme Court of Canada decided the case in 1997. The case was significant firstly for the nature of the rejection by McEachern's decision - in particular McEachern's controversial views on oral histories - and secondly for the nature and extent of the constitutional right of aboriginal title recognised by the Court.¹²⁷

In Australia, indigenous rights have been more susceptible to extinguishment than the rights of the broader community. One instance of this vulnerability is that the parliamentary overriding of the legislative protections contained in the Aboriginal and Torres Strait Islander Heritage Protection Act 1984 was held to be a constitutionally valid legislative action in the *Kartinyeri v. Commonwealth* case. Another instance saw validation provisions that protected other titles whilst extinguishing native title interests in the Native Title Act 1993 and the extended validation and confirmation of extinguishment provisions in the Native Title Amendment Act 1998. The latter legislative action brought condemnation by the UN Committee on the Elimination of Racial Discrimination as a breach of Australia's international human rights obligations. Land rights have been recognised in Australia relatively recently,

¹²⁵ *Idem*

¹²⁶ York, 1991, p1

¹²⁷ Sterritt, 2002, p9

first by the Aboriginal Land Rights (Northern Territory) Act 1976, then by State land rights legislation in various State jurisdictions. Native title was not recognised by common law until 1992.¹²⁸

On 3 June 1992, the High Court of Australia delivered its judgment in the landmark case of *Mabo v the State of Queensland (No. 2)*, holding that the common law of Australia recognised native title. The term 'native title' was used by the High Court to recognise that Aboriginal peoples and Torres Strait Islanders may have existing rights and interests in land and waters according to traditional laws and customs, and that such rights were capable of recognition by the common law. Specifically, the Court recognised a claim by Eddie Mabo and others, made on behalf of the Meriam people of the Island of Mer in the Murray Islands in the Torres Strait, that the Meriam people owned the land under common law because they were the traditional owners of their country under Islander law and custom. The Queensland Government had earlier tried to extinguish the Meriam people's property rights under the Queensland Coast Islands Declaratory Act 1985. However, the High Court ruled in 1988 (*Mabo v the State of Queensland (No. 1)*) that the Queensland law breached the Commonwealth's Racial Discrimination Act 1975. The Mabo judgment addressed some of the basic premises of the Australian legal system and society. In particular, the decision overturned the concept of *terra nullius* (a land belonging to no one) on which Australia's whole land tenure system had been based. The High Court recognised that the rights of Aboriginal people and Torres Strait Islanders to native title may survive in

¹²⁸ Behrent, 2000, p3

certain areas, and that their native title must be treated fairly before the law with other titles.¹²⁹

Although the Mabo case defined native title as deriving from the customs of Indigenous peoples, rules of evidence applied in relation to evidence of those practices. Lower Court judges had discretion on how to deal with Aboriginal oral evidence, and while that was done in a sensitive manner in some instances that was not always the case.¹³⁰

Other Relevant Literature

Australian-based Neville Gilmore, who is of Te Atiawa descent, wrote *Myth of the Overlords*.¹³¹ This report is a stimulating contribution to the literature on Maori history in Wellington as it questions the conventional views of the settlement of Wellington from the northern tribes (Taranaki and Kawhia, mainly) from the 1820s. However narrow, his intention was to look at the affinal ties that made the migratory groups cohesive and to follow the course of those groups through the record or eyes of three people; the Honourable Hone Heke MP, Wiremu te Kanae, and S. Percy Smith.¹³² The aim of Gilmore's work was to focus upon not only one group as most historians have done in the past, but a number of the important hapu who participated in the heke and raupatu. He wrote from the perspective of an iwi alliance that initially

¹²⁹ Mabo v the State of Queensland (No 2), 1993, 175, CLR 1; Sharp, 1996

¹³⁰ Behrent, 2000, p4

¹³¹ Gilmore N, *Myth of the Overlords: Tenure in Te Whanganui a Tara (1819-1847)*, Wai 145 G3,

¹³² *Ibid* p1

held because of internal reciprocity based on an equality of participation by its various iwi and hapu constituencies.¹³³

Gilmore questioned the orthodox view that the Taranaki tribes ventured south to Whanganui-a-Tara, and fought and settled there under the mana of Ngati Toa's chief, Te Rauparaha. Stating that the, "central significance of Ngati Awa to the raupatu has been ignored in much previous history",¹³⁴ Gilmore suggested that the historians, "Burns, Ballara and Carkeek were misleading because they perpetuate the myth of an overlord".¹³⁵ Referring specifically to Te Rauparaha, Gilmore further stated that:

A toa rangatira is not an overlord. His mana and rangatiratanga depends upon agreed continuing communal reciprocity.¹³⁶

Boast,¹³⁷ in his report to the Waitangi Tribunal entitled *Ngati Toa in the Wellington Region*, warned of the dangers of such a review, which attempted to construct a revisionist account of those events, which seeks to downplay the role of Ngati Toa itself and dramatise the role of Te Atiawa is misconceived.¹³⁸

The actions (and infamy) of Te Rauparaha have been widely reported in secondary and published sources, but the contributions of other participating iwi may have been downplayed or minimised to the extent that, "Ngati Tama

¹³³ Ibid pp1-2

¹³⁴ Ibid p31

¹³⁵ Ibid p11

¹³⁶ Ibid p11

¹³⁷ Boast R, *Ngati Toa in the Wellington Region*, Wai 145 H8, 1997

¹³⁸ Ibid p165

and the other Taranaki iwi, Ngati Mutunga and Te Atiawa, were often the invisible protagonists of this era".¹³⁹ Ward¹⁴⁰ did not accept Gilmore's claim that Whanganui-a-Tara was given to Ngati Awa by rahui during the exploratory taua of 1819-1820.

Boast's¹⁴¹ report, which relies heavily on primary source material, examined the circumstances of Ngati Toa's arrival in the Cook Strait region, its principal places of occupation and settlement, and its relations with other Maori groups in the area. It gives an account of Ngati Toa's economic and other interests in Te Whanganui-a-Tara and Heretaunga from the 1820s through to the 1840s, and the role of Ngati Toa in the New Zealand Company transactions of 1839 and the Spain Commission. Finally, Ngati Toa's concerns about being left out of the Wellington tenths reserves and related Native Land Court decisions are also discussed.

Alan Ward's Maori Customary Interests in the Port Nicholson District 1820s to 1840s: An Overview was a key document that provided an independent report on customary interests in Wellington from the time of the Taranaki and Kawhia tribal migrations through to the signing of the Treaty.¹⁴² Ward focused his report on the occupancy of the area before the heke of the Kawhia and Taranaki tribes in and around Te Whanganui-a-Tara and the Hutt Valley from the 1820s to the 1840s.

¹³⁹ Clark M, *The Manawhenua Report*, Wai 723 A1, 1999, p19

¹⁴⁰ Ward A, *Maori customary interests in the Port Nicholson District 1820s to 1840s: An Overview*, Wellington, October, 1998, pp 9-10

¹⁴¹ Boast R, *Ngati Toa in the Wellington Region*, Wai 145 H8, 1997

¹⁴² Ward A, *Maori customary interests in the Port Nicholson District 1820s to 1840s: An Overview*, Wellington, October, 1998

In his report, Ward discusses whether the earlier inhabitants were able to sustain, by occupation or some other means, a continuing association with Te Whanganui-a-Tara and the Hutt Valley; the grounds on which different hapu based their claims to territory and resources; and the relationship between Ngati Toa and the hapu of the area. The main primary sources to which Ward refers are the records of Commissioner Spain's enquiries into the New Zealand Company's claims in respect of Port Nicholson and its environs, taken from both Maori and settlers in 1842-1843, and the minute books of the Native Land Court.

A key secondary reference used was Dr Angela Ballara's doctoral thesis *The Origins of Ngati Kahungunu* in which she has closely analysed primary evidence including extensive Native Land Court records. The essence of Dr Ballara's research in respect of the claim area is summarised in her chapter, 'Te Whanganui-a-Tara: Phases of Maori Occupation of Wellington Harbour c.1800 to 1840' which appears in *The Making of Wellington 1800-1914* edited by David Hamer and Roberta Nicholls.

Other works that provided a useful context for this research included Duncan Moore's *The Origins of the Crown's Demesne at Port Nicholson 1839-1846* (1995); Wai 145; Ian Ward's *The Shadow of the Land 1832-1852* (1968), and Penny Ehrhardt's *Te Whanganui-a-Tara Customary Tenure 1750-1850* (1992).

THESIS STRUCTURE

Chapter One is the introductory chapter of this thesis and provides an outline of its purposes, the research question, several relevant theoretical concepts, the research methodology adopted, an overview of relevant literature on the topic and an outline of the thesis structure.

Chapter Two has a direct focus on the people of Ngati Tama, that is, the whakapapa and history of Ngati Tama people in Taranaki, the South Island and, particularly, Wellington. The Wellington-based iwi of Ngati Tama ki te Upoko o te Ika is used as a model throughout this chapter and the subsequent three.

Chapter Three is about the importance of a re-emerging modern urban iwi developing and maintaining political relationships with the Crown and other iwi and Maori groups, as well as establishing commercial relationships with other organisations (e.g. government agencies) in order to be financially secure and sustainable over time. Relevant administrative, political, social and cultural activities, as well as business opportunities, are discussed.

Land has always been a key cultural symbol for Maori. Since the Treaty of Waitangi Act of 1975 and the advent of the Waitangi Tribunal, the claims negotiation and settlement process has been an important activity for iwi in the pursuit of autonomy and control over their affairs. The documentation of

an iwi's land claim is the central theme of Chapter Four, and constitutes the first case study.

Chapter Five outlines the second case study and describes in some detail tangata whenua relationships in Wellington based on Ngati Tama ki te Upoko o te Ika's experiences with the operations of the Port Nicholson Block claim. Importantly, the chapter gives a detailed account of the iwi's struggle to secure a Crown and iwi mandate, exercise tino rangatiratanga, and assert its voice in the further development of the Port Nicholson Block Claim in trying circumstances and under constant pressure from third-party influences such as the Crown.

The saga of Wakapuaka is the theme of Chapter Six. This third case study is set in the South Island, and provides another perspective; that of whanau. The chapter highlights the importance of a whanau's mana, and its iwi, hapu, and whanau relationships, including the impact of whanau voice spanning over a century. Complementing the previous two case studies, this chapter provides another dimension to the struggles affecting another Ngati Tama group having gone through similar experiences a century or so earlier.

The purpose of Chapter Seven, entitled An Iwi Voice is to draw on the experiences and information gleaned from the interviews and the literature reviewed. The chapter discusses and analyses the various issues arising from the previous six chapters, particularly the relevance of the findings from the three case studies.

The concluding chapter (Chapter Eight) presents five main conclusions. These include the significance of tino rangatiratanga, iwi dynamics, mandating, third-party intrusions, and relationships informed by lessons learned over the past decade. Consideration of the wider implications of the research and further research opportunities are also discussed.

He tumu herenga waka, no runga, no raro.¹⁴³

A mooring place for canoes from the south and north.

¹⁴³ Mead & Grove, 2001, p131. (This whakatauki refers to Te Kawau, a famous pa on the Taranaki coast and key to the west coast. The only approach was by ladders from the land on the north. It stood therefore as a bastion of Ngati Tama and other Taranaki tribes against attacks from the north and south. The canoes in the saying stand for war canoes of the attacking parties).

CHAPTER TWO: THE PEOPLE OF NGATI TAMA

E iri te hoa I runga o Tokomaru
Te waka o Whata na Rakeiora na Tama Ariki
I hoe mai ki uta
Huaina to whare ko Maraerotuhia
I tu ki Mohakatino

Recline o friend on Tokomaru
The canoe of Whata by Rakeiora and Tama Ariki
It was paddled to land
The house was named Maraerotuhia
It stood by the Mohakatino River ¹

INTRODUCTION

Tribes comprise people. This chapter is about people, the people of Ngati Tama descent. It is important to gain an understanding of those people and their tribe for the purposes of this research: who they are and were; where they came from, and why; what they did at certain times and places in their history; and how they organised themselves. Ngati Tama people are Maori, who are the indigenous people of Aotearoa (New Zealand). They have social units of iwi, hapu and whanau, which in turn have distinctive histories and identities, and special relationships with their respective territories. This discussion focuses on iwi, and iwi members of Ngati Tama descent. Their relationship and interactions with the Taranaki and South Island areas is also explored from early beginnings to contemporary times.

¹ Buck P. 1962 (A Ngati Tama lament recited by Sir Peter Buck in *The Coming of the Maori* that refers to the dispute with Ngati Maniapoto of lands beyond Mohakatino to Mokau).

TRIBAL LEADERSHIP

Traditional Maori communities recognised two main classes of leaders: the rangatira and tohunga. Hereditary and ascribed roles were important in both classes, and together they covered political, spiritual and professional dimensions. Rangatira were the political leaders within traditional Maori society. Chieftainship was regarded as a birthright, and the measure of chieftainship was the sum total of chiefly genealogical ties.²

During the twentieth century, leadership was largely the province of tribal elders or kaumatua who asserted their authority, principally on marae. Their collective 'voice' was seen as the legitimate mandate for Maori, which was relevant in a rapidly changing social and political environment.

Individual educational success and personal power or wealth was often considered by Maori as useful qualifications for the more effective resourcing of a tribe, but not necessarily for leading one. Tribal leaders operated differently from leaders chosen for their formal academic qualifications. Usefulness to their people depended not only on their personal mana but also on mutual respect with tribal members, an obligatory commitment to the advancement of the tribe, and an ability to operate a consensus model of decision-making.

² Durie, 1994, p17

“The continued perceptions of the maleness of leadership qualities which pervaded the literature”³ had been noted as a matter of concern by a number of contemporary writers, who are well aware of the extent to which traditional Maori leadership was defined and reinforced by the narrow male world view.⁴

Attempts have been made to classify Maori leaders. Winiata⁵ in 1947 proposed three criteria for someone’s consideration as a Maori leader: first, a person who acquires his leadership status by holding a superior position in one of three spheres (traditionalist society, European institutions, and Maori-European systems); second, the essential qualification of ethnic affiliation; and third, a close association with the Maori people.

Gardiner⁶ suggested three criteria in 1994 that, in his view, qualify a person as a national Maori leader: an elected tribal or pan-tribal leadership position; expertise on specific issues at a national level, such as Treaty claims; and political knowledge or links to Ministers and government agencies.

Differing leadership capabilities within Ngati Tama over time and in response to a range of situations impacting on the iwi is demonstrated in this study. The leadership style required of Te Puoho to lead his Ngati Tama people on a risky southern migratory exodus from Poutama for instance, differed from that required of Te Kaeaea, whose focus was less imperialist and more to do with consolidating Ngati Tama in its new homeland of Te Whanganui-a-Tara.

³ Henry, 1994, p86

⁴ Metge, 1967; Klein, 1981

⁵ Winiata, 1967,p23

⁶ Gardiner, 1994, p61

NGATI TAMA KI TARANAKI

Traditional leadership was entrusted to the waka captains (and tohunga or chief priests) during the settlement migrations to Aotearoa. As time passed and the population grew in the new land, waka leadership was replaced by iwi, hapu and whanau leadership. Ngati Tama people trace their origins in Aotearoa to the Tokomaru waka. Ngati Tama has maintained shared waka traditions and whakapapa links with the other tribes associated with the Tokomaru waka. The pre-Tokomaru history of Ngati Tama has several interpretations, which probably reflects the paucity of information on the topic as well as a lack of knowledgeable kaumatua and kuia to relay information particularly in recent times.

Smith⁷ theorised that the discovery and settlement of Aotearoa included the discovery of Aotearoa by Kupe in 925AD, its settlement by Toi in about 1150, followed by the arrival of the Great Fleet of seven canoes: Te Arawa, Tainui, Mataatua, Tokomaru, Kurahaupo, Takitimu and Aotea. This popular theory has in recent times been largely dismissed in favour of one purporting earlier settlement by fewer people, the result of the accidental drift of waka or a desperate flight into the unknown from war or famine.⁸ Using DNA evidence, Murray-McIntosh et al.⁹ postulated a different theory in 1998 that supported deliberate exploration and migration leading to a colony sufficiently populated to withstand adversity and grow in size.

⁷ Smith, 1910

⁸ Belich, 1996, pp26-27; Sinclair. 1980, p17

⁹ Murray-McIntosh et al, 1998, p9050

According to Grey,¹⁰ the migration from Hawaiki included a series of events involving the chief Manaia. He requested Tupenu (a neighbouring chief) and others to make some spears for him. While Manaia was catching fish to feed the workmen they committed an offence against Rongotiki, Manaia's wife. Seeking revenge, Manaia and others ambushed the workmen and killed them all, including Tupenu. A war ensued between the peoples of Tupenu and Manaia, which led to the forced migration of Manaia and his people to Aotearoa on the waka Tokomaru.

The Tokomaru was one of the earlier known waka to arrive on the west coast of the North Island. Apparently, the people of Tokomaru waka were already living at Mimi when the Tainui waka arrived there, which was a reason that Hotorua turned his waka around and headed back northwards to Kawhia.¹¹ Grey¹² thought that when the Tokomaru waka arrived in Aotearoa it first landed on the east coast of the North Island and it was there that its passengers discovered a stranded whale. After its landing, the waka headed north, rounding the North Cape and eventually landed at Tongaporutu in Taranaki. It journeyed to Mokau from there, where it left its anchor in the river, and finally to Rahoitu.¹³ Simmons¹⁴ and Peter Buck¹⁵ were highly critical of Grey's version of events. Simmons¹⁶ stated that there are no genealogies from Manaia and the story of Manaia is unsubstantiated. Buck¹⁷ wrote:

¹⁰ Grey G, 1974 (1st edition 1855)

¹¹ Jones & Biggs, 1995, p48

¹² Grey G, 1974 (1st edition 1855)

¹³ Evans, 1997, p178; Grey G. 1974, p181

¹⁴ Simmons D, 1976

¹⁵ Buck P, 1949

¹⁶ Simmons D, 1976, p186

¹⁷ Buck P, 1949, p53

The error of Grey's informant commenced with giving the command of the Tokomaru of the Fleet to Manaia. He borrowed the stranded whale and the anchor site in the Mokau River from the Tainui tradition. He landed the canoe at the wrong river and his local geography was inaccurate.

It is Buck's view that the anchor in the Mokau River belonged to the Tainui waka, whereas the Tokomaru anchor was kept on a ridge near the south bank of the Mohakatino. It disappeared in later times but was ploughed up in a hollow below the ridge. It had been rolled down and covered by the old people to save it from curio hunters. The anchor is now in the Taranaki museum.¹⁸ Buck¹⁹ also disputes that Manaia was the captain of the Tokomaru, instead suggesting that Manaia's canoe was the Tahatuna as stated in the following Ngati Ruanui lament:

E iri e Papa i runga o Tahatuna
Te Waka o Manaia

Recline O Sir on Tahatuna
The canoe of Manaia

Leslie Kelly²⁰ recounted a waiata to reaffirm that the name of Manaia's waka was not the Tokomaru:

Ko te waka tena o Tahatuna
Te Waka O Manaia, ko Nukutamaroa

That is the canoe of Tahatuna
The canoe of Manaia is
Nukutamaroa

According to Buck,²¹ Whata was the commander of the Tokomaru waka with Tama Ariki and Rakeiora being responsible for navigation. The tohunga

¹⁸ Byrnes, Wai 723 A1, 1999, p6

¹⁹ Ibid, p6

²⁰ Kelly L, 1949, p373

²¹ Byrnes, Wai 723 A1, 1999, p6

Rakeiora made his home in the vicinity of Mohakatino, where he was later deified as the god of the kumara.

Smith²² was certain Ngati Tama “takes its name from Tama-Ihu-Torua, the great-grandson of Tama-Te-Kapua, Captain of the Arawa waka”. Phillips²³ concurred with Smith’s assessment that the whakapapa of Ngati Tama stems from the Arawa waka. However, Buck disagreed. In his opinion, Tama Ariki is the eponymous ancestor of the fighting Ngati Tama tribe, which at one time occupied the territory north and south of the Mohakatino River.²⁴

Contemporary Ngati Tama sources, including Ngati Tama kaumatua Peter White, agree with Buck that Tama Ariki was the eponymous ancestor of the Ngati Tama people.²⁵ In fact, it is Ngati Tama’s preferred tradition.²⁶ Tama Ariki was also known as Awangaiariki and/or Whangaiariki in some traditions, including those of Atiawa, Mutunga and Taranaki hapu.

Jones and Biggs²⁷ identified Awangaiariki as one of the chiefs on the Tokomaru but did not mention Manaia at all.²⁸ Orbell²⁹ concurred with Buck, noting that Ngati Tama and Te Atiawa recorded Tama Ariki as the captain of the Tokomaru and Rakeiora as its tohunga. A Ngati Mutunga kaumatua, Hamiora Raumati,³⁰ believed that: “Tokomaru is the canoe. Those that

²² Smith P, 1910, p112

²³ Phillips FL, 1989, p186

²⁴ Buck P, 1949, p53

²⁵ Byrnes, Wai 143, M21, 1995, p5; Clark, Wai 723, A1, 1999, p9

²⁶ Keenan D, 1994,p98

²⁷ Jones & Biggs, 1995

²⁸ Byrnes, Wai 723 A1, 1999, p6

²⁹ Orbell, 1995, p221

³⁰ Wai 143, A22, 1995

paddled it ashore were Rakeiora, Manaia, Whata and Tama Ariki. The papakainga (whare) Maraerotuhia stood on the banks of the Mohakatino River.” An earlier kaumatua, Reweti Riwai Chalmers³¹ held the view that:

The Tokomaru seems to have had at least two captains, Whata and Ngaranuru (some include Manaia as the third captain) and was navigated by Tama Ariki. Her tohunga were Rakeiora and Tama Ariki.

Ngati Tama’s origins therefore appear to trace to the Tokomaru waka. The lack of whakapapa does not necessarily undermine links to the Tokomaru. Due to disease, wars, migrations and the impact of colonisation, there has been a lack of people to hold and pass on such information and knowledge.³² The strong link between Tokomaru and Ngati Tama was emphasised by Smith:

Atiawa do allow that some of them descended from the crew of the Tokomaru but so far as my enquiries go they cannot recite any genealogies from them. This is very suspicious and shows that probably but a very few people can claim Tokomaru as their ancestral vessel and even then probably through marriage connections with Ngati Tama.³³

While there are several tribes that can trace their origins to Tokomaru, only Ngati Tama trace their origins solely back to that waka. Other tribes with a Tokomaru waka tradition also trace descent to other people already living in Taranaki at the time of the arrival of the Tokomaru.³⁴

³¹ Wai 143, D2, 1995, p7

³² Clark. Wai 723, A1, 1999:p7; Evidence of Ngati Mutunga Wai 143, F18a

³³ Smith. 1910, p97

³⁴ Wai 143, F 18a

According to Buck, some descendants of the Tokomaru spread north to the Mokau River, which formed the boundary with Tainui, while others moved south. The Atiawa carried the boundary to Onukutaipari, south of New Plymouth, where they met with the Taranaki tribe who claim descent from Kurahaupo.³⁵

The land between the Mokau River and Pukearuhe, known as Poutama, was the traditional rohe of Ngati Tama. Smith describes the Ngati Tama boundaries with reference to local historian WH Skinner's account:

The lands of the Ngati Tama tribe extended from [the] Mohakatino River to a place named Titoki, two miles south of Pukearuhe pa. They thus had a sea frontage of about fourteen miles, and their boundaries extended inland until they were met by the boundaries of Ngati Haua, of Upper Whanganui, and with whom they were often allied in war and also in marriage.³⁶

The Ngati Tama tribe defined its western boundary as Te Moana Nui A Kiwa; the southern boundary with Ngati Mutunga at Titoki, a stream that reached the coast at Wai-iti; and the northern boundary by the Mokau River. The eastern boundary with Ngati Maru was more difficult to ascertain, as the majority of ancestral names had not been recorded on maps.³⁷

(Figure 2.1 illustrates Ngati Tama's tribal boundaries at Poutama).

³⁵ Buck. 1949, p54

³⁶ Smith. 1910, p111

³⁷ White. Wai 143, F19, 1991, p12

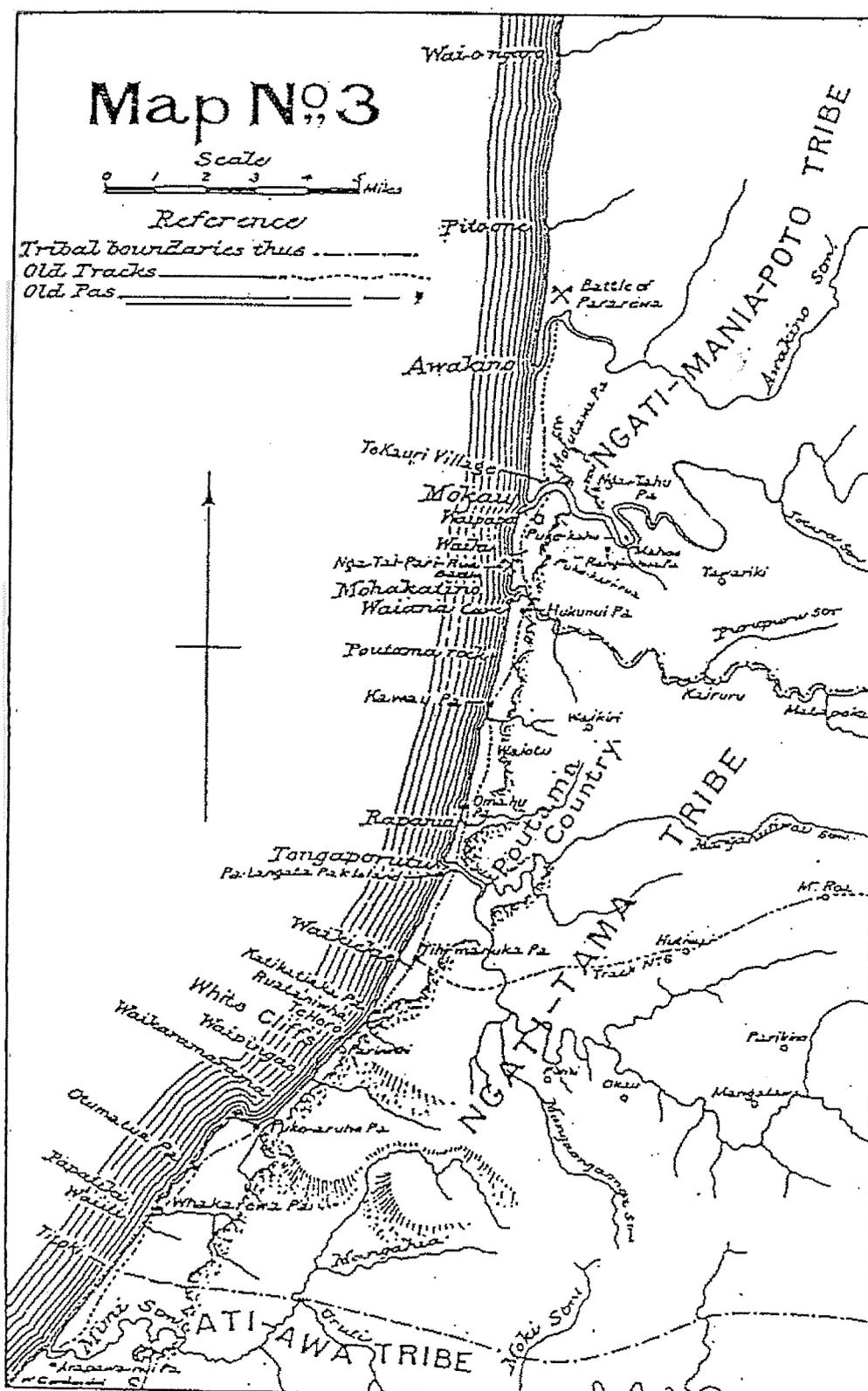


Figure 2.1 Ngati Tama's tribal boundaries at Poutama³⁸

³⁸ Clark, 1999, p128

Poutama was a land to be desired and fought for. It offered numerous sites for pa or fortified villages, with many positions of natural strength. The narrow strip of undulating land between the sea and the foot of the wooded ranges was rich and easily worked, and more than ample for all Ngati Tama's wants in growing kumara, taro and other vegetables. Both its rivers - the Tongaporutu and Mohakatino - and coastlines provided rich food resources. There were tuna (eels), various species of fish including whitebait, koura (freshwater crayfish) and kakahi (freshwater shellfish) in the rivers, which also provided access to the resources of the forest such as berries and other food and medicinal plants, fibre resources, timber and birds.³⁹

Poutama included a number of pa sites, many of which were located close to the coastline in strategic positions that enabled Ngati Tama to defend its territory. At the southern end of Ngati Tama's territory was Pukearuhe Pa, the main pa, where Te Puoho lived. Katikatiaka Pa, which was built on a crag jutting into the sea, was about three and a half miles from Pukearuhe Pa. Between these pa were the White Cliffs of Parininihi. The Tihimanuka Pa, which was situated on an inland slope of the Waikiekie stream, included a track that led through the forest inland to Whanganui. The Patangata Pa, which stood on the south bank of the Tongaporutu River, was an island at high tide. Taringa Kuri lived there in the early 1800s. The Omaha Pa stood about one mile north of the Tongaporutu River, and was also an island at high tide.

³⁹ Smith, 1910, p253; Stokes. Wai 143, F20, 1991, p15

Te Kawau Pa was the key access to the West Coast, and the buttress from which the tide of invasion from northern taua was stemmed. It was the home of the fighting chiefs of Ngati Tama; Raparapa and his brother Tupoki. The former was well known, being, "head and shoulders over his peers; of masterful mind and nature, he was a man of extraordinary physique and capable of great activity and endurance".⁴⁰

About one hundred metres from the south bank of the Mohakatino, on a small detached position on the coast, was Hukunui, the last and most advanced stronghold of Ngati Tama to ward off attacks from the north. Ngati Tama held back the power and might of the Tainui tribes from those numerous pa and strongholds for many generations, and in most instances was able to inflict defeat on the northern invaders.

Tribal distinction probably developed in Aotearoa during the fifteenth and sixteenth centuries. Pre-existing groups were reshuffled into the modern tribes or their immediate predecessors.⁴¹ Tribal groupings developed from the need of particular tribes for identity, for links with and distinctions from other tribes, and for claim to land and mana.

Due to its strategic location as the gateway to Taranaki from the north, Ngati Tama developed a reputation as a fighting tribe.⁴² Ngati Tama was at one

⁴⁰ Kelly, 1949, pp321-322

⁴¹ Belich, 1996, p60

⁴² Clark, Wai 723, A1, 1999, pp8-9

time one of the bravest tribes in New Zealand, whose warriors repeatedly hurled back the strength of the warring Waikato tribes from the north.⁴³

Since early settlement, when Ngati Tama conquered or absorbed the prior inhabitants - Ngai Tahu - of Poutama,⁴⁴ there were strong links between Ngati Tama and its neighbours; particularly its Tokomaru affiliates of Ngati Mutunga and Te Atiawa. According to its own traditions, Ngati Tama originally comprised several hapu, of which Ngati Tama was the most dominant. Prominent Ngati Tama wahi tapu were sited at Titoki, Waitangi and Hawera.⁴⁵

Ngati Tama's northern boundary was the scene of conflict with Waikato and Maniapoto tribes and hapu. The areas where tribes or hapu meshed with one another were usually occupied by whanau, which had whakapapa links to tribes and hapu on either side. Both Ngati Tama and Maniapoto occupied the district between Awakino and Mohakatino for brief periods, but it was always understood by either occupying force that they were residing within the rohe of their neighbour.⁴⁶

Ngati Rahui, a Ngati Maniapoto hapu, was the connecting link between Ngati Maniapoto of the King Country and Te Atiawa of Taranaki.⁴⁷ Ngati Rakei occupied the country around the mouth of the Mokau, and as far south as the Mohakatino River, a distance of two miles, but its people were so enmeshed

⁴³ Smith, 1910, p112

⁴⁴ Grey, 1974, p181

⁴⁵ Keenan, 1994, p99

⁴⁶ Byrnes, Wai 143, M21, 1991, p6

⁴⁷ Smith, 1910, p98

with their southern neighbours, the Ngati Tama, and the Mokau people, that it was difficult to separate them because intermarriage frequently took place.⁴⁸

Marital links between Ngati Tama and the Mokau people meant it was likely that many Ngati Tama could have claimed Maniapoto ancestry.⁴⁹ Given that tribal alliances depended a great deal on the context of a given situation and the need for strategic defence of tribal resources, it is unsurprising that much of the tribal history and geography of the Mokau-Mohakatino region is tied up with rivalry, alliances, periodic battles and marriage ties between Ngati Tama and Ngati Maniapoto.

According to Smith:

Strictly speaking, the Mohaka-tino River was their [Ngati Tama] northern boundary, for the strip of country between there and Ngati Tama never occupied Mokau permanently; it was neutral or debatable ground between them and Ngati Maniapoto.⁵⁰

The rivalry between Ngati Tama and Ngati Maniapoto, including some of the other Tainui tribes, generally arose from disputes over rights to contiguous fishing grounds south of the Mokau river mouth. The fighting took the form of retributive raids, and the raids became self-perpetuating. Warfare had existed between Ngati Tama and Ngati Maniapoto for a period of two hundred and fifty years or more due to the attraction offered by the numerous mussel reefs along that part of the coast, together with the sea itself. A plentiful harvest was always provided to the fishing fleets that issued from the rivers and sandy

⁴⁸ Smith, 1910, p111

⁴⁹ Stokes, 1988, p17

⁵⁰ Smith, 1910, p253

coves in proximity to the pas during the proper season and favourable weather.⁵¹

The Mokau river region was also of considerable strategic significance in terms of its geographical location and Ngati Tama history and traditions. Its spiritual importance was valued as was its economic benefits. Maori initially welcomed contact with pakeha in the Mokau region. There were mutual benefits of trade relative to accessible transport routes (e.g. the river estuary provided a sheltered anchorage for coastal vessels) and an abundance of food resources (e.g. fishing grounds).

Kelly⁵² wrote of a war party of two hundred and seventy Waikato and Ngati Haua in the early years of the nineteenth century, which had travelled down the Mokau River and attacked the Ngati Tama pa at Te Kawau. In the course of the conflict the Ngati Haua chief Tai Porutu was killed. In 1810, Ngati Haua led a retaliatory expedition and Te Kawau was again attacked, with severe losses to Ngati Haua at the hands of Raparapa and his men.

Ngati Maniapoto, felt aggrieved at the death of their chief Maungatautari in the conflict at Te Kawau, also wished to avenge the killing of a Ngati Maniapoto woman, Te Rangihapainga. While on a visit to Te Whakarewa Pa, south of Parininihi, they organised a full-scale war party in 1820 and attacked Ngati Tama. The latter retreated to Tihimanuka Pa, where it suffered considerable casualties, followed by a further retreat south to the area around Katikatiaka

⁵¹ Ibid

⁵² Kelly, 1949, pp295-6)

Pa and Parininihi. It was a serious defeat for Ngati Tama, which was forced to succumb to superior forces and the musket.⁵³

The threat of further and larger Waikato/Maniapoto war parties returning armed with superior firepower, and a recent epidemic in 1820,⁵⁴ was incentive enough for many Ngati Tama and other Taranaki tribes to consider leaving Taranaki and migrate south to Te Whanganui-a-Tara. The prospect of land acquisition and trade opportunities with the European was also a key consideration in Ngati Tama and its allies leaving their homelands.

A close association with Te Rauparaha and Ngati Toa meant Ngati Tama was keen to participate and benefit in the fruits of the southern expedition. Close bonds had formed since Ngati Toa had been sacked from Kawhia and stayed in Taranaki for ten months before migrating further to the Wellington region.

A new generation of tribal leadership emerged at this time, evident in the rise of Te Puoho, Te Taku, Paremata te Wahapiro, and Taringa Kuri within Ngati Tama. Te Puoho had taken over the position of paramount chief of Ngati Tama with the deaths of Raparapa and Tupoki in 1822. Te Puoho had been keen to migrate south with Te Rauparaha, and to use the opportunity afforded him to extend his own personal influence beyond Te Whanganui-a-Tara into the South Island.

⁵³ Smith, 1910, pp280-281, 293-294; Kelly. 1949, pp297-299; Stokes. 1988, p68

⁵⁴ Stokes, Wai 143, F20, p69

In 1822, the migratory party known as Te Heke Tataramoa left Taranaki to settle permanently in the lower North Island. The heke included nearly three hundred members of Ngati Toa, Ngati Koata and Ngati Rarua who had come from Kawhia, as well as up to six hundred 'Ati Awa,' which consisted of several Te Atiawa hapu, Ngati Tama and Ngati Mutunga. Te Puoho led the Ngati Tama contingent.⁵⁵ Ngati Tama's involvement in Te Heke Tataramoa was probably that as warriors escorting the people of Ngati Toa. Smith⁵⁶ noted that, "the fighting Ngati Tama would have been a welcome addition". In the Native Land Court, Te Rangikatutu stated: "We went to Kapiti before Ngati Raukawa went there. We took Rauparaha there".⁵⁷ Very few Ngati Tama members remained in the Wellington region after the heke and most returned to Taranaki in 1823, led by Te Puoho and his brother Rangiakaroro.⁵⁸

The heke probably followed the Taranaki coastline south. It encountered difficulties at Waitotara where Te Rauparaha's messengers were killed, which led to retaliation and some local people being killed. Further trouble occurred in Manawatu where canoes of some members of the heke were stolen. In retaliation a highborn Rangitane woman, Waimai, was killed. Subsequently, three of Te Rauparaha's children were killed and the other taken prisoner by a Muaupoko chief, Toheriri. Those actions ensured a war against Muaupoko, with Rangitane also being involved.

⁵⁵ Ward, Wai 145, M1, pp34-35; Otaki MB 31, p122

⁵⁶ Smith, 1910, p384

⁵⁷ Mokau Waitara MB 1, p5

⁵⁸ Burns, 1980, pp113, 125

In 1824, Te Heke Niho-Putā (or Boar's Tusk) left Taranaki for Te Whanganui-a-Tara. The name of that heke was such because Nga Rauru, planning to attack the heke, used as a signal a reference to a boar's tusk. The heke started once news was received that the battle of Waiorua at Kapiti had been successful for Te Rauparaha and his allies.

Te Puoho came to Kapiti to ascertain the outcome of that attack and finding Te Rauparaha successful returned to Taranaki and it was from there that his heke started.⁵⁹

Alexander MacKay recalled that:

On the news reaching Taranaki of the defeat of Muaupoko and their allies at Waiorua, Te Puoho having satisfied himself of the truth of the statement, came to Kapiti with a considerable number of fighting men with their families consisting of Ngati Tama, Ngati Hinetuhi, and Ngati Wakatere; under Pehitaka, Taringakuri; and other chiefs. This party formed an important accession to the force under Te Rauparaha and relieved him of the difficulties, which he had been placed in through Wi Kingi te Rangitake and the Ngatiawa party having returned to Taranaki. This migration was called Heke Hauhau.⁶⁰

After Waiorua, the right of the successful conquerors of the land prevailed. The new settlers displaced all previous rights in cases where the land became occupied by hapu other than those, which had previously acquired a nominal ownership prior to the land being effectively obtained by the aforesaid conquest.⁶¹

⁵⁹ Smith, 1910, pp401-402

⁶⁰ Otaki MB 31, p124

⁶¹ Ibid pp138-139

In 1824 (or 1825), a Waikato/Ngati Maniapoto expedition entered northern Taranaki and found much of the coast to be deserted.⁶² People left behind to 'keep the fires burning' had taken refuge further inland.⁶³ Further pressure from Waikato/Ngati Maniapoto led to another large migration south to Whanganui-a-Tara, known as Te Heke Whirinui. There was a siege of the Pukerangiora Pa in 1831 and the unsuccessful attack by Waikato/Ngati Maniapoto on the Ngamotu Pa in New Plymouth. The few Taranaki survivors fled inland.⁶⁴ At that time, the coastal settlements between Ngamotu and Mohakatino were deserted for kainga (whare) further inland. Frequent movement to and from Taranaki was the pattern of settlement.

The effects wrought by disease and warfare had, by the 1830s, facilitated the ease with which the northern tribes were able to move in and out of Taranaki. During that period, most Ngati Tama people and other Taranaki tribes migrated south to Whanganui-a-Tara, to the Chatham Islands and to the northern South Island. Several commentators believe the migrations were one-way. The New Zealand Company naturalist, Ernst Dieffenbach, suggested that the migrations were permanent. A record of his trip from Ngamotu to Mokau in 1841 is as follows:

Here formerly lived the Nga-te-toma [Ngati Tama] and Nga-te-Motunga [Ngati Mutunga] tribes, the present inhabitants of the Chatham Islands, who migrated there many years ago. The whole district between Taranaki and Mokau has not at present a single inhabitant.⁶⁵

⁶² Stokes, 1988, p73

⁶³ Smith, 1910, p415

⁶⁴ Ibid pp459-469

⁶⁵ Dieffenbach, 1843, p168

Houston⁶⁶ believed that in the 1820s a remnant of Ngati Tama migrated to Waikanae, near Kapiti, leaving Taranaki open to the invading Maniapoto tribe. The Wesleyan missionary Reverend Samuel Ironside described his journey in May 1842 from Waikato to New Plymouth thus:

At Mokau we left all signs of population behind us, and for sixty miles travelled through a silent country.⁶⁷

There was evidence from the travels of Te Puoho who moved south during the 1820s that he then returned to Poutama around 1823, that Taringa Kuri (also known as Te Kaeaea) returned in 1832 and that Rangikatatu and Hurihanga who were both rangatira returned from Waikanae in 1848.⁶⁸ Additionally, there McNab's⁶⁹ account of the trader, Thomas Ralph, who had established a trading post at Mokau in 1832. He was captured by Ngati Tama and taken to its pa, and there held hostage until Ngati Tama had heard the 'fate of the pakeha' at Moturoa.

Te Rangi Hiroa wrote that, in the 1830s, Ngati Tama, Ngati Mutunga and Atiawa returned to the Taranaki lands of the unextinguished fires.⁷⁰ While some people migrated from Taranaki to other parts of the country, others of their whanau, hapu and iwi remained at home 'to keep the fires burning' (ahi kaa) and were constantly reunited over the years by those returning home.

⁶⁶ Houston, 1965, p50

⁶⁷ Wells, 1878, pp90-91

⁶⁸ White, F19, Wai 143, 1991, p23; Smith, 1910, p474

⁶⁹ McNab, 1913, pp52-53

⁷⁰ Hiroa, 1952, p382

Ngati Tama migrated south in 1835 to the Chatham Islands, settling at Waitangi and Kaingaroa. In 1867 and 1868, three groups - a total of three hundred and fifty six Te Atiawa comprising Ngati Mutunga and Ngati Tama - left the Chathams on a return heke to Taranaki.⁷¹

Ngati Tama believed that the return heke fulfilled a prophecy of 1835 that it would return to Taranaki. It was a belief advanced by the events of 1868: the appearance of the Aurora Australis, the outbreak of a measles epidemic that killed a large number of Maori and Moriori in the Chathams, and the destruction wrought on the settlement of Tupuangi by a tidal wave. All three events were considered as omens signalling a return to Taranaki.⁷² Wesleyan missionaries had persuaded the Waikato chiefs to allow the Taranaki people to return. In the late 1840s, Taranaki people began to return from the south and re-establish their settlements in Taranaki. The missionary Schnackenberg recorded that in 1849 people returned from Waikanae and other places to the Pukearuhe and Mimi districts:

In April last our people prepared a feast at Pukearuhe for Wiremu Kingi and his people at Waitara. The old chief came with about 200 of his men all armed. This circumstance gave offence to some Mokau folks, and for many weeks there was much disputing as to how far the land should be given back to the returning tribes.⁷³

It was not long before land purchase officers sought out blocks of land for European settlement. On 18 April, 1848, Te Teira wrote to the Governor and Donald McLean, the Native Land Commissioner, from his residence at

⁷¹ King, 1989, p109

⁷² Ibid

⁷³ Stokes, 1988, pp76-83

Kaiwharawhara, offering to sell the lands of Ngati Tama. Writing on behalf of forty men, fifty women and thirty children who consented to sell the land at Mokau, Mohakatino and Poutama, Te Teira appended whakapapa and place names to the letter.⁷⁴ Eleven years later, Wiremu Kingi, speaking with the authority of a number of tribes from the Mokau River to the Waitaha stream south of Waitara, wrote to Governor Grey and informed him of his determination not to sell land.⁷⁵

According to Byrnes,⁷⁶ citing H Turton's *Maori deeds and plans of land purchases in the North Island 1877-1878*, on 1 May, 1854 an agreement was signed between 'the Chiefs and People of Ngati Maniapoto' and Donald McLean for the Crown. The boundaries of that two thousand five hundred acre block were recorded as commencing at:

Purpura going along the sea side and on to the mouth of the Mokau river then proceeds up the river Mokau on to the Mangoira river which it follows until it arrives at Omoao where it joins the land purchased by Mr McLean it then turns towards the sea on to the Purpura where the boundaries meet.

Payment was £100 and another £100 for a portion of land within the above boundaries not yet agreed. Te Wetini Ngakahawai and sixty-seven others signed the agreement, witnessed by Schnackenberg, Wesleyan Missionary at Mokau, and Takerei of Mokau.⁷⁷

⁷⁴ White, F19, Wai 143, 1991, pp132-137

⁷⁵ AJHR, 1860, p5

⁷⁶ Byrnes, Wai 143 M21, 1995, p11

⁷⁷ Idem

The Crown proclaimed martial law throughout Taranaki on 22 February, 1860. The Taranaki Wars of 1860-61 and 1863-69 followed. During their course, the Crown built redoubts at Pukearuhe and Wai-iti to secure military occupation of the land. These also provided security for military settlements that were established on confiscated land. Both redoubts were built on Ngati Tama wahi tapu (sacred place).

In 1863, the New Zealand Settlements Act 1863 was enacted. It provided for the confiscation, by the Crown, of lands of Maori whom the Crown assessed to have been in rebellion against the authority of the Queen. On 30 January 1865, the Governor declared Middle Taranaki to be a confiscation district, and set aside blocks at Oakura and south of Waitara as eligible sites for European settlement. On 2 September, 1865, the Governor declared two further confiscation areas, which had been inhabited by Ngati Awa and Ngati Ruanui. The Governor also designated Ngatiawa Coast and Ngati Ruanui Coast as eligible sites for settlement, which incorporated a substantial part of land in the rohe of Ngati Tama. All the Ngati Tama land that could be confiscated within the declared confiscation districts was confiscated, despite Government policy that land of loyal inhabitants would be taken only where absolutely necessary for the security of the country.

The Compensation Court was set up under the New Zealand Settlements Act 1863 to compensate some of those whose land was confiscated by the Crown. The compensation process and its outcomes added to the uncertainty, distress and confusion of Ngati Tama people as to where they lived and

whether they had security of title. All the Compensation Court awards within the rohe of Ngati Tama were based on out-of-court settlements. The Crown had already disposed of most of the readily usable land in the north by the time those awards were made. People considered rebels could not make claims.

The Compensation Court did not properly investigate those settlements. All the awards made by the Compensation Court on the basis of the settlements were made to individuals, rather than to hapu. Often awards did not include traditional whanau and hapu land. The awards did not reflect customary forms of land tenure. Out of some 74,000 acres confiscated from Ngati Tama, 3,458 acres were awarded to Ngati Tama individuals. By 1880, title had not been issued to that land. Some claimants were informally aware of the location of their awards and believed they had a right to occupy the land, only to find that it was classified as Crown land. In 1867, the Crown promised awards of land to the absentee owners from each tribe. By 1880, those awards were still undefined on the ground.

On 8 November, 1870, Robert Parris, Civil Commissioner for Taranaki, wrote to the then Native Minister, Donald McLean, informing him of an arrangement between Ngati Tama and Ngati Maniapoto for the former to reoccupy the land known as Poutama. It was reported by Parris that:

The Northern tribes have consented to restore to Ngatitama the long disputed territory known by the name of Poutama ...without enjoining any conditions more than voluntary surrender of the land to the original

owners ...Tikaokao (Tawhana) proposed that they should be united as one people, as a condition of the surrender of the land to Ngatitama.⁷⁸

Ngati Tama subsequently settled around Tongaporutu. According to Parris, Ngati Tama's resettlement had "very materially improved the condition of the district and given confidence to the settlers".⁷⁹ However, Wetere Te Rerenga, the Ngati Maniapoto chief of lower Mokau, refused to bring his lands under the control of Waikato's Kingitanga Movement. He opposed the return of Ngati Tama to the lands at Mokau, which threatened to deprive him of his ownership rights. He sought clarification of title to the land through the Native Land Court.

The Native Land Court ruled on 15 June, 1882 that Ngati Tama had abandoned Poutama. On 20 June, 1882 the Court issued a final judgement, which granted title for the Mohakatino-Paraninihi Block to the Mokau section of the Ngati Maniapoto tribe. Later that year the Native Land Court investigated the titles to two large blocks totalling more than 120,000 acres on the northern side of the confiscation line (Mohakatino-Paraninihi). Although the area was part of Ngati Tama's ancestral lands, Chief Judge Fenton awarded full ownership of both blocks to Ngati Maniapoto, citing conquest and possession, although admitting that occupation prior to 1840 was sparse.

The Judge subsequently refused to hear an appeal by Ngati Tama. That outcome magnified the impact of any adverse consequences of decisions by the Compensation Court regarding Ngati Tama lands, and meant that in the

⁷⁸ AJHR, 1871, F-6B, p11

⁷⁹ AJHR, 1873, G-1, p15

future the Crown would not recognise Ngati Tama as being able to speak for those blocks. It also meant that Ngati Tama considered it futile to make further claims to land in that area through the Native Land Court.

The Crown subsequently acquired Ngati Tama land under public works legislation. Land that was taken included wahi tapu of particular significance to Ngati Tama. As a result of those actions by the Crown, and the decisions of the Compensation and Native Land Courts, Ngati Tama in Taranaki were left with very little land and none in tribal ownership.⁸⁰

The Government was nervous about the effect of Ngati Tama resettlement at Mokau, especially if Ngati Tama was allied to the Kingitanga Movement. However, the Government was eager to open up the King Country to pakeha settlement, and was not averse to playing Maori leaders off against each other in an attempt to bring Maori lands under the mandate of the Native Land Court.⁸¹ Examined in the wider context of the struggle between the Government and the Kingitanga Movement for control of the Rohe Potae, it may be concluded that Ngati Tama interests were implicated, to a minor extent at least, in that tension.

It would appear that there existed an arrangement between Ngati Maniapoto and Ngati Tama for the latter to return to Poutama and take up residence at its former home. The involvement of the Native Land Court only served to

⁸⁰ Mokau Waitara MB 1/48-52

⁸¹ Byrnes, Wai 143 M21, 1995, p29

complicate that arrangement.⁸² The negotiations after the 1882 Court decision, particularly the efforts of landowner Joshua Jones to control the Mokau Blocks through obtaining a lease or title on the lands, generated two Royal Commissions of Inquiry and a government investigation. The questionable circumstances of the signing of the original lease agreement and the protracted wrangling, wheeling and dealing over many years over the Mokau Mohakatino Block constitute one of the most dubious of any transactions involving Maori land in the nineteenth century.⁸³

Waitangi Tribunal Claim

Ngati Tama's claim against the Crown, under the Treaty of Waitangi Act 1975, fell into two categories. The first category involved the lands of the traditional Ngati Tama estate, which were declared confiscated under the provisions of the New Zealand Settlements Act 1863, and comprised approximately 74,000 acres.⁸⁴ The claims on the Pukearuhe Historic Reserve, the Ngarautika Block, Pukearuhe Town Belt (sections 6, 7 and 8 and section 94) were included within that territory. The second category involved approximately 122,000 acres of land north of the confiscation line that Ngati Tama claimed was part of its traditional rohe prior to European settlement: the Mohakatino Parininihi and Mokau Mohakatino Blocks, which were vested in Ngati Maniapoto by a decision of the Native Land Court on 20 June, 1882.⁸⁵ Ngati Tama claimed

⁸² Byrnes, Wai 143 M21, 1995, p47

⁸³ Stokes, 1910, p148

⁸⁴ AJHR, 1928

⁸⁵ Mokau Waitara MB 1/3, 1990

that decision of the Native Land Court deprived it of its traditional tribal lands and therefore constituted a breach of the Treaty.⁸⁶

In addition to those two discrete claims, it claimed that the arbitrary placing of the northern confiscation boundary at Te Horo prejudicially affected Ngati Tama through the bisection of its rohe. Further, the confiscation and illegal purchases deprived Ngati Tama of its link to its tupuna, Taranaki maunga, along with other tribes of Taranaki. Ngati Tama also claimed that confiscation robbed them of ancient lands, access to forest resources, title and control to traditional fresh and saltwater fisheries and to the beds of rivers and foreshore within its rohe.⁸⁷ In that way, the actions of the Crown - by confiscation and by Native Land Court sanctioned actions - deprived Ngati Tama of 196,000 acres, thereby leaving them virtually landless.⁸⁸

On 11 June, 1996, the Waitangi Tribunal released its interim report on the collective Taranaki Maori claims (Wai 143) entitled *The Taranaki Report: Kaupapa Tuatahi*.⁸⁹ The Tribunal expressed some preliminary views concerning the Taranaki claims, including that the claims stood on two major foundations; deprivation and disempowerment.

In regard to the main claim of disempowerment, the Waitangi Tribunal meant the denigration and destruction of Maori autonomy or self-government. The Tribunal's interim report introduced the historical claims of the Taranaki hapu

⁸⁶ White, F19, Wai 143, 1991, p8

⁸⁷ Amended Statement of Claim 28.4.95, Wai 143 #12.8, #12.9

⁸⁸ White, F19, Wai 143, 1991, p35

⁸⁹ Waitangi Tribunal, Taranaki Report: Kaupapa Tuatahi, 1996

and showed the need for a settlement and generous reparation to remove the prejudice to Maori, to restore the honour of the Government, to ensure cultural survival, and to re-establish effective interaction between the Treaty partners.

The Crown acknowledged to the Tribunal that the Waitara purchase and the subsequent wars constituted an injustice and were therefore in breach of the principles of the Treaty. The confiscation of land, as it occurred in Taranaki, also constituted an injustice and was therefore in breach of the Treaty principles. Confiscation had a severe impact on the welfare, economy and development of Taranaki tribes. In general terms, the delays in setting aside reserves contributed to the adverse effects of the confiscations and events relating to the implementation of the confiscations leading to the invasion of Parihaka in 1881, which, with its aftermath, constituted a Treaty breach.⁹⁰

In November 1996, the Crown recognised the mandate of the Ngati Tama Iwi Development Trust to represent Ngati Tama in negotiations for a settlement with the Crown. Ngati Tama and the Crown entered into formal Terms of Negotiation on 18 August, 1997 specifying the scope, objectives and general procedures for the negotiations. A Heads of Agreement was signed on 24 September, 1999 recording that Ngati Tama and the Crown were willing to enter into a Deed of Settlement on the basis of the Crown's settlement proposal set out in the Heads of Agreement.⁹¹

⁹⁰ Idem

⁹¹ Preamble to the Ngati Tama Claims Settlement Act 2003

The Crown and Ngati Tama agreed to the Deed in a Letter of Exchange on 5 November, 2001. The people of Ngati Tama then ratified the Crown's offer. The Crown and Ngati Tama entered into a Deed of Settlement on 20 December, 2001, which gave effect to a comprehensive settlement of all Ngati Tama's historical claims in Taranaki.⁹²

Acknowledgements made by the Crown, as set out in the Deed of Settlement,⁹³ included the Crown recognition that the wars in Taranaki constituted an injustice and were in breach of the Treaty and its principles. The Crown also acknowledged that the confiscations were indiscriminate in extent and application and had a devastating effect on the welfare, economy and development of Ngati Tama. The division of the ancestral land of Ngati Tama by the arbitrary placement of the northern confiscation boundary had resulted in tribal rights in those areas being assessed under two different systems. The prejudicial effects of the confiscations were compounded by the inadequacies in the Compensation Court process that included long delays in the promised return of land to Ngati Tama individuals.

The confiscations of 1865 deprived Ngati Tama of access to their traditional sources of food and other resources associated with that confiscated land. The confiscations were wrongful and in breach of the Treaty of Waitangi and its principles. The Crown recognised that the lands and other resources confiscated from Ngati Tama had made a significant contribution to the wealth and development of New Zealand.

⁹² Idem

⁹³ Deed of Settlement between the Crown and Ngati Tama, 20 December 2001

The Crown recognised the serious damage it inflicted on the prosperous Maori village of Parihaka and the people residing there, its forcible dispersal of many of the inhabitants, and its assault on the human rights of the people; and that those actions caused great distress and were a complete denial of the Maori right to develop and sustain autonomous communities in a peaceful manner; and that its treatment of the Ngati Tama people at Parihaka was unconscionable and unjust and that those actions constituted a breach of the Treaty and its principles.

Concern about the reserves was also addressed. The Crown agreed that the West Coast Commissions were inadequate in their scope and therefore did not fully address the injustices perpetrated by the confiscations. It was also agreed that the reserves created by the commissions in the 1880s were not sufficient for the present and future needs of Ngati Tama.

The Crown's actions with respect to the West Coast Settlement Reserves Act 1881, considered cumulatively and including the imposition of a regime of perpetually renewable leases and the sale of large quantities of land by the Public and Maori Trustee, ultimately deprived Ngati Tama of the control and ownership of the lands reserved for them in Taranaki; and were in breach of the Treaty and its principles.

The Sim Commission received some criticism. This Royal Commission was set up in 1926 to inquire into the confiscation of native lands. It investigated

whether confiscated lands exceeded in quantity what was fair and just and, if so, how much compensation should be offered. The Crown acknowledged that despite previous efforts made in the twentieth century, including those of the Sim Commission, it had failed to deal in an appropriate way with the grievances of Ngati Tama. In particular, the payments made under the Taranaki Maori Claims Settlement Act 1944 did not sufficiently address the grievances of Ngati Tama. Finally, the Crown recognised the efforts and struggles of Ngati Tama in pursuit of their claims for redress and compensation against the Crown for over 130 years.

Mandate Challenge

The Ngati Tama Iwi Development Trust experienced resistance from a Ngati Tama whanau whaanui group affiliated to the Mokau group of families. In early June of 1997, the Office of Treaty Settlements (OTS) received a challenge to the mandate of the Trust from this group in the form of 435 letters, representing about forty percent of Ngati Tama, and opposing any other group having a mandate. The group nominated one person to establish a mandate to represent their interests in the negotiation of Ngati Tama's Treaty claim.⁹⁴

The petition on behalf of Nga Uri O Ngati Tama to the House of Representatives alleged that the proposed settlement and governance entity was unacceptable; that it did not represent their particular interests; and that

⁹⁴ Office of Treaty Settlements, 11 August, 1997; Participant 7

the membership register was seriously flawed. The petition also recommended that the register be reopened and independently administered, a new vote be taken, and a full investigation of the affairs, finances and mandating of the Trust be undertaken.⁹⁵

Notwithstanding that resistance, the Trust eventually succeeded in completing its negotiations and settlement process with the Crown. On ratification of the governance entity, the Ngati Tama Iwi Development Trust was wound up on 20 January, 2003, and a new governance entity - Te Runanga o Ngati Tama - was established. The passage of legislation through Parliament allowed for submissions to be made from the public.

The Ngati Tama Claims Settlement Bill 2003 recorded the acknowledgements and apology given by the Crown to Ngati Tama and gave effect to the Deed of Settlement negotiated between those parties. The Bill had been referred to the Maori Affairs Committee on 15 April, 2003.

Ngati Tama ki te Upoko o te Ika, in its submission to the Maori Affairs Select Committee, supported the intent of the Ngati Tama Claims Settlement Bill 2003. It noted that the Bill recorded the acknowledgements and apology given by the Crown to Ngati Tama in the Deed of Settlement dated 20 December, 2001 between the Crown and Ngati Tama; and that it gave effect to that Deed in which the Crown and Ngati Tama agreed to a final settlement of all the Ngati Tama historical claims in Taranaki. It also requested that Parliament's

⁹⁵ Ngati Tama ki te Upoko o te Ika's runanga hui notes of 14 May, 2003

Maori Affairs Select Committee do everything it could to ensure that the legislation was passed through the House of Representatives in the shortest possible time, so that Ngati Tama could get on with resolving its Treaty claims, and settling with the Crown.⁹⁶

On 24 July, 2003 Ngati Tama ki te Upoko o te Ika, along with eight other groups, made an additional oral submission before the Maori Affairs Select Committee in New Plymouth on the Ngati Tama Settlement Bill 2003. It was clear they were offering qualified support:

We support the intent of the Bill and the notion of settlement for Ngati Tama in principle. However, it has come to our attention that there are serious concerns held about the governance structure and processes undertaken that need to be addressed. The concerns relate to the non-participation and exclusion of many Ngati Tama people from aspects of the settlement process and governance arrangements. If there is any substance to these concerns, it is our wish that the resolution of these matters be carried through quickly and in the spirit of partnership and goodwill which the Treaty demands of its partners, so that: no further Treaty breaches are created; no unintended adverse flow-on effects to other Ngati Tama claims occurs; justice for everyone is seen to be done; and we are all assured of a fair and lasting settlement.⁹⁷

The disaffected Ngati Tama whanau whaanui group was critical of the perceived domination of Ngati Tama affairs in Taranaki:

The group also perceived a lack of democracy and transparency in the structure of the Trust by a single family that runs by a code of intimidation.⁹⁸

⁹⁶ Ngati Tama ki te Upoko o te Ika runanga hui notes of 18 June, 2003

⁹⁷ Ngati Tama ki te Upoko o te Ika, Submission to Maori Affairs Select Committee, 24 July, 2003

⁹⁸ Daily News, New Plymouth, 25 July, 2003, p4

The report of the Maori Affairs Committee drew the Committee's concerns to the attention of the House of Representatives. The disputed mandate of the negotiators, the overlap of claims, and the low participation rate in the ratification process were of particular concern to the Committee, which:

Was mindful of the constraints placed on us by rules relating to legislation to confirm agreements such as deeds of settlement. These mean that we cannot substantially amend this bill in a manner that is not acceptable to the parties to the deed being implemented. Amendments must also be relevant to the subject matter of the bill.⁹⁹

On 25 November, 2003, the Ngati Tama Claims Settlement Bill 2003 was passed in the House and received the Royal Assent shortly thereafter.

NGATI TAMA KI TE WHANGANUI-A-TARA

According to Maori tradition, Kupe was the discoverer of Aotearoa. Te Whanganui-a-Tara (the great harbour of Tara) featured in the discovery. The explorer Whatonga named Whanganui-a-Tara for his son Tara. Before the arrival of the Taranaki tribes (e.g. Ngati Tama) and the Kawhia tribe (Ngati Toa), Te Upoko o te Ika, which referred to the general area of the lower western North Island, was populated primarily by people of Kurahaupo waka descent, including Ngai Tara, Rangitane, Muaupoko and Ngati Apa.¹⁰⁰ Those peoples all claimed descent from Whatonga. At the time of the arrival of the incoming tribes, Ngati Ira (who were settled along harbour's east coast), Ngai

⁹⁹ Maori Affairs Committee, Report on Ngati Tama Claims Settlement Bill, 10 November, 2003

¹⁰⁰ McKinnon, 1997, p125

Tara, Rangitane and Ngati Kahungunu - including the hapu Rakaiwhakairi and Ngati Kahuraawhitia (who were inhabitants of the Hutt Valley or Heretaunga) - occupied what was to become the Port Nicholson Block and acquired tangata whenua rights there.¹⁰¹ Other members of those groups lived around Porirua and on the Kapiti Coast, and led the resistance to the invasions from the north. This began in 1819 with a Ngapuhi-led war party, which included Ngati Toa (and later, some Ngati Tama) raiding Te Upoko o te Ika.

Ngati Toa chief Te Rauparaha was aware of the benefits of trade and safety offered by Kapiti Island.¹⁰² In 1821, in response to increasing pressure by the Tainui tribes, he led a migration south. This was initially to Kaweka in northern Taranaki and was called Te Heke Tahutahuahi or the fire-lighting expedition.¹⁰³ An the expedition called the Tataramoa or bramble-bush migration headed further south in 1822 along with other Taranaki tribes including Ngati Tama, with the express intention of settling.¹⁰⁴

A close relationship existed between the migrating Taranaki and Kawhia tribes. While there was friction from time to time, alliances remained intact. The whakapapa links between Ngati Toa and the tribes of the northern Taranaki district were numerous. Boast¹⁰⁵ noted that the linkages between the immigrant descent groups classified as Ngati Toa, Ngati Koata, Ngati Rarua,

¹⁰¹ Ballara, 1990, p13; Ward. 1998, p3

¹⁰² Burns, 1980, p61

¹⁰³ Ibid, pp80-96

¹⁰⁴ Burns, 1980, pp96-102; Ballara. 1990, p16

¹⁰⁵ Boast, Wai 145, H8, 1997, p11

Ngati Raukawa, Te Atiawa, Ngati Mutunga and Ngati Tama were complex and criss-crossing.

Some Ngati Tama members who migrated south with Ngati Toa and others subsequently returned to Taranaki around 1823, only to migrate south again with later heke.¹⁰⁶ The trend of migrating back and forth between Taranaki and Te Upoko o te Ika continued for most of the nineteenth century. According to Carkeek,¹⁰⁷ during the two to three year period it resided on Kapiti, Ngati Tama built and occupied a total of four pa: Te Kahikatea, Maenene, Taepiro, and Otehou.

In 1824, recognising the threat posed by incoming tribes, a large contingent of Whatonga-descended warriors residing from Whanganui to the South Island massed at Waikanae in order to attack the Waikato and Taranaki invaders. The ensuing warfare became known as the Battle of Waiorua. The Whatonga-descended peoples were defeated, and as a result the incoming tribes gained ascendancy over the Kapiti Coast area.¹⁰⁸ Ward¹⁰⁹ considered that:

There is enough evidence in the various sources however, to indicate that a considerable number of Ngati Awa groups had remained at Kapiti and played an important role in helping sections of Ngati Toa repel the attack on Waiorua Pa.

Following the Battle of Waiorua, another significant heke comprising Ngati Tama, Ngati Mutunga and Te Atiawa (called Nihoputa or Boar's Tusk),

¹⁰⁶ Burns, 1980, pp113, 125

¹⁰⁷ Carkeek, 1966, pp21-22, 163-165

¹⁰⁸ Ballara, 1990, p17

¹⁰⁹ Ward, Wai 145, M1, p42

migrated to the Waikanae/Kapiti coast area to flee Waikato vengeance in Taranaki. The Ngati Toa chiefs, and Te Rauparaha in particular directed migrant groups to particular territories – for example, Ngati Tama and Ngati Mutunga to Whanganui-a-Tara and the Ohariu coast respectively. The mana of Ngati Toa and of Te Rauparaha in particular was without doubt widely recognised by the former tangata whenua and allied tribes alike. Te Rangihaeata (Te Rauparaha's nephew) was personally active in assisting Ngati Tama settle on the Ohariu coast, in association with Topine Te Mamaku of Whanganui River.¹¹⁰

Ngati Tama moved east soon afterwards, crossing from Ohariu through Karori to Otari, Pakuao and Tiakiwai and to the important settlement of Kaiwharawhara. Continuing to seek independence and space, some members of Ngati Tama moved around the coast to Palliser Bay. Ngati Tama chiefs who later gave evidence to the Spain Commission (Te Kaeaea and Te Harawira Tutewha) acknowledged their debt to Te Rauparaha in respect to those settlements.¹¹¹

Similarly describing that migratory scenario, the Native Land Court in 1888 recorded that for many years, until the arrival of additional migrations from the North Island about 1827, the country south of Kapiti was mostly occupied by the invaders. The first people to take possession of the Port Nicholson district were the Ngati Mutunga. About that time, Ngati Tama and Ngati Awa settled

¹¹⁰ Ward, 1998, pp8-9

¹¹¹ Ballara, 1990, pp17-18; Burns, 1980, pp125-126; Ward, 1998, p19

at Ohariu and other places on the coast south of Porirua.¹¹² In 1872, Neta te Wheoro said:

Taringakuri was the chief who killed Ngatikahungunu on the Makara. Wi Parata was not with those who took possession of the land at that time, Paratene [te Wheoro] was one of them. I was a girl at the time, Te Rei te Wheoro was there. Paiura [Rangikatuku] was there.¹¹³

During that time Ngati Ira people remained around the eastern and southern shores of Te Whanganui-a-Tara, and Ngati Tama and Ngati Mutunga coexisted with them. That existence came to an end probably in the late 1820s. Ballara explained the occupation of Whanganui-a-Tara as a, “gradual, untidy affair, a series of short sharp clashes and consequent occupation readjustments as Ngati Ira gradually conceded more territory.”¹¹⁴

As Ngati Tama moved into Palliser Bay, it came into contact with Ngati Kahungunu.¹¹⁵ In 1825, Ngati Tama killed the Ngati Kahungunu chief Te Tireoterangi. In 1829, Ngati Tama were defeated by Ngati Kahungunu at Te Tarata and Wharepapa. As a result, a combined force of Ngati Tama, Ati Awa and Ngati Toa came from the Wellington region and defeated Ngati Kahungunu at Pehikatia Pa.¹¹⁶ Ngati Tama subsequently left the Wairarapa and returned to Te Whanganui-a-Tara.

¹¹² Wellington MB 24.3.1888: Bk2/130

¹¹³ Idem

¹¹⁴ Ballara, 1990, pp19-20

¹¹⁵ Ibid, p23

¹¹⁶ Smith, 1910, pp449-456

In 1850, Native Department official Henry Kemp, reflecting on Ngati Tama's clashes with Ngati Kahungunu, described Ngati Tama residing in Wellington as being, "the first who commenced to drive out the Ngatikahungunus, who formerly inhabited the Port Nicholson district".¹¹⁷ In 1843, it appeared that Ngati Tama made some form of separate peace with Ngati Kahungunu when some of its members returned from the Chathams.¹¹⁸

Specific kainga of Ngati Tama in Wellington included Kaiwharawhara, Pakuao and Raurimu (as a result of the first arrival) and Tiakiwai (possibly after the Ngati Mutunga departure) on the harbour; Ohariu, Makara, Ohaua and Oterongo on the western coast; Komangarautawhiri; and summer fishing kainga at Okiwi and Mukamuka to the north.¹¹⁹ However, Ward was of the view that there was no rohe or exclusive boundaries for the newly settled migrant groups. "There were no clear boundaries. I believe it would be a misuse of the concept of rohe to imply that it meant exclusive possession of all rights within a hypothetical boundary drawn by a network of settlements".¹²⁰

In late 1832, a further mixed migration party totalling about two thousand people from several Te Atiawa hapu, collectively known as the Ngamotu tribe, left Taranaki to flee Waikato attacks. Accompanying the Ngamotu party were further groups of Ngati Tama people. That migration, known as Tama te

¹¹⁷ Ballara, 1990, p18

¹¹⁸ Ward, Wai 145, M1, p124

¹¹⁹ Walzl, Wai 145, H7, p16

¹²⁰ Ward, 1998, p16

Uaua, came south and settled under Te Rauparaha's mana at Waikanae where members' relatives were already established.¹²¹

Increasingly, the incoming conquering tribes from Taranaki (and Ngati Raukawa from the late 1820s) were starting to assert some independence from and occupying rights against Ngati Toa. Once the external threat from the Whatonga-descended peoples had diminished, the incoming tribes dissolved back into hapu and other more practical groupings, and as a result began to compete amongst themselves, resulting in the disintegration of Te Rauparaha's alliance (evidenced, for example, by Ngati Mutunga's departure for the Chatham Islands in 1835).

The Haowhenua Battle of 1834 was an illustration of the deterioration of relations between the incoming tribes. One side of that battle comprised Ngati Raukawa; the Whatonga-descended peoples (Rangitane, Ngati Apa and Muaupoko); Ngati Tuwharetoa, Ngati Maru, and Ngati Maniapoto; and the Ngati Kimihia hapu of Ngati Toa under Te Rauparaha. Their opponents were Te Atiawa, assisted by Ngati Mutunga; the recent migrants of Te Heke Paukena (including Taranaki and Ngati Ruanui); and the Ngati Te Maunu hapu of Ngati Toa under Te Hiko, son of Te Peehi Kupe. The outcome of the Battle of Haowhenua was inconclusive and withdrawals were made on both sides.¹²²

¹²¹ Ballara, 1990, pp22-23

¹²² Ibid, p24

The Ngati Tama leader Te Kaeaea took his chance to try and gain some of the recently abandoned land. Twice Te Rauparaha and Te Rangihaeata drove Ngati Tama away; once from Paremata, and once from Mana Island. It was because of that obstinacy that Te Rangihaeata dubbed Te Kaeaea the name 'Taringa Kuri' or Dog's Ear, "because, like a wilful dog, he refused to heed the wishes of Te Rangihaeata."¹²³

After Haowhenua, and as some of their Ngati Tama allies at Kaiwharawhara returned to Taranaki, Ngati Mutunga decided to migrate to the Chatham Islands. On 14 November, 1835, the ship *Rodney* left for the Chathams carrying five hundred Ngati Mutunga, Ngati Tama and others of the Taranaki tribe. On 30 November, 1835 the returning ship picked up the remainder of Ngati Mutunga, and some Ngati Tama also joined the second sailing.¹²⁴

By 1836, the situation in Whanganui-a-Tara around the harbour was still far from secure. Ngati Mutunga people, who, with Ngati Tama had taken Te Whanganui-a-Tara, Heretaunga, and the southwest coast from Ngati Ira, Rakaiwhakairi, and Ngati Kahuraawhitia, had mostly vacated the area. Although many Ngati Tama people had left for the Chathams, the South Island and Wairarapa or returned home to Taranaki, others remained at Kaiwharawhara and environs and at Ohariu.¹²⁵

Gilmore noted that:

¹²³ Ibid, p25

¹²⁴ Ibid, pp26-28

¹²⁵ Ward, Wai 145, M1, pp167, 179

At Ohariu and at Arataua / Komangarautawhiri the record gives a clear indication that that region was the major area of Ngati Tama activity particularly for Te Puoho and his hapu of Ngati Tama. Te Puoho went from Kapiti to Te Horo but after only a short residence he went to Waikanae. He and his party again moved to Komangarautawhiri and then onto the South Island.¹²⁶

The arrival of New Zealand Company agents in September, 1839 to purchase land at Wellington had a major effect on the subsequent history of Ngati Tama and other local tribes. Ngati Tama's involvement in the 1839 Port Nicholson purchase had been through its chief, Taringa Kuri. He had been at most of the meetings held about the proposed transaction, had played a role in deciding the division of trade goods, and had signed the Deed of Purchase on 27 September, 1839. Despite this, he did not believe that the transaction with the New Zealand Company had resulted in the inclusion of Ngati Tama land. The Company had only been given anchorage and port rights to Wellington harbour.

Figure 2.2 maps the boundaries of the Port Nicholson block, showing the 1839 Deed of Purchase area, and the 1844 extension to the southwest coast of Te Whanganui-a-Tara.

¹²⁶ Gilmore, Wai 145, G3

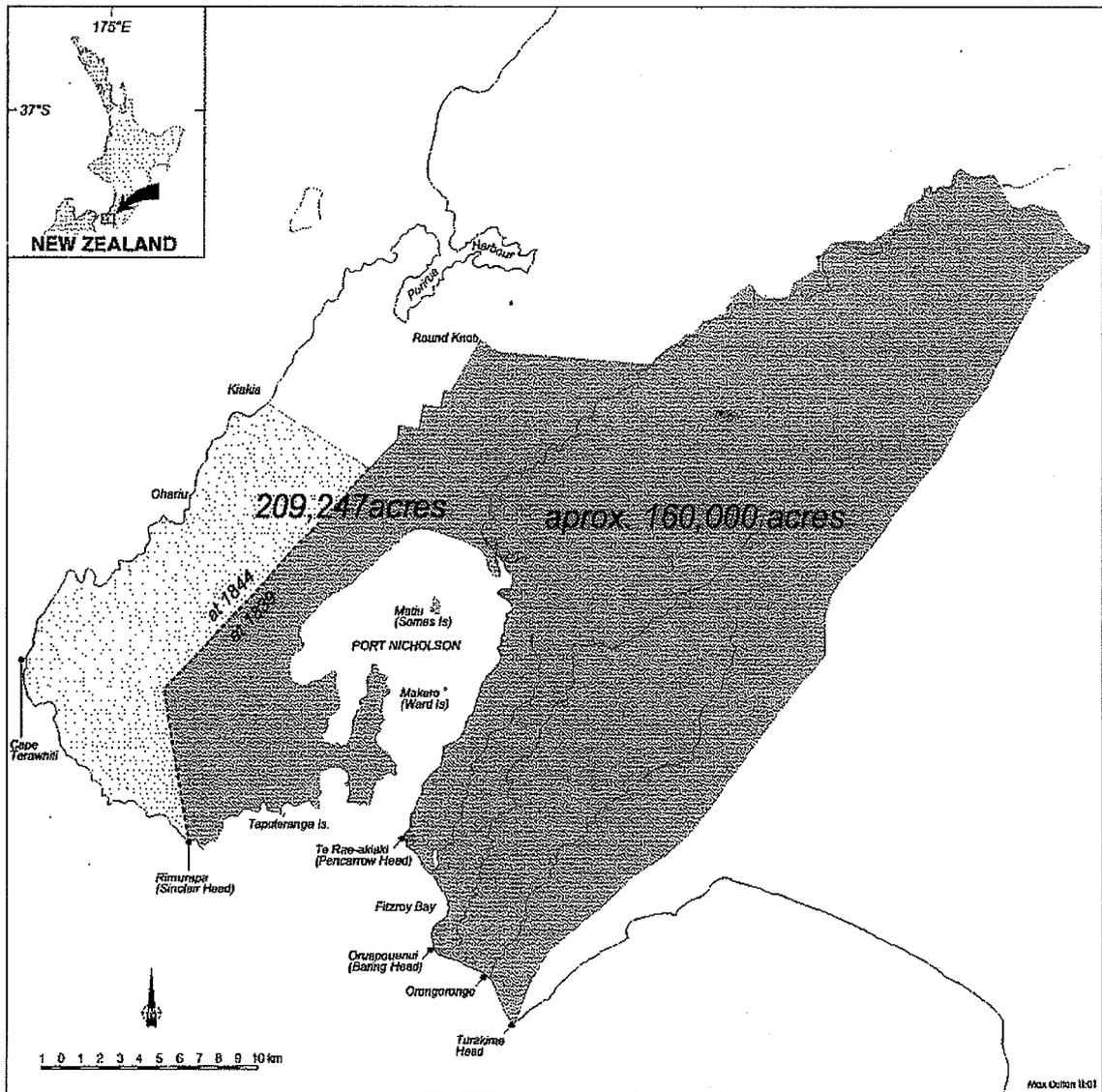


Figure 2.2 Boundaries of Port Nicholson Block¹²⁷

Soon after settlement, problems associated with Maori land surfaced, bringing the various interpretations of the Port Nicholson transaction quickly to the fore. The Crown and the New Zealand Company attempted to solve the problems by seeking arbitration and offering compensation. In the meantime, and aside from this process, Ngati Tama people experienced adverse effects of settlement, which ultimately led to their displacement.

¹²⁷ Waitangi Tribunal, 2003, p2

The Crown set up the Spain Commission to inquire into the Wellington land sales. The commission came to adopt an attitude towards Ngati Tama claims because of Ngati Tama's actions in occupying land in the Hutt, which seriously prejudiced the latter's interests. While the commission noted the numerous faults inherent in the land sales, the findings incorrectly assumed that Te Kaeaea's participation in the Port Nicholson transaction amounted to support for the sale of Ngati Tama land.

Despite protestations from Ngati Tama people, the Crown continued to assist the settlers by making grants of Ngati Tama lands. The impact of Crown action in Whanganui-a-Tara was quite devastating for Ngati Tama; it lost its land and to a large degree its tribal structures and visible tribal identity.

Aware of Ngati Tama's predicament, Governor Fitzroy implemented a compensation policy in 1844. However, there was no consultation process and compensation proceeded in a summary fashion. Those Ngati Tama people living in Kaiwharawhara received their share of the compensation - albeit under protest - while those in Ohariu received no payment whatsoever.

In 1847, McCleverty concluded a series of agreements with Ngati Tama to finally settle the reserves issue. Two hundred Ngati Tama members received 2,600 acres of reserves. Those paltry reserves (averaging about thirteen acres per person) were set aside as compensation. The reserves awarded were inadequate for Ngati Tama's needs, being unsuitable for cultivation, which was the main means of survival.

By 1842, the Ngati Tama people had been forcibly removed from their lands by Crown-assisted settler occupation. They sought refuge in the Hutt Valley where there was more land available and that was better quality and more productive than the reserve land they had been awarded. This occupation was to prove short-lived as Governor Grey evicted Ngati Tama from the Hutt under threat of military intervention in February, 1846. Ngati Tama's cultivations, its sole means of survival, were plundered. The Ngati Tama chief, Te Kaeaea, was exiled to Auckland. The remaining Ngati Tama people sought sanctuary with other iwi and hapu in Wellington or elsewhere, suffered high levels of sickness and mortality, and were forced to sell their reserve land out of necessity. Once the Crown had finished its land acquisition programme, Ngati Tama had virtually no land left. By the 1870's, Ngati Tama had largely been moved from the harbour rim and effectively evicted from its homelands. The impact of this land loss on Ngati Tama's tribal infrastructure was significant. Ngati Tama people were widely scattered. The individuals who survived, many in whanau groupings, lived with other iwi and hapu. However, there was an absence of a contemporary, organised and visible Ngati Tama iwi presence in Wellington; its land base and identity as a local iwi had been lost.

The Ngati Tama experience was not unique. The history of Ngati Tama in Wellington has some similarities with that of Ngati Whatua in Auckland. These tribes were both located in main urban areas. Ngati Whatua sought the right to tribal ownership of its lands, and to speak through its own institutions.¹²⁸ Ngati

¹²⁸ Waitangi Tribunal, 1987, p176

Tama aspired to those same goals. Although both groups were a, “disillusioned, scattered and landless people,” Ngati Whatua - like Ngati Tama – is, “a tribe that has refused to die”.¹²⁹ The Crown’s duty extended to Ngati Whatua retaining land to live, and to be afforded support, maintenance, and sufficient endowment for itself.

The Pakakohi and Tangahoe groups in South Taranaki achieved emergent status and recognition by the government in a similar drive for self-determination as Ngati Tama in Wellington.¹³⁰ In the Taranaki report,¹³¹ Pakakohi and Tangahoe demonstrated to the Waitangi Tribunal that, “they exist today as distinctive and viable entities deserving separate consideration”.¹³² The Tribunal also held the view that it was important that the integrity of the Pakakohi and Tangahoe tradition within Ngati Ruanui was maintained.¹³³

NGATI TAMA KI TE TAU IHU

Prior to the conquest of Te Tau Ihu by the Taranaki and Kawhia tribes between 1828 and 1832, the tribes occupying the top of the South Island area were Ngati Kuia, Ngati Apa and Rangitane. According to Mitchell & Mitchell,¹³⁴ Rangitane was located on the northern Kaikoura coast, Wairau and eastern

¹²⁹ Ibid p2

¹³⁰ Waitangi Tribunal, Pakakohi and Tangahoe Settlement Claims Report, November, 2000

¹³¹ Waitangi Tribunal, 1996

¹³² Ibid, p315

¹³³ Letter from Waitangi Tribunal to Hon Parekura Horomia and Hon Margaret Wilson dated 14 November, 2000

¹³⁴ Mitchell & Mitchell, Wai 102, A4, Chapter 3, p1-3

sounds, with well-established greenstone trails through the upper Wairau, Awatere, Waiau-Toa and other river systems. Ngati Kuia occupied much of the Kaituna, Te Hora, Hoiere, Rangitoto, Whangarae, Wakapuaka and Wakatu districts. Ngati Apa shared Wakatu with Ngati Kuia, and occupied the region westward from Waimea and Moutere and inland to Kawatiri. There may be some doubt about whether these iwi were distinct groups with distinct takiwa. They may in fact have existed as an inter-related whole with joint rights in the Marlborough Sounds and Tasman Bay districts.¹³⁵

Overlapping tribal boundaries were not uncommon. For example, from 1986 Ngai Tahu applied to the Waitangi Tribunal for determination of claimed breaches of the Treaty of Waitangi by the Crown in the South Island. Cross-claims were lodged by the various iwi of Te Tau Ihu over the same lands. The Waitangi Tribunal referred the resolution of those differences to the Maori Appellate Court. The Court heard the Te Tau Ihu iwi claim and gave its decision on 15 November, 1990. It held that Ngai Tahu, according to customary law principles of 'take' and occupation or use, had sole rights to ownership in respect of the lands in dispute.¹³⁶ The decision of the Maori Appellate Court was binding for the purposes of the Waitangi Tribunal.¹³⁷

In 1997-98, Te Tau Ihu iwi filed claims with the Waitangi Tribunal based on asserted territories that extended into the areas covered by the Ngai Tahu settlement - in some cases substantially. In 1998, one of the Te Tau Ihu iwi

¹³⁵ Phillipson, 1995, p12

¹³⁶ Waitangi Tribunal, The Ngai Tahu Claim: Supplementary Report on Ngai Tahu Legal Personality, 1991a, p4

¹³⁷ Treaty of Waitangi Act 1975 s 6A(6)

also sought judicial review of the 1990 Maori Appellate Court decision.¹³⁸ Ngai Tahu sought the right to be heard at the Tribunal hearings of the Te Tau Ihu iwi claims. The Tribunal ruled that Ngai Tahu was to be sent all documents — including submissions — relating to the inquiry, and was allowed to maintain a watching brief at each of the Te Tau Ihu iwi hearings. However, Ngai Tahu would have no rights to cross-examine during the course of claimants' evidence or to make submissions at those claimant hearings. Only after Te Tau Ihu had presented their claim fully could Ngai Tahu request leave to cross-examine or make submissions on the overlapping claims areas. Ngai Tahu brought an application for judicial review against the Tribunal rulings as to jurisdiction and procedure, which was upheld by the High Court.¹³⁹

Appeals to the decision of the Maori Appellate Court were made to the Court of Appeal and the Privy Council. The decisions of these courts were consistent with that of the Maori Appellate Court, finding in favour of Ngai Tahu. While the legal processes had not been to the satisfaction of the Te Tau Ihu iwi, they remained hopeful that the Tribunal report into their claims to the top of the South Island would surrender some of the disputed northern lands of Ngai Tahu.¹⁴⁰

The main kainga of Ngati Tama are illustrated in Figure 2.3, as follows:

¹³⁸ Te Runanga o Ngai Tahu v Waitangi Tribunal [2001] 3 NZLR 87

¹³⁹ *Idem*

¹⁴⁰ Waitangi Tribunal, The Ngai Tahu Claim: Supplementary Report on Ngai Tahu Legal Personality, 1991a, p4

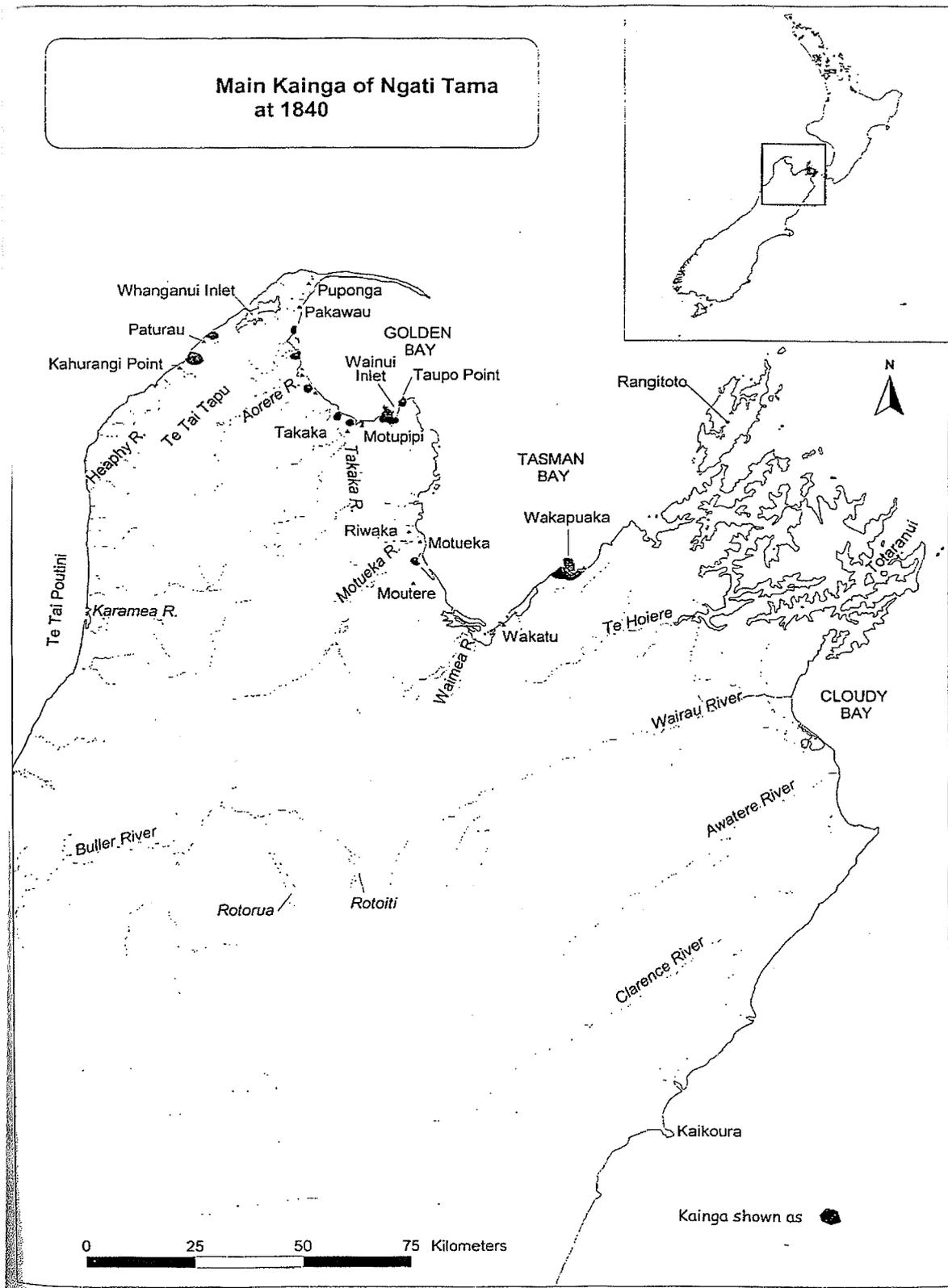


Figure 2.3 Main Kainga of Ngati Tama at 1840 in Te Tau Ihu¹⁴¹

¹⁴¹ Clark, WAI 723, A1, 1999, p131

The role of Ngati Tama in the invasion of Te Tau Ihu, led by Ngati Toa chief Te Rauparaha, “has often been overlooked”.¹⁴² Burns¹⁴³ did not include Ngati Tama in the early taua to Wairau and Kaikoura, and a taua to the north of Te Waipounamu and Kaiapohia. However, she did include Ngati Tama in the taua to Golden Bay and Te Tai Tapu. Buick¹⁴⁴ focused on Te Rauparaha and Ngati Toa to the detriment of all other tribes, including Ngati Tama. MacKay¹⁴⁵ and Allan¹⁴⁶ included Ngati Tama in the early taua, but not in its progression down the east coast. Phillipson¹⁴⁷ did not mention Ngati Tama in the early raids, nor on the east coast, but stated: “According to most Native Land Court evidence, the main tribes involved in the conquest of Tasman and Golden Bays were Ngati Rarua, Ngati Tama and Te Atiawa”. Peart¹⁴⁸ included Ngati Tama in the early raids and the ‘Bay campaign’. Ngati Tama historian, John Mitchell¹⁴⁹ discussed the role of Ngati Tama in the early raids, on the Kaiapoi expedition in 1831, and the drive into the western district. Percy Smith,¹⁵⁰ however, documented Ngati Tama in all levels of the conquest.

Tamihana Te Rauparaha, Te Rauparaha’s son, noted his father’s ambitions to control the pounamu trade and the pakeha musket trade, in order to make himself the great lord who settled many peoples in many lands.¹⁵¹ Such an

¹⁴² Ibid, pp32-33

¹⁴³ Burns, 1980, pp146, 160, 164, 165

¹⁴⁴ Buick, 1911, pp121-188

¹⁴⁵ MacKay, 1873, p46

¹⁴⁶ Allan, 1965, pp23-24

¹⁴⁷ Phillipson, 1995, p22

¹⁴⁸ Peart, 1998, pp 32, 38

¹⁴⁹ Mitchell & Mitchell, Wai 102, A4, Chapter 3, pp29, 34, 37

¹⁵⁰ Percy Smith, 1910, pp423, 427, 436

¹⁵¹ Clark, Wai 723, A1, 1999:p33

aim meant that an invasion of Te Tau Ihu by Ngati Toa was always a distinct possibility.

In 1827, a taua led by Te Rauparaha attacked Rangitane at Totaranui and secured the Wairau/Karauripe district by killing or enslaving the majority of Rangitane inhabitants. Either later that same year or in 1828, a major taua led by Ngati Toa and including Ngati Tama, Ngati Rarua and Te Atiawa raided the Wairau and the Marlborough Sounds. The party captured the areas of Totaranui/Arapaoa, Te Hoiere, Wairau, Awatere and Rangitoto with many Rangitane and Ngati Kuia being killed or enslaved.

Following the conquest of the Sounds a taua raided the east coast of the South Island to Kaikoura utilising a large supply of firearms that was courtesy of Ngati Toa chief Te Peehi Kupe, who had returned with it from England and Australia. Inhabitants of Kaikoura were comprehensively beaten. After this battle the taua moved to Kaiapohia to trade for greenstone. However, upon hearing the news of the devastation of Kaikoura, the people of Kaiapohia retaliated and several Tainui and Te Atiawa chiefs were killed including Te Peehi Kupe, who was killed by the Ngai Tahu chief Tangatahara.

In 1829, the second major raid to the South Island by Ngati Toa, Ngati Rarua and the Taranaki allies occurred. This taua was denied passage through Admiralty Bay and Te Aumiti by Whakatari of Ngati Koata, fearing that Ngati Kuia would be attacked. The taua exacted the conquest of Tasman and Golden Bays, and went on to Whangamoia and Wakapuaka where

Tutepourangi was killed. The fleet then went to Wakatu but finding it empty, continued and over-ran a pa situated at the mouth of the Waimea River. The fleet split at Wakatu, with some members travelling to Waimea by sea and others by land destroying Rangitane, Ngati Apa and Ngati Kuia pa and kainga throughout the Sounds. The party rejoined again at Te Mamaku near Motueka.

Te Puoho participated in the initial conquest of Wakapuaka, Whakatu, Waimea, Moutere and Mohua. At Waimea, Te Puoho fixed his raukura (feather) to a stick and placed a rahui on the land as proof of his being the first to take possession and lay claim to the land.¹⁵²

After the conquest of Tasman and Golden Bays, Ngati Rarua and Takarei Te Whareaitu of Ngati Tama, together with their followers, proceeded to Te Tai Tapu and down the West Coast. Many chiefs of Kurahaupo were killed including Te Rato, chief of Ngati Apa and brother of Tutepourangi of Ngati Kuia. Each tribe acted independently and established outposts in the north west of Golden Bay and Te Tai Tapu, from which Niho and Takarei launched a major assault on the West Coast.¹⁵³ The taua into Te Tai Poutini went as far south as Okarito, conquering every settlement it encountered. Tuhuru, a senior Ngai Tahu chief, was captured near Hokitika and taken back to Rangitoto to pledge homage and pay tribute to Te Rauparaha.

¹⁵² Nelson MB 2, p277

¹⁵³ Nelson MB 1 pp7, 10

In 1830, Te Rauparaha ventured to Banks Peninsula on the brig *Elizabeth* capturing Tamaiharanui and his family and taking them back to Kapiti before killing them.¹⁵⁴ In 1831, a taua of Ngati Toa and Taranaki again raided the east coast of the South Island. Te Rauparaha's return to Kaiapohia resulted in its sacking. Taiaroa, aided by Te Puoho and Paremata, escaped before Kaiapohia fell.

There were a number of retaliatory raids against the new Marlborough Sounds and Wairau factions of Ngati Toa, Ngati Rarua and Te Atiawa by Ngai Tahu from the far southern districts of Otakau, Murihiku and Foveaux Strait, but none succeeded in ousting the conquerors. There did not appear to have been any retaliatory raids on the West Coast, Golden Bay or Tasman Bay. Decisive victories occurred at all settlements with many inhabitants being killed or enslaved. Some inhabitants fled to the hinterlands, but segments of the Kurahaupo tribe continued to live in the region rendering the conquest incomplete.¹⁵⁵ Members of Ngati Kuia, Ngati Apa and Rangitane who had been dispersed across the region ended up co-existing with their conquerors. Following the conquest of Te Tau Ihu, further tribal migrations occurred, which eventually led to its permanent and mass settlement.

Ngati Tama did not go directly to a predetermined destination but travelled around the region viewing the land and posting people to guard its interests. The areas Ngati Tama settled were Golden Bay, Te Tai Tapu, Te Tai Poutini and eastern Tasman Bay at Wakapuaka.

¹⁵⁴ Clark, Wai 723, A1, 1999,p35

¹⁵⁵ Phillipson, 1995, p41

Waitangi Tribunal Claim

Ngati Tama exercised and maintained complete authority over its lands and other resources in some areas, while in others its authority and interests overlapped and was shared with other Te Tau Ihu tribes. Such shared authority and interests were a reflection of the close relationship between those tribes built up over many years including the period prior to the heke south from Taranaki.

Since the early 1840s Ngati Tama and others have sought justice and redress for their grievances against the Crown. On 27 April, 1989, the Wai 102 claim was filed by Te Runanganui o Te Tai Ihu o Te Waka a Maui Inc. on behalf of all Te Tai Ihu tribes; Ngati Koata, Ngati Rarua, Te Atiawa, Ngati Kuia, Ngati Apa, Ngati Toa, Rangitane and Ngati Tama. The northern South Island generic issues affecting all claimant groups included Crown inquiry into customary rights; New Zealand Company transactions; Crown purchases 1847-1860; the administration of reserves; and the operations of the Native Land Court.

The Wai 723 claim was filed with the Tribunal for and on behalf of the tribe of Ngati Tama Ki Te Tau Ihu on 30 January, 1998. The claim related to the purchase, alienation and loss of the ancestral lands, rivers, lakes, forests, seas and foreshores, fisheries, wahi tapu, and all other resources of Ngati Tama effected by or on behalf of the Crown. The principal foundation of the

claim was the series of actions and omissions of the Crown that breached the Treaty from 1840 to 1856.

The grievances specific to Ngati Tama included 'purchases' by the New Zealand Company from non-Ngati Tama and non-residents of the Nelson Provincial districts, concerns with the procedures and consequences of the Spain Commission, and the re-modelling of the Nelson Settlement in 1847, which led to a loss of forty-seven acres of tenths reserves. The Crown Grant of 1848 to the New Zealand Company, the Company's Tenths Reserve scheme, the Wairau purchase of 1847 and the loss of 300 acres of Motueka Tenths Reserves were also included in the claim, as were the Waipounamu transactions and Whakarewa alienations of 1853. The taking of Ngati Tama lands by Order-in-Council; and the loss of ownership, access and control of mahinga kai (cultivations), forests, waterways, customary fisheries and other natural resources including loss of te reo and tikanga Maori, were other examples of Treaty breaches.

Ngati Tama presented its origins, history and grievances against the Crown to the Waitangi Tribunal between 16 and 21 March, 2003. The breaches of the Treaty by the Crown impacted significantly on the Ngati Tama people of the South Island. The effects of those breaches, particularly the erosion of tribal mana and tino rangatiratanga, resonate to the present day. Despite the bitter legacy of loss, dispossession and alienation, however, the Ngati Tama descendants have remained a proud and tenacious people.

Those generations may yet be equipped to face the challenges and obligations of tribal identity; not with uncertainty, hesitation or fear, but rather, with confidence and dignity like their tupuna before them, they will carry the names of their iwi and hapu with pride. Those generations will then face their future responsibilities as an iwi who will be proud of their origins, steeped in their traditions and confident as they move forward to a more certain future.¹⁵⁶

SUMMARY

This chapter focused on the people of Ngati Tama, beginning with their eponymous ancestor, Tama Ariki. It gave a brief historical account of the people and their dealings with others including the migratory voyages from Poutama in Taranaki south to Whanganui a Tara and elsewhere. Today, three autonomous Ngati Tama iwi entities exist: one in Taranaki, another in the South Island, and Ngati Tama ki te Upoko o te Ika in Wellington. While the three iwi collaborate as much as practicable through shared waka traditions and genealogical links, each is responsible for its own affairs including inter-iwi relationships within each rohe, Crown liaison, economic advancement, socio-cultural development, and claim management.

Building on the historical context provided for Ngati Tama, the next three chapters use the example of Ngati Tama ki te Upoko o te Ika in Wellington during the period 1997-2005, and describing its quest for autonomy and the maintenance of a distinctive iwi presence against a backdrop of resistance from some iwi/Maori groups, as well as the Crown.

¹⁵⁶ Closing submissions for Wai 723 claimants, 12 February, 2004

CHAPTER THREE: MANAGING IWI RELATIONSHIPS

INTRODUCTION

This chapter explores two facets relating to the management of a tribe's external relationships. The first part concerns the way in which other bodies, especially other Maori bodies, perceive an urban iwi authority; the second part relates to the commercial opportunities that have potential relevance to a developing tribal organisation.

Central to a tribal entity seeking acceptance by other iwi of its right to represent its members is the notion of how an iwi authority recognises other iwi bodies. Further, what gives those iwi bodies legitimacy? Such legitimisation is the task at hand for an iwi, and is at the core of attempts to develop and manage meaningful relationships with others.

The Ngati Tama ki te Upoko o te Ika Society Incorporated model is again used to illustrate the complexity of these issues in this chapter. Extensive use has been made of tribal records in its research, especially minutes taken at formal meetings. Ngati Tama ki te Upoko o te Ika, with the backing of a nearly 900-member register, and the recognition as an iwi authority by the two other Ngati Tama iwi as well as Ngati Toa, strived to develop and maintain a distinctive iwi presence in the modern urban environment of Wellington. The society

reserved the right through its iwi membership to be the 'voice' for the iwi and to decide who represented it. However, it was also aware of the need to be accepted, implicitly and explicitly, by others. The society was also aware that it faced an uphill battle to earn recognition from Te Atiawa.

PART ONE: POLITICAL RELATIONSHIPS

The vision for Ngati Tama ki te Upoko o te Ika was the creation of an effective and acceptable iwi with all the attendant roles, responsibilities and functions that entails. Gaining broad support and acceptance from the Crown and other iwi and Maori groups was another matter. Setting up the Ngati Tama iwi structure as a legal entity with clear governance and operational responsibilities required an organised response and resources to make the vision materialise.

Developing relationships with iwi and Maori groups and other key agencies was of paramount importance in the re-assertion of Ngati Tama as an iwi in Wellington. In Ngati Tama ki te Upoko o te Ika's strategic plan¹ one of the six critical factors for success relates to developing key relationships with external groups – a factor considered a vital priority in accomplishing the iwi's wider vision and goals. The external groups identified range from Crown agencies through to other iwi and Maori groups and non-governmental organisations. In the first few years of its inception, Ngati Tama ki te Upoko o te Ika was heavily reliant on developing good working relationships with key groups, including

¹ Ngati Tama ki te Upoko o te Ika. Strategic Plan, 2003, p15

other tangata whenua (e.g. Ngati Toa), those with links to its Waitangi Tribunal land claim (e.g. the Office of Treaty Settlements), and service funders (e.g. Te Puni Kokiri).

Ngati Tama ki te Upoko o te Ika

Ngati Tama ki te Upoko o te Ika Society Incorporated was established as a legal entity on 28 March, 2002 to represent and manage the interests of Ngati Tama in Wellington.² The society had a membership register of about 900 people by the end of that year. It also had support from several other iwi who recognised that Ngati Tama ki te Upoko o te Ika held manawhenua status in Wellington; that it represented Ngati Tama's iwi interests, including the Wai 735 claim; and that it was an iwi authority in its own right.

On 20 April, 2002, the first Ngati Tama hui-a-iwi³ was held. Forty-five people were updated on progress with the Waitangi Tribunal claim, confirmed the rules of the society, approved the society as the authoritative legal body representing the interests of Ngati Tama in Wellington, and held an election of officers (see Table 3.1). The hui agreed a claim strategy, and directed the newly appointed runanga members to implement it. The membership of the runanga, the society's governing body, was nothing remarkable. Members' governance experience was minimal, just two had university qualifications, and none had expertise on Maori matters at either a local or national level.

² Ministry of Economic Development, Certificate of Incorporation of Ngati Tama Hapu/iwi Ki te Upoko o te Ika Society Incorporated (WN/1203758), 11 April, 2002

³ Ngati Tama ki te Upoko o te Ika hui-a-iwi report dated 20 April, 2002

Table 3.1 Members of the Runanga

Members	Resident	Occupation
Karewa Arthur (Chairperson)	Porirua	Cultural Advisor
Helmut Modlik	Upper Hutt	Business Consultant
Martha Gilbert	Lower Hutt	Community Worker
Callum Katene	Plimmerton	Computer Consultant
Tarawara Weston	Lower Hutt	Kohanga Reo Advisor
Rama Durie	Wellington	Public Servant
Theresa Solomon	Porirua	Health Worker
Keith Warren	Porirua	Builder

It was important for this relatively small group of individuals to be able to represent and articulate the society's aims clearly, and to defend it from the beginning against accusations from opposing factions that it was not a legitimate representative of Ngati Tama interests in Wellington. Having organised its governance structure (and appointed a Secretary/Treasurer), securing a mandate from its members to report back at various hui became a high priority. This led to the adoption of a dual strategy of, the runanga forming a membership advisory committee of several members to actively recruit members into the society; and a team of runanga members making appointments with the governance bodies of local iwi and other Maori groups to meet with, discuss, and seek support for the establishment of the new Ngati Tama iwi.⁴

⁴ Idem

Another hui-a-iwi⁵ was held on 25 May, 2002 at which progress reports on implementation of the dual strategy and updates from the runanga advisory committees were presented, amongst other matters. Other hui-a-iwi were held for more specific purposes. For example, one hui took the form of workshopping to survey the socio-cultural needs of Ngati Tama people, and another on genealogical research. These were followed up by a number of whanau-based hui over the next several months. Information from such activities formed the basis of a three-year strategic plan - a blueprint for the iwi's future.⁶

On 12 April, 2003 the Annual General Meeting of Ngati Tama ki te Upoko o te Ika was held with about fifty-eight people in attendance. Tony Sole from the Office of Treaty Settlements (OTS) provided the hui with an update on the Wellington land claim. The runanga chairperson presented its Annual Report, which included the iwi's brief history; the contemporary situation; a 'who's who' of the organisation; and the organisation's goals, mission, vision, and values. The hui provided an opportunity for the iwi to focus on its achievements. Highlights of 2002-2003 year were discussed. These included the claim process, three hui-a-iwi, five whanau hui, a wananga, a hikoi to Taranaki, a submission made to the Maori Affairs Select Committee on the Maori Purposes Bill, drafting of the strategic plan, the setting-up of primary health organisations (PHOs), funding applications, regular communications, and the management of iwi, and government agency relationships.⁷

⁵ Ngati Tama ki te Upoko o te Ika hui-a-iwi report dated 25 May, 2002

⁶ Ngati Tama ki te Upoko o te Ika hui-a-iwi report dated 20 July, 2002

⁷ Ngati Tama ki te Upoko o te Ika Annual Report dated 12 April, 2003

A Ngati Tama wananga⁸ was held at Takapuwahia Marae in Porirua on 27-28 September, 2002, with about eighty people attending over the two days. Historian Tony Walzl gave a presentation on the history of Ngati Tama. Handouts were distributed relating to the presentations, and included copies of letters of support from four iwi. Workshop notes were also distributed on issues relating to whakapapa, tikanga and tupuna. Waiata sessions featured (always a permanent fixture on any hui agenda).

On 3 August, 2002, a Katene whanau hui⁹ was held at Taita College Marae in Lower Hutt. The outcome of the hui included an agreement to hold a reunion/wananga at Waiokura Marae, Manaia, Taranaki during Easter of 2003. Two months later the Arthur whanau hui¹⁰ was held at Porirua. Whanau members discussed their relationship and whakapapa connections to Ngati Tama and agreed to 'tautoko te kaupapa o Ngati Tama' (support the purpose of Ngati Tama) in Wellington. They also agreed to organise a wananga for the Arthur whanau in 2003 as a follow-up to their whanau hui and to discuss ways in which they could work towards some specific business opportunities. On 7 December, 2002, the Wikitoa whanau, direct descendants of the Ngati Tama chief, Te Kaeaea held its whanau hui¹¹. Members discussed their whakapapa, their whanau vision and ways to address whanau needs, abilities and skills. On 13-14 December, 2002, the Pourewa Mokena whanau held its hui¹² in

⁸ Ngati Tama ki te Upoko o te Ika Wananga Report dated 27-28 September, 2002

⁹ Ngati Tama ki te Upoko o te Ika Katene whanau report dated 3 August, 2002

¹⁰ Ngati Tama ki te Upoko o te Ika Arthur whanau report dated 19 October, 2002

¹¹ Ngati Tama ki te Upoko o te Ika Wikitoa whanau report dated 7 December, 2002

¹² Ngati Tama ki te Upoko o te Ika Mokena whanau report dated 13-14 December, 2002

Wellington and Waiwhetu. While the main emphasis was on discussing whakapapa, the hui also entailed visiting historic sites of significance in the Wellington area. The Parai whanau held its hui¹³ to coincide with Christmas celebrations. The seven-day hui involved about ninety-five people, with families coming from Australia.

An important issue for the society's discussion at hui related to kawa (custom). A hikoi left from Takapuwahia Marae on 29 November, 2002. Over thirty people set out on the two-day hikoi¹⁴ to Pukearuhe Marae in Taranaki. The purpose of the hikoi was threefold: "to connect with our maunga - Mt Taranaki; connect with the people – Ngati Tama of Taranaki, and connect with the whenua – visit sites of historical significance."¹⁵ The hikoi was considered an essential experience, with good levels of iwi member participation. "That place is our original turangawaewae. It is our mecca, a place to strengthen the soul, the heart, the wairua."¹⁶

Workshops were conducted at Pukearuhe Marae, and included providing support for Ngati Tama Iwi Development Trust's annual general meeting, and its historical Taranaki settlement information hui. Wananga activities included sharing information with Ngati Tama in Taranaki relating to history, culture, whakapapa, tikanga, and waiata; visits to Ngati Tama historic sites; a service at the mountain (Taranaki); and korero from kaumatua and kuia. Regular waiata classes and other cultural activities were also held.

¹³ Ngati Tama ki te Upoko o te Ika Parai report dated 29 December 2002–4 January, 2003

¹⁴ Ngati Tama ki te Upoko o te Ika Hikoi report dated 29 November, 2002

¹⁵ Idem

¹⁶ Participant 9

Flowing on from those activities, four strategic goals were identified to achieve a vision and to implement a mission for the society: first, being a credible iwi authority by achieving recognition and respect for managing and growing the iwi's interests; second, having a strong cultural base (e.g. development of a marae); third, focussing on economic and social advancement by proactively seeking out opportunities that would lead to increased employment, educational and economic advancement; and, fourth, strengthening of the iwi authority by supporting whanau networks.¹⁷

'Ngati Tama ia i haere, Ngati Tama ia e kore i haere' was the iwi authority's mission. The vision is 'Ko Ngati Tama ki te Upoko o te Ika, Te hapai mo te whanau, te hapu, me te iwi' ('Ngati Tama marches in advance of all'). Central to the vision is the coming together of Ngati Tama's greatest asset – its people: "to affirm the iwi's mana and rangatiratanga in Wellington; to know more about themselves, their whakapapa and traditions; and support whanau solidarity and enjoyment; all of this, so that present and future generations are healthy, well educated, with good incomes, and jobs".¹⁸

On 8 May, 2002 Ngati Tama ki te Upoko o te Ika released its first media statement, receiving coverage in Wellington newspaper *The Dominion*.

A group whose land base and visible identity in Wellington as a local iwi was lost, is now staging a comeback, and are pinning their hopes on a Waitangi Tribunal report.¹⁹

¹⁷ Ngati Tama ki te Upoko o te Ika Hikoi report dated 29 November, 2002, p 4

¹⁸ Ibid, p 5

¹⁹ The Dominion, 8 May, 2002

Ngati Tama ki te Upoko o te Ika's website provided another opportunity to share relevant information to iwi members and the general public. The website presented a useful form of inter-communication for iwi members.

Membership registrations for the society as at 30 June, 2005 totalled 896 persons. About one half of the total membership was under eighteen years of age, and there were more females than males. The residential location of members was evenly split between the three areas of Wellington/Hutt Valley, Porirua, and the rest of New Zealand. The latter area included mainly residents of Taranaki and Hamilton, as well as a smaller number living overseas. Anecdotal information gathered from hui-a-iwi, wananga, whanau hui and similar events, suggested that with few kaumatua and kuia existent there was a relatively low level of fluent Maori speakers and those with knowledge of tikanga. In the absence of any reliable data with respect to other demographic factors such as educational attainment, employment and health status, there was nothing to suggest that the society's members were significantly different to the general Maori population in Wellington.²⁰

It was important for the newly established group to firstly gain support from those whanau and individuals with whakapapa links to Ngati Tama tupuna who had lived in Te Whanganui-a-Tara from the 1820s. Next, support had to be sought from other groups, especially the two other recognised Ngati Tama iwi (Taranaki and South Island) and the local iwi of Ngati Toa that had close historical associations with Ngati Tama through shared whakapapa and other

²⁰ Ngati Tama ki te Upoko o te Ika Member Register, 30 June, 2005

connections. Achieving the support of Te Atiawa was considered a distant prospect.

Ngati Tama Iwi Development Trust in Taranaki

The Ngati Tama Iwi Development Trust, based at Pukearuhe north of Waitara, is the iwi authority for Ngati Tama in Taranaki. While settlement of its Treaty claim had been its primary focus since 1987, more recent activities of the Trust include involvement with a local radio station; representation on the Te Korimako o Taranaki Board; involvement with Te Whare Punanga Korero, a representative iwi forum for Maori health policy; and, on the commercial front, a governance role in a fisheries company managing fish quota.²¹

A letter dated 19 March, 2002 was sent by Ngati Tama ki te Upoko o te Ika Society Incorporated to Steve White, the chairperson of the Ngati Tama Iwi Development Trust, seeking its support to act as the iwi authority:

Your endorsement will assist us in representing the interests of Ngati Tama in the Wellington area with confidence and credibility.²²

Subsequently, a hui was held with the trustees of Ngati Tama Iwi Development Trust in New Plymouth on 23 August, 2002. The purpose of the hui was to seek endorsement for Ngati Tama ki te Upoko o te Ika in Wellington.

²¹ Ngati Tama Iwi Development Trust. Annual Report, 2003, pp4-5

²² Letter from Ngati Tama ki te Upoko o te Ika to Steve White, chairperson of Ngati Tama Iwi Development Trust, 19 March, 2002

The outcome of the hui was positive. However, not surprisingly, the Trust was more concerned about representing the interests of Ngati Tama people living in its rohe of Taranaki, and less interested in Ngati Tama matters elsewhere. Nonetheless, the Trust gave its visitors their support on three key points: that Ngati Tama had customary interests in Wellington; that Ngati Tama ki te Upoko o te Ika was the recognised 'voice' representing Ngati Tama interests in Wellington; and that it should begin operating as an iwi authority.²³

The Trust agreed to endorse and support the establishment of the society as the representative and manager of the affairs and interests of the descendants of Ngati Tama people who owned lands in the Wellington region.²⁴ Most importantly, the Trust did not recognise or support any other group that claimed to represent Ngati Tama interests in the Wellington region.²⁵ There was an interesting twist to the expression of support, however:

The Trust's support is made with the understanding that Ngati Tama ki te Upoko o te Ika Society Incorporated works alongside Ngati Toa and Ngati Mutunga, in the best interests of the iwi.²⁶

Ngati Tama Manawhenua Ki Te Tau Ihu Trust from the South Island

Nelson-based Ngati Tama Manawhenua Ki Te Tau Ihu Trust is the recognised iwi authority for Ngati Tama in the South Island, with its own marae situated in

²³ The Trustees included: Steve White (Chairperson), Peter White, Te Aramau Lake, Nora Leatherby, Edward Baker, Davis McLutchie, and Kenny Matuku, with Greg White (Manager).

²⁴ Letter from Steve White, chairperson of Ngati Tama Iwi Development Trust to Ngati Tama ki te Upoko o te Ika, 6 September, 2002

²⁵ Idem

²⁶ Idem

Takaka. The Trust²⁷ manages a profitable fishing business (Tama Fishing Co. Ltd), and owns a valuable four-hectare marine farm with a marine licence in Golden Bay. As an active member of the Treaty Tribes Coalition, the Trust had been closely involved in the ongoing debate of the allocation of fisheries assets, and had been at the forefront of the Marlborough Sounds foreshore and seabed dispute with the Marlborough District Council and the Crown.²⁸

Ngati Tama ki te Upoko o te Ika met with Ngati Tama Manawhenua ki te Tau Ihu Trust in Wellington on 3 May, 2002 to discuss ways in which the groups could work together. The Trust provided copies of its tupuna list and its Trust Deed, and offered to post information to its members living in Wellington. It suggested that Ngati Tama maintain its iwi status. The Trust itself had received substantial Crown Forestry Rental Trust (CFRT) funding, and its advice was to meet with CFRT as it may be relaxing funding criteria to include non-forestry recipients.

The Trust offered its support, including co-operation in developing a Memorandum of Understanding between both iwi in the future. The Trust also strongly encouraged the society to meet with Te Ohu Kai Moana at the earliest opportunity to discuss customary fisheries.

A request was made at that hui for the Trust to provide written support to Ngati Tama ki te Upoko o te Ika, to which it responded positively. Interestingly,

²⁷ Its Trustees included: Fred Te Miha (chairperson), John Ward-Holmes, Moetu Stephens, Hemi Ropata, Phil Sparks, Robert McKewen, Mairangi Reiher, John Mitchell, and Judith Billens

²⁸ Ngati Tama Manawhenua Ki Te Tau Ihu Trust. Annual Report, 2002

Ngati Tama Manawhenua ki te Tau Ihu had requested but not received written support from Ngati Tama Iwi Development Trust in Taranaki when it was established, despite verbal assurance being given.²⁹ The Trust's chairperson formally responded on 30 August, 2002.³⁰

Ngati Tama Manawhenua ki te Tau Ihu Trust recognises Ngati Tama ki te Upoko o te Ika as the representative of Ngati Tama Wellington, possessing a takiwa in Wellington as manawhenua, alongside the other two main iwi, Ngati Toa and Te Atiawa. We encourage local, regional and central governments, including iwi and Maori groups and the public to recognise Ngati Tama ki te Upoko o te Ika's status as an iwi in its own right, and as the representative voice of Ngati Tama in Wellington.

Ngati Toa

Ngati Toa is a tribe belonging to the Tainui waka. Its eponymous ancestor was Toa Rangatira, who lived in the seventeenth century. By 1840, Ngati Toa controlled much of the Cook Strait and had a military and economic power recognised by both Maori and European. Following 1840 Ngati Toa was targeted by the British Government for suppression in order to accelerate colonisation. Ngati Toa lost much of its lands in subsequent decades as a result of government action.³¹

Ngati Tama and Ngati Toa were traditional allies for many generations. Links between them went back to the Tokomaru and Tainui waka. The captain of the former, Tama Ariki, and the captain of the latter, Hoturoa, were brothers.

²⁹ Ngati Tama ki te Upoko o te Ika runanga hui minutes, June, 2002

³⁰ Letter from Fred Te Miha, chairperson of Ngati Tama Manawhenua ki te Tau Ihu Trust to Ngati Tama ki te Upoko o te Ika, 30 August, 2002

³¹ Te Runanga o Toa Rangatira, 2005, p2

The tribal boundaries occupied by Ngati Tama had a high strategic value and Poutama was described as the gateway to Taranaki. The strategic value of Poutama meant Ngati Tama faced numerous raids from northern tribes, particularly Waikato/Maniapoto tribes. Through virtue of numerous strongholds situated along the coast, Ngati Tama held back the power and might of the northern tribes for many generations, often with the assistance of Ngati Toa, which was constantly warring with its Tainui neighbours.

Ngati Tama and Ngati Toa fought alongside each other. For example, at Hingakaka in 1807 Ngati Tama sided with Ngati Toa and other tribes against Waikato and Ngati Maniapoto, and lost.³² Over time their losses outweighed any gains they achieved in the past. It was through Ngati Tama's close association with Ngati Toa that it became involved in the migrations south to Te Whanganui-a-Tara in the 1820s and 1830s with Ngati Toa and other Taranaki tribes. There were mutual opportunities for resettlement, adventure and exploration created by social change due to a number of factors including Ngati Toa chief Te Rauparaha's enforced departure from Kawhia, and Ngati Tama's weakening position in Poutama. Te Rauparaha and Ngati Toa were clearly the main players orchestrating the emigration from Kawhia and Taranaki, and the settlement of the new migrants in Te Whanganui-a-Tara, and the displacement of the previous occupants. Ngati Toa owed much to its allies, as the migratory voyage south was a significant event in New Zealand's history. The allies, including Ngati Tama, were indebted to Ngati Toa as well.

³² Clark, Wai 723 A1, 1999, p16

Te Whanganui-a-Tara had not been a primary area of interest and concern to Ngati Toa. Ngati Toa's 'core zone' (meaning lands settled by and belonging exclusively to Ngati Toa) was Porirua, including Mana and Kapiti Islands; and certain areas in the South Island, most notably the Wairau Valley. Another distinct core area was Rangitoto (D'Urville Island).

Beyond those core areas was a zone in which Ngati Toa interests of various kinds were maintained but to varying degrees other iwi had overlapping or shared interests. That was the case with Wellington and the Hutt Valley, where Ngati Toa was regarded as having legitimate rights and interests, but it wasn't absolute authority to those particular areas.³³

Ngati Toa's current governing authority is Te Runanga o Toa Rangatira, which became an incorporated society on 17 March, 1989. Its principal location is Porirua, centred on marae at Takapuwahia and Hongoeka. The current structuring of the claims and hearings processes of the Waitangi Tribunal has caused some difficulties for Ngati Toa, who found itself responding to the several different claims of others rather than having the opportunity to raise its own concerns in a more comprehensive manner.

Notwithstanding, the Waitangi Tribunal³⁴ found that the Crown failed adequately to recognise, investigate, or take into account the full scale and nature of Ngati Toa's interests in the Port Nicholson block area and failed to adequately compensate Ngati Toa for the loss of such interests or to ensure

³³ Boast R, Wai 145 H8, 1997, pp164-165

³⁴ Waitangi Tribunal, 2003, p481

that it gained an equitable interest in the rural and urban tenths reserves. As a consequence, the Crown failed to protect the customary interests of Ngati Toa in and over the Port Nicholson block and, in particular, Heretaunga. That finding entitled Ngati Toa to compensation for exclusion from the reserves.

The driving force behind the establishment of the Ngati Tama iwi group came from certain individuals within Ngati Toa with Ngati Tama connections. Those individuals had witnessed the Waitangi Tribunal Rekohu Claims hearings process and the early Wellington Tenths claims hearings process in which the Ngati Tama 'story' was not told. Rather, it was subsumed by a pan-Taranaki story from 'umbrella-groups' that purported to represent the views of Ngati Tama (and others) in those areas. The need and desire to assert a Ngati Tama voice in Wellington was apparent, and was consequently spawned during hui at Ngati Toa's Takapuwahia marae, and later in the law offices of legal firm Kensington Swan.³⁵

Support from within Ngati Toa was mixed. Matiu Rei, the Executive Director of Ngati Toa, and others felt that those several Ngati Toa individuals were splitting the iwi. Their concern was that Ngati Toa was too small and needed Ngati Tama's help especially with Ngati Toa's claims. Those individuals did not hold any key positions within Ngati Toa's organisational structure at the time.

³⁵ Notes of hui between Ngati Tama and Kensington Swan lawyers, 17 May, 2002

There was one notable exception - Te Puoho Katene. He was chairperson of Ngati Toa's kaunihera kaumatua (elders council), but he had previously agreed with his cousin, Bill Katene, the runanga chairperson of Ngati Toa, to represent the family in maintaining its Ngati Tama interests.³⁶

On 19 September, 2002, a hui was held between Ngati Tama ki te Upoko o te Ika and Te Runanga O Toa Rangatira at Porirua. The purpose of the hui was to seek support from Ngati Toa to formally recognise Ngati Tama ki te Upoko o te Ika. After much robust discussion, Ngati Toa agreed to support the society. However, the process of securing that support was not without its difficulties. The purpose of the hui was not only to seek formal acknowledgement from Te Runanga o Toa Rangatira for the legitimate right to organise and represent the interests of Ngati Tama in Wellington, but to gain an acknowledgement of some key points: that Ngati Tama had legitimate customary rights in Wellington; that Ngati Tama descendants still lived in Wellington (a growing membership register was proof that a significant proportion of those descendants wished to organise themselves under the new group); and that the two other Ngati Tama iwi (in Taranaki and the South Island) supported Ngati Tama in Wellington.³⁷

The society did not ask Ngati Toa to confirm the legitimacy of the Ngati Tama claim, but rather its right to represent Ngati Tama in Wellington. However, in discussing the matter, the 'real' issue had been the downstream effects (e.g.

³⁶ Participant 1

³⁷ Letter from Steve White, chairperson of Ngati Tama Iwi Development Trust to Ngati Tama ki te Upoko o te Ika, 6 September, 2002; Letter from Fred Te Miha, chairperson of Ngati Tama Manawhenua ki te Tau Ihu Trust to Ngati Tama ki te Upoko o te Ika, 30 August, 2002

claim negotiations and settlements impacting on Ngati Toa). Commercial considerations had also been a factor. The substance of the arguments at the September, 2002 hui was based around two key questions.³⁸ Firstly, what was required from the Ngati Toa runanga? The answer to that question was simply; that Te Runanga O Toa Rangatira formally endorse Ngati Tama ki te Upoko o te Ika as representing and managing the interests of Ngati Tama in Wellington. Secondly, why should Ngati Toa support Ngati Tama in Wellington?³⁹

Historically, Ngati Tama and Ngati Toa had a traditional alliance. Ngati Tama had supported Ngati Toa's campaign to settle in the Wellington region from the 1820s, and Ngati Toa recognised the legitimacy of Ngati Tama's customary rights in Wellington. Ngati Tama ki te Upoko o te Ika supported Ngati Toa in the Wellington land claim heard by the Waitangi Tribunal in 1998. Both groups had been represented at the Tribunal by the same legal counsel. When the society was formally established on 28 March, 2002, it did so with the verbal support of Ngati Toa. Furthermore, Ngati Toa had provided a letter to the Department of Internal Affairs supporting Ngati Tama ki te Upoko o te Ika's funding application to employ a Ngati Tama iwi co-ordinator. The Ngati Tama membership register of nearly 900 people was proof that a sizeable number of Ngati Tama descendants recognised it. A large percentage of those on that register were also of Ngati Toa descent. Other iwi, such as Ngati Tama in Taranaki and Ngati Tama in Nelson, recognised the fledgling iwi and had already provided letters of support. The support of Ngati Tama Iwi

³⁸ Participant 10

³⁹ Idem

Development Trust in Taranaki was made with "the understanding that the group worked alongside of Ngati Toa in the best interests of the iwi".⁴⁰ Those key messages were repeatedly covered during a two-hour intense discussion between the two groups. At the end of the hui, the Ngati Toa runanga put the matter to a vote with a positive outcome. It was then agreed that its executive director, Matiu Rei, draft a letter of support to Ngati Tama ki te Upoko o te Ika for signing within seven days of that hui.

Ngati Tama runanga members were satisfied with the outcome of the hui. On 24 September, 2002, Ngati Toa's chairperson responded in writing to his counterpart in the society referring to the long and continuous relationship between Ngati Tama and Ngati Toa over many generations and stating that:

At the runanga meeting held on 19 September, 2002 in Te Puna Ora, your Trust's request for recognition as the organisation representing the interests of Ngati Tama in the Wellington region was considered. I am pleased to inform you that after vigorous debate, the runanga unanimously supported your Trust's request.⁴¹

Ngaruahine

The Ngaruahine Iwi Authority had been consulted about the Ngati Tama iwi in Wellington. It had close whakapapa connections with its neighbouring iwi, Ngati Ruanui (and Ngati Tupaia hapu), which the Waitangi Tribunal Report⁴² showed had ahi ka and take raupatu rights in Whanganui-a-Tara. Another

⁴⁰ Letter from Steve White, chairperson of Ngati Tama Iwi Development Trust to Ngati Tama ki te Upoko o te Ika, 6 September, 2002

⁴¹ Letter from the chairperson, Te Runanga o Toa Rangatira to chairperson, Ngati Tama ki te Upoko o te Ika, 24 September, 2002

⁴² Waitangi Tribunal, 2003, p479

reason for the consultation was that key Ngati Tama whanau resident in the Wellington area had close genealogical ties to Ngaruahine.

The Rei, Arthur, Manuirirangi, Carr, Katene, Weston, Rupapera and Williams families had regular contact with and recent ties to Waiokura marae in Manaia in Taranaki through Ngati Tu, a major hapu of Ngaruahine. Many of their tupuna had been interred in the local Waiokura urupa.

A participant⁴³ recounted that her tupuna Te Taku (her great-great-great-great grandfather), a younger brother of the Ngati Tama chief Te Puoho, was killed near Poutama in north Taranaki in 1813, prior to the migration south to Te Whanganui-a-Tara. Te Puoho subsequently took Te Taku's widow as his wife and adopted their children, including Paremata Te Wahapiro. The displaced family moved to the South Island in the 1840s from Te Whanganui-a-Tara and then the family (including the participant's great-grandfather) moved back to Wellington in the 1890s. The family (including the grandfather) took his family back to Taranaki in the 1910s to farm at Manaia, rather than further north to Poutama.

On 22 September, 2002, a hui was held at Manaia in Taranaki to brief Ngaruahine Iwi Authority on Ngati Tama and to seek its support. On 5 October, 2002, the vice-chairperson of Ngaruahine wrote on behalf of the trustees, agreeing to, "support the establishment of Ngati Tama ki te Upoko o

⁴³ Participant 9

te Ika as an iwi”⁴⁴ and made the point, “we do not support any other Iwi or non-iwi body as representing or speaking for Ngati Tama in Wellington”.⁴⁵

Ngati Rangatahi

The Taumarunui-based Ngati Rangatahi, a hapu of Ngati Maniapoto, had close links with Ngati Toa historically. It occupied land in the Hutt Valley, which had been granted by the Ngati Toa chiefs Te Rauparaha and his nephew Te Rangihaeata.

The Ngati Rangatahi claim (Wai 366) stated that by the early 1840s the hapu was acting independently of Ngati Toa. Further, it had secured rights to the Hutt Valley land, which it occupied both in terms of Maori custom and in terms of the guarantees contained in Governor Fitzroy’s 1845 Crown grant to the New Zealand Company. However, it lost those rights as a result of forced expulsion from the Hutt Valley by Crown forces in 1846.⁴⁶

The Waitangi Tribunal found that, “by late 1845, Ngati Rangatahi had acquired ahi ka customary rights to land in the Hutt Valley independent of Ngati Toa”,⁴⁷ and that the Crown breached the Treaty principle of active protection of the article two rights of Ngati Rangatahi in Heretaunga.⁴⁸ Subsequently, Ngati Rangatahi moved north from Heretaunga to the Rangitikei and established

⁴⁴ Letter from JH Hooker, vice-chairperson of Ngaruahine Iwi Authority to Karewa Arthur, chairperson of Ngati Tama ki te Upoko o te Ika, 5 October, 2002

⁴⁵ *Idem*

⁴⁶ Waitangi Tribunal, 2003, p10

⁴⁷ *Ibid*, p221

⁴⁸ *Ibid*, p482

kainga at Kakariki. Their marae, Te Hiiri, still stands and the hapu is part of the wider Ngati Raukawa confederation.

A series of hui had been held between Ngati Rangatahi and Ngati Tama ki te Upoko o te Ika during the period 2003-2004. The purpose was for each group to be updated on developments with respect to the Wellington lands claim process.⁴⁹ A hui was held on 30 May, 2003 in Wellington, and another on 30 July, 2003 in Porirua. Ngati Rangatahi was briefed on progress with respect to the claim, and subsequently agreed to recognise Ngati Tama ki te Upoko o te Ika.⁵⁰ On 13 August, 2003, Ngati Rangatahi Trust acknowledged that Ngati Tama ki te Upoko o te Ika represented the iwi interests of Ngati Tama in Wellington, and supported its efforts to re-establish the iwi's tino rangatiratanga in the greater Wellington area.⁵¹

The Crown intended to settle Ngati Rangatahi's historical claims (including those in Heretaunga) as part of comprehensive negotiations with Ngati Maniapoto from the Waikato. As Ngati Rangatahi was not part of the larger natural grouping comprising Taranaki whaanui and/or the Port Nicholson Block claim it was therefore treated separately.⁵² The Crown did, however, acknowledge, that Ngati Rangatahi had overlapping interests in the Port Nicholson Block.⁵³

⁴⁹ Ngati Tama ki te Upoko o te Ika runanga hui minutes, 18 June, 2003

⁵⁰ Ngati Tama ki te Upoko o te Ika runanga hui minutes, 13 August, 2003

⁵¹ Letter from Ngati Rangatahi to Ngati Tama ki te Upoko o te Ika, 3 July, 2003

⁵² Letter from Attorney General to Peter Connor (lawyer for Ngati Rangatahi dated 14 September, 2005

⁵³ Letter from OTS to Robert Herbert of Ngati Rangatahi dated 14 February, 2005

Te Atiawa Iwi Authority

Te Atiawa Iwi Authority (TAIA) is a Hutt Valley-based group primarily focused on social services provision, with input at a governance level from several Taranaki hapu. The Morgan whanau based at Waiwhetu are heavily involved in its operation, and it has contracts from various government agencies including the Department of Corrections, the Justice Department (i.e. crime prevention programmes), Child Youth and Family Services (i.e. whanau development), as well as the Hutt City Council.

TAIA was also interested in having a role in the Port Nicholson block claim. The establishment of TAIA was originally sanctioned by the Wellington Tenths Trust and supported by Te Runanga o Taranaki Whaanui Trust, but the relationship became strained because of the close links of various TAIA personnel to the Ngati Tama group.⁵⁴

Ngati Tama ki te Upoko o te Ika's link with TAIA was through Martha Gilbert, a trustee of both organisations. Members of the society's runanga also had long-standing relationship with TAIA's chairperson, Tata Parata, who had close genealogical links with Ngati Toa. A number of hui were held between the groups to discuss ways to develop a claims strategy and co-ordinate efforts with respect to it. Parata formally conveyed TAIA's support to Ngati Tama ki te Upoko o te Ika on 26 August, 2002.⁵⁵

⁵⁴ Personal communication with Martha Gilbert, 14 October, 2004

⁵⁵ Letter from Te Atiawa Iwi Authority to Ngati Tama ki te Upoko o te Ika, 26 August, 2002

Taura Here

Taura here are people living outside their traditional tribal boundaries. Nga Rauru Tetere is the formal organisation that represents the taura here in the Wellington area. It was important for Ngati Tama ki te Upoko o te Ika to meet with that group as it represents the vast majority of Maori in the Wellington area. More than a courtesy visit, it was an attempt to develop a mutual relationship with a key ally; a relationship built on trust and good faith.

According to the census of 2001, Maori living in the greater Wellington area numbered 40,620.⁵⁶ The local tangata whenua accounted for only 3,999 Maori; a statistical proportion seen similarly in New Zealand's other major urban centres. The balance of 36,621 (ninety percent) were taura here, with many represented by Nga Rauru Tetere through their affiliated iwi. Their influence on contemporary Maori politics in Wellington could not be overstated, so Nga Rauru Tetere's support was very important for the society.

On 21 October, 2002, Te Puoho Katene, Karewa Arthur, Taku Parai and others from the society met with Nga Rauru Tetere members including its chairperson, Tamati Cairns, to discuss ways in which the Ngati Tama iwi as tangata whenua in Wellington could work collaboratively with the main taura here group in Wellington. The taura here was supportive of the society and had a clear understanding of the dynamics involved in working alongside and being accepted by other tangata whenua groups. There was a willingness to

⁵⁶ Statistics New Zealand. Census 2001

engage with the iwi on social/cultural interests and even to share office facilities. Nga Rauru Tetere agreed to partner the iwi in the development of a Primary Health Organisation (PHO) proposal in conjunction with Wellington Independent Practices Association (WIPA). The society valued this important relationship but it was to be tested under new leadership.

On 25 February, 2003, Tiopira Rauna was appointed to the chairperson of Nga Rauru Tetere, controversially replacing the incumbent Tamati Cairns. He confirmed an interest in pursuing a working relationship between the two groups.⁵⁷ A draft Memorandum of Understanding (MoU) was discussed with Rauru Tetere,⁵⁸ and on 18 June, 2003 both parties signed it.⁵⁹ The society formally arranged for Nga Rauru Tetere to become a partner in a Wellington PHO later that year. The relationship was tested throughout 2004 as both groups competed for health contracts. Interestingly that tension never adversely affected the higher-level governance relationship between the two groups.

Other iwi and Maori groups were less forthcoming in their support of Ngati Tama ki te Upoko o te Ika. The reasons were mainly twofold: firstly, most were aware of Te Atiawa/Wellington Tenth's Trust's opposition to the society; and, secondly, those groups tended to be based outside the Wellington area and

⁵⁷ Email from Tiopira Rauna to Ngati Tama ki te Upoko o te Ika dated 26 February, 2003

⁵⁸ Ngati Tama ki te Upoko o te Ika's runanga hui minutes, 5 March, 2003

⁵⁹ Memorandum of Understanding between Ngati Tama ki te Upoko o te Ika and Nga Rauru Tetere, 18 June, 2003

therefore had no direct interest in its local politics -adopting a neutral stance was considered more appropriate.⁶⁰

Ngati Mutunga

In Taranaki, Ngati Mutunga was traditionally Ngati Tama's closest ally. Neighbouring tribes, both were small iwi with close whakapapa connections. While Ngati Mutunga was one of the migrant groups from Taranaki that settled in Te Whanganui-a-Tara from the 1820s, it had left the area, moving to the Chatham Islands in November, 1835.⁶¹ Prior to Ngati Mutunga's departure a meeting took place on Matiu Island at which Ngati Mutunga transferred its rights to land around the harbour.⁶² There were many different accounts of the agreements reached at that meeting in 1835, but most accepted that some kind of formal handing-over of Ngati Mutunga's rights occurred. It was clear from the record that Ngati Mutunga intended their departure from Wellington to be permanent, since members burnt their whare and the bones of their ancestors.⁶³

Ngati Mutunga, with a population of 2,500 (the majority residing outside of Taranaki), is based at Urenui in north Taranaki. It has no Wellington-based group to represent its interests. On 17 September, 2002, a society hui was held with Jamie Tuuta, chairperson designate of the Ngati Mutunga Trust, to brief him on Ngati Tama in Wellington. As a follow-up, a meeting with the full

⁶⁰ Participant 2

⁶¹ Waitangi Tribunal, 2003, pxvii

⁶² Ballara, 1990, p28

⁶³ Ehrhardt, 1992, p25

board of Ngati Mutunga in Taranaki was arranged for 13 October, 2002, where the same matter was discussed. No representation from Ngati Tama was required.

On 10 November, 2002, runanga members of Ngati Tama ki te Upoko o te Ika attended a Ngati Mutunga hui-a-iwi to brief its members and seek their recognition of Ngati Tama ki te Upoko o te Ika as an iwi and the 'voice' of Ngati Tama in Wellington. Issues discussed at the hui included whether the society would support Ngati Mutunga in Wellington, the society's relationship with Te Atiawa, and matters relating to the Wellington land claim. It was agreed that another Ngati Mutunga hui-a-iwi would further consider the society's request for support, and advise a decision later. Unfortunately, that never eventuated. While verbal advice had been given to Ngati Tama⁶⁴ that the Ngati Mutunga hui-a-iwi agreed to support Ngati Tama ki te Upoko o te Ika, no actual letter confirming that support was received.

Ngati Raukawa

Ngati Raukawa's influence throughout the wider region is well recognised, particularly through the efforts of Te Wananga o Raukawa, which is a unique centre of higher learning devoted to Maori knowledge (Matauranga Maori). Te Wananga o Raukawa is a reformulation of an ancient Polynesian institution known as a *whare wananga*, which was a tribal centre of higher learning. The Wananga arose from a joint effort of Te Atiawa, Ngati Raukawa and Ngati

⁶⁴ Personal communication to chairperson of Ngati tama ki te Upoko o te Ika on 30 January, 2003

Toa, known as the ART Confederation (with the acronym coming from the first letters of the three iwi).

The ART Confederation was historically involved in many joint ventures including the establishment of the Otaki Maori Racing Club at the turn of the twentieth century; the building of the Otaki Maori Boys College in 1852; the building of a marae matua (parent marae) named Raukawa in Otaki in 1936; the creation of the Raukawa Marae trustees of sixty-nine members representing the iwi/hapu of the Confederation; the creation of an educational trust board, the Otaki and Porirua Trust Board in 1943; and in August, 1975, the Raukawa Marae trustees began a twenty-five year tribal development experiment known as 'Whakatupuranga Rua Mano - Generation 2000'.

On 25 October, 2002, the society's chairperson wrote a letter to Rupene Waaka, chairperson of Te Runanga o Ngati Raukawa.

We seek your support, and that of your runanga, because of Ngati Tama's close historical and whakapapa ties with Ngati Raukawa, especially since the 1820s as a result of the migration south of a number of iwi including Ngati Toa, Ngati Raukawa, Te Atiawa, and Ngati Mutunga. The decision to re-establish Ngati Tama in Wellington was only made after consultations with Ngati Tama in Taranaki. It was evident that there was a strong need to recognise Ngati Tama's place in Wellington's history, to raise its profile and to provide a socio-cultural 'focus' for Ngati Tama in Wellington.⁶⁵

Four months later, Waaka communicated that his runanga was unable to confirm its support for or against Ngati Tama having maintained a constant

⁶⁵ Letter from Ngati Tama ki te Upoko o te Ika to Ngati Raukawa, 25 October, 2002

presence and identity to the present day and that there were other iwi more strategically situated and positioned to offer comment or opinion.⁶⁶

The runanga of Ngati Tama ki te Upoko o te Ika was disappointed with Raukawa's response and its insistence that a face-to-face meeting was unnecessary. The runanga agreed that Karewa Arthur and Taku Parai should meet with Ngati Raukawa/Ngati Toa kaumatua, Iwi Nicholson, to discuss the matter and a way forward.⁶⁷ While that discussion took place there was no change to Raukawa's position, but there was a verbal commitment to review the decision at a later date.⁶⁸ A change of leadership saw Richard Orzecki replace Waaka as the chairperson of the Ngati Raukawa runanga. Under the new leadership, however, there was still no desire to revisit the previous runanga's decision. Ngati Raukawa appeared to be nervous about endorsing a small iwi and running foul of its own hapu and other iwi in the region.

Ngati Koata

The reasons for Ngati Tama ki te Upoko o te Ika involving the Nelson-based Ngati Koata Trust in the consultation process were a little unclear and the Trust's subsequent lack of support mirrored Ngati Raukawa's reasons, however, Ngati Koata's origins are in Kawhia, like those of Ngati Toa, and key personalities of the trust board and Ngati Tama's runanga had common whakapapa, were well known to each other, and had embraced Mormonism.

⁶⁶ Ngati Tama ki te Upoko o te Ika's runanga hui minutes, 5 March, 2003

⁶⁷ Idem

⁶⁸ Ngati Tama ki te Upoko o te Ika's runanga hui minutes, 12 May, 2003

There had been some tension between Ngati Koata and the Nelson-based Ngati Tama over ownership of a whanau land block called Wakapuaka. Ngati Koata, therefore, was a little perplexed to receive the request for support.⁶⁹ Ngati Koata equivocated, neither declining, or providing support. It did give some encouragement in a letter dated 11 December, 2002:

The board of trustees of Ngati Koata Trust would like to wish you and other trustees all the best in your endeavours.⁷⁰

Like Ngati Raukawa, Ngati Koata's support was not crucial but the Trust would have made a useful ally in securing favourable regional backing for the emergence of a Ngati Tama iwi in Wellington. Clearly, the government agencies and others were more interested in whether Ngati Toa and Te Atiawa supported Ngati Tama ki te Upoko o te Ika because of their close proximity and shared tangata whenua position in Wellington. With Ngati Toa's support already secured, attention turned to Te Atiawa - in particular, Atiawa ki Whakarongotai based in Waikanae. The support of that iwi would help counter the impact of Te Atiawa's (in Hutt Valley/Wellington) opposition.

Atiawa Ki Whakarongotai

The people of Atiawa ki Whakarongotai resident in Waikanae are a hapu of the iwi Te Atiawa based at Waiwhetu, Lower Hutt. Those living at Atiawa ki Whakarongotai have a mixed whakapapa due to Waikanae's strategic location

⁶⁹ Letter from the chairperson of Ngati Tama ki te Upoko o te Ika to Mrs Tiro Paul, chairperson of the Ngati Koata Trust, 25 October, 2002

⁷⁰ Letter from Mrs Tiro Paul, chairperson of the Ngati Koata Trust to the chairperson of Ngati Tama ki te Upoko o te Ika, 11 October, 2002

as a stop-over during the migratory (and subsequent) voyages by sea and foot from Taranaki to Wellington, and also as a springboard to the settlement of Wellington and its environs. The Te Atiawa stronghold is also associated with those having concomitant Ngati Toa and Ngati Tama affiliations.

On 13 October, 2002, Ngati Tama ki te Upoko o te Ika runanga members met with Atiawa ki Whakarongotai's marae committee at Waikanae. The hui comprised about fifty people. The purpose of the hui was to seek support for and recognition of the society by discussing why it was set up, introducing the key players, and outlining its goals and aspirations. The hui followed on from earlier discussions with the runanga chairperson, Jack Rikihana and other runanga members. While there was initial interest (and measured support) in a Ngati Tama iwi in Wellington being established, several major concerns were raised at the hui including the impact on existing fishery quota, the possible loss of people (with Ngati Tama connections) to Ngati Tama, and the potential fall-out with Te Atiawa based in Waiwhetu (which opposed the society's establishment). There was no consensus reached. It was agreed that further hui needed to be held, including a hui with the kaumatua council before any decisions could be made on offering support.⁷¹

On 5 December, 2002, members of Ngati Tama ki te Upoko o te Ika's runanga met with over a dozen members of the kaunihera kaumatua of Atiawa ki Whakarongotai to brief them on the society. They were very cordial and appreciative of the visit, and the briefing. At the end of the hui, the chairperson

⁷¹ Ngati Tama ki te Upoko o te Ika's runanga hui minutes, December, 2002

of the Kaunihera Kaumatua, Paora Ropata, announced that he would write a letter of support recognising the society as being the representative of Ngati Tama interests in Wellington. Subsequent to that hui a letter was received from the Kaunihera Kaumatua supporting Ngati Tama ki te Upoko o te Ika.⁷²

An annoyed Jack Rikihana, chairperson of Te Runanga o Atiawa ki Whakarongotai, did not accept the kaunihera kaumatua's decision, and his attempts to rescind the letter of support failed. However, his refusal to enter into any further discussion on the matter put an end to the society's efforts to meet with Te Runanga o Atiawa ki Whakarongotai. Rikihana's opposition to the society's request appeared to have more to do with his not wanting to be offside with his Te Atiawa colleagues based in Wellington. Nevertheless, the society was disappointed not to secure the runanga's support, too.

Te Atiawa/Wellington Tenths Trust

The iwi Te Atiawa based at Waiwhetu comprises two main hapu; Ngati Hamua and Atiawa ki Whakarongotai. Its principal marae is situated at Waiwhetu. Total iwi membership comprises members from Taranaki (10,152), Te Whanganui-a-Tara (1,233), Te Waipounamu (1,377), and Atiawa ki Whakarongotai (345) and 'region unspecified' (4,929).⁷³

⁷² Letter from Paora Ropata, chairperson of Atiawa ki Whakarongotai kaumatua kaunihera to chairperson, Ngati Tama ki te Upoko o te Ika, December, 2002

⁷³ Statistics New Zealand, 2001

The Wellington Tenths Trust, established to administer Maori Reserve Lands, is a very influential group of mainly Te Atiawa trustees. The Reserve lands have beneficial owners descended from Te Atiawa, Ngati Tupaia (of Ngati Ruanui), Ngati Haumia (of Taranaki iwi), and Ngati Tama tupuna, which were all resident in Wellington in 1840. The Trust's origins stem from the 1839 Deed of Purchase concluded by William Wakefield on behalf of the New Zealand Company, which promised the local chiefs that:

A portion of the land ceded by them, equal to one-tenth part of the whole, will be reserved by...the New Zealand Land Company...and held in trust by them for the future benefit of the said chiefs, their families, and their heirs forever.⁷⁴

The tenths reserves were not vested in the New Zealand Company but were reserved by the Crown for the benefit of Maori. In 1847, McCleverty assigned to Maori certain parcels of land, which became the base holdings for the Wellington Tenths Trust. In 1888, the Native Land Court determined a beneficial ownership list based on those Maori resident in Wellington in 1840. A Commissioner of Native Reserves first administered the reserves from 1848 to 1882, and then from 1887 to 1923 the administration was with the Public Trustee. In 1923, the administration transferred to the Maori Trustee until 1977 when a custodial trustee (from the New Zealand Custodial Trust) was appointed along with a set of management trustees appointed by the Maori Land Court. The Wellington Tenths Trust was constituted by the Maori Land Court Order of 5 November, 1999 pursuant to section 244 of Te Ture Whenua Maori Act 1993, with some 5,000 owners.

⁷⁴ New Zealand Company. Deed of Purchase, 1839

Te Runanganui o Taranaki Whaanui ki te Upoko o te Ika a Maui was established in the late 1980s. Its mainly Te Atiawa members are comprised of Taranaki whaanui mainly from the Hutt Valley. It contracts extensively with central and local government agencies to deliver a range of social services including radio, health, resource management and customary fisheries to a diverse group of Maori and non-Maori.⁷⁵ In order for Ngati Tama to survive in Te Whanganui-a-Tara it had to maintain strong links with its traditional allies (i.e. those with which it had shared traditions of waka and whakapapa), and its former neighbouring iwi (i.e. Ngati Mutunga and Te Atiawa), as well as keep strategic alliances with the Kawhia tribes.

Te Atiawa and the Wellington Tenths Trust represented Ngati Tama's interests in Wellington. Over time, Te Atiawa came to regard Ngati Tama as one of its hapu. The Tenths Trust considered many of its beneficiaries and shareholders to be of Ngati Tama descent. Neither group (Te Atiawa or the Wellington Tenths Trust) were amenable to giving up or sharing the right to represent Ngati Tama. They were steadfast in not recognising any other group purporting to represent Ngati Tama, even though the Tenths Trust could not possibly represent the views of those who were not shareholders or beneficiaries of that Trust – many of which were from Ngati Toa.⁷⁶

Ballara (1998) offered an historical and contemporary viewpoint of the formation of iwi and tribal confederations including Te Arawa, Muriwhenua

⁷⁵ Participant 6

⁷⁶ Idem

and Ngai Tahu.⁷⁷ It has relevance to the broad coalition of iwi, hapu, whanau, and marae groups represented by the Te Runanganui o Taranaki Whaanui and the Wellington Tenth Trust, including the PNBC. An understanding of the Crown's role in the formation of those iwi groupings is important when considering the contemporary situation in Wellington today. The subjugation of many separate tribal identities had occurred because of the Crown's insistence for 'large natural groupings' and more manageable groups with which to not only negotiate and settle claims but to work with on a day-to-day basis through its various government departments (e.g. health, education) on policy, service delivery and other related matters. Such forcing of alliances meant those 'umbrella' structures became the accepted norm for pakeha and Maori, many of whom did not wish to accept that a different situation might have existed.⁷⁸

Ngati Tama ki te Upoko o te Ika encountered difficulties trying to develop a relationship with Te Atiawa and the Wellington Tenth Trust. On 15 August, 2002 a hui was held with Te Atiawa, the Wellington Tenth Trust and Te Runanganui o Taranaki Whaanui Trust. The purpose of that hui was to seek support for Ngati Tama ki te Upoko o te Ika as a recognised iwi authority for customary fishery purposes, but no agreement on the topic was reached. Te Atiawa's input was to argue for a collective approach in dealing with the Crown rather than resorting to separate representation.⁷⁹

⁷⁷ Ballara, 1998

⁷⁸ Waymouth LJ, Waitaha, Katimamoe, Kaitahu: Identity boundaries, MA thesis, University of Auckland, Auckland, 1998, p3

⁷⁹ Ngati Tama ki te Upoko o te Ika's runanga hui minutes, September, 2002

It was agreed that another hui be arranged at Waiwhetu marae for the Te Atiawa people as soon as practicable to discuss the matter further.⁸⁰ Despite requests for information about the proposed hui, no firm dates were set. Instead, on 19 August, 2002, representatives of those core Te Atiawa groups informed Te Ohu Kai Moana that, “the Wellington Tenths and Te Runanganui o Taranaki Whaanui both provided representation for Ngati Tama people who whakapapa to Wellington families”.⁸¹ The opposition to setting up a separate Iwi authority under the auspices of Ngati Tama ki te Upoko o te Ika seemed to intensify from that point. Runanga members of Ngati Tama ki te Upoko o te Ika were considered to be divisive, not interested in a unified approach and merely a faction of Ngati Toa wanting to make a second claim under the mantle of a separate group.⁸²

As a consequence of Te Atiawa's response, Ngati Tama ki te Upoko o te Ika encountered resistance from other groups. Various government agencies began to question the validity of the society's assertions. Applications from the society to local and regional government for funding and membership on their respective Maori committees were declined. The reaction from central government agencies was not dissimilar. Significantly, Te Ohu Kai Moana was found to be unhelpful whereas Te Puni Kokiri and various health and social service agencies were at least approachable.

⁸⁰ Idem

⁸¹ Letter from Dr Ngatata Love, chairperson of Wellington Tenths Trust, Kara Puketapu, CEO of Te Runanganui o Taranaki Whaanui, Neville Baker, chairperson of Te Runanganui o Taranaki Whaanui, Toa Pomare of Ngati Mutunga, and Morrie Love of Atiawa nui tonu, to Te Ohu Kai Moana, 19 August, 2002; Ngati Tama ki te Upoko o te Ika's runanga hui minutes, December, 2002

⁸² Letter from Ngatata Love to Hampton of the Office of Treaty Settlements, 20 January, 2004

The society was taken by surprise at the level of opposition shown by some government agencies to it. Such opposition could possibly have been a clear breach of the Treaty, as the Crown cannot assume to exclude an alleged if not bonafide iwi from its consultation and participatory processes.⁸³

The 19 August, 2002 letter⁸⁴, which had been circulated to local, regional and central government agencies as well as some Members of Parliament, was also copied to the Manager of OTS who, as a courtesy, provided a copy to the society on 29 August, 2002. Ngati Tama ki te Upoko o te Ika hastily replied that it:

Recognised neither of those organisations, and considered neither to be an iwi as such. On the other hand Ngati Tama ki te Upoko o te Ika was acknowledged by other Ngati Tama iwi as being the legitimate representative of Ngati Tama interests in Wellington.⁸⁵

Nonetheless, the 19 August, 2002 letter made it clear to everyone that the Ngati Tama descendants of Wellington families would continue to be represented in the umbrella organisation that would settle the Te Atiawa/Taranaki whaanui claims for Wellington. This view seemed to pre-empt the findings of the Waitangi Tribunal Report on Wellington lands, which had yet to be publicly released. Therefore, any discussion about Ngati Tama was considered premature. Again, in the 19 August, 2002 letter, the concern was raised that a separate Ngati Tama organisation would split those in Wellington

⁸³ Participant 8

⁸⁴ Letter from Dr Ngatata Love of Wellington Tenths Trust, Kara Puketapu and Neville Baker of Te Runanganui o Taranaki Whaanui, Toa Pomare of Ngati Mutunga, and Morrie Love of Atiawa nui tonu, to Te Ohu Kai Moana, 19 August, 2002; Ngati Tama ki te Upoko o te Ika's Runanga hui minutes, December, 2002

⁸⁵ Letter from Ngati Tama ki te Upoko o te Ika to OTS, 16 October, 2002

who had direct Ngati Tama ancestry.⁸⁶ What had been overlooked was that the establishment of a Ngati Tama iwi entity in Wellington might actually have enabled all Ngati Tama people to unite together under one authority. The letter inferred that if the society was to have a role it would be to help its people register with the Port Nicholson Block Claim (PNBC), which the society considered to have been established largely through the initiative of the Wellington Tenths Trust, and therefore not tribally based.⁸⁷ The five signatories to the letter insisted that Ngati Tama ki te Upoko o te Ika should:

Take a participatory role with the PNBC working party, to assist those who should be registered with that claim to ensure they are then able to contribute to the settlement process, which will determine land decisions.⁸⁸

Ngati Tama ki te Upoko o te Ika preferred instead to take an active participatory role in the claims working party including Crown negotiations with respect to Ngati Tama matters, and to not only assist in the registration process but to provide meaningful input and leadership where appropriate.

At the earlier hui of 15 August, 2002,⁸⁹ Dr Ngatata Love and Kara Puketapu gave an undertaking to meet with their respective Trust and iwi constituents to discuss the matter. A reminder letter from Ngati Tama ki te Upoko o te Ika to Kara Puketapu stated:

⁸⁶ Idem

⁸⁷ Deed of Mandate Assessment briefing to the Minister in Charge of Treaty of Waitangi Negotiations from the Office of Treaty Settlements dated 27 January, 2004, p4

⁸⁸ Letter from Dr Ngatata Love et al to Te Ohu Kai Moana, 19 August, 2002

⁸⁹ Ngati Tama ki te Upoko o te Ika's runanga hui minutes, September, 2002

It was agreed that you would organise a hui at Waiwhetu Marae at the earliest opportunity to discuss the matter further and more importantly to involve “the people” i.e. the Te Atiawa iwi, and others.⁹⁰

The hui to be arranged by Kara Puketapu, which would have included the people of Te Atiawa and Ngati Tama ki te Upoko o te Ika did not occur, even though in a subsequent letter dated 27 September, 2002 an undertaking had been given that it would.⁹¹ It was in that context that Ngati Tama ki te Upoko o te Ika had to carefully manage its relationship with the PNBC, especially with its leaders. They were the same Te Atiawa leaders who had challenged the emergence of a separate Ngati Tama entity in Wellington and in particular Ngati Tama ki te Upoko o te Ika’s involvement in the Wellington land claim.

There seemed to be an attempt to prevent the growing acceptance of Ngati Tama ki te Upoko o te Ika within the wider iwi and Maori communities of Wellington. It appeared that the local, regional and central governments were keen to support the status quo of non-recognition, and became guarded in their dealings with the society consequently.

There had been a lot of rhetoric at various hui and community meetings about the emergence of Ngati Tama ki te Upoko o te Ika. Statements to the media had been less than complimentary. For example, a local Te Atiawa kaumatua was reported as saying, “Ngati Tama was seeking separate settlement of Waitangi Treaty claims”,⁹² despite evidence from the society to the contrary.

⁹⁰ Letter from Ngati Tama ki te Upoko o te Ika to Kara Puketapu, 18 September, 2002

⁹¹ Letter from Kara Puketapu to Ngati Tama ki te Upoko o te Ika, 27 September, 2002

⁹² Evening Post, 7 December, 2002

We support the Crown's intentions that one comprehensive settlement for Wellington is reached for all historical claims and grievances for all Maori who descend from tupuna of the Taranaki tribes who exercised customary interests in the Wellington area at the time of the Treaty.⁹³

Claims were made that Ngati Tama was a hapu of Te Atiawa and not a separate tribe.⁹⁴ Those remarks served no useful purpose and demonstrated Te Atiawa's interest in not wanting to change the status quo, and in preventing a 'ginger group' from being set up in competition to it. The extent of the opposition was a great concern to the society.

At the 15 August, 2002 hui, with representatives of the Wellington Tenths Trust, Te Atiawa, and others discussing Ngati Tama ki te Upoko o te Ika's bid to Te Ohu Kai Moana for iwi recognition, it came as a surprise that OTS was provided with a copy of the file note from a PNBC trustee suggesting that the meeting was with the claimant group Ngati Tama and other members of the PNBC:

The discussion focused on the Port Nicholson Block Claim process and the place of Ngati Tama Incorporated within that framework. Furthermore, that it was made clear at the completion of the hui that Ngati Tama Incorporated had agreed to participate fully in the proposed settlement process as outlined to OTS.⁹⁵

It was an interesting twist of events to organise a hui to discuss customary fishery matters related to a bid for iwi recognition by Te Ohu Kai Moana, and then to have that hui mis-represented as a hui to discuss something else (i.e.

⁹³ Letter from Ngati Tama ki te Upoko o te Ika, to Dr Ngatata Love as Chairperson of the Port Nicholson Block claim interim working party, and copied to Andrew Hampton, the Director of the Office of Treaty Settlements, 5 November, 2002

⁹⁴ Evening Post, 7 December, 2002

⁹⁵ Mark Te One of PNBC, Filenote of 15 August, 2002 hui copied to OTS

a land claim), and have that information conveyed to a government agency, OTS.

Ironically, it was the taura here (non-tangata whenua) groups in Wellington that showed strong initial support for a separate Ngati Tama iwi group. The reason for that was that in the past the taura here group had experienced their own difficulties building satisfactory working relationships with the local tangata whenua groups.

The Wellington Tenths Trust was another key group for Ngati Tama ki te Upoko o te Ika to gain support from. It was naive of the society to imagine that such a formidable group with considerable financial holdings would place at risk its properties and assets. Established pursuant to section 438 of the Maori Affairs Act 1953, the Trust is only able to directly represent the interests of its beneficiaries; those individuals and their descendants who were named as owners in reserves in the Wellington region in the nineteenth century. Remarkably, the Waitangi Tribunal commented on the inability of those trust structures to represent collective interests.⁹⁶ Nevertheless, key individuals with influence and an expert knowledge of government systems and parliamentary processes had other ideas. It would have been an uphill battle for the Ngati Tama leaders to even begin to persuade their Te Atiawa counterparts of the merits of separate Ngati Tama representation.

⁹⁶ Waitangi Tribunal, 2000 (as discussed in *Kaupapa Tuatahi* in relation to the Parininihi ki Waitotara Maori Land Incorporation)

Summary of Part One

Part One has demonstrated how iwi and Maori groups positioned themselves and defined their relationship with the new iwi, Ngati Tama ki te Upoko o te Ika. The complexities of iwi/Maori dynamics in Wellington, is clearly evident. The land claim had the potential to transform and reshape the local political landscape, yet there were clear signs of resistance to change. It was in the context of these uncertainties that the Te Atiawa aligned coalition (including the Wellington Tenth Trust and Atiawa Ki Whakarongotai) resisted attempts by the iwi authority for separate recognition of Ngati Tama in Wellington. However, it should be recognised that there were members of Te Atiawa who did not agree with their iwi's stance, and who privately gave tacit support to the society, but their numbers and influence were not significant.

Ngati Toa remained Ngati Tama ki te Upoko o te Ika's closest ally although its leadership was divided over how to express its support. The response of various groups to Ngati Tama ki te Upoko o te Ika was of a cautious and curious nature, the full impact of which was to become manifest later as the society widened its influence to include various business prospects and seek new commercial relationships.

While the first part of this chapter has focused on iwi external relationships, the second part involves contact with other non-iwi groups including Crown agencies.

PART TWO: COMMERCIAL RELATIONSHIPS

The purpose of the second part of this chapter is to examine relationships emanating from business opportunities available to the Ngati Tama society. It considers the politics, contested entitlements to fisheries, health and social service provision, conservation and range of its government and other contracts.

The financial viability of Ngati Tama ki te Upoko o te Ika was crucial in order for it to function and operate as an iwi should. Holding regular hui and covering ongoing secretarial and administration costs is a routine part of 'doing business' for an iwi. Maintaining an iwi presence in the modern urban environment of Wellington requires resourcing. Securing contracts for services from government departments was one way to become self-sufficient. Another way was to claim entitlement to traditional resource rights of the iwi.

In asserting a Ngati Tama voice, it was important for Ngati Tama ki te Upoko o te Ika to seek recognition of its iwi status from the Crown, having already consulted on this matter with other iwi to a mixed reception.

Fisheries

On 7 May, 2002, Ngati Tama ki te Upoko o te Ika wrote to Te Ohu Kai Moana (TOKM) to express interest in being recognised as an iwi for customary

fisheries purposes.⁹⁷ TOKM's reply of 13 May, 2002 included a copy of the commission's 1996 panui, or set of guidelines, which outline the criteria for recognition as an iwi by the Crown entity. Those criteria or essential characteristics of iwi are shared descent from tupuna; having hapu and marae; belonging historically to a takiwa; and being traditionally acknowledged by other iwi. Ngati Tama ki te Upoko o te Ika's response was swift and comprehensive as it was sure that it could present a good case for each of the five criteria.

The society was confident that it met the first criterion of shared descent from tupuna. Its members had whakapapa ties to Ngati Tama tupuna who participated in the heke south to the Wellington area in a series of migrations from Taranaki during the 1820s.⁹⁸ Those original Ngati Tama tupuna in turn had whakapapa connections back to their eponymous ancestor, Tama Ariki, one of the captains of the Tokomaru waka. That ancestral lineage was the same as two other Ngati Tama iwi already recognised by TOKM and the Crown; Ngati Tama Iwi Development Trust (Taranaki) and Ngati Tama Manawhenua Ki Te Tau Ihu Trust (Nelson).

Under the second criterion relating to hapu, Ngati Tama ki te Upoko o te Ika had been aware of hapu that migrated to Whanganui-a-Tara from Taranaki. Ngati Kuera of Otari and Ngati Tu of Ohariu had been known by their living descendants. Ngati Wai of Kaiwharawhara was the hapu of the Ngati Tama

⁹⁷ Letter from Ngati Tama ki te Upoko o te Ika to Robin Hapi, CEO of Te Ohu Kai Moana, 7 May, 2002

⁹⁸ Letter from Ngati Tama ki te Upoko o te Ika to TOKM, 20 May, 2002

chief, Te Kaeaea. His descendants were large in number and belonged to the Ngati Tama Te Kaeaea Trust. Other hapu, less known, were Ngati Rongonui of Ohariu and Tiakiwai, and Ngati Ruru of Ohariu.

The third criterion related to Ngati Tama having existing marae in Wellington. This was difficult to argue as there had been a number of original Ngati Tama marae in Wellington but they had all been destroyed over a century earlier. There was no existing marae in Wellington that was specifically Ngati Tama. Marae that had been erected earlier throughout Wellington were located in the Ohariu and Kaiwharawhara areas, and also at Ohau, Oterongo, and Pakuao. Raurimu was the site of a Ngati Tama marae, which was situated on what is now Thorndon Quay. Tiakiwai, which Ngati Tama occupied after the departure of Ngati Mutunga for the Chatham Islands, was situated on the current site of Hobson Street. The current Te Tatau o te Po Marae, situated on Old Hutt Rd in Petone, is widely regarded as a Wellington-based marae for all Taranaki iwi - but for all intents and purposes it is a Te Atiawa marae – a home for the Ngati Te Whiti section of the populous Te Atiawa tribe, and one which prominently displays a painting of their chief, Te Puni.

Ngati Tama ki te Upoko o te Ika provided evidence to TOKM that it belonged historically to a takiwa to qualify it for the fourth criterion (the basis for the Wellington claim, and the Waitangi Tribunal report, which validated it was not to be released publicly for another year). The iwi authority derived its evidence from various sources. Firstly, evidence from oral history passed down through the old people of each generation in a continuous line. Secondly, the iwi

commissioned expert historians to report on their claims to the Waitangi Tribunal.⁹⁹ It was pointed out to TOKM that although Ngati Tama did not maintain exclusive rangatiratanga over the entire Wellington region, it did claim a significant interest along with Ngati Toa and Te Atiawa.

The nature of Ngati Tama's iwi interests in Wellington could be determined not only on the basis of scattered occupations or cultivations from the 1820s, but through ahi ka – the eight or nine generations of descendants from the original Ngati Tama tupuna who left their homeland in Taranaki to settle and stay in the Wellington region.

Evidence collated by Walzl¹⁰⁰ and Ward,¹⁰¹ supported claims that Ngati Tama had, “significant interests at Ohariu and Kaiwharawhara, and lesser interests in between”. The evidence is clear that people of that tribe came to the Ohariu\Makara coast after Waiorua, and moved through the Karori valley to Otari, Raurimu, Kaiwharawhara, Pakuao and, eventually, Tiakiwai”.¹⁰² The lands were clearly within the core areas for Ngati Tama and the other iwi who resided in Wellington at that time.

Ngati Tama also retained their settlement at Kaiwharawhara - a fact acknowledged by all - together with interests in Otari and Raurimu, Paekaka,

⁹⁹ Walzl T, Ngati Tama in Wellington, 1820 – 1920, Wai 145, H7, May, 1997; Ward A. Maori Customary Interests in the Port Nicholson District: 1820s to 1840s, Wai 145 M1, 1998

¹⁰⁰ Walzl T, Ngati Tama in Wellington, 1820 – 1920, Wai 145, H7, May, 1997

¹⁰¹ Ward A, Maori Customary Interests in the Port Nicholson District: 1820s to 1840s, Wai 145 M1, October, 1998

¹⁰² Ibid, p91

Te Pakuao and Tiakiwai in the Thorndon area.¹⁰³ As Walzl showed, Ngati Tama had strengthened its presence in the Thorndon locations after Ngati Mutunga had abandoned them in favour of migrating to the Chatham Islands.

Under the fifth criterion - existence traditionally acknowledged by other iwi - Ngati Tama ki te Upoko o te Ika considered that Ngati Tama had longstanding customary interests in the Wellington area. The two main iwi in Wellington (Ngati Toa and Te Atiawa) recognised Ngati Tama as having interests there, but only Ngati Toa recognised Ngati Tama ki te Upoko o te Ika as representing those interests.

Three months later (on 1 August, 2002), TOKM replied¹⁰⁴ seeking more detailed information, with a tight deadline for it of 26 August, 2002. In particular, TOKM sought more information about the level of local support from other iwi including Ngati Toa, Te Atiawa and Wellington Tenth's Trust. The following day, Ngati Tama ki te Upoko o te Ika wrote to Ngati Toa, the Wellington Tenth's Trust and Te Runanganui o Taranaki Whaanui Trust requesting their support and assistance. The matter was urgent considering TOKM was due to finalise the proposed Optimum Method of Allocation for fishery assets.¹⁰⁵

To ensure that the information required was conveyed accurately, a draft of the 2 August, 2002 letter was sent via email to Jack Morris of TOKM for his

¹⁰³ Ibid, p167

¹⁰⁴ Letter from TOKM to Ngati Tama ki te Upoko o te Ika, 1 August, 2002

¹⁰⁵ Letter from Ngati Tama ki te Upoko o te Ika to Ngati Toa, Wellington Tenth's Trust, and Te Runanganui O Taranaki Whaanui, 2 August, 2002

input. His feedback related to how to draft the questions, and included the following suggestions, which were reproduced in the final letter. Under the 'marae' criterion he suggested the phrasing, "seek support for our claim that Te Tatau o te Po is an iwi kainga of Ngati Tama ki te Upoko o te Ika". Under the 'belonged traditionally to a takiwa' criterion he suggested, "seek support for our claim that Ngati Tama ki te Upoko o te Ika possess a takiwa in Te Whanganui-a-Tara today as tangata whenua alongside other iwi". Under the criterion 'existence traditionally acknowledged by other iwi' he suggested the phrasing "we seek support for our claim that Ngati Tama ki te Upoko o te Ika continue to exercise an existence traditionally acknowledged by other iwi as 'tangata whenua' in Wellington". Morris provided no suggested wording around the two other criteria (i.e. hapu and shared descent from tupuna).

The content of the letter of 2 August, 2002¹⁰⁶ was the context for the 15 August, 2002 hui with the Wellington Tenths Trust and Te Runanganui o Taranaki Whaanui; and the subsequent 19 August, 2002 letter¹⁰⁷ to TOKM from Dr Ngatata Love et al. asserting that their groups would provide representation for Ngati Tama people in Wellington, and that the society would take a participatory role with the PNBC working party to assist those already registered.

¹⁰⁶ Idem

¹⁰⁷ Letter from Dr Ngatata Love, Chairperson of Wellington Tenths Trust, Kara Puketapu, CEO of Te Runanganui o Taranaki Whanui, Neville Baker, chairperson of Te Runanganui o Taranaki Whanui, Toa Pomare of Ngati Mutunga, and Morrie Love of Atiawa nui tonu, to Te Ohu Kai Moana, 19 August, 2002

Ngati Tama ki te Upoko o te Ika advised TOKM by 26 August, 2002 that the response had been mixed with Ngati Toa showing support, but Te Atiawa and the Wellington Tenth Trust showing none.

There appears to be strong incentives not to sign a letter of support. For example, a major concern is that the introduction of another iwi player in Wellington (i.e. Ngati Tama) will result in a reduction in fishing quota allocations for the existing iwi, which, if true, is considered unfair, and therefore unacceptable.¹⁰⁸

TOKM had been apprised of the society's support base including that the Ngati Tama iwi in Taranaki was supportive and in the process of drafting a letter of support, and that the Ngati Tama Manawhenua Ki Te Tau Ihu Trust was also supportive but its final decision required mandating by its trustees at a hui the following month. Those factors appeared of little relevance in light of the Te Atiawa opposition, and appeared to be discounted. The timing of the bid was also a significant and mitigating factor in the mixed response received. The commencement of TOKM's consultations with iwi with respect to 'Ahu Whakamua' – the proposed fisheries settlement – had been the focus of attention for all iwi in the Wellington region, and indeed throughout the country.

Ngati Tama ki te Upoko o te Ika requested to meet with TOKM to discuss a way forward, and seek clarification on various aspects including:

The availability of research and other information on Wellington's coastline; Who are the current recipients of quota in Wellington, how much do they get, when will it be reviewed, and what is the formula?

¹⁰⁸ Letter from Ngati Tama ki te Upoko o te Ika to TOKM, 26 August, 2002

What are the alternatives to quota allocation (e.g. shares, and/or cash)?¹⁰⁹

On 24 September, 2002 Ngati Tama ki te Upoko o te Ika and the Ngati Tama Te Kaeaea Trust of Wanganui met with TOKM. Both groups agreed to combine resources for the purpose of securing iwi recognition. Ngati Tama Te Kaeaea advised TOKM that it was confident of getting a letter of support from the Wellington Tenth Trust. However, that was not to eventuate. Further meetings were held with TOKM. The commission was adamant that it needed a letter of support for Ngati Tama ki te Upoko o te Ika from the Wellington Tenth Trust, despite the Trust's opposition to the application. In desperation, the society appealed to Shane Jones, chairperson of TOKM, for intervention.

There are two clear reasons that I write to seek your intervention. Firstly, the absurd request from TOKM that we seek a letter of support from the Wellington Tenth Trust; and secondly, that you approve our request to peer review a *draft* paper going to the meeting of the Commissioners relating to Ngati Tama ki te Upoko o te Ika's bid for iwi recognition.¹¹⁰

TOKM's chairperson never replied to the society's 4 October, 2002 letter. On 11 October, 2002, TOKM advised Ngati Tama ki te Upoko o te Ika that it wanted more specific information on the area of coastline that the society had an interest in. A letter of 14 October, 2002 from the society provided that information as it related to the harbour, as well as the coastline.

I can confirm that the area in question includes on Wellington harbour – Kaiwharawhara, Pakuao, Raurimu and Tiakiwai, on the western coast –

¹⁰⁹ Telephone communication between Ngati Tama ki te Upoko o te Ika and TOKM of 17 September, 2002

¹¹⁰ Letter from Ngati Tama ki te Upoko o te Ika to Shane Jones, chairperson of TOKM, 4 October, 2002

Ohariu, Makara, Ohaua and Oterongo, north to Komangarautawhiri (near Porirua).¹¹¹

On 15 October, 2002 TOKM wrote back advising that it was obliged to verify the information and intended to seek comment from Ngati Toa. On 7 November, 2002, Karewa Arthur, Helmut Modlik and others met with both the chairperson and executive officer of Ngati Toa to discuss their concerns about fishery boundaries. After much discussion, it was agreed that the area of coastline that Ngati Tama traditionally had an interest in was the west coast at Ohariu and Makara, and small discrete non-exclusive areas along that coast to the north; and in the Wellington harbour at Tiakiwai, Kaiwharawhara, Pakuao, and Raurimu. On 12 November, 2002 Ngati Tama ki te Upoko o te Ika advised TOKM of the agreed position on fishery boundaries.

On 27 November, TOKM wrote to Ngati Tama ki te Upoko o te Ika reiterating that the process for iwi recognition remained open but that it awaited key information, specifically a letter of support from Wellington Tenth. On 20 February, 2003, TOKM advised that the society's bid for iwi recognition would 'close' on 28 March, 2003 and that all further information should be provided to TOKM by that date, and that its decision would be made shortly after that date. Ngati Tama ki te Upoko o te Ika replied early on 26 March, 2003 that:

Given the Waitangi Tribunal report on Wellington is due to be released next month, any 'closure' of our bid would be premature, and should wait at least until we have had time to receive and consider the report in the event that the 'findings' may include the 'further information' TOKM has requested of us, which may in turn have a bearing on their final decision.¹¹²

¹¹¹ Letter from Ngati Tama ki te Upoko o te Ika to TOKM, 14 October, 2002

¹¹² Ngati Tama ki te Upoko o te Ika's runanga hui minutes of 5 March, 2003

An attempt was then made to seek the support of the Te Atiawa Iwi Authority (TAIA) based in Taranaki:

We would appreciate your recognising Ngati Tama ki te Upoko o te Ika as an iwi for fisheries purposes in the form of a letter of support.¹¹³

While TOKM was prepared to allow an extension for the application for iwi status until 5pm on Friday 9 May, 2003,¹¹⁴ the news from Taranaki was not good:

Whilst the executive empathises with your situation, it was decided, with regret, that TAIA could not give the support you requested as to do so would be a conflict of interest for TAIA.¹¹⁵

Without delay, Ngati Tama ki te Upoko o te Ika advised TOKM that the Waitangi Tribunal report contained relevant supporting information as a cursory perusal of its contents showed it to include the requested information. Further, extra time was needed to carefully consider the full information contained within the 520-page document, seek a legal opinion, and then respond to TOKM by 16 June, 2003.¹¹⁶

Armed with the findings from the Waitangi Tribunal report that Ngati Tama had ahi ka and take raupatu rights in Te Whanganui-a-Tara, Ngati Tama ki te Upoko o te Ika was confident that TOKM would formally recognise it as an iwi

¹¹³ Letter from Ngati Tama ki te Upoko o te Ika to Ron Tapuke of the Te Atiawa Iwi Authority, 25 March, 2003

¹¹⁴ Letter from TOKM to Ngati Tama ki te Upoko o te Ika, 7 March, 2003

¹¹⁵ Letter from Te Atiawa Iwi Authority to Ngati Tama ki te Upoko o te Ika, 4 April, 2003

¹¹⁶ Letter from Ngati Tama ki te Upoko o te Ika to TOKM, 23 May, 2003

authority in the Wellington region and reflect that recognition in its allocation and leasing policies.

We refer you to the findings set out below from the Waitangi Tribunal's report. Those findings provided compelling support for the Ngati Tama claim to recognition as an iwi authority with mana whenua in the Wellington region. We suggest that the commission should not and ought not place too much reliance on the view of Te Atiawa when considering the criterion relating to 'recognition by other iwi.' We are certain that Te Atiawa would not support Ngati Tama as having a right to FMA2 as Te Atiawa clearly have a direct interest in the outcome. It seems clear to Ngati Tama that its presence in Wellington must now be recognised.¹¹⁷

Three months later, TOKM advised Ngati Tama ki te Upoko o te Ika that it had declined the application for recognition as an iwi on the grounds that it did not have existing marae or hapu and that the Wellington Tenth Trust and Te Atiawa did not support the application.¹¹⁸ Disappointed, Ngati Tama ki te Upoko o te Ika decided to make an application to the Maori Land Court for a finding under section 30 of Te Ture Whenua Act as to who had the authority to speak for it.¹¹⁹ On 14 January, 2004, the society met with Matanuku Mahuika of law firm Kahui Legal. A section 30 application for representation order by Ngati Tama ki te Upoko o te Ika to the Maori Land Court of 23 December 2003 was discussed with the purpose of determining and declaring that the applicant was the most appropriate representative for Ngati Tama for the purposes of entering into negotiations with the Crown. It was agreed to:

Give immediate notice of the section 30 application to OTS, the Wellington Tenth Trust and Taranaki Whaanui; complete the evidence for the section 30 application for filing with the Maori Land Court; and,

¹¹⁷ Letter from Ngati Tama ki te Upoko o te Ika to TOKM, 20 June, 2003

¹¹⁸ Ngati Tama ki te Upoko o te Ika runanga hui minutes, 29 October, 2003

¹¹⁹ Ngati Tama ki te Upoko o te Ika runanga hui minutes, 17 December, 2003

make application to the Waitangi Tribunal for leave to seek more specific recommendations on the Tribunal report.¹²⁰

While there was a clear intention to file the application with the Maori Land Court it was not actually done. It seemed that the society wanted to shift its primary focus towards obtaining a mandate from the Crown to negotiate its claim, putting it in a stronger position to go back to TOKM at a later stage and revisit its bid for iwi recognition.¹²¹

Seabed and Foreshore

Part of the iwi recognition process was to speak out and comment on key emerging issues affecting tangata whenua such as the seabed and foreshore matter. In June, 2003, the Court of Appeal decided to support claims to the seabed and foreshore by eight local iwi in Marlborough and deemed that they be heard in the Maori Land Court. Adverse public reaction ensued, followed by the 21 August, 2003 release of the Government's summary of proposals to address the seabed and foreshore controversy.

It was important for there to be a Ngati Tama perspective proffered, and for Ngati Tama ki te Upoko o te Ika to comment publicly on a significant issue for all iwi and Maori, especially in Wellington where Te Atiawa, not unexpectedly, had adopted a 'no change' stance. While the society wanted recognition from Government it was not prepared to compromise. The three Ngati Tama iwi authorities were of one mind and one voice in opposing the Government.

¹²⁰ Ngati Tama ki te Upoko o te Ika runanga hui minutes, 4 February, 2004

¹²¹ Ngati Tama ki te Upoko o te Ika runanga hui minutes, 3 March, 2004

In a letter dated 1 July, 2003, Kahui Legal (on behalf of Ngati Tama ki te Upoko o te Ika) wrote to the Waitangi Tribunal requesting documents filed or to be filed by the Wellington Tenth Trust relating to the seabed and foreshore in Wellington. Kahui Legal also applied to the Maori Land Court requesting that it investigate title to the seabed and foreshore in Wellington.

Ngati Tama ki te Upoko o te Ika was of the view that the Government should not legislate to amend the jurisdiction of the Maori Land Court but that iwi should be invited to take their claims for recognition of customary title of the seabed and foreshore to the Maori Land Court for decision, as agreed by the Court of Appeal. The Maori Land Court needed to be adequately resourced to carry out its functions. Any action on the seabed and foreshore would be delayed until after the Maori Land Court had heard and made its decision on the various applications made by iwi, and if the Maori Land Court found that iwi had customary title then the Crown and iwi would engage in constructive dialogue over issues of common interest.

Te Puni Kokiri also had a role to play in the debate. It would provide the necessary Maori leadership on behalf of the Crown in the analysis of any submissions from Maori, the development of further policy in partnership with iwi, and in the planning and monitoring of the implementation process. The Government needed to consult directly with iwi, including the society, consistent with its Treaty partner obligations with iwi in Wellington. As the timeframe was tight, the society thought the timeframe should be broadened

and the consultation process should include all New Zealanders. The iwi also considered that Government should develop a well-designed and funded multi-media education campaign that took account of the diverse needs of the New Zealand public, and its expectations, such a message being delivered in a neutral, resolution-seeking way, and giving the public full information to help it make its own decisions, and to assist in giving the Government a mandate for action.¹²²

The Wellington Tenths Trust supported the Government's seabed and foreshore proposals. Ngati Tama ki te Upoko o te Ika did not, for which it was criticised by the PNBC. The PNBC chairperson, choosing only to recognise the Tenths Trust's submission (suggesting that the Tenths Trust not only represented the iwi of Te Atiawa, but also PNBC), advised that the submission received a positive response from the Crown, and that Ngai Tahu and Network Waitangi (a private group) supported it also.¹²³

Health

Wellington Hospital Endowment Lands Claim (Wai 967)

On 8 April, 2002, the Waitangi Tribunal received an application from the Wellington Tenths Trust for an urgent hearing of a claim relating to the sale of Crown land in Wellington known as the 'Hospital Endowment Lands' by the

¹²² Ngati Tama ki te Upoko o te Ika. Submission on the foreshore and seabed to the Minister of Maori Affairs at a hui held at Pipitea Marae, Wellington, 25 September, 2003

¹²³ Port Nicholson Block Claim mandate team minutes, 1 October, 2003

government health funder and provider, Capital and Coast District Health Board (C&CDHB). This matter was of interest to the society seeking to make its mark on a key tangata whenua issue - land sales. Ngati Tama ki te Upoko o te Ika decided to join the Tenths Trust in opposing the sale. A key motivation in supporting the urgent application was that the affected properties in Kelburn and Thorndon were located in an area in which Ngati Tama had customary interests and rights.

On 6 May, 2002, a submission was made on behalf of the claimants in Wai 735, namely Ngati Tama ki te Upoko o te Ika under the auspices of Ngati Tama Ki Te Whanganui-a-Tara for purposes of convenience. The society's primary concern with respect to the proceedings was that it had not been involved in any discussions with the Crown over any properties that could form part of a settlement. It had not been consulted regarding any plans to dispose of the properties. Further, other parties had been speaking for it without authority, and been listened to.

The society was also aware that properties in the Wellington area available for settlement were scarce, particularly sites that had historical and cultural importance to Ngati Tama people including the society. As a result of the proposed land sales by C&CDHB, there was a risk that potentially important sites could be disposed of without the opportunity to consider whether they were appropriate properties, or there were other avenues for settlement.¹²⁴

¹²⁴ Ngati Tama ki te Upoko o te Ika runanga hui minutes, dated May 2002

The Tribunal directed that in the interests of time the inquiry would be limited to the claimants establishing the cultural and historical significance of those particular lands to their whanau, hapu or iwi; the "substitutability" of the lands; and, consultation by the Crown and C&CDHB with claimants other than the Wellington Tenth Trust regarding the tender process and private sale.¹²⁵

Concern was expressed about the Crown's intention to allow the disposal of the Thorndon and Kelburn properties at the stage of the inquiry when claimants were awaiting the imminent release of the Tribunal's report on the Wellington claim, and when the Crown and claimants were preparing for settlement negotiations.

The society had been excluded from all discussions concerning the disposal of those properties. Despite some perfunctory effort attempts at public notification, no effort was exerted by the Crown to bring to the society's attention its plans to sell the properties. Nor was the society notified of the urgent application or of the Tribunal's intention to hear it, despite the fact that it was a party in the Tribunal's Wai 145 inquiry and was clearly affected by the issue before the Tribunal.

The first notice of the sale was a newspaper report of the first Tribunal conference on 11 April, 2002, whereby the society learnt there was to be a conference proceeding on 23 April, 2002 to hear arguments on an urgent application. Subsequent to the application and an urgent hearing being

¹²⁵ Waitangi Tribunal. Memorandum –Directions dated 29 April, 2002

granted, notice was given (indirectly) of the timetable to be followed for the filing of submissions and evidence. In effect Ngati Tama ki te Upoko o te Ika was given four days to prepare.

The position was that Ngati Tama had been and remained tangata whenua of Wellington with significant customary and traditional interests in the lands around the harbour and elsewhere in the Wai 145 inquiry district. The Crown had committed serious breaches of the Treaty with the result that Ngati Tama had lost vast quantities of their tribal lands.

The Crown itself had agreed:

Maori today possess only a small proportion of the land they held in 1840” and has accordingly accepted that....excess land loss has had a harmful effect on Maori social and economic development in general.¹²⁶

In addition, the lands of Ngati Tama in Whanganui-a-Tara had been eroded to non-existence such that what remained was clearly insufficient for its present let alone future needs. Accordingly, any land held by the Crown with the potential for return was of great importance to all Wellington iwi.

Ngati Tama ki te Upoko o te Ika regarded all such Ngati Tama lands as taonga tuku (treasured gift), particularly given the small holdings of tribal lands. The society also opposed the disposal of any Crown lands within the Wellington district before the proper negotiation and settlement of its claims.

¹²⁶ Office of Treaty Settlements. Healing the Past: Building a Future, 1999:p15

Given that the claimants were awaiting the report's imminent release, the Crown should not have been divesting any properties that could be available for settlement without adequate safeguards being in place. Because of its traditional interests and loss, the society had every expectation that it would be involved in any discussions as to the disposal of Crown lands and in any negotiations or decisions as to remedies for the settlement of its claims.

In the meantime, the Wellington Tenth Trust had been in discussions with the Crown. The Crown had agreed to set aside a certain number of properties intended for sale by C&CDHB as part of a Wai 145 settlement package with the Trust, on the understanding that the Trust withdraw its claim to the Waitangi Tribunal in respect of the Hospital Endowment Lands.

On 29 May, 2002, the Office of Treaty Settlements was advised that:

Given that the Crown and Wellington Tenth Trust have reached agreement and we understand the Trust's Waitangi Tribunal claim had been, or will be withdrawn, it is clear that the Trust will not be continuing with High Court judicial review proceedings.¹²⁷

Despite the society being a party in the Wai 145 claim, the Crown did not initiate discussions with Ngati Tama ki te Upoko o te Ika or indeed make any meaningful attempt to resolve its concerns. The discussions the Crown had with the Wellington Tenth Trust were on the clear understanding that nothing would be concluded until there had been discussions with the other claim

¹²⁷ Letter from Ngati Tama's lawyer, Deborah Edmunds of KPMG to Pru Densem of the Office of Treaty Settlements, 29 May, 2002

parties, and that the discussions with the Trust did not reflect any preference for negotiating with that body to settle the general Wellington claims.¹²⁸

There was a perception that the Crown had bestowed a mandate on the Wellington Tenth Trust at the expense of the society. Ngati Tama ki te Upoko o te Ika was of the view that its rights and customary interests should not be prejudiced, and was therefore pleased that OTS reiterated very clearly in its 26 June, 2002 letter to the society that:

The Trust is not recognised by the Crown, as having a mandate to represent the beneficiaries within the Wai 145 claim nor that it is not an appropriate body to receive settlement assets.¹²⁹

Ngati Tama ki te Upoko o te Ika had been concerned whether it could speak for, and on behalf of, Ngati Tama iwi members, particularly on matters relating to the Crown and the claims processes. It had been steadfastly committed to ensuring that there was a 'bottom up' mandate from the people to ensure an enduring and satisfactory relationship with members, and claim settlement. Questioning the authority of the Wellington Tenth Trust was to be a challenging assignment for society members.

One of the society's primary goals was to ensure as far as possible that key Crown lands in Wellington were retained in order to ensure that it could re-establish a marae complex for the iwi, including a community centre for social, cultural and commercial development - preferably on a site of cultural and

¹²⁸ Letter from Ngati Tama's lawyer, Deborah Edmunds to Fergus Sinclair of the Crown Law Office, 26 June, 2002

¹²⁹ Letter from OTS to Deborah Edmunds of KPMG-Legal, 26 June, 2002

historical importance. Unlike some other claimant groups, Ngati Tama ki te Upoko o te Ika was not primarily focussed on the retention of properties that could provide a high-income stream.¹³⁰

Holding the view that Crown's functions, in terms of health services, should not be hampered, and with the knowledge that the Hospital Endowment lands sale was linked to the expansion of the Wellington Regional Hospital, it was resolved that a modest and reasonable approach would be taken that would only require the retention of key properties. That experience was to be a precursor to the larger more complex Wellington claim. Nevertheless, there were some observations made and lessons learnt by the society. Firstly, that the Crown had access to formidable resources. Secondly, that the Crown had its favourites in terms of who it preferred to work and negotiate settlements with; i.e. the Wellington Tenths Trust. Thirdly, that an inexperienced although well-meaning claimant group stood little chance of succeeding unless it was well organised, resourced and supported.

In any event, the hearing was put on hold pending the outcome of the Tribunal report on the Wellington claim. It was a sensible outcome not just for the society, but also for other claimants worried at the haste with which C&CDHB wanted to sell the properties, some of which encompassed old pa sites.

As the properties in question were on Ngati Tama land, their substitution for land elsewhere was not an option given their cultural significance. C&CDHB

¹³⁰ Participant 8

had failed to consult with tangata whenua. Proper consultation should have been more than C&CDHB just placing an advertisement in the newspaper, because the Crown was obliged to consult with Ngati Tama ki te Upoko o te Ika and listen to the iwi's concerns.

Once again it appears that the onus is on Maori to make all the running, to actively seek justice, because of Crown failures to observe their own protocols. It shouldn't be this way, but time and time again it's the claimants that have to hound the Crown into remembering its obligations.¹³¹

Maori Partnership Board of C&CDHB

The Maori Partnership Board (MPB) comprises Maori representatives from throughout the C&CDHB district, including Wellington, Porirua and the Kapiti Coast. Ngati Toa, Te Atiawa and Atiawa Ki Whakarongotai represent tangata whenua and have two members each on the MPB, and Nga Rauru Tetera has the same number. The MPB is advisory to the C&CDHB, which has two distinct roles: to assess the health needs of the people of the district and to ensure that it contracts the most appropriate services to meet those needs. The C&CDHB at the time in question had two Maori members; the chairperson Bob Henare, and Helmut Modlik who represented tangata whenua (and a Ngati Tama runanga member). Ngati Tama ki te Upoko o te Ika had been interested in having a Ngati Tama representative on the Maori Partnership Board. Runanga member Helmut Modlik thought, "the time was now right for us to make our intentions known to the Maori Partnership Board

¹³¹ Ngati Tama ki te Upoko o te Ika. Media release, 15 May, 2002

that we want a seat on that board".¹³² The runanga agreed that Maria Grace be the nominee to sit on the board.¹³³

On 10 December, 2003, Ngati Tama ki te Upoko o te Ika wrote to the C&CDHB's board advising of its intention to meet with its MPB for the purpose of discussing its place as a fully participating iwi partner in its governance activities.¹³⁴ Over the previous year the society had noted the difficulties that the MPB had experienced operating in a sometimes volatile environment of rapid change and heightened public expectations. The society believed that its presence on the MPB would help strengthen the board's role and its acceptance by the wider Maori community and at the same time add value to the board's quality of advice.¹³⁵

On 14 April, 2004, Ngati Tama runanga members met with the MPB to discuss membership. The Te Atiawa and Atiawa Ki Whakarongotai representatives were strongly opposed to Ngati Tama ki te Upoko o te Ika having a seat on the board. Ngati Toa representatives were indifferent. While the Nga Rauru Teterere person spoke in favour of the society having a place on the board, it was considered an issue for the tangata whenua groups to ultimately decide amongst themselves. Jack Rikihana was the chairperson of the Maori Partnership Board. As chairperson of Te Runanga o Atiawa ki Whakarongotai he had opposed the setting up of Ngati Tama as an iwi and he

¹³² Ngati Tama ki te Upoko o te Ika runanga hui minutes, 19 November, 2003

¹³³ Idem

¹³⁴ Letter from Ngati Tama ki te Upoko o te Ika to C&CDHB, 10 December, 2003

¹³⁵ Idem

had also opposed a letter of support for Ngati Tama ki te Upoko o te Ika coming from Atiawa Ki Whakarongotai's runanga.¹³⁶

On 21 July, 2004 the MPB informed the society that based on feedback from constituents and resulting board discussions the decision had been made to decline the request for an additional seat for Ngati Tama representation on the MPB:

The board had based that decision on the following issues raised by our people: Ngati Tama is acknowledged as a hapu of Te Atiawa, as such Ngati Tama is represented by Te Atiawa on the Maori Partnership Board; There is uncertainty amongst our people as to the locality of marae, whare, that Ngati Tama represents within the Wellington district, that is, where exactly is the Ngati Tama turangawaewae within Wellington; and, there is also uncertainty as to the mandating process Ngati Tama used to gain a mandate to represent.¹³⁷

Private partnerships

WIPA and PHOs

The opportunity arose in early September, 2002 for Ngati Tama ki te Upoko o te Ika to become closely involved in health service governance when Ngati Toa declined an offer from Wellington Independent Practices Association (WIPA) to strengthen its responsiveness to Maori strategy. The development of primary health organisations (PHOs), which would secure resources for targeting low income, high health need New Zealanders, including Maori, was

¹³⁶ Ngati Tama ki te Upoko o te Ika runanga hui minutes, dated 13 May 2004

¹³⁷ Letter from Jack Rikihana, chairperson of the Maori Partnership Board to Ngati Tama ki te Upoko o te Ika, 21 July, 2004

underway, and WIPA needed to improve the cultural appropriateness of its practices and processes in anticipation of setting up several PHOs.

On 12 September, 2002, Ngati Tama ki te Upoko o te Ika runanga members met with WIPA and agreed to Ngati Tama representation on the WIPA board. That new partnership arrangement between a tangata whenua group and the largest private health provider in Wellington created an opportunity for the society to become a provider of health services.¹³⁸

Ngati Toa's Chief Executive Officer, Matiu Rei, expressed reservations about the society developing a partnership arrangement with WIPA and planning to set up a PHO in Porirua. He considered it to be a hostile move that would be in direct opposition to Ngati Toa developing the 'Porirua Plus' PHO.¹³⁹ Ngati Toa had been formally invited to participate in the formation of the WIPA Porirua PHO, but it had declined.¹⁴⁰ Ngati Tama ki te Upoko o te Ika replied to Matiu Rei on 3 November, 2003:

Firstly, the WIPA proposal and your proposal are not in opposition with each other. They serve and involve entirely different populations and providers. Neither party alone had the capacity to provide for the whole Porirua population. We believe they are complementary in that regard, not in competition. Secondly, when Ngati Toa turned down the opportunity to sit on WIPA's board, and decided not to be part of a PHO arrangement with WIPA, Ngati Tama took up the challenge. We saw it as an opportunity not to oppose Ngati Toa but to enhance our ability to work in a co-operative and supportive manner with Ngati Toa people. Thirdly, Ngati Toa and WIPA collaborate on a number of projects, and have a signed MOU in place since early 2000, which further signals co-operative development between the two groups.¹⁴¹

¹³⁸ Ngati Tama ki te Upoko o te Ika runanga minutes, 18 October, 2002

¹³⁹ Letter from Matiu Rei of Ngati Toa to Ngati Tama ki te Upoko o te Ika, 26 November, 2002

¹⁴⁰ Letter from WIPA to Matiu Rei of Ngati Toa, 15 October, 2003

¹⁴¹ Letter from Ngati Tama ki te Upoko o te Ika to Matiu Rei of Ngati Toa, 3 November, 2003

Regarding a seat on the WIPA board, it was made clear in that letter that the society, “certainly did not want to sit idly by and watch WIPA take Te Atiawa as their partner, which was the alternative if we didn’t act”.¹⁴² On 3 December, 2002, a meeting was held with Ngati Toa concerning the society’s relationship with WIPA. At that meeting Ngati Tama ki te Upoko o te Ika’s support of Ngati Toa was reaffirmed. There had been discussion surrounding the setting up of two primary health organisations (PHO) in Porirua. The society insisted that WIPA’s Porirua PHO proposal was complementary to Ngati Toa’s (‘Four Plus’) proposal and, was therefore, not in competition with it, and more importantly that both iwi needed to meet at regular intervals in an attempt to avoid further misunderstandings.

The establishment of the Porirua PHO required a lot of organisational planning. Ngati Tama ki te Upoko o te Ika was instrumental in bringing Te Roopu Awhina, a Maori social service provider, into the governance partnership alongside itself, WIPA, and a local Pacific provider. Planning meetings were held weekly over several months with Ngati Tama ki te Upoko o te Ika chairing the meetings. The society received two seats on the Porirua PHO, one of which was to be gifted to Ngati Toa. Te Roopu Awhina was given the seat on the governance board designated for a provider. The Porirua PHO was named ‘Tumai Mo Te Tangata’ (‘Stand for the People’), and its vision was ‘Kei te hauora mo nga tangata i roto i tenei takiwa’ (‘Better health for our people in this area’).¹⁴³

¹⁴² Idem

¹⁴³ Ngati Tama ki te Upoko o te Ika runanga minutes, 14 February, 2003

At the same time, the society was involved in setting up the Wellington PHO, called 'Capital PHO'. This PHO's eight member governance structure included two Maori – one person nominated from Ngati Tama ki te Upoko o te Ika and one person (recommended to Ngati Tama ki te Upoko o te Ika) from Nga Rauru Tetere. A local Maori provider, Te Ngawari Hauora comprised that second Maori representation.¹⁴⁴

Since the invitation to make a board nomination for Tumai Mo Te Iwi PHO, had been ignored by the Ngati Toa runanga, Karewa Arthur agreed to fill the vacant second Maori trustee position for the society. Marama Parore-Katene was the other Maori trustee. Rama Durie agreed to the Ngati Tama ki te Upoko o te Ika nomination for trusteeship on Wellington's Capital PHO¹⁴⁵, and on 17 May, 2005 Catherine Williams was chosen to represent Ngati Tama on the Karori PHO board.¹⁴⁶

Te Kupenga Maui

On 5 September, 2003, Ngati Tama ki te Upoko o te Ika was instrumental in setting up a coalition of Maori health, social service and education providers based in Wellington called Te Kupenga Maui (TKM). Its aim was to work collaboratively in the planning, contracting, delivery and evaluation of effective kaupapa Maori services by strengthening and assisting providers to deliver effective kaupapa Maori services for Maori, by Maori.

¹⁴⁴ Ngati Tama ki te Upoko o te Ika's runanga hui minutes, 23 April, 2003

¹⁴⁵ Ngati Tama ki te Upoko o te Ika's runanga hui minutes, 14 May, 2003

¹⁴⁶ Ngati Tama ki te Upoko o te Ika's runanga hui minutes, 9 March, 2005

Wellington lacked a strong Maori provider base compared to Porirua and the Hutt Valley (with its marae-based services), whereby providers could come together in a common united front to create a central base for a range of integrated kaupapa Maori services. About 11,889 Maori people who lived in the Wellington city area were not adequately serviced with primary health care organisations.¹⁴⁷ There were a number of small Maori providers in Wellington that - largely unsupported - delivered a narrow range of mainly referral health and social services to Maori in Wellington. It was felt that the planning, delivery and monitoring of Maori health, social and educational services could be more organised and efficient, and better co-ordinated.

The providers included Matua Whangai, Te Menenga Pai Community Trust, Nga Whaka Tauki, Ngati Porou Health and Social Services, Ngati Kahungunu ki Poneke Community Service, Rongotai-Otari Trust, Te Ata Hou Trust, Te Whare Rokiroki, and Awhina Wahine. Ngati Tama ki te Upoko o te Ika provided a key manawhenua role in bringing together these small providers, and a Ngati Tama representative acted as their chairperson.

Contracts for services by December, 2004 amounted to nearly \$300,000 per annum, sourced collectively from C&CDHB (whanau ora service, management services); the Ministry of Health (Maori provider development funding); Child, Youth and Family Services (survey, residential services); and the Wellington City Council (homelessness policy advice).¹⁴⁸

¹⁴⁷ Statistics New Zealand, Census 2001

¹⁴⁸ Te Kupenga Maui hui minutes, December, 2004

TamaOra

TamaOra, the health provider arm of the society, was set up on 11 May, 2004.¹⁴⁹ Representing Ngati Tama ki te Upoko o te Ika on the Te Kupenga Maui Trust it was unsuccessful in winning contracts either through Te Kupenga Maui or directly from the C&CDHB.

In December of that year, TamaOra, under the leadership of its co-ordinator Anna Te Rei, secured a healthy lifestyles service from Capital PHO. On 31 May, 2005, the chairperson of Parliament's Health Select Committee, Steve Chadwick MP, launched the service. That event, and other related activities, spurred the C&CDHB into looking closely at the operations of the provider with a view to considering granting it a whanau ora contract later in 2005.

Conservation

In May, 2002, the Minister of Conservation, Hon Sandra Lee, approved a marine reserve on Wellington's south coast. The Wellington Tenths Trust supported it, but Ngati Tama ki te Upoko o te Ika joined Ngati Toa in opposing it on the basis that the area was too large, and the reserve would mean a permanent ban on customary fishing activities and related activities. The society filed an affidavit in support of Ngati Toa with respect to the Wellington south coast marine reserve.

¹⁴⁹ Ngati Tama ki te Upoko o te Ika runanga minutes of 2 June, 2004

Ngati Tama ki te Upoko o te Ika thought there was an opportunity for the Minister to consider an innovative approach to dealing with the public's conservation needs from a Maori perspective by embracing proven traditional Maori concepts of fishery management. The marine reserve was considered too big and not practical for meeting the needs of the local tangata whenua. Rather than being declared a reserve it could have been deemed a mataitai, or taiapure, which would still allow certain types of fishing in controlled situations. As traditional seafood gatherers, Ngati Tama ki te Upoko o te Ika felt let down by the Minister's decision.

Further, the marine reserve was a part of Ngati Tama's traditional rohe, and the Department of Conservation had not consulted with Ngati Tama ki te Upoko o te Ika. It was the society's understanding that the Crown was obliged to consult with tangata whenua and listen to its concerns before the area was formally declared a marine reserve.¹⁵⁰ Ngati Tama ki te Upoko o te Ika suggested that any final decision on the marine reserve should await the Waitangi Tribunal report's findings on the Wellington district, and that the Minister should undertake consultation with those claimants not included earlier in the process.¹⁵¹

On 1 August, 2002, Ngati Tama ki te Upoko o te Ika wrote to the chief executive officer of the Wellington Regional Council (WRC) about a proposal to dredge Wellington harbour and dump the dredgings near Matiu/Somes

¹⁵⁰ Letter from Ngati Tama ki te Upoko o te Ika to Hon Sandra Lee Minister of Conservation, 21 May, 2002

¹⁵¹ Idem

Island.¹⁵² There were specific requirements under the Resource Management Act for consultation with Maori so concerns for iwi could be taken into account in the decision-making process of such matters. The WRC and others (e.g. the Ministry for the Environment) had a role in managing environmental concerns, particularly those that impacted on Maori. The WRC was obliged to consult with tangata whenua and listen to their concerns. Ngati Tama ki te Upoko o te Ika would have liked to be included in the consultation process and to work closely with the Council on that matter and any other relevant tangata whenua issues.

Central, Regional, and Local Government Agencies

Since 1997, Ngati Tama ki te Upoko o te Ika has received no direct funding towards its establishment. Without any ongoing funding the iwi found it difficult to operate, particularly with a runanga to service and the high expectations of registered iwi members to be involved in a range of matters.

Ngati Tama ki te Upoko o te Ika was reasonably successful in seeking establishment funding since it was set up on 28 March, 2002. Te Puni Kokiri (TPK) and the NZ Lottery Grants Board provided early assistance. TPK provided a \$2,000 establishment grant, and a further grant of \$26,400 for conducting a needs assessment, consulting with whanau and developing a strategic plan. NZ Lottery Grants Board approved establishment funding of \$7,000. In May, 2003, the Community Employment Group of the Department

¹⁵² Letter from Ngati Tama ki te Upoko o te Ika to the WRC on 1 August 2002

of Labour agreed to fund \$35,000 to assist in the appointment of an iwi co-ordinator.¹⁵³

Te Puni Kokiri

It was important to develop a relationship with TPK as the principal advisor to government on Maori matters, and a key proponent of tribal development. On 25 March, 2002 Ngati Tama ki te Upoko o te Ika wrote to TPK's chief executive officer, Leith Comer, to seek financial assistance of \$2,000, in order to inform, and update Ngati Tama people living in the greater Wellington area on matters of interest to them. Two months later, Ngati Tama runanga members met with Comer to discuss the society's vision and proposals for the development of a Ngati Tama iwi body for the purpose of promoting and fostering the iwi's advancement in Wellington. He was aware of the political dynamics amongst Wellington's tangata whenua, and cognisant of the society's struggles with the Wellington Tenths Trust and Te Atiawa.

Comer appeared sympathetic to Ngati Tama ki te Upoko o te Ika's situation.¹⁵⁴ He had referred the Ngati Tama runanga members to the regional office of TPK in Lower Hutt. There they were able to meet with the local regional manager, Harry Eruera, and make an application for a \$2,000 establishment grant. Further discussions ensued and eventually the society was able to access funding to meet its needs.

¹⁵³ Ngati Tama ki te Upoko o te Ika's runanga hui minutes, June 2003

¹⁵⁴ Ngati Tama ki te Upoko o te Ika's runanga hui minutes, June, 2002; Letter from Ngati Tama ki te Upoko o te Ika to Leith Comer, CEO of Te Puni Kokiri, 18 May, 2002

On 26 August, 2002, Ngati Tama ki te Upoko o te Ika received funding under the Maori Capacity Building programme to regenerate, rejuvenate and re-establish the manawhenua status of Ngati Tama whanau, hapu and iwi in Te Whanganui-a-Tara. A further grant of \$26,400 was approved shortly thereafter to conduct a needs assessment, consult with whanau, and develop a strategic plan for the iwi.¹⁵⁵

Department of Labour

Te Puni Kokiri introduced the society to officials in the Department of Labour whom could help with an employment package. The Community Employment Group (CEG) was a service unit of the Department of Labour that worked mainly with groups that faced barriers in achieving self-sufficiency. CEG worked alongside communities and was keen to help the society build its capacity through a local employment initiative. On 5 February, 2002, Ngati Tama ki te Upoko o te Ika applied for funding of \$35,000 for an Iwi co-ordinator's salary, including administration support and levies.¹⁵⁶ Three months later, the society was advised that its application for \$35,000 had been successful.¹⁵⁷ Unfortunately, the annual contract was not renewed in mid-2004 as the CEG was itself reviewed mid-2004 as a result of adverse publicity around inappropriate funding, dismantled later that year.

¹⁵⁵ Ngati Tama ki te Upoko o te Ika's runanga hui minutes, September 2002

¹⁵⁶ Letter from Ngati Tama ki te Upoko o te Ika to CEG, 5 February, 2003

¹⁵⁷ Letter from Ngati Tama ki te Upoko o te Ika to Peter Potaka, Grants Manager, Community Employment Group, Department of Labour, 19 May, 2003

Department of Internal Affairs

The Community Development Group within the Department of Internal Affairs promotes the building of strong communities through the provision of the Lottery Grants Scheme and other grants, developing community capacity to address local issues such as iwi development. On 2 August, 2002, Ngati Tama ki te Upoko o te Ika wrote to Terei Koopu of Community Development seeking a lottery welfare grant. On 9 December, 2003 the New Zealand Lottery Grants Board advised the society that its funding application for a proposed Iwi co-ordinator's salary had been declined, but establishment funding of \$7,000 approved.¹⁵⁸ On 4 November, 2005, a further grant of \$7,740 of public money dubbed as a 'global contribution' was also approved to assist the society consult and communicate with its members.¹⁵⁹

Department of Corrections

The Department of Corrections is committed to working in partnership with Maori communities to provide services that will contribute to community safety and reduce re-offending. The department's Maori focus unit developed close ties with Ngati Tama ki te Upoko o te Ika in order to work with tangata whenua in the provision of culturally appropriate services.¹⁶⁰ In July, 2005 Ngati Tama ki te Upoko o te Ika was contracted by the department to deliver a \$25,000 per annum kapa haka programme to inmates at Wellington's Mt Crawford

¹⁵⁸ Letter from Ngati Tama ki te Upoko o te Ika to Department of Internal Affairs, 2 August, 2002

¹⁵⁹ Letter from Dept of Internal Affairs to Ngati Tama ki te Upoko o te Ika, 4 November, 2005.

¹⁶⁰ Department of Corrections, Maori Strategic Plan 2003-2008, p7

prison. This opportunity arose as a result of good relationships with key departmental officials. Building on those connections later that year, the society tendered for and won a fiercely contested \$240,000 multi-year contract to deliver a Maori therapeutic programme to male offenders in Rimutaka Prison's Maori Focus Unit.¹⁶¹

Wellington Regional Council

The Wellington Regional Council (WRC) is a statutory body representing six constituencies – Wellington, Kapiti, Porirua, Lower Hutt, Upper Hutt, and Wairarapa. Underpinning those relationships is a Charter of Understanding that was signed by iwi and the WRC in 1993. Ara Tahī is the council's inter-iwi representative group that is used for collective discussion and to provide policy advice. On 23 September, 2002, Ngati Tama ki te Upoko o te Ika wrote to the WRC indicating a keen desire to establish a Treaty partnership relationship that would include membership of Ara Tahī.¹⁶²

When *Te Whanganui a Tara me ona Takiwa* was released by the Waitangi Tribunal on 17 May, 2003, Ngati Tama ki te Upoko o te Ika urgently requested a meeting with the WRC chairperson Margaret Shields, to discuss the report:

The landmark Tribunal report on Wellington district corroborates existing oral histories and traditions of Ngati Tama and that this latest information is of significance for Ngati Tama people in Wellington. It

¹⁶¹ Department of Corrections, Heads of Agreement, 24 November, 2005

¹⁶² Letter from Ngati Tama ki te Upoko o te Ika to Margaret Shields, chairperson of WRC, 3 September 2,002

also had considerable implications for local, regional and central governments.¹⁶³

Despite several attempts to meet with WRC, there was little enthusiasm shown on their part to recognise Ngati Tama ki te Upoko o te Ika, let alone to meet. Nonetheless, the society continued to contribute to issues relating to the WRC; for example, the Western Corridor Transportation Study. The society made a submission opposing the proposed coastal route through the Pukerua Bay area - a recognised urupa with graves of several distinguished Ngati Tama tupuna.¹⁶⁴

Wellington City Council

Ngati Tama ki te Upoko o te Ika had been interested in establishing a Treaty partnership relationship with the Wellington City Council (WCC) that would include representation on its Maori advisory committee, Te Taumata O Poneke. The society sought the opportunity to provide support, advice and facilitation as it worked towards its goals of exercising autonomy in Wellington, and in so doing make a worthwhile and lasting contribution to Maori development in Wellington through local government action.¹⁶⁵

¹⁶³ Letter from Ngati Tama ki te Upoko o te Ika to Margaret Shields, chairperson of WRC, dated 20 May, 2003

¹⁶⁴ Submission from Ngati Tama ki te Upoko o te Ika to Wellington Regional Council, dated 4 November, 2005

¹⁶⁵ Letter from Ngati Tama ki te Upoko o te Ika to Mayor, Kerry Prendergast of WCC, 7 August, 2002, preparatory to a meeting on 25 September 2002 attended by Te Puoho Katene, Karewa Arthur, Taku Parai and others from Ngati Tama and Wellington's Mayor, Kerry Prendergast, her Deputy Mayor Alick Shaw, the CEO Garry Poole, and other officials to discuss membership of Te Taumata O Poneke, and opportunities to provide policy advice to the Council from Ngati Tama's perspective.

That relationship between Ngati Tama ki te Upoko o te Ika and WCC could have included consideration of establishment funding (including accommodation assistance) to assist in the setting up of the Ngati Tama iwi entity in Wellington City; membership of your Maori governance advisory committee, Te Taumata O Poneke; and contracts with WCC for the provision of policy advice relating to Maori matters, in particular the Ngati Tama perspective.¹⁶⁶

Mayor Kerry Prendergast was sympathetic to the society's concerns; however, she was worried about providing practical assistance fearing that, "the Wellington Tenth's people may get upset".¹⁶⁷ Discussions were held with other councillors including Rei Mercer, WCC's sole Maori member, on 4 October, 2002. Mercer, of Ngai Tara/Ngati Ira descent, was concerned that Te Atiawa had opposed the establishment of a Ngati Tama iwi authority in Wellington, and was pleased that Ngati Toa had indicated its support in writing. He appreciated the briefing and the more balanced perspective it brought.¹⁶⁸ Ngati Tama ki te Upoko o te Ika supported the council at a number of hui. One such hui was held on 25 March, 2003 to discuss a proposed partnership plan. Ngati Tama ki te Upoko o te Ika members were present at the hui, along with a number of senior officials from the WCC, and contributed to the discussions.¹⁶⁹

On 20 May, 2003, Ngati Tama ki te Upoko o te Ika sought another meeting with the Mayor in response to the release of *Te Whanganui a Tara me ona Takiwa* by the Waitangi Tribunal at Pipitea Marae in Thorndon on 17 May, 2003.

¹⁶⁶ Ngati Tama ki te Upoko o te Ika's runanga hui minutes, October, 2002

¹⁶⁷ Idem

¹⁶⁸ Idem

¹⁶⁹ Ngati Tama ki te Upoko o te Ika's runanga hui minutes, April, 2003

This latest information is of significance for Ngati Tama people in Wellington. It also had considerable implications for local, regional and central governments. We urgently request a meeting with you for the purpose of discussing a Treaty partnership relationship with WCC.¹⁷⁰

The hui of 25 June, 2003 with the Mayor and her deputy went well, but was mainly a general discussion about the Tribunal report and its implications for the council. The outcome was continuation of the status quo.¹⁷¹ The WCC had declined to recognise the society or to offer assistance, financial or otherwise.

Summary of Part Two

Ngati Tama ki te Upoko o te Ika's relationships with other groups mirrors the complexities of iwi/Maori political dynamics in Wellington. Government departments were slow to recognise the Ngati Tama iwi authority, and therefore to commit to providing substantial contracts for services or policy advice. The iwi had a number of challenges in its attempts to build rapport with key individuals within agencies of importance to the society and its members.

CHAPTER SUMMARY

In many ways, the experiences of Ngati Tama ki te Upoko o te Ika illustrates how iwi are buffeted by multiple and opposing forces. In this case, the iwi adopted different strategies for approaching different key stakeholders.

¹⁷⁰ Letter from Ngati Tama ki te Upoko o te Ika to Mayor, Kerry Prendergast of WCC, 20 May 2003

¹⁷¹ Ngati Tama ki te Upoko o te Ika's runanga hui minutes, July, 2003

In the end, it was up to the iwi to decide a strategy, manage the risks, and agree who best represented it - and how. In dealing with external groups, however, the iwi needed to be able to convince them that the society was a credible and viable entity. At least initially, the division amongst Wellington's two main tangata whenua groups (Te Atiawa and Ngati Toa) in recognising Ngati Tama ki te Upoko o te Ika, coupled with the society experiencing limited commercial opportunities from a largely unresponsive government sector, suggested that the opposing forces had the upper hand in influencing key stakeholders maintaining the status quo of non-recognition.

Forging lasting relationships with external groups had been a long and ongoing journey for the iwi authority. 'Friendly' iwi and some other groups did not take much convincing to recognise the iwi status of Ngati Tama. In the case of Te Atiawa, however, opposition was blunt and sustained; understandable given its historical and financial interests in Ngati Tama, especially through the Wellington Tenths Trust. It would seem obvious that Te Atiawa/Wellington Tenths Trust's recognition of, and respect for, Ngati Tama as an iwi would call for a longer timeframe, and in all probability required resolution at the political level first. In managing this relationship, the iwi had not been able to achieve success, and there had been little evidence of mutual trust and understanding, openness, or good communication between the parties. The Wellington land claim was considered the 'trigger' factor in facilitating greater understanding in managing the political and commercial inter-relationships, allowing for co-existence rather than ongoing resistance between the factions.

CHAPTER FOUR: CASE STUDY I: DEVELOPING A CLAIM

INTRODUCTION

This first case study discusses the Ngati Tama Waitangi Tribunal land claims with respect to Wellington, and the period between their hearings and the release of the Tribunal's report. The findings of the report and the establishment and workings of an 'umbrella group' claim structure called the Port Nicholson Block Claim (PNBC) are the main points of analysis.

The PNBC machinery included an elaborate infrastructure, and a working party of all disparate claimant groups. A detailed summary of the workings of this claimant group is provided. Insights into the tensions, competing iwi interests and the interactions between the iwi and Maori groups are also provided. The Wellington claim was not merely a unifying force at the level of iwi politics, but became a symbol of Ngati Tama's determination to retain its own culture and identity.

The Ngati Tama ki te Upoko o te Ika Society Incorporated team comprised relatively inexperienced individuals not well known to the Crown. Nonetheless, they were keen to assert their iwi's autonomy in preference to a pan-Taranaki collective, and to retain the right to decide who represented them in negotiating and settling the Ngati Tama Wellington claim. The society

intended to fully engage in the claim process, and to work closely with the PNBC as an equal partner. The question arose though as to how would a Ngati Tama iwi authority fit into the overall PNBC plan? The society's solution was that the 'squeaky spoke turns the wheel'.

There were individuals and groups such as the Wellington Tenths Trust, Palmerston North's Tenths Trust, and Waiwhetu Marae Trust with a long history of working on the Wellington claim. Those individuals were well known and respected leaders in the Maori community. They were also well known to the Crown and senior ministers; some had distinguished careers working for the Crown, others had worked with the Crown on various commissions and boards, etc. Under the auspices of the Port Nicholson Block Claim team those individuals had been planning their claim strategy for many years based on a single pan-Taranaki claimant community. They considered that the emergence of a separate Ngati Tama entity would fragment their united approach, and they rejected Ngati Tama ki te Upoko o te Ika's claim of being an iwi authority.¹ Their solution to the challenge was to offer the society only a participatory role with the PNBC working party, assisting those who should be registered with the claim.²

The attitude of the Crown was one for facilitating an easy and efficient resolution of the claim. The Office of Treaty Settlement's (OTS) approach

¹ Letter from Dr Ngatata Love on behalf of the mandated representatives to Andrew Hampton, Director of OTS dated 20 January, 2004

² Letter from Dr Ngatata Love, chairperson of Wellington Tenths Trust, Kara Puketapu, CEO of Te Runanganui o Taranaki Whaanui, Neville Baker, chairperson of Te Runanganui o Taranaki Whaanui, Toa Pomare of Ngati Mutunga, and Morrie Love of Atiawa nui tonu, to Te Ohu Kai Moana, 19 August, 2002

reflected the Government's priorities, which were to encourage claimants to work together as large natural groupings and to get closure on claims as quickly as possible. The society was of sufficient size that the PNBC could not have reasonable cause to exclude it from the claim negotiations. The Crown's solution to the impasse was to urge Ngati Tama ki te Upoko o te Ika to be involved, and for the PNBC to accept the society as an integral part of it.

The Ngati Tama ki te Upoko o te Ika example is used here again to illustrate the complexity of issues. Minutes taken at formal tribal meetings and notes from PNBC meetings have been drawn on, as were submissions to the Waitangi Tribunal and relevant Tribunal reports.

WAITANGI TRIBUNAL CLAIMS FOR WELLINGTON

A Ngati Tama perspective was not evident in the earlier Chatham Islands claim - Wai 64 - although a pan-Taranaki group represented all Taranaki iwi interests. The Tribunal, in its *Report on Moriori and Ngati Mutunga Claims in the Chatham Islands*,³ emphasised repeatedly that Ngati Tama had made no claim to it in respect of the Chatham issues.

Attempts were made to avoid Ngati Tama interests being similarly prejudiced in further Tribunal proceedings that involved, or could involve, areas over which Ngati Tama held rangatiratanga, especially in the Wellington region. In 1998, when the Waitangi Tribunal was inquiring into claims affecting

³ Waitangi Tribunal. *Rekohu*, 2001, p179

Wellington in the Wai 145 (the Wellington Tenths Inquiry), it became apparent that broader customary interests would have to be taken into account. The decision was made to set up a Ngati Tama claims committee comprising interested individuals. Consultation hui were held including a Ngati Tama hui-a-iwi in Petone on 2 July, 1999. The organising committee worked on a claim, which was solely on behalf of, and in the interests of, a growing number of affected Ngati Tama persons. That claim was filed with the Waitangi Tribunal and registered as Wai 735 with the claimants named as Te Puoho Katene and Te Taku Parai on behalf of Ngati Tama ki te Whanganui-a-Tara (later to be renamed Ngati Tama ki te Upoko o te Ika).

In 1987, a claim relating to the Port Nicholson Block (Wai 54)⁴ had been lodged with the Waitangi Tribunal covering all breaches regarding Taranaki iwi. That claim was broadened to become the Wai 145 claim in 1990. The revised claim featured the 209,000 acre Port Nicholson Block lodged by the descendants of Maori who, in 1840, owned and were mana whenua of the greater Wellington and Hutt Valley area.

In its statement of claim dated 28 June, 1996 to the Waitangi Tribunal, the Wellington Tenths Trust stated that it represented the interests of beneficiaries “who whakapapa to tupuna of the iwi and hapu of Te Atiawa, Ngati Mutunga, and Ngati Tama who were living in and about the rohe of Whanganui-a-Tara

⁴ The Wai 54 claim was lodged by Makere Rangiatea Ralph Love, Ralph Heberley Ngatata Love, on behalf of themselves and on behalf of the beneficiaries of the Taranaki Maori Trust Board, and beneficiaries of the Wellington Tenths Trust and the Palmerston North Reserve Trust together with the Corporations and Trusts of the Nga Iwi o Taranaki, and all Taranaki whaanui with whakapapa links to Wellington in 1840.

in 1839 and 1840”.⁵ Other related claims lodged with the Waitangi Tribunal included Wai 105 filed by Ihakara Porutu Puketapu (Hutt section 19); Wai 183 by Eruera Nia (Korokoro urupa); Wai 377 by David Churton (Kaiwharawhara and Hutt); Wai 442 by Mark Te One and others (Waiwhetu pa land); Wai 562 by Kara Puketapu (Pipitea pa and street properties); Wai 571 by Ngatata Ralph Heberley Love (Section 1, Pipitea Street); Wai 660 by Anne Rewiti (Hutt section 19); Wai 734 by Toa Rangatira Pomare (Whanganui-a-Tara); and Wai 735 by Te Puoho Katene and Te Taku Parai (Whanganui-a-Tara).

Further claims considered by the Waitangi Tribunal were two from Muaupoko (Wai 52 and Wai 623); two from Rangitane (Wai 175 and Wai 543); Ngati Toa Wai 207); and Ngati Rangatahi (Wai 366). There were also two Ngati Tama groups that presented separate statements of claim to the Waitangi Tribunal in Wai 377 and Wai 735.

Ngati Tama Wai 377 Claim

On 6 August, 1993, David Churton and others on behalf of descendants of the chief Taringa Kuri claimed under the Treaty of Waitangi Act 1975 that the rights guaranteed to him by signing the Treaty were breached.⁶

On 26 September, 1839, Taringa Kuri (also known as Te Kaeaea) signed the Deed to the sale of Wellington. As the chief of Ngati Tama he received one

⁵ Ibid, p1

⁶ Statement of Claim, Wai 377, from Ngati Tama Te Kaeaea Trust on behalf of the descendants of Taringa Kuri. An amendment was made to WAI 377 Statement of Claim 1.1 (a) on 19 July, 1994.

sixth of the payment. On 29 April, 1840, Taringa Kuri signed the Treaty of Waitangi on board the *Ariel* at Port Nicholson (Wellington). Between June of 1840 and February of 1845 clear breaches of the Treaty were made by the Crown against Taringa Kuri and his tribe, Ngati Tama. The forced sales of Taringa Kuri's land, pa and cultivated areas at Kaiwharawhara and also in the Hutt Valley were unresolved issues. Following increased disputes with the Crown, the Ngati Tama chief was removed on 24 February, 1846 by the force of 340 troops under the command of Lieutenant Colonel Hulme. Under the Treaty of Waitangi's article two, those lands were supposed to be protected by the Crown.

The claimants, as a result of the Crown's actions and inactions, claimed they were prejudicially affected, and wished that the Crown recognise their claim and reach an honourable agreement as to compensation. The claimants formed themselves into two camps: the Ngati Tama Te Kaeaea Trust, headed principally by David (Tuffy) Churton; and a later 'splinter' group, Ngati Tama Te Kaeaea ki te Upoko o te Ika a Maui,⁷ with key proponents being John Chadwick, Sheryl Connell, Michelle Marino, Eldon Potaka, Mahanga Williams, Bruce Churton and Errol Churton.

Both groups claimed Te Kaeaea as their forebear, a claim subsequently challenged by others including the Porirua based Wikitoa whanau, which questioned the original mandate of all Wellington land claims using the name

⁷ Later to be known as Ngati Wai hapu o Ngati Tama

Wikitoa (or Te Kaeaea). It also wanted to be acknowledged as the true Wikitoa descendants.⁸

Ngati Tama Wai 735 Claim

On 25 August, 1998, Te Puoho Katene and Te Taku Parai lodged with the Waitangi Tribunal a claim⁹ on behalf of Ngati Tama Ki Te Whanganui-a-Tara, a group set up in 1998 to manage the Ngati Tama claim, and other descendants of those tupuna who established and maintained the Ngati Tama customary interest held in Te Whanganui-a-Tara prior to 1840. The claim was assigned the number Wai 735.

The claim related to the lands, rivers, fisheries, wahi tapu and all other taonga within the boundaries of Ngati Tama. It was claimed that Ngati Tama was prejudicially affected by the policies, practices, acts or omissions of the Crown; and that the policies, practices, acts or omissions adopted by or on behalf of the Crown were inconsistent with the Treaty of Waitangi. The claim stated that by 1840 Ngati Tama had tino rangatiratanga, mana whenua and tangata whenua status over the lands in Wellington in accordance with classic Maori law and custom – whether by exerting mana and rangatiratanga, by creating relations between groups, or by physically using, cultivating and occupying.¹⁰

⁸ Letter from Wikitoa Whanau Trust to Ngati Tama ki te Upoko o te Ika dated 6 April, 2005

⁹ Ngati Tama ki te Whanganui a Tara. Statement of Claim, Wai 735, 1998

¹⁰ Idem

In 1840 the rights and customary interests of Ngati Tama were in Te Whanganui-a-Tara westward to the coast. Ngati Tama had kainga and occupation of lands at Ohariu, Kaiwharawhara, Pakuao, Raurimu, Tiakiwai, Makara and other locations. However, in some of these places Ngati Tama was not the only group exercising tino rangatiratanga or holding interests. In some cases several layers of rights applied to the land and other resources. The nature of those interests, their depth or scope, the particular groups and the relationship between them varied from place to place. In September 1839, the New Zealand Company had entered into a transaction with several chiefs for the sale of lands at Te Whanganui-a-Tara and Heretaunga, known as the Port Nicholson Deed. Ngati Tama chiefs did not consent to the sale of their lands and actively resisted the land alienation. In the years 1840-1846, the Crown assisted the New Zealand Company and associated settlers to settle the lands of Te Whanganui-a-Tara and made grants of lands to the New Zealand Company, purportedly in pursuance of the arrangements with Maori, including Ngati Tama Chiefs.¹¹

The Wai 735 claim outlined the actions, policies and omissions of the Crown that were in breach of the principles of the Treaty of Waitangi. The Port Nicholson Deed and what it purported to cover was transacted in September of 1839 without the full knowledge and understanding of Ngati Tama, which had pertinent customary interests and rights. The Crown failed to have regard to the customary and traditional rights of Ngati Tama in the area and it assumed that a transaction extinguishing in these had already taken place.

¹¹ Idem

The Crown had failed to protect existing kainga, pa and lands of Ngati Tama. None of Ngati Tama's lands at Kaiwharawhara or elsewhere were protected by inclusion in reserves, and Ngati Tama was evicted from those lands. Ngati Tama was forced to participate in the compensation arrangements of 1844, and was prejudicially affected by the level of compensation and the loss of cultivations. Ngati Tama people resident at Ohariu were ignored. The Crown, represented by Governor Fitzroy, issued grants validating the New Zealand Company's Port Nicholson purchase in July of 1845, despite Ngati Tama's interests not having been acquired or protected.¹²

The people of Ngati Tama after occupying and cultivating lands in the Hutt Valley to sustain them after eviction from Kaiwharawhara, were evicted from there under duress in 1846. The lands made available for Ngati Tama at Kaiwharawhara had been inadequate to sustain the population and unsuitable for cultivation, forcing the tribe to reluctantly leave its site of traditional occupation in Te Whanganui-a-Tara. Many Ngati Tama people were forced to return to their homelands in Taranaki, venture south or seek sanctuary with allies and kin at Porirua and elsewhere.

The actions and omissions of the Crown in its policies and practices led to social and economic destabilisation of Ngati Tama and its chiefs. The Crown failed to actively protect Ngati Tama, and was in breach of the principles of the Treaty in that the Crown pursued a deliberate policy of intervention, which had the effect and purpose of undermining traditional leadership and

¹² Idem

rangatiratanga, disrupting traditional balances of power in the area, and dislocating social relationships between iwi.

As a result of Crown intervention, Ngati Tama was forced from its lands and dispossessed of its economic resources, which included mahinga kai, hunting, cultivation, gathering and fisheries resources. As a consequence of Crown intervention traditional patterns of resource use, economic structures and the society of Ngati Tama were all destabilised. The tribe was hampered in and prevented from the economic utilisation and development of its remaining resources.¹³

CROWN'S ROLE

The development and implementation of Crown policies before 1850 interfered markedly with the Ngati Tama land base. Those policies were made without the consultation and co-operation of iwi members. However, to what extent were Ngati Tama people authors of their own experience or victims of Crown policy? For those Ngati Tama people living in Ohariu after 1850 reserve land was given to them for development.

While the Wellington town market was in close proximity with its potential for trade, the contact with Europeans introduced Ngati Tama people to a range of new infectious diseases leading to increasing mortality and morbidity rates. No matter how large the Ohariu reserves were this detrimental outcome would

¹³ Idem

have been the same. It was different for Ngati Tama people living at Kaiwharawhara, however. It could be argued that those people left their harbour reserves in response to market pressures elsewhere.

Within the context of the claim, what was the role of the Crown? The Port Nicholson transaction with the New Zealand Company was, as far as Ngati Tama was concerned, a travesty and the subsequent Crown action tended to proceed in a collusive manner. In the post-1850 period there were few examples of acts of commission against Ngati Tama, but there were many instances of acts of omission. While it is easy to suggest in hindsight where the Crown should have been involved, it is clear that proactive and effective health services were noticeably absent, and active participation in the development of reserve land or the exploration of other suitable options was missing. It was not an impossibly high expectation of the Crown, even at that time.

The Waitangi Tribunal's Muriwhenua report¹⁴ seemed to agree. It made the point that the whole approach of Crown policy in the post-Treaty era was predatory rather than consultative and co-operative. The end result for the people of Muriwhenua and Ngati Tama was very similar; land loss and socio-economic marginalisation. For Ngati Tama there was the additional matter of losing their connections with a district for which it had fought and in which its members resided.

¹⁴ Waitangi Tribunal. The Muriwhenua Report, [Wai 45] GP Publications, Wellington, 1997,

Significantly, the Muriwhenua report considered a more suitable policy would have been the development of settlement plans with Maori. The Tribunal noted that when Muriwhenua Maori transferred land to the Crown there was mutual agreement between both contracting parties that Maori should derive benefit from the transactions.¹⁵

Considering this, the role of a settlement plan would have been to ensure benefits to both Europeans and Maori as settlement progressed.¹⁶ Within such a settlement plan the Crown and Maori could have worked towards resolving a number of issues including provision for Maori law and authority, access to markets, taxation, reserves, availability of medical services, schooling, farm training, anchorage dues, and so on.¹⁷

Although during the hearings the Crown claimed that the Government of the time could not have predicted Maori needs or foreseen the future, the Tribunal's response was simply to say that meeting needs and planning ahead is what governments do.¹⁸

Our principal conclusion then, is that the Government failed to devise and then debate an adequate – or any – plan for settlement to ensure that Maori would be substantial beneficiaries in the predicted economic regime, when in all the circumstances – the known Maori goal, the promises made and the perception of an alliance - the Government ought reasonably to have seen the need for such a plan.¹⁹

¹⁵ Ibid, p203

¹⁶ Ibid, p325

¹⁷ Walzl, May, 1997, p203

¹⁸ Waitangi Tribunal, 1997, p334

¹⁹ Ibid, p209

While the participation of Muriwhenua Maori in land transactions with the Crown was a free negotiation of choice, the obligation of the Crown with respect to Ngati Tama was to fulfil near-contractual expectations. The Ngati Tama experience was different in that the McCleverty settlements were conducted with Maori exercising little choice in the matter. No such settlement plan was devised or implemented in Wellington. As a result, Ngati Tama interests were not fostered and Crown efforts at assistance were piece-meal and ultimately ineffective. The Crown's acts of omission in not assisting Ngati Tama to deal with the rapidly changing environment in which it lived due to European settlement had as serious a range of effects and impacts for Ngati Tama as any negative act of commission. The result was that Ngati Tama lost its land base, and its identity in Wellington as a local iwi.²⁰

Ngati Tama had been one of the first Taranaki iwi to arrive in the Wellington area in the 1820s. By 1839, Ngati Tama maintained a distinct identity in Wellington and enjoyed fishing, hunting and cultivation rights there. Its people resided specifically in kainga throughout the Wellington area especially at Kaiwharawhara, Ohariu and Makara. Ngati Tama also had summer fishing camps at Okiwi and Mukamuka, many in association with other iwi groups. The Crown failed to protect Ngati Tama interests at Kaiwharawhara, for example, due to settler encroachments. Ngati Tama was forced into the Hutt Valley because of those settlers. The Crown then evicted Ngati Tama because its people would not agree to Crown proposals for resettlement and abandonment of their cultivations.²¹

²⁰ Walzl, 1997, pp203-204

²¹ Ibid

The claimants sought a finding that Ngati Tama as a distinct group in Wellington had suffered prejudice from Crown actions contrary to the Treaty and therefore sought engagement with the Crown in negotiations for relief. Acknowledgement of Ngati Tama's customary interests was of primary concern, as well as Crown actions taken specifically against those interests.

POST-WAITANGI TRIBUNAL HEARING

From the late 1990s, informal and formal discussions were held between the Ngati Tama claimant group and OTS. On 15 December, 2000, Ngati Tama met with OTS officials to discuss aspects of the post-hearing claims process. A general discussion ensued and information was shared. When the Ngati Tama claimant group (Ngati Tama ki te Whanganui-a-Tara) was set up on 28 March, 2002 as a legal entity called Ngati Tama ki te Upoko o te Ika Society Incorporated, contact with OTS became more regular. A request was made by letter for a meeting with OTS, "to be updated on developments concerning the release of the Waitangi Tribunal Report (and make some suggestions), and to begin a process of working closely with your organisation towards a mutually beneficial end".²²

In that letter mention was made of hui that had been held for Ngati Tama iwi/hapu/whanau and other interested groups to progress issues arising from the claim and rekindle interest in a viable Ngati Tama presence in Wellington:

²² Letter from Ngati Tama ki te Upoko o te Ika to Andrew Hampton of OTS, 11 April, 2002

To ensure that Ngati Tama's organisational structure is transparent and accountable and that we are properly represented in any discussions with the Crown, and others, we have formally set ourselves up as an Incorporated Society, and are currently recruiting members.²³

On 29 April, 2002, Ngati Tama ki te Upoko o te Ika met again with OTS to discuss the intentions of the Crown and OTS with regard to the settlement of the Wellington claims. The society presented the history of Ngati Tama in Wellington from its perspective, and detailed the society's recent establishment to represent the Wai 735 claimants. The society felt that, "the meeting was a useful and productive first step towards building a relationship between Ngati Tama in Te Whanganui-a-Tara and OTS".²⁴

It is vitally important to Ngati Tama that their autonomy is not lost and proper recognition be given to a body whose sole concern is representation of Ngati Tama interests and concerns and who has the proper mandate of all those of Ngati Tama descent in Te Whanganui-a-Tara.²⁵

The Crown had a strong preference to negotiate comprehensive settlements covering all the historical claims of large natural (customary) groupings of tribal interests.²⁶ Indeed it was Crown policy and the preferred approach by OTS for a comprehensive settlement with a large natural grouping - namely all Taranaki iwi in Wellington, including Ngati Tama. The society was familiar with the Tribunal's Pakakohi and Tangahoe report,²⁷ which used that approach. By applying the Waitangi Tribunal's tests, it could be said of Ngati Tama that

²³ Idem

²⁴ Letter from Ngati Tama ki te Upoko o te Ika to Andrew Hampton of OTS, 6 May, 2002

²⁵ Idem

²⁶ Office of Treaty Settlements, *Healing the past, Building a future*, 1999, p48

²⁷ Waitangi Tribunal, *Pakakohi and Tangahoe Settlement Claims Report*, November, 2000

under tikanga and from the perspective of early colonial history and Crown recognition, it had a separate cultural and political entity from other Taranaki iwi, which led to historical and present conflicts between them. Further, the basis of the Ngati Tama claim was quite distinct from that of others, including Te Atiawa.

It may be that Ngati Tama may agree to work together with other groups to negotiate their claim, to expedite negotiations, and for other purposes. However, it is our view that in the first instance the Crown must recognise Ngati Tama's right to speak for itself. We were very pleased to obtain from you the assurance that OTS would not be interested in pursuing a settlement dominated by one body at the expense of any other iwi and/or group.²⁸

OTS officials reported to their Minister that meetings had been held with the principals of the major interest groups in the Wellington area that descend from tupuna of the Taranaki tribes, which exercised customary interests in Wellington in 1840. OTS reported their preference for a collective mandate and negotiation process, which had been signalled to the parties, and that talks would continue with the short-term goal of formalising a Wellington Collective Working Party that encompassed the interests of all claimants.

There is general agreement with claimants and OTS that - in the event of a successful mandate notification process - preliminary negotiation talks would not begin until after the Tribunal report is released.²⁹

On 25 October, 2002, Ngati Tama ki te Upoko o te Ika was one of only two groups that lodged a submission to the Maori Affairs Select Committee on the

²⁸ Letter from Ngati Tama ki te Upoko o te Ika to Andrew Hampton of OTS, 6 May, 2002

²⁹ July, 2002 Monthly Report from OTS to Hon Margaret Wilson, Minister in Charge of Treaty of Waitangi Negotiations

Maori Purposes Bill (No 2) 2002. The submission commented that the slow passage through the House of this key retrospective legislation had held up the release of the Waitangi Tribunal report into the Wellington lands inquiry.

Our active participation on 12 December, 2002 showed to the Government and Wellington Tenth's our organisation's strong commitment to the claim and government processes, and Ngati Tama's place as an credible iwi authority in Wellington.³⁰

The society supported the intent of the Maori Purpose Bill (No 2) 2002, and recommended that:

The Maori Affairs Select Committee does everything it can to ensure that empowering legislation is passed in the shortest possible time so that all claimants in the Wellington Tenth's Inquiry (Wai 145), in particular Ngati Tama can get on with resolving their Treaty claims; and that the Crown acknowledges the inherent difficulties experienced by the claimants caused by the delays in amending the legislation and to validate the Wellington Tenth's Inquiry (Wai 145), and recognise the inconvenience, trauma, and other related costs that also impacted on the claimants.³¹

Setting the Scene

The Wellington claim was the setting that clearly defined the way in which Ngati Tama ki te Upoko o te Ika related to and interacted with Te Atiawa and the Wellington Tenth's Trust – the dominant parties in the claim. Dealings with those parties did not auger well from the start.

³⁰ Ngati Tama ki te Upoko o te Ika runanga hui notes of 29 January, 2003

³¹ Ngati Tama ki te Upoko o te Ika. Submission to the Maori Affairs Select Committee on the Maori Purposes Bill (No2) 2002, 12 December, 2002

We were concerned that the Wellington Tenth Trust had a central role in the establishment of the claim process under the PNBC.³²

Those concerns related particularly to the design and development (and later the implementation) of the strategy for the Wellington claim.

There had been some unease at the decisions made by a select few individuals around funding the claim, setting up a national membership register, undertaking a large scale information hui campaign, establishing offices, and appointments being made to key PNBC positions.³³

The society felt it should have been properly consulted, despite numerous hui being held with the wider iwi community. There had also been some disquiet about the Crown's approach to settling claims. The Crown's 'large natural group' approach suited the Crown's purposes, but it was debatable whether it suited iwi as well. Iwi groups should not have to fit into an unnatural grouping, which the PNBC, a non-iwi coalition, appeared to be.

In its attempt to expedite a speedier process to negotiate and settle claims the Crown, by encouraging clustered groupings, had in effect disadvantaged some iwi. The claimants' preference seemed to be to include pan-Taranaki iwi or pan-Ngati Tama groups in the negotiations with the Crown. That there had been a preference for the term 'claimants' to be used instead of iwi at a number of hui³⁴ suggested that the PNBC was not exactly pro-iwi in its outlook.

³² Participant 10

³³ Idem

³⁴ PNBC working party hui notes, 12 April, 2003

OTS supported the view that individual claimants of those iwi that the Tribunal report found as having held an interest in Port Nicholson from 1840 onwards would conduct the claims process. Requests to desist referring to 'claimants' exclusively and work out an arrangement with entitled and mandated bodies (i.e. claimant communities) went unheeded.

Having received its mandate to represent Ngati Tama iwi interests from its members, the society did not want other groups in the Wellington area to 'speak' for the iwi. "The Crown must recognise Ngati Tama's right to speak for itself".³⁵ The society had been given an assurance that a single body would not dominate settlement at the expense of any smaller group.

The PNBC often stated that, "the Wellington Tenths Trust does not drive the PNBC process".³⁶ However, at a PNBC mandate team meeting there was discussion about proposed negotiators and conflicting commitments that may have caused some potential candidates to be unavailable. It was suggested that a firm policy and clear message was needed from that group (i.e. the Port Nicholson Block Claim mandate team).³⁷ Subsequently, its chairperson "agreed that it was a policy issue, and as the Tenths Trust has agreed to be fair to all claimants, it will help compile evidence and put the case".³⁸

The role of the Wellington Tenths Trust in claim matters did cause confusion. There appeared to be no clear demarcation between the Trust's financing of

³⁵ Notes of hui between Ngati Tama ki te Upoko o te Ika and OTS on 29 April, 2002

³⁶ Notes of PNBC working party hui, 12 April, 2003

³⁷ PNBC mandate team minutes, 29 October, 2003, p3

³⁸ Idem

the claim, and the claim organisation (i.e. PNBC) itself. It was not clear how and when the key decision to fund the claim was decided. Funding the claim was a matter that warranted wider discussion.

Such an important matter should, at least, have been formally discussed at the twenty-three information and registration hui, and the twelve mandating hui. All relevant iwi and all other claimant groups should have been involved in the planning for how the claim would be funded - a crucial decision for any claims process. Adequate consultation of co-claimants was a key discussion point in the development of the values, principles and behaviour agreed by the mandate team.³⁹

Notwithstanding a more open process, the Wellington Tenths Trust was in a good financial position to fund the claim and provide the required leadership, legal, communication and administrative services. To their credit, the two Te Atiawa groups, Wellington Tenths Trust and Te Runanganui o Taranaki Whaanui, were speaking with one mind in respect to the claim.

Nonetheless, there had been tension within Te Atiawa around the roles of the Wellington Tenths Trust and that of Te Runanganui o Taranaki Whaanui. The Tenths Trust had earlier been referred rather unsympathetically by the runanganui chief executive officer as a, “non-Maori, Crown-created institution subject to Maori Land Court authority; and larger shareholders and beneficiaries are not ‘tangata whenua’ in the purest sense in that they either

³⁹ PNBC Supporting Report for the Deed of Mandate. 2003, pp24-17

do not live in the Wellington or Lower Hutt districts or by genealogy are not a descendant of the original owners".⁴⁰

This view reinforced the importance of the Crown recognising the primary role of iwi at the political level. If a non-iwi group sought to act on an iwi's behalf, then it would be incumbent upon OTS to be assured that the non-iwi group had the endorsement of relevant iwi. The recognition of iwi throughout the PNBC process had been noticeably absent.

A key element of the Crown's approach to the Wellington claim included the premise that the issue of iwi participation in the claim process (i.e. by Ngati Tama, Atiawa ki Whakarongotai, Ngati Toa, Rangitane and Muaupoko) needed to be addressed by all parties.⁴¹ It had not been evident.

It was Ngati Tama ki te Upoko o te Ika's view that negotiations and any comprehensive settlement should be iwi-based and iwi-driven, and that it should include engaging with iwi at every opportunity; that is, consultation through iwi. That did not happen to its satisfaction. Instead, consultation was undertaken direct with individuals, in effect bypassing iwi altogether. Consultation should have occurred with iwi governance authorities. It was unacceptable that iwi, having set in place legal mandating structures that were functioning effectively, were passed over in favour of a 'Crown creation'.⁴²

⁴⁰ Puketapu K. Evidence on behalf of Te Runanganui o Taranaki Whaanui ki te Upoko o te Ika a Maui, before the Environmental Court, June, 1998, p3

⁴¹ Letter from OTS to Ngati Tama ki te Upoko o te Ika, 29 August, 2002

⁴² Puketapu K. Evidence on behalf of Te Runanganui o Taranaki Whaanui ki te Upoko o te Ika a Maui, before the Environmental Court, June, 1998, p3

When the PNBC communicated with Ngati Tama ki te Upoko o te Ika, it did so in a circuitous way. In fact, PNBC preferred to ignore direct contact with the iwi when consulting on claim matters. This lack of communication of vital information at crucial times was the source of ongoing contention between the two groups throughout the claim process.

THE WAITANGI TRIBUNAL REPORT

In 1991, the Tribunal had its first hearing at Te Tatau o Te Po Marae in Petone. The Tribunal consisted of Bill Wilson (chairperson), Georgina Te Heuheu and Professor Gordon Orr. Over the years the membership of the Tribunal included: the Rt Reverend Manuhua Bennett (deceased), Professor Keith Sorrenson, John Clarke and Areta Koopu. During that time Georgina Te Heuheu became a National MP.

The long-awaited passage through Parliament's House of Representatives of the Maori Purposes (No 2) Bill (2002) to validate the composition of the Waitangi Tribunal meant that the way was clear for the Waitangi Tribunal report to be released. On 17 May, 2003, the Waitangi Tribunal finally released *Te Whanganui a Tara Me Ona Takiwa: Report on the Wellington District*.

The eagerly anticipated report spanned thirteen claims relating to the area covered by the New Zealand Company's 1839 Port Nicholson Deed of Purchase, as extended in 1844 to the southwest coast. The inquiry area consisted of the takiwa (district, or environs) of Te Whanganui-a-Tara

(Wellington Harbour or Port Nicholson), including Wellington city and the Hutt Valley.

The Waitangi Tribunal found that in 1840, Ngati Tama had ahi ka rights within the Port Nicholson block (as extended in 1844 to the south-west coast) at Kaiwharawhara and environs and at parts of the southwest coast. Ngati Tama also had take raupatu over the remainder lands within the Port Nicholson block.⁴³

The 1839 Deed by which the New Zealand Company purported to have purchased the Port Nicholson block was invalid, conferring no rights on the New Zealand Company or its settlers.⁴⁴ From 1840, the New Zealand Company settlers began arriving at Port Nicholson, and quickly came into conflict with local Maori, who discovered that land, which they occupied and cultivated had been sold to settlers.

Despite an investigation by a Crown-appointed land claims commissioner that revealed many of the deficiencies in the New Zealand Company's supposed purchase, the Crown agreed to a process whereby Maori would release their interests in 67,000 acres of land to the Company in exchange for £1,500 'compensation'.⁴⁵ The Waitangi Tribunal also found that the process was deeply flawed, and was carried out without the informed consent of Maori.⁴⁶

⁴³ Waitangi Tribunal. Te Whanganui a Tara Me Ona Takiwa: Report on the Wellington District. 2003:p479

⁴⁴ Ibid, p479

⁴⁵ Ibid, pxix

⁴⁶ Ibid, pxvii

In 1848, a Crown grant was issued to the New Zealand Company covering not just the 67,000 acres, but the whole of the Port Nicholson block, said to contain around 209,000 acres. Maori only retained only some 20,000 acres of reserves. The Crown grant deprived Maori of roughly 120,000 acres, which they had never sold or consented to give up, and the Tribunal found that to be in breach of Treaty rights.⁴⁷

Another issue covered in the report was the conflict over Heretaunga (the Hutt Valley). In the early 1840s, Ngati Tama had occupied parts of Heretaunga. Crown officials did not recognise the rights of Ngati Tama in Heretaunga, where its people were living on land claimed by the New Zealand Company and its settlers.

In 1846, Governor Grey forced Ngati Tama into leaving the Hutt Valley. The Waitangi Tribunal found that the Crown failed to recognise or protect the interests of Ngati Tama people, who were required to surrender their land without their consent, and who received inadequate compensation.⁴⁸

The Waitangi Tribunal report also dealt with Maori reserves in Wellington. This included both the 'tenths' and 'McCleverty reserves'. Part of the New Zealand Company's original plan for the settlement of Port Nicholson was that one tenth of the land acquired by the Company would be set aside as native reserves, which came to be known as the 'tenths'.

⁴⁷ Ibid, p493

⁴⁸ Ibid, p482

The Crown subsequently assumed responsibility for those tenths reserves with government officials administering the 'tenths' reserves on behalf of Wellington Maori. The 'McCleverty reserves' were placed under the direct control of Maori owners, and the bulk of those reserves were later either sold or taken for public works.

In 1851 and 1853, the Crown appropriated twenty-three acres of valuable urban 'tenths' land as endowments for hospital, educational and religious purposes. The Maori beneficial owners did not consent to those appropriations, received little benefit from the endowments, and were not compensated until 1877 when they received inadequate compensation. The Waitangi Tribunal found that those appropriations were in breach of Treaty principles.⁴⁹

The legislation, which imposed a perpetual leasing regime without the consent of the Maori beneficial owners of the reserves was also found by the Waitangi Tribunal to be in breach of the Treaty.⁵⁰ Also discussed in the report was the taking by the Crown of land for a town belt and other public reserves without the consent of, or payment to, Ngati Tama; and the Crown's assumption of the ownership of Matiu (Somes Island) in 1841, again without obtaining consent from Ngati Tama.⁵¹

Regarding the management of Wellington harbour, including the reclamation

⁴⁹ Ibid, p484

⁵⁰ Ibid, p486

⁵¹ Ibid, p480

(and subsequent destruction) of much of the harbour foreshore, the Crown found that Ngati Tama was prejudicially affected.⁵² The Tribunal report stated that:

Claims were made by two groups of Ngati Tama [Wai 735, and Wai 377]. It will be for them to agree on who is to represent them in their negotiations with the Crown in respect of the various Treaty breaches which affected Ngati Tama along with Te Atiawa, Taranaki and Ngati Ruanui. In only one instance is a Treaty breach found in respect of Ngati Tama alone. This concerns their being driven from Kaiwharawhara and their later expulsion from the Hutt Valley.⁵³

The Tribunal concluded that serious breaches of the Treaty by the Crown occurred in the Port Nicholson block, and that these Treaty breaches combined to entitle Ngati Tama to, “substantial compensation.” It recommended that Ngati Tama representatives enter into negotiations with the Crown to settle these Treaty grievances. The Tribunal also deemed that a significant element of any compensation should be the return of Crown land in Wellington and its environs. Leave was also granted to the two Ngati Tama groups to seek more specific recommendations if agreement could not be reached between the various parties.⁵⁴

In essence, the Tribunal report provided affirmation of what other local iwi had already known: that from the 1820s Ngati Tama whanau and hapu were established at Ohariu and other settlements on the southwest coast and inland; and that Ngati Tama had ahi ka and take raupatu rights over Wellington and other areas (e.g. Hutt Valley) along with other iwi – Ngati Toa,

⁵² Ibid, p486

⁵³ Ibid, p490

⁵⁴ Ibid, p493

Te Atiawa, Taranaki and Ngati Ruanui. Other groups identified with ahi ka rights in 1840 included: Ngati Toa (in Heretaunga and parts of the southwest coast); Ngati Rangatahi (Heretaunga); Taranaki (Te Aro); Ngati Ruanui (Te Aro); and Te Atiawa (Te Whanganui a Tara and parts of the southwest coast).⁵⁵ The Tribunal found that there was no case for claimants on behalf of Ngati Mutunga, Rangitane or Muaupoko on the grounds that they had no presence in Wellington in 1840.

Ngati Toa signalled early its intention to negotiate on its own behalf rather than be part of a pan-Taranaki iwi claim. Its claims included not only Wellington but Te Tau Ihu as well. The option of Ngati Rangatahi being part of Ngati Maniapoto's iwi negotiations was considered best suited to contemporary Ngati Rangatahi socio-political reality, in that its everyday presence was not in Wellington but on the border of Ngati Maniapoto⁵⁶ and the Rangitikei district.

With respect to the four Taranaki whaanui iwi of Te Atiawa, Taranaki, Ngati Tama and Ngati Ruanui, the Tribunal commented:

On the representative role of the Wellington Tenth, in particular that the Tenth beneficiaries do not include all those descendants of tupuna of Te Atiawa, Taranaki, Ngati Tama and Ngati Ruanui who exercised customary rights in 1840. The report specifically notes this issue of incomplete representation weighed against the Tenth's acknowledgement that a representative body is needed for all persons eligible through whakapapa; that is, other descendants of Te Atiawa,

⁵⁵ Ibid, p479

⁵⁶ OTS internal memorandum of 26 May, 2003

Taranaki, Ngati Tama and Ngati Ruanui who are not beneficiaries of the Tenth.⁵⁷

Full consultation would have to take place between the four Maori groups involved to ensure that all were included in any settlement with the Crown. That would not occur if only existing 'tenths' beneficiaries were to benefit. The Waitangi Tribunal decreed that the issue be resolved by the parties as a precondition to any settlement with the Crown.⁵⁸

As for the two groups of Ngati Tama that had similar claims, it would be for them to agree on who represented them in their negotiations with the Crown.⁵⁹ Both factions expressed reservations about the PNBC structure, and how they would be represented. However, the Tribunal report gave a clear direction that it would be up to those two Ngati Tama groups to elect their representatives on the Wellington working party.

OTS had observed that an increasing rivalry had developed between the two groups (PNBC and the two Ngati Tama groups) with factions within each appearing to strive for supremacy. This struggle, OTS officials asserted, was pointless. OTS intended to point out to the various parties that the ultimate representation of Ngati Tama was a matter to resolve during the negotiation process.⁶⁰ Concerning the Wellington Tenths participation, OTS considered that:

⁵⁷ Waitangi Tribunal. Te Whanganui a Tara Me Ona Takiwa: Report on the Wellington District. 2003:p489

⁵⁸ Idem

⁵⁹ Ibid, p490

⁶⁰ OTS internal memorandum of 26 May, 2003

The Tenth does have Ngati Tama members and thus some representation of Ngati Tama via the Tenth / Port Nicholson working party structure. It is reasonable, in our view, for the Tenth to nominate one of their representatives on the working party as being Ngati Tama.⁶¹

As for the two Ngati Tama groups, OTS anticipated between two and four representatives. Given their small size one properly notified hui at each rohe should be sufficient for this process. There was little doubt, from OTS' perspective, that those affiliated to the Wellington Tenth Trust held the key positions in the Port Nicholson Block Claim team and that the iwi representation was predominantly from within Te Atiawa. OTS was of the view that:

The Tenth would clearly be a vehicle for significant Te Atiawa representation.⁶²

OTS expressed its views to its Minister on the possible composition of the Taranaki whaanui negotiation team. It suggested a team of eleven to twelve people including one person from each of the following groups: Te Kaeaea, Ngati Tama ki te Upoko o te Ika, Waiwhetu, Te Atiawa Iwi Authority, and Palmerston North Tenth. In addition, it considered that the Wellington Tenth Trust comprise six or seven persons of whom Te Atiawa would have two or three, Ngati Tama one or two people, with Ruanui and Taranaki one person each.⁶³

⁶¹ Idem

⁶² Idem

⁶³ Idem

THE PNBC INTERIM WORKING PARTY

It was made explicit that the establishment of a interim working party was a key element of the Crown's approach to settling the Wellington claim. OTS encouraged all interested parties to seek a means of establishing a Wellington Claims Working Party.⁶⁴ OTS provided helpful advice in suggesting that the proposed working party:

...could resolve internal representation issues, co-ordinate a registration drive and send regular panui [notices] to claimant members, and (agree that) the negotiating team could be determined and agreed by the full working party and confirmed by the wider claimant community by hui and postal vote.⁶⁵

The reality was somewhat different. Ngati Tama ki te Upoko o te Ika felt marginalised from the beginning. While reflecting the range of iwi involved in the PNBC, the working party did not represent or have endorsement from all iwi authorities.

It would have been much better if iwi backing had been sought and that authorised iwi representatives had been given a more prominent role. The interim PNBC working party preferred to work with claimants rather than iwi representatives, which was contrary to OTS' earlier advice.

The Wellington claim seemed to have been taken over by a narrower focus on only the Port Nicholson Block. Ngati Tama's claims were broader than the

⁶⁴ Letter from OTS to Ngati Tama ki te Upoko o te Ika of 29 August, 2002

⁶⁵ Idem

geographical confines of this area.⁶⁶ Advice to PNBC's lawyers⁶⁷, referring to the claim as the 'Wellington Settlement' rather than the PNBC because negotiations would almost certainly capture claims that extended outside the block's boundaries, seemed to be ignored. Later, OTS directly advised the interim PNBC working party that the name 'PNBC' might not reflect the full extent of the issues to be included in negotiations, or necessarily is conducive to achieving a representative mandating body for the Wellington claims. No notice appeared to be taken of that advice.

The planning meetings of the PNBC working party seemed restrictive. Not all claimant communities were part of the initial group, although over time most claimant groups became better represented. However, on those occasions the wider views of smaller iwi were not given full respect.

The interim PNBC working party disseminated useful information to its membership. Unfortunately, some of that information was misleading. For example, the newsletters contained information pertaining to Ngati Tama that seemed to lack objectivity, and the information was often irrelevant and included a number of inaccuracies. Frequent attempts by Ngati Tama ki te Upoko o te Ika to provide editorial assistance, were rejected by the PNBC. The integrity of the process was further compromised by tight printing timeframes. There was undue haste in PNBC wanting to obtain a mandate as

⁶⁶ Letter from Ngati Tama ki te Upoko o te Ika to OTS of 25 October, 2002

⁶⁷ Letter from OTS to Philip Green (PNBC lawyer) of 27 June, 2002

quickly as possible. This situation served to unnecessarily raise people's expectations of a speedy settlement process.⁶⁸

The claim process was destined to be contentious. The Crown wanted all interested parties to establish a Wellington claims working party, and at the very least the working party would be comprised of representatives from claimant groups for all descendants of Taranaki tupuna in the Wellington area:

A large working party, based on the Wellington Tenths but including other claimant interests, is consolidating a mandate on behalf of all Taranaki descendants of the tupuna who were in Wellington at 1840.⁶⁹

This was always seen as a preliminary step to seeking a mandate for negotiators. Nonetheless, Ngati Tama ki te Upoko o te Ika was initially wary of formally joining the working party for fear of being subsumed by larger iwi. However, OTS advised the society to resolve any differences on representation as soon as possible and to join the working party on a without-prejudice basis.⁷⁰

PNBC's chairperson, Dr Ngatata Love, confirmed that Ngati Tama ki te Upoko o te Ika's presence on the interim working group was conditional. "Provided you are expressly authorised by Te Puoho Katene and Taku Parai to represent their claimant interests, that is to say to stand in the shoes of either one of them, then unquestionably you will have a place at the table".⁷¹ This

⁶⁸ Letter from Ngati Tama ki te Upoko o te Ika to OTS of 25 October, 2002

⁶⁹ Monthly Report from OTS to Hon Margaret Wilson of September, 2002 report (dated 15 October, 2002)

⁷⁰ Idem

⁷¹ Letter from PNBC to Ngati Tama ki te Upoko o te Ika of 1 November, 2002

was contrary to the Crown's view that the composition of the working party should be driven by identifying the claimant community as opposed to being driven by links to the range of claims or Wai numbers.⁷²

Ngati Tama ki te Upoko o te Ika agreed with the Crown's sentiments that Wai numbers were secondary, but experienced resistance from the PNBC interim working party on that matter. The society also supported, in principle, any information on the claim being distributed to the claimant communities, but considered it essential that any such information was objective, factually correct and represented the views of all the claimant groups.

PNBC information-sharing, registration hui and newsletter campaign seemed to be a recruitment drive to principally enrol individuals on the PNBC database/register. The PNBC newsletters posed more questions than answers. For example, with regard to the first newsletter of July, 2002 there had been no prior consultation with Ngati Tama ki te Upoko o te Ika on the content; the title 'Port Nicholson Block Newsletter' was considered misleading in substance as the land claim itself might not have been restricted to just the Port Nicholson Block; and although Ngati Tama beneficiaries and others were asked to sign up to a register, there was no indication as to who owned the register, its purpose or the privacy issues around it.

The July 2002 newsletter enunciated the 'kaupapa' of the Port Nicholson Block claim at every opportunity, which from the claimants' perspective,

⁷² Letter from OTS to the PNBC, Ngati Tama ki te Upoko o te Ika, and Te Atiawa Iwi Authority of 15 November, 2002

“speaks volumes about their intention to ensure that the settlement benefits are shared by all who are entitled to them”. The kaupapa was: “Together we arrived; Together we lived; Together we survived; Together we go forward; and Together we will succeed”.

In the July, 2002 newsletter⁷³ a statement was made that Te Puoho Katene of Ngati Tama ki te Upoko o te Ika had been consulted. It was subsequently found that statement was made without his full knowledge and was untrue. When challenged by the society on the accuracy of that statement, it was attributed to a hui held on 4 April 2002 between a group of people representing Ngati Tama ki te Upoko o te Ika (including Te Puoho Katene) and the Wellington Tenth Trust.⁷⁴ That hui was held at the society's instigation for the purpose of consulting with the Wellington Tenth Trust (and not PNBC) on the recent establishment of a Ngati Tama iwi authority in Wellington for fisheries purposes.

A snub to both Ngati Tama ki te Upoko o te Ika and Ngati Toa was a reference in PNBC's newsletter that, “the Wellington Tenth Trust represents the iwi manawhenua of Wellington”. That assertion, while true for Te Atiawa, was certainly not correct as far as the other local tangata whenua iwi were concerned; i.e. Ngati Tama, Ngati Toa, Ngati Ruanui and Taranaki. Those four iwi were also manawhenua by right and by choice. Intentional or otherwise, a climate of distrust had been created due to the dissemination of information about another claimant community without consulting the affected

⁷³ Port Nicholson Block Claim. Newsletter of July, 2002

⁷⁴ Participant 4

group to ensure accuracy. While the interim PNBC working party had been repeatedly informed of the errors, nothing was done to rectify the problem.⁷⁵ A simple correction in subsequent newsletters was not made.

The second PNBC newsletter⁷⁶ of September, 2002 included a feature front-page article highlighting the three Wellington Tenths Trust/Te Atiawa leaders: Dr Ngatata Love, Kara Puketapu and Neville Baker. The title, 'Iwi leaders join in call for unity', provided a clear statement as to where the claim leadership rested. Ngati Tama ki te Upoko o te Ika had again not been consulted. The newsletter informed PNBC beneficiaries of the appointment of Dr Ngatata Love as the chief claimant for the Port Nicholson Block. Aimed at Ngati Tama ki te Upoko o te Ika, it was twice stated in the newsletter that beneficiaries should be wary of new groups being set up: "I know that if we splinter and rush to form new entities we will fail to get the best results for everyone".⁷⁷

Extensive efforts were made to ensure that beneficiaries were not only identified but also educated about what a claim settlement would mean for them. It was planned to further spread the message through information and registration hui.

The PNBC chairperson corresponded only with the two individual Ngati Tama Wai 735 claimants, Te Puoho Katene and Taku Parai, instead of the group to whom they both had vested rights of representation – that is, Ngati Tama ki te

⁷⁵ Letter from Ngati Tama ki te Upoko o te Ika to OTS of 25 October, 2002

⁷⁶ Port Nicholson Block Claim. Newsletter of September, 2002

⁷⁷ Idem

Upoko o te Ika. In a letter of 8 October, 2002 the two individual claimants were informed of the information hui and advised that:

The thoughts, ideas, views and assistance of our rangatahi is important to those of us who have been involved in the claim over the past two decades.⁷⁸

In an attempt to appease concerns emanating from within the Ngati Tama community, the third PNBC newsletter of November, 2002 included an artist's impression of the Ngati Tama chief Taringa Kuri's whare at Kaiwharawhara. The newsletter also reported, "considerable progress has been made on a series of hui which has been designed to disseminate as widely as possible information on the Port Nicholson Claim".⁷⁹

The hui focussed mainly on administrative and operational matters pertaining to recruiting people for the register, posing questions like: is there a timeframe in which one must be registered? must one be over eighteen before they can register? are whangai (adopted children) included? It seemed that there was no discussion held about more strategic issues such as the role of a non-iwi entity in 'running' the information hui and claim processes, and why iwi authorities had not been actively involved in the PNBC claim.

Ngati Tama ki te Upoko o te Ika's relationship with the PNBC working party became more strained. The society was not alone in its concerns, however. Other claimant groups felt similarly disadvantaged.

⁷⁸ Letter from Dr Ngatata Love to Te Puoho Katene and Taku Parai of 8 October, 2002

⁷⁹ Port Nicholson Block Claim Newsletter of November 2002

Te Atiawa Iwi Authority (TAIA) was confused when OTS suggested it in response to its nomination of representatives for the Wai 145 claim that, because the PNBC chairperson was co-ordinating the establishment of a proposed working party, they contact him directly in relation to representation on the Wellington working party.⁸⁰ In frustration, TAIA replied that:

Dr Love is not supportive of the TAIA participation in the negotiation process. In addition your own meetings with the Wellington Tenth Trust representatives will have already demonstrated the same conclusion. It is not my clients understanding that the position of the Wellington Tenth has changed and certainly the concerns that TAIA raised with OTS about the accountability structure perpetuated by the Wellington Tenth has not changed. Accordingly, I cannot see how this will be resolved by merely making direct contact with Dr Love. The suggestion for TAIA to contact Dr Love implies that the Wellington Tenth have some pre-eminence in the negotiation process.⁸¹

This was an example of a claimant group concerned that OTS ensure a robust negotiation and settlement process was reached that satisfied all the parties concerned, not just the dominant groups. It led inexorably to further clashes. For example, the PNBC appeared to lack confidence in the ability of the society to select its own representatives to the PNBC interim working party. Instead, PNBC's view appeared to be that it knew over the society whom the best individuals would be to represent Ngati Tama's interests.

PNBC not favouring a Ngati Tama ki te Upoko o te Ika representative on the interim working party was considered by the society to be a calculated move on its part. It meant that the PNBC was in a position to process critical issues without the society's scrutiny. These included issues such as the selection of

⁸⁰ Letter from OTS to Te Atiawa Iwi Authority of 14 November, 2002

⁸¹ Letter from Quentin Duff, lawyer for Te Atiawa Iwi Authority to OTS of 22 November, 2002

the PNBC chairperson and appointment of key PNBC employees (from the Wellington Tenths Trust), the name of the claim (PNBC instead of Wellington Settlement as proposed by OTS and supported by Ngati Tama ki te Upoko o te Ika), and crucial funding related decisions.⁸²

With respect to the appointment of Dr Ngatata Love as chairperson of the working group, OTS commented at a meeting with PNBC's lawyer on 1 November, 2002 that it would be prudent for the working party to elect a chairperson of the working party and the operations group (which OTS acknowledged would probably be Dr Love), so as to observe the appropriate procedures for constituting a body and electing officials. OTS commented that other claimants might later challenge Dr Love's appointment before the working party was fully formed and thus threaten the stability of the working party mandate. PNBC's lawyer disagreed with OTS's suggestion and insisted that Dr Love would be the chairperson.

The PNBC seemed to pay little attention to Ngati Tama ki te Upoko o te Ika, continuing to only correspond with claimants Te Puoho Katene and Taku Parai about working party meeting times and other matters. This was the case even when it had been repeatedly pointed out at hui - not only by the society's runanga members but by the two individual claimants themselves - that the two claimants had in fact delegated responsibility for the claim to Ngati Tama ki te Upoko o te Ika.⁸³ It was therefore up to the society to decide their chosen representatives on the interim working party.

⁸² Participant 8

⁸³ Participant 1

The PNBC was again advised⁸⁴ that, at its meeting of 16 October, 2002, Ngati Tama ki te Upoko o te Ika's runanga had confirmed its three representatives for the PNBC working party. The following month the society again advised the PNBC of its three Ngati Tama representatives on the interim working party.⁸⁵

Prior to that, a meeting had been organised by OTS at its offices on 6 November, 2002 between the PNBC and Ngati Tama ki te Upoko o te Ika, facilitated by OTS. The purpose of the hui was to discuss progress in forming an interim working party, its operations and more specifically its membership and protocols, and furthermore, the extent to which the PNBC had not been addressing Ngati Tama ki te Upoko o te Ika's concerns. The meeting went ahead without PNBC being present, because none of its representatives appeared.

At that hui, Ngati Tama ki te Upoko o te Ika expressed concern that the interim working party had become dysfunctional. While OTS had been similarly worried, it lacked a firm resolve to do anything about it. That situation did little to allay the fears of the society. Particularly concerning was that the PNBC chairperson appeared to be making decisions himself on the composition of the interim PNBC working party.⁸⁶

⁸⁴ Letter from Ngati Tama ki te Upoko o te Ika to PNBC of 5 November, 2002

⁸⁵ Letter from Ngati Tama ki te Upoko o te Ika to PNBC of 13 November, 2002

⁸⁶ File note of 6 November, 2002 hui between OTS and Ngati Tama ki te Upoko o te Ika

Ngati Tama ki te Upoko o te Ika expressed to OTS its lack of trust and confidence in the PNBC working party, including its leadership. In the society's view, the PNBC and its chairperson refused to recognise Ngati Tama ki te Upoko o te Ika, and had openly opposed the setting up and ongoing existence of a separate Ngati Tama iwi authority in Wellington. That proved to be a barrier to the society's full participation in the working party. In such a situation it was of utmost importance to develop protocols or 'rules of operation' on how both sides could work together on the interim working party (and subsequent mandate team). It was suggested at OTS November hui that issues such as leadership, consensual participation, register access, and communications could be the basis of such protocols.⁸⁷

OTS was firm on the issue of claimant representation on the working party, to its credit. The PNBC was advised by OTS that:

The number of representatives on the working party is a matter to be resolved by the participants.⁸⁸

It was not up to the PNBC to decide who it considered should represent Ngati Tama ki te Upoko o te Ika or for that matter any other claimant group or iwi on the working party. OTS was clear that:

There is a legitimate place in the interim working party for representatives of Wai 735 and some Ngati Tama interests.⁸⁹

⁸⁷ Participant 10

⁸⁸ Letter from OTS to PNBC chairperson of 8 November, 2002

⁸⁹ Idem

OTS also advised the PNBC that a constructive way forward for the interim working party was reaching decisions through consensus resolution rather than by majority voting.⁹⁰ It was to be a sad end to the year when in its November, 2002 monthly report⁹¹ to Treaty of Waitangi Negotiations Minister Margaret Wilson, a frustrated OTS admitted:

We have failed to close the gap between the Wellington Tenth faction leader, Dr Love and that Ngati Tama faction led by Selwyn Katene. To compound the issue the incipient Wellington-based Te Atiawa Iwi Authority is also challenging the extent of claimant interests Dr Love purports to represent.

OTS reported that it wrote to concerned parties stressing that the full claimant community, namely the descendants of the four Taranaki tribes, needed to be identified, and that representatives on the working party would need to indicate which tribe they represented. That point was never followed up or enforced. Ngati Tama ki te Upoko o te Ika voiced its concerns that the representatives on the working party needed to have iwi backing. PNBC never complied with that request. That matter was later to prove an issue with the mandate team as well. OTS again appeared powerless to enforce its views, and expressed concern that the, “working party refers to the ‘Port Nicholson Block’ in the face of our advice that the settlement might not necessarily be strictly limited to those geographical boundaries.” Finally, OTS relayed to Minister Margaret Wilson that in the light of the failure of the protagonists to meet with one another, it intended to invite claimants to a hui in January of

⁹⁰ Idem

⁹¹ Monthly Report from OTS to Hon Margaret Wilson of November, 2002 report (dated 10 December, 2002

2003. At that hui, OTS officials would set out Crown policies with regard to mandates and representation.⁹²

Accordingly, a letter was sent by OTS to all claimants calling for a meeting on 31 January, 2003 to make progress on the claims process, as there was still significant work to be done by claimants to achieve a working party that was inclusive and fully representative.⁹³ In the meantime, OTS' claims development team continued to work with all claimants to seek a mandate resolution that would satisfy all parties.

The January claimants hui⁹⁴ focused on OTS' presentation concerning the Crown's settlement stages, objectives, principles, and key elements, including policies; e.g. large natural groups, comprehensive settlements, and mandating and fairness between claims. While the hui failed to provide specifics on the interim working party (e.g. protocols), it was useful for networking purposes. At the hui, the society's Helmut Modlik extended an open invitation to the other claimants that Ngati Tama ki te Upoko o te Ika welcomed the opportunity to work closely with all parties in the settlement process.

OTS reinforced three points at the January hui, which were well received by the thirty-four members of the claimant community. Firstly, that the Crown expected a comprehensive Wellington settlement for all the Taranaki iwi; secondly, that the Crown was talking to all claimants based on descent group

⁹² Idem

⁹³ Letter from OTS to all claimant groups dated 6 December, 2002

⁹⁴ Ngati Tama ki te Upoko o te Ika's runanga hui notes of 12 February, 2003

and not only on registered Wai numbers; and thirdly, that the use of the term 'Port Nicholson Block' was not necessarily an accurate reflection of the potential claim area. At that hui, OTS recognised the significant role that the Wellington Tenths Trust was playing in the Wellington settlement process. Finally, the Crown anticipated a broad-based working party that represented all Taranaki tribal interests in Wellington.⁹⁵

The January, 2003 PNBC newsletter featured an article on Wai 377 Ngati Tama claimant Tuffy Churton, whose Ngati Tama Te Kaeaea faction was closely aligned to the PNBC. He was reported as saying, under the heading 'Claimant backs call for unity', that:

He was impressed with the way the Port Nicholson Claim is being explained at hui throughout the country. People are getting a good understanding of the key issues. I think generally they understand that a unified approach is the only way that it can be progressed. They're all happy with what Ngatata is doing.⁹⁶

There was the familiar cautionary note from the PNBC: "If we splinter and rush to form new entities, we will fail to get the best results".⁹⁷ There was no debate on the merits or otherwise of the PNBC model or any other model. The PNBC model, which focussed on an all-individual pan-Taranaki claim, was by default the preferred regime. Ngati Tama ki te Upoko o te Ika were wedded to the idea of unity for all Ngati Tama firstly, and then of unity for all Taranaki iwi.

⁹⁵ Monthly Report from OTS to Hon Margaret Wilson of December, 2002 / January, 2003

⁹⁶ PNBC newsletter of January, 2003

⁹⁷ Idem

Despite attempts to reconcile differences, it was PNBC's intention to continue with its schedule of travelling information road shows, without making any changes such as widening the number of participants in the interim working party. An invitation was extended to the PNBC chairperson to meet with the runanga of Ngati Tama. While the invitation was received and dates tentatively made, no meeting actually occurred.⁹⁸

Te Atiawa Iwi Authority tried in vain to persuade OTS into playing a more active facilitative role towards the establishment of the negotiating team membership. Claimants feared that any further delay would create a divisive environment amongst claimants and could hamper an acceptable consensus being reached.⁹⁹ Indeed, OTS urged the PNBC to invite representatives from Te Atiawa ki Whanganui-a-Tara and Ngati Tama ki te Upoko o te Ika to the first plenary working party meeting in the hope that if both groups participated in the early working party negotiations, the possibility of a properly mandated negotiating team being 'owned' by all of the claimant community would be enhanced.¹⁰⁰

A file note of points for OTS director, Andrew Hampton, to raise at a meeting sometime in April, 2003 provided an indication of an 'official's view' of Ngati Tama ki te Upoko o te Ika's role in the claim:

⁹⁸ Ngati Tama ki te Upoko o te Ika's runanga hui notes of 5 March, 2003. A meeting was called with Dr Ngatata Love and the Wellington Tenth's lawyer, Phillip Green at Green's Sydney St West, Wellington chambers in an attempt to reconcile any differences.

⁹⁹ Letter from Te Atiawa Iwi Authority to OTS of 13 March, 2003

¹⁰⁰ Letter from OTS to PNBC dated 27 March, 2003

We are indifferent but if Wai 735 claimants have okayed runanga representatives to be on plenary then we will accept it – this does not mean that OTS thinks they have an automatic place in the negotiating team – that will depend on the Waitangi Tribunal report.

The PNBC continued to correspond with Wai 735 claimants rather than Ngati Tama ki te Upoko o te Ika. Te Puoho Katene and Taku Parai were advised (in writing and in person) of the inaugural meeting of the interim working group, which was to be attended by all claimant groups including OTS officials.¹⁰¹

The PNBC omitted to advise Ngati Tama ki te Upoko o te Ika. It was only after the forced intervention of OTS that PNBC's chairperson was obliged to fax the society on 9 April, 2003 inviting their attendance and participation at the first working party hui at Te Tatau o te Po Marae in Petone, three days later. However, the chairperson's fax provided incomplete information. While the objectives and agenda for the 12 April, 2003 hui of the interim PNBC working party was sent to other claimants, Ngati Tama ki te Upoko o te Ika was not as fully informed.

Approximately two-thirds of those attending the 12 April, 2003 working party hui¹⁰² were of Te Atiawa descent. Their domination of the discussions left little room for meaningful dialogue between all parties present, especially the minor groups such as Ngati Tama, Ngati Ruanui and Taranaki. For example, when supporting the proposed venue for the release of the Waitangi Tribunal report, the Ngati Tama society's chairperson asked if there could be some discussion about protocols for future hui and how a working group might conduct itself. Dr

¹⁰¹ Letter from PNBC to Te Puoho Katene and Taku Parai of 3 April, 2003

¹⁰² Ngati Tama ki te Upoko o te Ika runanga hui notes of 23 April, 2003

Ngatata Love, the working party chairperson, suggested that the claim protocols had already been discussed and finalised and that the claimants had approved repayment of some \$2 million of expenditure by the Wellington Tenths Trust on the claim.¹⁰³

Ngati Tama ki te Upoko o te Ika and some other groups (i.e. Ngati Tama Te Kaeaea ki te Upoko o te Ika a Maui, and Te Atiawa Iwi Authority) were surprised to hear that the protocols had already been developed, as they had not been given an opportunity to participate in their development. It caused Ngati Tama ki te Upoko o te Ika's participants serious concern, as they had not been consulted on the protocols, or ever been provided with details of them. They were also concerned that no proof of the \$2 million expenditure, including a breakdown of accounts paid, evidence of work produced and even a mandate to incur such significant costs - had been produced for scrutiny. The general pre-emptive tone of the PNBC chairperson and his failure to indicate that there existed a set of protocols to which they might have proactively contributed was considered by the society to be unacceptable. Ngati Tama ki te Upoko o te Ika requested copies of the protocols that were developed by the PNBC, notice of exactly what had been approved in the protocols and how such approval was given, and copies of the information in relation to the \$2 million repayment that was supposedly provided to all the claimants. Questions were also raised at the hui about what role the Wellington Tenths Trust intended to play in the claims process, whether alternative governance models had been developed and what those

¹⁰³ Idem

alternative models would look like, and who was expected to play a part in the governance of the models that had been developed. No response was forthcoming. At the hui, OTS stressed the importance of a robust mandating process and reiterated the Crown's expectations regarding a single Taranaki whaanui descent group negotiating team. The Crown agency said that the final team (of about twelve members) would need to demonstrate that it represented all claimants and iwi interests.¹⁰⁴

Three claimant groups (Ngati Tama ki te Upoko o te Ika, Ngati Tama Te Kaeaea Ki Te Upoko O Te Ika a Maui, and Te Atiawa Iwi Authority) had a debriefing session after the PNBC interim working party hui on 12 April 2003. They agreed jointly to draft a letter to OTS expressing their concerns, meet with OTS as soon as possible, and to meet again to plan the next steps.¹⁰⁵

On 5 May, 2003, the two Ngati Tama groups and representatives from other claimant groups (i.e. Te Atiawa ki Whanganui-a-Tara and Wai 105) met with OTS to discuss further dissatisfaction with the PNBC process, including general issues relating to lack of consultation and communication. They were advised by OTS to meet with PNBC and to try again to develop a working relationship.

The meeting with PNBC happened on 7 May, 2003, but the focus of the hui was on a number of other unrelated issues.¹⁰⁶ Participants were informed of

¹⁰⁴ Idem

¹⁰⁵ Idem

¹⁰⁶ Ngati Tama ki te Upoko o te Ika runanga hui notes of June, 2003

the agenda for the 17 May, 2003 release of the Waitangi Tribunal report on Wellington. Ngati Tama ki te Upoko o te Ika had heard that the Wellington Tenth Trust had been planning to hold a hui later that same day, Dr Ngatata Love denied it when asked. Later events suggested they had nonetheless intended to hold a hui.

Discussing the organisational structure and function of the Port Nicholson Block claim, Dr Ngatata Love advised the hui that the PNBC was not a legal entity, but was providing the co-ordination function for the claim (e.g. organising hui, distributing newsletters, maintaining the register, updating the website). The hui was also advised that Wayne Mulligan (formerly of Crown Forestry Rental Trust) had been appointed to the PNBC in a full-time capacity, and that Morrie Love (formerly of the Waitangi Tribunal) was working for the Wellington Tenth Trust full-time. When it was suggested¹⁰⁷ that the PNBC claim was too narrow and did not include broader Wellington sites such as Palliser Bay, the reply from the PNBC chairperson was that the claim was not confined to the Port Nicholson area, and that Ngati Tama could still negotiate for areas outside of Port Nicholson.

PNBC was questioned about its strong emphasis on claimants (i.e. Wai 735 signatories Puoho Katene and Taku Parai) rather than groups mandated to represent the claimants such as Ngati Tama ki te Upoko o te Ika. The response was that this was only an interim working party. When questioned about the register, the following individuals were named as being appointed to

¹⁰⁷ Participant 10

act as its guardians: Dr Ngatata Love, Kara Puketapu, Neville Baker, Charles Hohaia, and Sir Paul Reeves – all of whom were from the Wellington Tenth Trust and/or Te Atiawa.¹⁰⁸ The register had been set up to comply with the requirements of the Privacy Act 1993.

Ngati Tama ki te Upoko o te Ika participants wanted more discussion regarding reimbursement of the \$2 million spent by the Wellington Tenth Trust on the claim. The response was that any expenses incurred by any of the claimants were eligible for recompense, but were to be negotiated separately with the Crown. The question was asked, how could a Crown entity negotiate with itself?¹⁰⁹

There were still issues that remained a real concern. These included the matter of funding arrangements for the claim; the dubious appointment process (e.g. of guardians to the register, and PNBC staff); and the lack of an open and transparent process. Excluding Ngati Tama ki te Upoko o te Ika from the twenty-one information hui, editorial input into the newsletters, and (initially) from the interim working party hui of 12 April, had been unwise.¹¹⁰

On 17 May, 2003, the much heralded Waitangi Tribunal report – *Te Whanganui a Tara me ona Takiwa* – was publicly released at Pipitea Marae. About one thousand people attended the hui.¹¹¹ Margaret Wilson, Minister in Charge of Treaty of Waitangi Negotiations, stressed that the Tribunal's

¹⁰⁸ Idem

¹⁰⁹ Idem

¹¹⁰ Idem

¹¹¹ PNBC newsletter of May, 2003

findings were not binding, and that the report would provide useful information for the negotiation of a Treaty settlement. The report had been a significant milestone for Wellington claimants and set the scene for settlement negotiations to get under way. Any settlement would have to be based on good faith negotiations, be transparent, restore the Crown's relationship with iwi, provide just redress, and ensure fairness between claims.¹¹²

However, the Te Atiawa Iwi Authority was angered when Wellington Tenth Trust executive officer Morris Love briefed the Hutt City Council on the report and its implications for Hutt city.¹¹³ The reaction was swift. It was seen as:

A breach of trust and pre-empting settlement, as land that any claimant group has an interest in may form the basis of their negotiations with the Crown and may cause Council to take evasive action to preserve their own interests.¹¹⁴

Te Atiawa feared that this type of behaviour might cause the collapse of the united approach and individualise negotiations.¹¹⁵ Te Atiawa kaumatua Etai Morgan demanded that:

An apology/explanation from the Wellington Tenth Trust be given to the collective group, and that assurances be made that no such action or pronouncements should be made without the consent of the collective group.¹¹⁶

¹¹² Hon Margaret Wilson. Media release of 17 May, 2003

¹¹³ Hutt News, 17 June, 2003

¹¹⁴ Email from Etai Morgan to Wayne Mulligan of PNBC, 19 June, 2003

¹¹⁵ Participant 6

¹¹⁶ Email from Etai Morgan to Wayne Mulligan of PNBC, 19 June, 2003

This action was indicative of the Wellington Tenth Trust signalling not only to claimant communities but also to private and public sector interest groups of its intentions to continue representing all Taranaki iwi in Wellington. The Trust had considerable financial resources to publicise and advance its interests and to engage in a publicity campaign throughout New Zealand and Australia. A number of other claimant groups were placed at a distinct disadvantage because they lacked the financial ability to do likewise.¹¹⁷

In the meantime, interim working party hui continued to be held. In the discussion¹¹⁸ regarding the draft protocol document entitled *Deed of Agreement* of 30 May, 2003, Ngati Tama ki te Upoko o te Ika proposed a number of changes. It supported the consensus decision-making and dispute resolution clauses, but expressed concern at the lack of communication protocols (e.g. editing rights of iwi). While Ngati Tama ki te Upoko o te Ika agreed that a Deed of Agreement was a necessary tool to promote engagement and avoid misunderstandings, the suggested changes that it outlined focussed on the need for a shift in emphasis away from both the Wellington Tenth Trust and claimants, and towards iwi.

The society thought it necessary for the working party to be aligned to the four relevant iwi; Te Atiawa, Ngati Ruanui, Taranaki and Ngati Tama. In that way, the PNBC could be seen to be “respecting the collective and respective mana of the Taranaki iwi,” which was one of the four founding values to which the

¹¹⁷ Participant 5

¹¹⁸ Notes of the PNBC interim working party hui of 30 May, 2003

working party and each mandated person had ascribed.¹¹⁹ Further discussion was held concerning protocols and principles, mandate framework, mandate representation, and customary rights and risk management.¹²⁰

The society reviewed its mandate team nominations and confirmed Karewa Arthur and Helmut Modlik as its two representatives.¹²¹ The runanga chairperson, Karewa Arthur, had earlier advised his runanga that Dr Ngatata Love had personally agreed for the society to have two 'seats' on the mandate team. The following day (19 June, 2003), a fax was sent to Dr Love and an email (19 June, 2003) to Wayne Mulligan conveying the runanga's decision. The society took umbrage at the June working party hui notes¹²² that stated:

We [Ngati Tama ki te Upoko o te Ika] agreed to those mandated representing the whole; protocols; and, an Agreement will be signed by all those who are to be mandated representatives or on the working party.

The mandated persons represented their respective iwi. In the case of Ngati Tama ki te Upoko o te Ika, Karewa Arthur and Helmut Modlik represented the iwi and not any other group or claimant community. The protocols were not agreed on because a final version had not been seen to confirm whether the society's comments had been incorporated or not. Ngati Tama ki te Upoko o te Ika could not agree to a Deed of Agreement. In fact, no final versions of the protocols and agreement were provided to the society until the 24 October,

¹¹⁹ PNBC, Deed of Mandate, 2003, p15

¹²⁰ Notes of the PNBC interim working party hui of 5 June, 2003

¹²¹ Ngati Tama ki te Upoko o te Ika runanga hui notes of 18 June, 2003

¹²² Notes of the PNBC interim working party hui of 19 June, 2003

2003 Deed of Mandate that PNBC provided to OTS an action that showed an apparent lack of faith and respect to deal openly with the iwi.¹²³

A PNBC working party sub-committee met on 24 June, 2003 to review fourteen mandate team nominations, and to make selection recommendations to the working party hui of 3 July, 2003. It appeared to be a questionable process. It was the society's view that those mandated by their respective iwi authorities had the right to be on the mandate team, so it was inappropriate for those nominations to be opposed. Interest was high, as the review of each candidate got underway.¹²⁴ There was the expectation that the review process would be conducted with propriety with the results above reproach.¹²⁵

SUMMARY

Ngati Tama ki te Upoko o te Ika's claims of iwi representation were confirmed by the Waitangi Tribunal. The PNBC, which had been established by the claimant community, was dominated by the Wellington Tenths Trust and the Te Atiawa faction and was indifferent towards the society. The objectives and processes of PNBC appeared to run counter to the society's vision of a distinct iwi presence for Ngati Tama. Ngati Tama ki te Upoko o te Ika's vision of affirming and exercising Ngati Tama's mana and tino rangatiratanga seemed under threat.

¹²³ Participant 10

¹²⁴ Idem

¹²⁵ Notes of the PNBC interim working party hui of 19 June, 2003

Ngati Tama iwi's members decided who best represented their interests in the Wellington claim. At runanga hui and hui-a-iwi, the iwi members voted for and supported those who were mandated by the iwi to carry out claim responsibilities. It was a bold stance, but one that was well-founded given the nearly 900 iwi members, the two Ngati Tama iwi (in Taranaki and in the South Island) and Ngati Toa that all recognised Ngati Tama ki te Upoko o te Ika's legitimacy to represent the iwi of Ngati Tama in Wellington.

The society maintained its position to assert a distinctive iwi presence despite the odds. This case study provides an example of a modern urban iwi deciding for itself what was in its best interests. It was correct that the PNBC mandate team should be selected from the wider claimant community, but each iwi ought to be able to select its own representatives. This was the view of the society.

The iwi members of Ngati Tama ki te Upoko o te Ika considered that other iwi (i.e. non-Ngati Tama) were not the right people to vote for and represent Ngati Tama's interests. That right lay with Ngati Tama iwi members only. The fear was that the people of Ngati Ruanui, Taranaki and Te Atiawa iwi and other interests would have dictated the Ngati Tama representatives on the PNBC.

CHAPTER FIVE: CASE STUDY II: SECURING A MANDATE

INTRODUCTION

This second case study centres on a process whereby a modern, urban iwi authority might go about seeking Crown recognition of its mandate to speak for, and on behalf of, its members. The wider issue under consideration relates to how a relatively small iwi asserting its own autonomy in preference to a collective iwi/Maori voice has to carefully manage its relationships with key stakeholders, notwithstanding concerted opposition.

The Ngati Tama ki te Upoko o te Ika Society Incorporated example is used to demonstrate the complexity of issues. Wide use has been made of tribal and Port Nicholson Block Claim (PNBC) records, especially minutes and notes taken at formal meetings. Crown correspondence has also been accessed.

The process of securing mandate is important. Iwi retain the right to decide who represents them. Iwi self-determination was not as much a priority for the PNBC team as it was with Ngati Tama ki te Upoko o te Ika. The Crown set a process in place that suited Crown purposes for mandating but it did not take into account the society's right of self-determination.

The PNBC might go through all the steps that the Crown regarded as necessary for mandating purposes but did it actually meet the needs of the

Ngati Tama iwi? Did it recognise Ngati Tama's right to develop and maintain its iwi presence?

The case study gives a detailed account of the workings of the Port Nicholson Block mandate team and related issues in determining the effectiveness of an iwi voice for Ngati Tama. It also focuses on a number of other related issues including the role of Crown agencies, the impact of certain influential individuals, the resistance of the broad-based PNBC group to the Ngati Tama iwi, and the perceived threat to unification of the Taranaki whaanui.

SELECTING THE MANDATE TEAM

On 27 June, 2003, claimants were advised that the next hui of the working party would be held on 3 July, 2003 at Te Tatau o te Po Marae in Petone, with, "the 'sole focus' of working through the nominations for mandated representatives with nominees each having five minutes to address those present. Questions of nominees focused on the criteria by which they were to be selected".¹

At that hui, nine of the twenty-seven nominees, either didn't show up or withdrew their nominations. After each of the candidates spoke Dr Ngatata Love, as chairperson of the working party, excused the candidates (including himself) to go into another room (the kitchen) and direct them to, "select yourselves".² Due process supported by all parties emphasised the need for

¹ Email from PNBC to claimants of 27 June, 2003

² Ngati Tama ki te Upoko o te Ika runanga hui notes of July, 2003

collective decision-making and action rather than a small executive group being invited to make decisions on its own behalf and for others.³ In effect there were two voting systems, as those remaining in the wharehui also had a vote.

Names in common from both voting processes were Sir Paul Reeves, Dr Ngatata Love, Neville Baker, Kara Puketapu, Mark Te One, June Jackson and Liz Mellish. It was decided that those seven were clearly favoured and thus they were confirmed but that further work needed to be done on the remaining five, particularly those who would represent Ngati Tama.⁴

At the next working party hui,⁵ the formal hui notes showed that Dawn McConnell and Catherine Love had been, for unclear reasons, added to the list of seven, which now totalled nine, all of whom were strongly associated with both Te Atiawa and the Wellington Tenth Trust. In addition, Kevin Amohia was to represent the Ngati Tama Te Kaeaea group from Wanganui, and Spencer Carr (chairperson of Taranaki's PKW Land Incorporation) was selected to represent Ngati Ruanui. Ngati Tama ki te Upoko o te Ika's two 'seats' on the mandate team were rejected by the nominated mandated representatives in favour of one seat.

Surprisingly, there was no independent audit of the voting process. The eleven individuals 'chosen' to be mandated are shown in Table 5.1:

³ Puketapu B. Maori Organisation and Contemporary Maori Development, PhD thesis, Massey University, Palmerston North, 2000, pp198-199

⁴ Notes of the PNBC working party hui of 3 July, 2003

⁵ Notes of the PNBC working party hui of 17 July, 2003

Table 5.1 The PNBC Mandate Team

Name	Principal Affiliations
Sir Paul Reeves	Wellington Tenth Trust/Te Atiawa
Dr Ngatata Love	Wellington Tenth Trust/Te Atiawa
Kara Puketapu	Wellington Tenth Trust/Te Atiawa
Neville Baker	Wellington Tenth Trust/Te Atiawa
Mark Te One	Wellington Tenth Trust/Te Atiawa
Catherine Love	Wellington Tenth Trust/Te Atiawa
Liz Mellish	Wellington Tenth Trust/Te Atiawa
Dawn McConnell	Wellington Tenth Trust/Te Atiawa
June Jackson	Wellington Tenth Trust/Taranaki
Kevin Amohia	Wellington Tenth Trust aligned Ngati Tama Te Kaeaea group from Wanganui
Spencer Carr	Chair of PKW Land Incorporation/Ngati Ruanui

On 20 July, 2003, Ngati Tama Te Kaeaea ki te Upoko o te Ika a Maui advised the Office of Treaty Settlements (OTS) that, “our hapu were not able to finalise their nominee for the PNBC working committee on 17 July”.⁶ Two candidates (Kevin Amohia and John Chadwick) had been selected for the one position and agreement could not be reached between them (and the two separate Te Kaeaea factions that nominated them) as to who should stand down. OTS’ view was that, “the issue of who should represent Te Kaeaea rests entirely back in their rohe”.⁷ Mulligan responded, advising of the selection of twelve persons as the proposed mandated representatives, with, “there is a

⁶ Letter from Bruce Churton of Ngati Tama Te Kaeaea ki te Upoko o te Ika a Maui to OTS dated 20 July, 2003

⁷ Letter from Tony Sole of OTS to Mulligan of PNBC on 24 July, 2003

position/seat for each of the Ngati Tama claimant groups (i.e. one seat for Te Kaeaea and one seat for Ngati Tama ki te Upoko o te Ika”.⁸

OTS reported to its Minister that the twelve member Taranaki whaanui negotiating team had still to confirm the names of one or two representatives: that would not necessarily be an impediment for the negotiating team to seek endorsement of its mandate in a national series of hui, and that although there might be some protest from factions who maintained that their representatives did not have the opportunity to be part of the twelve, those matters would be manageable.⁹

Tata Parata, chairperson of Te Atiawa ki Whanganui-a-Tara Iwi Authority, warned OTS that the Te Atiawa iwi mandating process would only reaffirm the domination in Whanganui-a-Tara that the Wellington Tenth Trust and Waiwhetu runanga had enjoyed over the years.¹⁰ In reply, OTS noted Parata’s “concerns and reservations about the mandating process, and your generosity of spirit when you state that you do not want to disrupt or hinder progress that has been made”.¹¹ OTS’ Tony Sole added some reassuring advice “apart from participating in the mandating process, descendants will have two important ratification votes; first to approve the Deed of Settlement; and second to approve the post-settlement governance entity”.¹²

⁸ Letter from Wayne Mulligan of PNBC to Tony Sole of OTS on 24 July, 2003

⁹ Monthly Report from OTS to Hon Margaret Wilson of July, 2003

¹⁰ Letter from Tata Parata, chairperson of Te Atiawa – Ki Whanganui a Tara Iwi Authority to OTS dated 1 August, 2003

¹¹ Letter from OTS to Tata Parata, chairperson of Te Atiawa – Ki Whanganui a Tara Iwi Authority dated 5 August, 2003

¹² Idem

Bruce Churton of Ngati Tama Te Kaeaea ki te Upoko o te Ika a Maui questioned the validity of a small number of the kaumatua in setting up a kaunihera council for Te Kaeaea, and advised that Kevin Amohia had been elected by a small number of the kaumatua as a mandated representative.

We are not aware of any such organisation and no hapu or iwi mandate has been given to any kaumatua organisation to make such claims or nominations to represent Ngati Tama Te Kaeaea ki te Upoko o te Ika a Maui whatsoever.¹³

Churton also suggested that the small group of kaumatua dissidents who refused to accept the democratic decision of the majority “are strongly supported and possibly being advised and encouraged by some prominent members of the Tenths Trust”.¹⁴

On 15 August, 2003, several kaumatua for Ngati Tama Te Kaeaea met with OTS officials and expressed their concerns about the setting up of a new trust called Ngati Tama Te Kaeaea ki te Upoko o te Ika a Maui by Bruce Churton, John Chadwick, Errol Churton, Eldon Potaka, and Michelle Marino. Marino of Ngati Tama Te Kaeaea ki te Upoko o te Ika a Maui expressed her concern that their chosen hapu mandated representative, John Chadwick, had been excluded from the process in favour of Kevin Amohia whose nomination had not been sanctioned by the hapu.

The increased numbers of trustees on the Wellington Tenths Trust [that] are represented... As a result of these inappropriate actions we

¹³ Letter from Bruce Churton, chairperson of Ngati Tama Te Kaeaea ki te Upoko o te Ika a Maui to OTS dated 13 August, 2003

¹⁴ Idem

doubt the Port Nicholson Block Claimants interim working party intentions are sincere, honest, consistent and transparent.¹⁵

In an undated file note OTS documented that a Wai 105 claimant advised OTS that they had put two names forward for the mandate team without success, and then accused the PNBC mandating team of, “selecting among themselves”. From the society’s perspective, Dr Ngatata Love had reneged on his agreement to allow the iwi two seats for Karewa Arthur and Helmut Modlik on the proposed twelve member mandating team.¹⁶ It had been agreed, “we should stay involved in the PNBC claims process with the one seat allocated to us”.¹⁷ However, on 16 August, 2003 Ngati Tama ki te Upoko o te Ika advised OTS of its concerns about the fairness and uneven application of the working party protocols, the selection criteria for the proposed mandated representatives, and the unnecessary haste of the process.

The society had sought in good faith to cooperate with the PNBC working party for many months. The setting up of an interim working party and the ensuing process of selecting proposed mandated representatives had not been easy, involving compromises and concessions on the part of the society, and other groups, in order to keep the process going. The society had acquiesced in the interest of progress and reaching a more balanced mandate team, and because it had obtained essential concessions in return - specifically around guaranteed participation and adequate representation.

¹⁵ Letter from Michelle Marino to Tony Sole of OTS dated 19 August, 2003

¹⁶ Ngati Tama ki te Upoko o te Ika’s runanga hui notes of 13 August, 2003; Email from Wayne Mulligan of PNBC to Ngati Tama ki te Upoko o te Ika dated 12 August, 2003; Meeting between Dr Ngatata Love, Selwyn Katene and Bill Katene in August, 2003

¹⁷ Ngati Tama ki te Upoko o te Ika’s runanga hui notes of 13 August, 2003

Notwithstanding the society's expressions of disagreement, the PNBC officers appeared to act in their own interests by breaking solemn agreements, and continuing the mandating consultation round of hui without involving the society. The society became marginalized, and had little expectation of fair treatment in future without adequate protective protocols being established.¹⁸

OTS was asked to take urgent action to ensure that Ngati Tama ki te Upoko o te Ika was not disadvantaged further. The society gave OTS assurances that it remained willing to re-engage and work positively with the rest of the claimant community, despite its reservations.¹⁹ An essential pre-condition of that re-engagement was the establishment of protocols that were fair and evenly applied, ensuring that they and other smaller groups were not simply out-muscled and out-voted.

During this period, OTS expressed its keenness for Atiawa ki Whakarongotai to integrate into the current Wellington claim process as, "there are significant commonalities in membership, history and grievances between Wellington and Waikanae". The carrot of a shorter claims process was proffered:

Should your representatives opt for the full Tribunal process, then it would be some years before negotiations would be feasible. On the other hand, if Atiawa ki Whakarongotai chose to negotiate as a complement to the Taranaki whaanui group, it is feasible for a settlement to be achieved in a much shorter timeframe.²⁰

¹⁸ Letter from Ngati Tama ki te Upoko o te Ika to OTS dated 16 August, 2003

¹⁹ Idem

²⁰ Letter from OTS to Parata of Atiawa Ki Whakarongotai dated 19 August, 2003

Ngati Tama ki te Upoko o te Ika was pleased that OTS had given serious consideration to its concerns about PNBC processes, particularly the working party protocols, selection criteria for the proposed mandated representatives, and the implications of an unrealistic timeframe. OTS was reassured by the society that it was willing to resume full participation in the PNBC process if the above-mentioned issues were satisfactorily dealt with. Once those essential pre-conditions of re-engagement had been met, then it would agree for its authorised representative, Helmut Modlik, to fully participate on the PNBC mandate team with equal rights along with the other eleven members.²¹

OTS subsequently informed the PNBC chairperson on 21 August, 2003 of the concerns of Ngati Tama ki te Upoko o te Ika and Ngati Tama te Kaeaea ki te Upoko o te Ika a Maui about their role within the proposed mandated negotiation team for Taranaki whaanui:

Their primary concern is that majority voting within the mandated negotiation team will always subsume Ngati Tama interests. This Office has always stated our view that mutually agreed protocols need to protect Ngati Tama interests within the negotiating team. In our view it would be appropriate that protocols were in place to ensure that Ngati Tama representatives would take the lead in negotiations on matters that pertain particularly to Ngati Tama.²²

In this letter OTS repeated in detail Ngati Tama's concerns to the PNBC chairperson that the mana to elect representatives for the society should rest

²¹ On 20 August, 2003 Ngati Tama ki te Upoko o te Ika again wrote to OTS as a response to subsequent telephone conversations regarding Ngati Tama ki te Upoko o te Ika's ongoing reservations with the PNBC working party

²² Letter from OTS to PNBC of 21 August, 2003

with and include the two Ngati Tama groups. It advised there should be no veto on who was elected to the negotiation team. Protocols that protected each iwi's interests within the negotiation team, particularly the majority vote decision-making processes, should not marginalise the role of those representatives, or the ability of relevant iwi representatives to lead the process if it related primarily to their grievance. OTS also addressed its concerns for PNBC's potential non-compliance:

Our concerns are such, however that the Crown does not plan to publicly notify the Deed of Mandate until we are confident that the matters raised in this letter have been addressed and resolved.

Finally, Andrew Hampton, director of OTS, warned the PNBC chairperson of a concern that:

If these issues are not addressed it might transpire that we would need to use facilitators to resolve the issue or, in the worst case scenario, that challenges are laid in the Waitangi Tribunal or the Courts.²³

A flurry of face-to-face meetings with OTS followed, first with PNBC lawyer Phillip Green, and then with Green, Dr Ngatata Love and Sir Paul Reeves on 25 August, 2003. Green's²⁴ follow up twenty page letter to OTS on 12 September, 2003 recorded the PNBC's formal response to OTS' 21 August, 2003 letter. Green accused Hampton of implying, "a degree of acceptance of what you have been told by certain Ngati Tama interests".

²³ Idem

²⁴ Letter from Green of PNBC to OTS dated 21 September, 2003

Furthermore, he stated that OTS' view, "was of apparent bias". He urged OTS that it, "need[ed] to show much greater restraint in the future". He also commented, "your actions must ensure that you are perceived to be neutral", and that "your letter of 21 August, 2003 sadly calls your neutrality into question". Green then further accused OTS of mismanaging the earlier Taranaki negotiations by suggesting:

Minority interests are being able to destabilise the will of the majority. Your track record of managing through these difficult issues is viewed by the majority of the Kaumatua both in Taranaki and Te Whanganui-a-Tara as very poor indeed. Predetermining or appearing to predetermine a point of view in the absence of your seeking to establish the facts and in a non-judgemental way.²⁵

Green stated that new legal entities (i.e. Ngati Tama ki te Upoko o te Ika and others) had been established, "with differing agendas by small groups of individuals". With respect to Ngati Tama ki te Upoko o te Ika, Green stated that, "the trustees were almost entirely based at Ngati Toa/Takapuwahia, and the individuals concerned did not have a strong support base". Green's 12 September, 2003 letter also mentioned that:

The longstanding Wellington Tenth's and Palmerston North Reserves Trusts have many beneficial owners of Ngati Tama. This is acknowledged by Ngati Tama ki te Upoko o te Ika on their website, where it is claimed that most of the Wellington Tenth's owners are of Ngati Tama descent.²⁶

OTS' 21 August, 2003 letter to PNBC had called into question the impartiality of OTS. Accordingly, Green urged Hampton:

²⁵ Idem
²⁶ Idem

That you jealously guard your independence and neutrality as a matter of fact and as a matter of perception.

OTS' reply²⁷ to Green's letter dated 15 September, 2003 was conciliatory. Hampton acknowledged Green's detailed explanation, "lay to rest the key issues which I had raised in my letter". Hampton further stated that:

This Office looks forward to receiving the Deed of Mandate on 17 September, 2003. On its receipt the Claims Development Team will work closely with your administration team to define the proposed public notification of mandate.

The apparent and sudden turnaround by OTS seemed to be a result of the subsequent pressure exerted by the PNBC on the government agency and its key managers. That impact was significant. While both Ngati Tama groups were pleased that OTS officials had 'stood up' to the PNBC and its leaders, the two groups were dismayed at OTS' sudden and premature 'back down', which could be construed as being consistent with the view that ministerial support for their hardline stance had not been forthcoming. The morale of OTS' Claims Development Team appeared to also take a battering. Shortly after this incident, OTS' manager, Tony Sole, who was assigned to the PNBC claim, suddenly left OTS' employ.

While OTS had mentioned in its 21 August, 2003 letter to Dr Ngatata Love that, "the material [Deed of Mandate] will take some time to process before we publicly notify the mandate and ask for submissions from interested parties", when the PNBC finally presented the Deed of Mandate, OTS hastily

²⁷ Letter from OTS to Green of PNBC dated 15 September, 2003

advertised its availability even though the Deed was incomplete and not in its final form.

When the newsletter²⁸ of August, 2003 was released it introduced the eleven member mandate team, and stated that the PNBC were, “awaiting confirmation of a representative from Ngati Tama ki te Upoko o te Ika”. The newsletter also provided information of the mandating hui schedule from 16-31 August, 2003.

After further discussions with OTS, Ngati Tama ki te Upoko o te Ika formally confirmed to the PNBC that its runanga had agreed that Helmut Modlik join the PNBC mandate team as the authorised representative of Ngati Tama.

For the sake of clarity, it is also worth confirming here that in agreeing to join the mandated PNBC team; I expect and accept all of the same responsibilities and accountabilities as the other members, including full participation and information on all activities of the mandated team without exception. This acceptance and implementation is effective immediately, and I look forward to working positively together with you and the rest of the team to bring this immensely important mahi to a successful conclusion.²⁹

In response, the PNBC chairperson invited Modlik to sign a protocol agreement consenting to work within the arrangements agreed by the PNBC mandate team.³⁰ The ongoing saga of the protocol document was to continue. At the time the Deed of Mandate was presented to OTS (i.e. October, 2003), Modlik was yet to receive a copy of the protocols to review and sign. Also, the

²⁸ PNBC. Newsletter of August, 2003

²⁹ Letter from Helmut Modlik of Ngati Tama ki te Upoko o te Ika to PNBC of 22 September, 2003

³⁰ Letter from PNBC chairperson to Helmut Modlik dated 26 September, 2003

PNBC chairperson, Dr Ngatata Love, was unable to confer a mandate team membership status on Helmut Modlik.

The invitation from Dr Love was only for Modlik to sit at the PNBC mandate table to 'work with' the mandate team - hardly the response that Ngati Tama ki te Upoko o te Ika expected. The matter of the exclusion of the society's other nominee, Karewa Arthur, remained unresolved.

With respect to the travelling road show, the twelve mandate hui returned a 96.2% vote in support of the mandate team. The PNBC received positive responses from whanau all over the country. It was on track to achieve a two-year settlement programme, and the response around the country was a huge endorsement for the programme.³¹ Yet for some, "it was never made clear what was being mandated. This became obvious when talking to those attending the hui. Was it the process...the proposed group...or the united approach".³² In Churton's view, what was most concerning was the perceived soft position OTS took towards accepting the PNBC mandate.³³

Regarding the Ngati Tama issue, the PNBC was pleased to report in its October newsletter that, "positive progress has been made with Ngati Tama ki te Upoko o te Ika; and the PNBC mandate team has come to a positive arrangement where Helmut Modlik will represent this organisation".³⁴

³¹ PNBC. Mandate team report #1 of 25 September, 2003

³² Letter from Errol Churton of Ngati Tama Te Kaeaea ki te Upoko o te Ika a Maui to OTS of 23 September, 2003

³³ Idem

³⁴ PNBC. Mandate team report #1 of 25 September, 2003

The PNBC's October newsletter devoted a section to Ngati Tama issues. "A collaborative agreement has been reached with Ngati Tama ki te Upoko o te Ika Inc. for their representative (Helmut Modlik) to work with the mandated team of eleven representatives of the Port Nicholson Block claim".³⁵

In actual fact, no agreement had been reached at all. Working with the mandated team did not constitute being an equal representative with equal and full rights along with the eleven other members. OTS agreed. It advised Ngati Tama ki te Upoko o te Ika that Helmut Modlik needed to be a full member of the mandating team.³⁶ The October, 2003 newsletter wrongly stated that:

Ngati Tama ki te Upoko o te Ika Inc. chose not to participate in the twelve national mandate hui and accept that in this relationship their representative is not a mandated representative.³⁷

The society had to balance the costs (in dollar terms) against the non-financial costs of not participating in the mandate process. The decision was made for the society's mandated Ngati Tama representatives not to participate in the hui because its iwi members would have had to meet full travel and accommodation costs, and take time off work to attend. It was considered an unfair scenario as the Wellington Tenth Trust was funding all the other claimant representatives. Finally, the newsletter stated, "They [understood]

³⁵ PNBC. Newsletter of October, 2003

³⁶ Ngati Tama ki te Upoko o te Ika runanga hui notes of 29 October, 2003

³⁷ PNBC. Newsletter of October, 2003

that those attending the mandate hui wanted an assurance that the team they were voting for, was the team of eleven as presented at the hui”³⁸

Ngati Tama ki te Upoko o te Ika had its own kawa and decision-making mandate process. This was through a tikanga process of selection through endorsement from the runanga, which in turn was set up by constituents with support from Ngati Toa and other Ngati Tama iwi groups. In its dealings with the PNBC mandate team, it was difficult to propose a way forward that focused on engaging with iwi, being inclusive, and building a relationship based on mutual respect, co-operation and trust.

The tension and unease remained due to the conditions and status of Ngati Tama ki te Upoko o te Ika’s representation as a member of the mandate team. The society was willing to move forward, if an amicable remedy could be found through sensible dialogue.³⁹

In the meantime, the mandate team continued to meet (it met four times following the completion of the mandating hui around the country) to work on governance policies; PNBC Deed of Mandate and submissions; analysis of the Waitangi Tribunal report; analysis of OTS processes and milestones; analysis of the principles and settlement benchmarks for the Crown negotiations; and the development of a plan to achieve the settlement goal.⁴⁰ Without the issue of appropriate Ngati Tama representation on the mandate team being resolved, it was unclear whether the mandated team had full credibility to decide matters relating to Ngati Tama. However, the process

³⁸ Idem

³⁹ Participant 8

⁴⁰ PNBC mandate team report #2 of 30 October, 2003

carried on regardless, with the Crown continuing to recognise the PNBC and progress claim matters.

DEED OF MANDATE

Te Puni Kokiri (TPK), in its advice to OTS, recommended that OTS “hold off publicity of receipt of mandate until you receive full minutes of all mandating hui; final scrutineers report, confirming final votes for mandate; further information on overlapping claims issues, including identification of any overlapping claims and processes to address these issues; and any other information that can demonstrate that the claimant community has authorised the PNBC Team to negotiate a comprehensive settlement of all historical claims”.⁴¹ In response to an early draft of the PNBC’s public notice that contained wording “expressly recognising that OTS endorsed the proposed process for mandating”, TPK said to OTS that, “we strongly recommend you delete the reference to OTS endorsement of the process”. TPK was of the view that, “given the complex nature of the claim area, and in light of the resolution out to voters, as well as the level of information put to voters at the mandating hui generally, we see the process carried out by the PNBC Team as less than ideal”.⁴²

OTS sought the additional information required in light of TPK’s advice.⁴³ A week later (and two days prior to the public notice advertisement) OTS,

⁴¹ Email from Te Puni Kokiri to OTS’s Virginia Anderson of 26 September, 2003

⁴² *Idem*

⁴³ Letter from OTS to PNBC dated 26 September, 2003

“required supporting material to evidence the process you undertook”.⁴⁴ This largely addressed TPK’s concerns. However, it was obvious that PNBC could not feasibly provide the additional material to meet newspaper deadlines. Assurances would have had to be made, which were impossible to keep in such a short timeframe. For example, Hampton referred in this letter to the 26 September, 2003 invitation to Helmut Modlik to join the PNBC mandate team. This would have given effect to the PNBC panui that stated a Ngati Tama ki te Upoko o te Ika representative was still to be appointed to the mandated body:

It also appears to address the Office’s previous concerns about Ngati Tama’s interests being adequately represented. It was the Crown’s understanding that Mr Modlik will have the same rights as the other representatives.⁴⁵

The public had been notified on 4 October, 2003 through *The Dominion Post* that OTS, “has received a Deed of Mandate from the representatives of the descendants of Taranaki whaanui tupuna of Port Nicholson/Wellington to negotiate the settlement of all their historical claims against the Crown”. The notice also stated, “the Office of Treaty Settlements and Te Puni Kokiri are now undertaking an evaluation of the Deed of Mandate and invite submissions, views or enquiries about the Deed by 31 October, 2003”.⁴⁶

Despite repeated attempts to obtain a copy of the Deed of Mandate from 7 October, 2003 it was not until 4.00pm on Friday 24 October, 2003 that the Deed along with other supporting information, was provided to the society for

⁴⁴ Letter from OTS to PNBC dated 2 October, 2003

⁴⁵ Letter from OTS to PNBC dated 26 September, 2003

⁴⁶ The Dominion Post. 4 October, 2003

its use in making a written submission. OTS was hasty in placing the advertisement on 4 October, 2003 without having possession of the full information to pass onto interested submitters until 24 October, 2003. The 1 October, 2003 cover letter referred to “the mandate team of eleven” submitting to OTS their Deed of Mandate and support document.⁴⁷ The PNBC mandate team sought recognition of its Deed of Mandate, and to enter into comprehensive negotiation and settlement of all historical claims to Port Nicholson/Wellington. It cited that it had achieved a mandate by conducting twelve hui around the country whereby 96 percent of the over 1000 people who attended voted to support the mandate team and the kaupapa:

The vote outcome was an unquestionable level of support for mandating the team of eleven, settlement goals, and a two-year programme and the values, principles, structure etc.⁴⁸

The proposed mandate team of eleven from the twelve hui resulted in not one change. The team comprised Sir Paul Reeves, Dawn McConnell, Spencer Carr, Neville Baker, Catherine Love, Kevin Amohia, Dr Ngatata Love, June Jackson, Mark Te One, Liz Mellish and Kara Puketapu. The mandate team, “with balanced representation of the four Taranaki iwi, registered claims, skills and experience, recognised Taranaki leadership (recognised around the country) as well as within Wellington”, was responsible for leading negotiations on behalf of the descendants with the claim; appointing the negotiators to negotiate the claim or parts of the claim; bringing back to the descendants a proposed settlement offer for ratification, within two years;

⁴⁷ PNBC. Deed of Mandate dated 1 October, 2003

⁴⁸ Idem

reporting back monthly to descendants in Wellington; and reporting back six-monthly to descendants in Taranaki and Te Tau Ihu.

With respect to Ngati Tama ki te Upoko o te Ika, the mandate team of eleven held this view: “for its own reasons Ngati Tama ki te Upoko o te Ika Inc. chose not to take up a seat prior to or during the twelve mandate hui. The PNBC mandate team has made a governance decision to invite them to have one member come to the table and work alongside the team and towards the goal of settlement. We are looking forward to working collaboratively with the representative of that organisation and are currently finalising this arrangement”.⁴⁹

The mandate team claimed to have been mindful of small groups, “who for whatever reasons want to challenge our mandate and process to date. We are willing to work with these bodies, so long as they have transparent processes and honest intentions”. Furthermore, the PNBC mandate team was determined that it would neither place at risk the vote of the descendants nor break a public commitment to keep the mandate team as presented. The people clearly stated they wanted transparency – the team as presented; and no additions to the mandate team particularly when those who now want to be mandated were not present at hui to be questioned or challenged.⁵⁰

⁴⁹ Idem

⁵⁰ Idem

A Second Deed of Mandate

When the society was informed by OTS of another Deed, it strongly protested the process for the new “executed” Deed.⁵¹ It understood that OTS process for deeds of mandate was that they were to be publicly advertised and opportunities would be given for public submissions. It noted that the process therefore had not been followed. The new Deed had not been through the public advertising process, which was, therefore, inconsistent with OTS’ own policy. The society considered that OTS was acting outside its policy and procedures by seeking comment on an unadvertised Deed of Mandate. Four clear points emerged: that it was a new Deed; it needed to be publicly advertised; the consultation process had to start again; and there had to be sufficient time for everybody to make submissions.⁵²

The consultation process with respect to the original Deed had been unsatisfactory for the society. OTS informed Ngati Tama ki te Upoko o te Ika via telephone of the second Deed on 27 November, 2003. The call was followed up by a letter dated 28 November, 2003. The second Deed had been sent to OTS on 18 November, 2003, and the society received it on 2 December, 2003. The society was advised that submissions were due by 15 December, 2003. For the second time in as many months, only ten working days were given to prepare a submission. The society was forced to make yet another submission now there was another Deed to consider, and crucially:

⁵¹ Letter from OTS to Ngati Tama ki te Upoko o te Ika dated 28 November, 2003

⁵² Letter from Ngati Tama ki te Upoko o te Ika to OTS dated 5 December, 2003

The Crown advised that it is treating this latest Deed of Mandate as the primary document for assessment.⁵³

On that basis, it was considered that OTS had to make the new Deed widely available and effectively draw it to the attention of all relevant iwi and Maori groups and individuals, not just selected groups and individuals as was its intention. In short, the public had been led to believe that the original Deed, on which extensive feedback was provided to OTS, was the final version. The extra demands a second Deed placed on small groups like Ngati Tama ki te Upoko o te Ika with few resources at its disposal were not taken into account. It had been incumbent on OTS to allow sufficient time for people to respond, especially if quality feedback was required. OTS and TPK had given the public misleading and inaccurate information about the Deed. Both risked being accused of bias towards the parties represented in the PNBC, evidenced by OTS' unusual haste to advertise the Deed and the lack of attention to detail on the state of the original Deed. Even Andrew Hampton, OTS director, was confused. He expressed this to PNBC's lawyer, Philip Green:

I am uncertain as to which of the documents is intended to be the Deed of Mandate...I wish to point out that if the documents you have provided are intended to be the Deed of Mandate, this puts the Crown in a difficult position as it brings into question why we publicised the receipt of the earlier document.⁵⁴

A mystified Green replied to Hampton recognising a mistake had been made:

I went so far as to strongly advise that the advertisement be amended to not say that you had received a Deed of Mandate...In any event the

⁵³ Letter from OTS to Ngati Tama ki te Upoko o te Ika dated 28 November, 2003

⁵⁴ Email from OTS to PNBC's lawyer, Philip Green dated 21 October, 2003

advice was not accepted. The document you received from Wayne Mulligan at time of advertising is not itself the formal Deed of Mandate.⁵⁵

Hampton promptly wrote back to Green clarifying that there were two Deeds (1 October, and 18 November, 2003):

We therefore cannot accept the statement in your 21 November, 2003 email that only one Deed of Mandate has ever existed.⁵⁶

Reiterating that, “this creates difficulty for the Crown,” Hampton confirmed that, “Crown officials will need to start afresh their mandate assessment, using the 18 November, 2003 Deed”.⁵⁷ In any event, Ngati Tama ki te Upoko o te Ika rejected both versions of the Deed of Mandate, and asked that OTS record its original submission, which expressed the view that the process leading to the development of the Deed of Mandate was flawed. The society considered that a new grievance was likely to be spawned, and no long-lasting settlement would be possible.

A defensive OTS restated that the Deed submitted to OTS by the mandate team was “sufficient for the purposes of public notification”, and that, “the second document was an expanded version of the original Deed”:

It brought together all the information that had already been provided and eleven members of the PNBC signed it. The main difference between the two Deeds is that the second Deed makes provision for accountability to the claimant community where the first Deed made no such provision.⁵⁸

⁵⁵ Letter from Green to OTS of 21 November, 2003

⁵⁶ Letter from Hampton to Green of 25 November, 2003

⁵⁷ Idem

⁵⁸ Letter from OTS to Arthur of Ngati Tama ki te Upoko o te Ika dated 18 December, 2003

Ngati Tama Submission

OTS reported to the Minister in its October, 2003 monthly report that fifty submissions on the PNBC Deed of Mandate were received by the closing date of 31 October, 2003. After the runanga of Ngati Tama ki te Upoko o te Ika discussed its draft submission on the Deed of Mandate⁵⁹, it provided OTS with its final version on 6 November, 2003.⁶⁰ The submission's cover letter stated:

Regrettably, it has not been a pleasant experience to date for Ngati Tama as the supporting evidence in our submission suggests. However, this submission is a factual account of the greed, and litany of deceit perpetrated by Dr Ngatata Love, and the 'Crown creations' he heads, the Wellington Tenths Trust, and the Palmerston North Tenths Trust, which has resulted in our lack of confidence and trust in the PNBC process. Not surprisingly, Ngati Tama does not support the Deed of Mandate.

The submission⁶¹ outlined three options to strengthen the Deed provided to OTS by the PNBC mandate team on behalf of descendants whom whakapapa to Taranaki tupuna in Whanganui-a-Tara at 1840, and sought full consideration of OTS to recommend that the current PNBC mandate team further consult its appropriate claimant communities on the three options with a view to substantiating and reporting back to OTS on the results by the end of December, 2003.

⁵⁹ Ngati Tama ki te Upoko o te Ika runanga hui notes of 29 October, 2003

⁶⁰ Ngati Tama ki te Upoko o te Ika. Submission on the Taranaki Whaanui ki te Whanganui-a-Tara Deed of Mandate dated 31 October, 2003

⁶¹ Ibid, p3

Ngati Tama ki te Upoko o te Ika viewed the Deed of Mandate as a most important document in the mandate recognition process. It was crucial that it reflected what the Ngati Tama people really wanted:

The Crown must be sure that the proper and mandated negotiators have the clear support of the claimant group that they claim they are representing. In this way, the Deed is more than a formal statement of intent about what the mandate covers and the mechanics of how the mandate was obtained.⁶²

In its assessment of the Deed of Mandate, OTS, in conjunction with TPK, had to be satisfied that there were rules determining how the PNBC mandated body functioned to make sure that they allowed for important decisions to be made openly and fairly by a fully engaged and properly mandated claimant community. Both Crown agencies also had to be assured of the appropriateness of when and how a claim was funded, who was entitled to that funding, and ensuing accountabilities. The society considered this issue to be a pressing issue confronting the claim, and many of its concerns stemmed from this single matter.

The Wellington Tenths Trust (and Palmerston North Tenths Trust) – with common governance leadership - openly admits to funding the PNBC process, for the benefit, and on behalf of, their shareholders and beneficiaries, which they represent. This presents a dilemma as to who is representing Ngati Tama. There are many within the claimant community who are not shareholders and beneficiaries of those Tenths Trusts. It is our view and opinion that there is the potential for possible improprieties where the funding arm of the claim, naturally concerned about how its funds are spent, is then perceived to have disproportionate influence over the whole claims process. As a result, other iwi and Maori groups find themselves in the position whereby they are unable to have trust and confidence in the PNBC process. In this regard, there may well be ethical and cultural issues that need to

⁶² Ibid, p4

be addressed in the appropriate manner. One of those issues is whether the Wellington Tenth Trust is acting within the legal mandate of its Trust Deed and needs to be challenged accordingly. It is possible that only a full and independent review of the Wellington Tenth Trust will allay those concerns.⁶³

As far as Ngati Tama ki te Upoko o te Ika was concerned, the PNBC process appeared to ignore the importance of first obtaining a mandate from all relevant iwi. The authority of traditional Maori structures (i.e. iwi) had been undermined and undervalued. The PNBC had involved the corporate and commercial arm of Te Atiawa and the pan-Taranaki runanga, which was not the same as engaging with all iwi separately. The society considered that:

The leadership of the PNBC should be iwi governance leadership.⁶⁴

The PNBC working party and mandate team of eleven neglected to seek an all-iwi endorsement of the proposed claim process. Instead it targeted individuals in an attempt to recruit people for registration, negotiation and settlement purposes. In that context, the question had to be posed as to whether the various consultation hui with the claimant community amounted to a fair, just and equitable process. The society was of the view that:

...the process has been wholly inadequate and inept.⁶⁵

The preferred approach of the Crown to negotiate with 'large natural groupings' suited corporate and commercial (umbrella) groups. Ngati Tama ki

⁶³ Idem

⁶⁴ Idem

⁶⁵ Ibid, p5

te Upoko o te Ika considered that policy to be unfair and unjust and that it had the potential to lead to an unwanted legal challenge. The society felt itself to be sidelined from any meaningful involvement in the claim, possibly because of its overt criticism of the PNBC process. Nonetheless, the society identified three possible options for changes to the PNBC mandate team's Deed of Mandate as a condition for supporting it.⁶⁶

Option One entailed the PNBC fully recognising Karewa Arthur and Helmut Modlik as the twelfth and thirteenth members of the PNBC mandating team with full participation rights befitting their authorisation to represent the Ngati Tama claimant community; sought endorsement of the full thirteen member mandate team from relevant iwi authorities (Te Atiawa, Ngati Tama, Taranaki, Ngati Ruanui); and sought the reduction in the number of Wellington Tenths Trust (and Palmerston North Tenths Trust) shareholders and beneficiaries on the PNBC thirteen-member mandate team to no more than six members.⁶⁷

Option One encapsulated the three key concerns confronting Ngati Tama ki te Upoko o te Ika. The first concern related to the ambiguity of Karewa Arthur and Helmut Modlik's position on the PNBC mandate team. The society believed that the Tribunal report, *Te Whanganui-a-Tara me Ona Takiwa*, provided both the necessary mandate and the basis for the two representatives' full participation on the PNBC mandate team:

⁶⁶ Ibid, pp5-6

⁶⁷ Idem

Claims were made by two groups of Ngati Tama. It will be for them to agree on who is to represent them in their negotiations with the Crown.⁶⁸

The society further considered that Arthur and Modlik did not need to be mandated by other individuals at the mandating hui around the country, as a mandate already existed within the society's Ngati Tama community for them to be its representatives.⁶⁹ Accordingly, Option One sought their full recognition as members of the PNBC mandating team with full participation rights.

The second issue within Option One sought endorsement of the full thirteen-member mandate team from relevant iwi authorities (Te Atiawa, Ngati Tama, Taranaki, Ngati Ruanui). Clearly, once Arthur and Modlik were accepted as full participants on the mandate team, the numbers on the mandate team would be increased to thirteen.

If PNBC considered that those attending the twelve mandating hui needed to know whom they were voting for, then further consultation hui could be held for that purpose. It would mean seeking an endorsement of the thirteen-member mandate team from the wider claimant community, including its endorsement by the four relevant iwi. That process would have satisfied Ngati Tama ki te Upoko o te Ika that those four iwi were recognised as the appropriate authorities.⁷⁰

⁶⁸ Waitangi Tribunal. 2003, p490

⁶⁹ Participant 10

⁷⁰ Ngati Tama ki te Upoko o te Ika. Submission on the Taranaki Whaanui ki te Whanganui-a-Tara Deed of Mandate dated 31 October, 2003, pp5-6

The third issue within Option One sought to reduce the number of Wellington Tenth Trust (and Palmerston North Tenth Trust) shareholders and beneficiaries on the new PNBC thirteen-member mandate team to no more than six members. Ngati Tama ki te Upoko o te Ika believed that the Wellington Tenth Trust held too much power and influence over PNBC proceedings, so to curb the potential threat of bias posed by nine of the present eleven members of the PNBC mandate team being Tenth Trust members, the society proposed reducing their number to no more than six members.⁷¹

Options Two and Three were variations of Option One. Option Two recognised Karewa Arthur and Helmut Modlik as the additional members of the PNBC mandating team and sought endorsement of the full thirteen-member mandate team from the four recognised iwi authorities. Option Three called for recognition of Karewa Arthur and Helmut Modlik to represent Ngati Tama ki te Upoko o te Ika as members of the mandating team with full participation and equal representation rights.⁷²

Other Submissions

The PNBC mandate team received copies of all fifty submissions on the Deed of Mandate; forty-six in support and four in opposition (from Karewa Arthur, John Chadwick, Etai Morgan, and Vern Winitana). Surprisingly, two submissions opposing the Deed - from Steve White of Te Runanga o Ngati

⁷¹ Idem

⁷² Idem

Tama based in New Plymouth, and John Hooker, vice-chairperson of Nga Ruahine Iwi Authority based in Manaia in Taranaki - were rejected.

The chairperson of Taranaki's Te Runanga o Ngati Tama advised OTS that his runanga had resolved at its hui of 10 October, 2003 that it did not recognise or support any of the individuals on the mandate team because none of them were representative of Ngati Tama.⁷³ Interestingly, the runanga requested OTS to ensure that all of those registered with the group claiming a mandate to negotiate on a pan-iwi basis were actually eligible to participate, and therefore able to represent their respective iwi.⁷⁴

In opposing the Deed, the vice-chairperson of Nga Ruahine Iwi Authority, John Hooker, was concerned that the PNBC mandating process did not recognise Nga Ruahine interests but other Taranaki whaanui, and that:

A lot of our whanaunga were indoctrinated into thinking that they were only Te Atiawa when they were in Wellington despite their undoubted Nga Ruahine origins.⁷⁵

While Nga Ruahine was not seeking a position on the PNBC team and indeed acknowledged the strong skill-based mana and whakapapa links of those PNBC members, it nonetheless sought a permanent Nga Ruahine seat on any post-settlement structure.⁷⁶

⁷³ Submission from Steve White, chairperson of Te Runanga o Ngati Tama on the mandate to represent and negotiate on behalf of interested parties within the Port Nicholson Block to OTS dated 13 October 2003

⁷⁴ Idem

⁷⁵ Submission from John Hooker, vice-chairperson of Nga Ruahine Iwi Authority on the PNBC Mandating process, to OTS dated 20 September 2003

⁷⁶ Idem

John Chadwick, chairperson of Ngati Tama Te Kaeaea ki te Upoko o te Ika a Maui Trust from Wanganui in a submission to OTS on behalf of the Trust's tupuna, Te Kaeaea, who was in 1840, paramount chief of Ngati Tama, said that the Trust:

does not support the proposed Deed of Mandate submitted by the parties to that document on the grounds that the process used to determine a Deed of Mandate was both unfair and unconscionable.⁷⁷

Furthermore, the Trust requested that OTS consider its voice as one of a minority claimant roopu, "with no resources, in the face of a fully resourced dominant Corporation, the Wellington Tenths Trust, who do not and are not mandated to represent the voice of nga uri o Kaeaea (the descendants of Te Kaeaea)".⁷⁸

The chairperson of Te Atiawa ki Whanganui a Tara Iwi Authority, Tata Parata, also opposed the Deed of Mandate and expressed dissatisfaction concerning the mandating process, saying that:

The process had been manipulated and captured by the Wellington Tenths Trust and Te Runanganui o Taranaki Whaanui ki te Upoko o te Ika a Maui who have influenced and dominated the claim process to such an extent that it has prevented the legitimate inclusion of iwi representatives from other claimant groups.⁷⁹

⁷⁷ Submission on Deed of Mandate from Ngati Tama Te Kaeaea ki te Upoko o te Ika a Maui Trust to OTS dated 31 October 2003

⁷⁸ Idem

⁷⁹ Submission from Te Atiawa Ki Whanganui A Tara Iwi Authority to OTS dated 3 November 2003

Etai Morgan, kaumatua of Te Atiawa, in opposing the Deed of Mandate took, “umbrage with Dr Ngatata Love’s claim of being a balanced team” and commented that a, “fair and equitable process is highly unlikely to be achieved, as the interests of the dominant group is more likely to have unfair advantage”.⁸⁰ Morgan’s whanau-based submission also drew attention to the over-representation of the Love whanau on the mandated team comprising:

Dr Ngatata Love, his daughter Catherine Love, Elizabeth Mellish, first cousin to Ngatata Love, whose Father was Mr Taylor Love and Dawn McConnell whose mother was also a member of the Love whanau, and first cousin to the late Sir Makere Love, father of Dr Ngatata Love.⁸¹

Vern Winitana, chairperson of the Arohanui ki te Tangata Arts and Cultural Centre Trust based at Waiwhetu, presented a fourteen-point submission opposing the mandate claimed by Dr Ngatata Love and others. Most of the points specifically related to the Wai 105 claim. The Trust was of the view that it had not been consulted appropriately, nor been treated with equal standing compared to the Wellington Tenths Trust.⁸² Furthermore, it reiterated a familiar concern:

Those on the mandating team Sir Paul Reeves, Dr Ngatata Love, Kara Puketapu, Liz Mellish, Catherine Love, and others were all self-appointed from the outset. They set the terms of criteria of appointment themselves based on their own experience then proceeded to appoint themselves at small gatherings, sell themselves to meetings around the country and now present themselves to OTS for confirmation.⁸³

⁸⁰ Submission to OTS on the Deed of Mandate from Etai Morgan dated 28 October 2003

⁸¹ Idem

⁸² Submission to PNBC Mandate from Vern Winitana, chairperson of Arohanui Ki Te Tangata Arts and Culture Centre Trust to OTS, dated 30 October 2003

⁸³ Idem

Those six group submissions opposing the Deed of Mandate comprised some fifty-five pages of detailed research; the forty-six submissions supporting the Deed, of which most were form letters, totalled about the same quantity of pages. However, the PNBC team was plainly devastated at the content of some of the submissions, especially that of Ngati Tama ki te Upoko o te Ika.⁸⁴ At a hui to discuss the Deed, Te Atiawa's Teri Puketapu expressed his personal concern about the nature of the submissions contesting the claim and the individuals involved. Eldon Potaka of Ngati Tama Te Kaeaea Trust, in attempting to allay the issue, stated his, "commitment to building the relationship between the Ngati Tama groups" to which Dr Ngatata Love, agreed and offered assistance if required.⁸⁵

Concerns raised in the submissions were defended by the PNBC. The PNBC mandate team and those who participated in the mandating process believed that they had achieved a transparent, fair and reasonable process. That belief, it suggested, had been supported by over 1000 people who voted in support of the proposed mandate team at hui around the country during August, 2003.⁸⁶

PNBC's Response to the Submissions

In December, 2003, the PNBC provided OTS with a comprehensive response to the submissions that opposed the Deed.

⁸⁴ Participant 5

⁸⁵ PNBC mandate team report #3 of 27 November, 2003

⁸⁶ PNBC Newsletter of December, 2003

The PNBC mandate team that undertook twelve national hui categorically state that the four submissions are baseless and should be rejected forthwith. Further, that these submissions purpose is twofold as they endeavour to undermine: the expressed will (vote) and mandate of the descendants; and an inclusive, transparent process and moreover a process that was developed with OTS.⁸⁷

The PNBC reaction focused on the submitters. "These submitters represent small fragmented parties and they do not have a mandate from the descendants. Their assertions are flawed and based on emotional rhetoric. The PNBC found it frustrating that the PNBC mandate had been held up because of a small group of people who hold no mandate. They are fundamentally flawed claims made by small self-interested, non-mandated parties".⁸⁸ PNBC considered the Ngati Tama ki te Upoko o te ka submission to be premised on the notion that:

They are the rightful and proper Ngati Tama iwi and need not obtain a mandate through mandate hui because they have the sole right to appoint Ngati Tama representatives and only their nominated representatives can represent Ngati Tama. This assumption is flawed in every aspect.⁸⁹

It was claimed that Ngati Tama made that assertion based on establishing a recent incorporated society, and calling themselves 'iwi' without consultation with and involvement of the majority of descendants. It was further stated that Ngati Tama ki te Upoko o te Ika self-selected those on the society's board ("most of who are from a faction of Ngati Toa and Takapuwahia Marae"); that they disregarded the reality that the bulk of Ngati Tama descendants and their interests were being maintained through the Wellington Tenths Trust and the

⁸⁷ Letter from PNBC to OTS dated December, 2003

⁸⁸ Idem

⁸⁹ Idem

Te Runanganui o Taranaki Whaanui; and that those descendants were registered with, or registering with, PNBC.⁹⁰

The PNBC letter stated that Ngati Tama ki te Upoko o te Ika showed absolute disregard for Port Nicholson history of nga hapu/whanau o nga iwi o Taranaki, and disrespect for all Taranaki tupuna who fought for justice through the Waitangi Tribunal claims process, as well as the Taranaki Maori organisations that had funded and supported the claims.

It was considered to be an arrogant stance on the part of the society that the twelve national mandate hui and vote outcome from the descendants neither mattered nor affected the right to have two society representatives, and that it had been an illusion that Taranaki people based in Port Nicholson/Wellington would suddenly accept leadership from a group of people who had for decades been forceful advocates of Ngati Toa.⁹¹

The strongly worded counter to the submissions opposing the Deed concluded by saying that the Ngati Tama submitters:

...are fundamentally parties who have little to do with Taranaki whanau/hapu matters, let alone Ngati Tama. Those persons have limited recognition nationally as Taranaki people, and they are not regarded by Taranaki people in general, as Taranaki leaders.

⁹⁰ Idem

⁹¹ Idem

Following on in the same vein, the PNBC chairperson Dr Ngatata Love wrote to Andrew Hampton of OTS the following month expressing his concern that recognition of the PNBC mandate team should not be delayed by a small factional group, and making the point that on 18 December, 2003 PNBC had provided a detailed response to the vicious misrepresentations and attacks on the PNBC group.⁹²

In a letter dated 20 January, 2004, the PNBC mandate team agreed to conform to OTS' request for reconfirmation hui undertaken two years from the time the Crown recognised the PNBC mandate, but rather than the three hui originally proposed (Wellington, Te Tau Ihu and Taranaki), the PNBC mandate team would undertake a single hui to reconfirm mandate. The accountability to back up the claimant community was always problematic, as within the two-year period the mandate team's negotiations may have been completed.

On the matter of the confirmation of Helmut Modlik's role on the mandate team, Dr Ngatata Love had some harsh words:

Ngati Tama ki te Upoko o te Ika Inc has, despite an agreement being reached with them in your presence, walked away and withdrew their single representative from the table. PNBC made a seat available to a society member following the national mandate hui – even though the society chose not to attend the twelve national mandating hui and numerous hui were explicit in stating that they wanted the team as presented to be the team – no ring-ins or musical chairs on the mandate team. The whole purpose of the twelve hui was to present the mandate candidates face to face with the people.⁹³

⁹² Letter from Dr Ngatata Love of the PNBC to OTS dated 20 January, 2004

⁹³ Idem

Dr Ngatata Love accused Ngati Tama ki te Upoko o te Ika and the other Ngati Tama Te Kaeaea Trust of publicly and viciously attacking PNBC and the mandate team, and in doing so it had effectively withdrawn from its promise to participate on the Port Nicholson Block team. In summary, Dr Ngatata Love stated:

The society is not an iwi; their submission challenging the PNBC mandate clearly specified they wanted two members of right and that their members needed not to be mandated through the twelve mandate hui or by Ngati Tama throughout the country; the society is a recent phenomena captured by a small group ostensibly of Ngati Toa; Ngati Tama descendants of long standing are well represented in the current PNBC mandate team; registration numbers of Ngati Tama descendants to the PNBC far outstrips that purported by the Society; and the people who voted at the mandate hui, mandated the team presented including those of Ngati Tama descent.⁹⁴

Repeatedly, the point was made that Helmut Modlik and any other member of Ngati Tama ki te Upoko o te Ika had effectively withdrawn from the PNBC mandate committee, and therefore had no further role on the PNBC mandate team. Dr Ngatata Love's final admonition was directed to OTS whom he accused of giving credence to factions of Ngati Tama including one group who descended from one person, others known strongly as Ngati Toa, and those with close political connections in Minister's and MP's offices. Dr Love emphasised the acceptance of the PNBC mandate team and the Ngati Tama members by the original claimants with over ten years standing, and the large groups from Taranaki that confirmed the support the mandate team received from traditional Ngati Tama members.⁹⁵

⁹⁴ Idem

⁹⁵ Idem

Crown Assessment of the Deed

The Crown's Deed Assessment⁹⁶ of 27 January, 2004 noted that with the exception of the two seats that had been set-aside for the main Ngati Tama groups, the PNBC was not tribally based. The claimant community had been asked to vote on the PNBC as a whole, as opposed to each iwi/hapu appointing its own representatives. PNBC team members represented the claimant community as a collective; not particular tribal interests. At the time of the mandate hui, one vacant seat had been reserved for a Ngati Tama person (Ngati Tama ki te Upoko o te Ika) as a nominee for that seat had not been confirmed. No representatives from the Crown had been present at any of the mandating hui.

OTS officials identified a number of shortcomings with the first Deed - in particular a lack of accountability to the claimant community and a lack of representation of Ngati Tama on the PNBC team. The concerns raised by the society were not fully addressed. Once notified, PNBC agreed to address them promptly, and to OTS' satisfaction. On that basis, OTS decided to go ahead and publicise the Deed in national newspapers, and call for submissions. Helmut Modlik was not invited to sign the Deed of Mandate, even though the PNBC had written and invited him to be a member of it.⁹⁷

⁹⁶ On 27 January, 2004, OTS provided their Minister, Hon Margaret Wilson a briefing paper entitled, Taranaki Whaanui ki te Whanganui-a-Tara Deed of Mandate Assessment, which was their assessment of the PNBC Deed of Mandate and an analysis of the submissions. The two key mandate assessment criteria used by OTS and Te Puni Kokiri related to ensuring that the PNBC seeking the mandate had the clear support of the claimant group it represented and that the mandate was obtained through open and transparent processes; and, that it had processes in place to ensure accountability to the claimant community.

⁹⁷ Idem

Officials noted that a total of fifty submissions were received, and that while the majority of submitters had been in support of the PNBC team mandate, many of those were form letters. The main submissions opposing the mandate came from Ngati Tama groups. Key concerns raised in those submissions included that the PNBC was not representative of the claimant community and was dominated by the Love whanau and the Wellington Tenths Trust; that Ngati Tama was not adequately represented on the PNBC team; and, that the PNBC was not financially accountable to the claimant community.⁹⁸

According to OTS', the PNBC viewed the opposing submissions as fundamentally flawed claims made by small self-interested, non-mandated parties.⁹⁹ The submission from John Chadwick indicated that Ngati Tama te Kaeaea Trust did not recognise Kevin Amohia, who was a member of the PNBC on behalf of that Trust, and had elected another representative (himself). As Kevin Amohia was part of the PNBC team voted on by the claimant community, this created uncertainties in relation to who was the appropriate representative. OTS considered the level of Ngati Tama representation appropriate.

OTS' advice made specific mention of the deteriorating relationship between Ngati Tama organisations and other PNBC team members as a key shortcoming. OTS officials had been concerned that recent correspondence to OTS from the PNBC and the Ngati Tama organisations indicated that the

⁹⁸ Idem

⁹⁹ Idem

relationship was fraught and involved personal attacks between key players of each group. Those relationships had been a crucial factor in the progress of negotiations and would require considerable effort on behalf of all parties involved. Officials decided to monitor the progress of that relationship as a part of the mandate monitoring process, and thought that it might be appropriate for the Crown to offer to resource a facilitator to try to improve the relationship should there be any further deterioration.¹⁰⁰

With respect to the other key shortcoming, OTS noted that the PNBC was not a legal entity. Accordingly, many of the normal mechanisms that would have ensured accountability to the claimant community – e.g. regular elections if the representatives were trustees, or the capacity of the claimant community to call a special general meeting - were absent. The Deed did provide for reconfirmation hui in three years from when the mandate was recognised, and for hui to be held to replace members should the membership of the PNBC team drop to or below seven people. OTS did not consider that such mechanisms had been sufficient to ensure full accountability to the claimant community.¹⁰¹

Other related issues included the scope of proposed negotiations. Te Atiawa ki Whakarongotai's continued exclusion from settlement had been an exception to the Crown's comprehensive policy (in that settlement would not cover all the historical claims of the Taranaki whaanui in the Wellington region). With respect to overlapping interests, the Deed asserted that

¹⁰⁰ Idem

¹⁰¹ Idem

Taranaki whaanui had exclusive interests in the Port Nicholson Block. That was in conflict with the Waitangi Tribunal's findings, which recognised Ngati Toa and Ngati Rangatahi. On the matter of claimant funding expectations, OTS officials considered it inappropriate that the Deed provided for the Wellington Tenths Trust, the Palmerston North Reserves Trust and other claimants to have first call on the settlement monies rather than the post-settlement governance entity.¹⁰²

In summary, OTS was satisfied that PNBC had demonstrated through an open and inclusive process that it had strong support from Taranaki whaanui in the Wellington region. Thus, OTS' recommendation to Minister Margaret Wilson was a conditional recognition of the PNBC team mandate.¹⁰³

Recognition of the Deed of Mandate

Late in January of 2004 the Deed of Mandate approval was eagerly awaited. The feature article in the PNBC's January newsletter was about the Deed. Above the photograph captions of the Hon Margaret Wilson (Minister in Charge of Treaty of Waitangi Negotiations), and her Cabinet colleague Hon Parekura Horomia (Minister of Maori Affairs), were the words 'In their Court'.¹⁰⁴ Before the month was out, a 'stop press' edition of the newsletter announced that the Government had recognised the PNBC Deed of Mandate.¹⁰⁵

¹⁰² Idem

¹⁰³ Idem

¹⁰⁴ PNBC. Newsletter of January, 2004

¹⁰⁵ PNBC. Further Newsletter of January, 2004

Minister Wilson recognised the overwhelming support that had been demonstrated by the claimant community for the PNBC team to be their mandated representative to negotiate a settlement. She concluded by saying that the next step would be the signing of Terms of Negotiation.¹⁰⁶

Wilson and Horomia wrote a joint letter to PNBC on 28 January, 2004 stating:

We have come to the conclusion that the PNBC has considerable support from the Taranaki whaanui and that it is an appropriate structure to represent Taranaki whaanui in the negotiation of a settlement offer for their historical claims. The Crown therefore wishes to recognise the mandate of the PNBC team to represent Taranaki whaanui in negotiations.¹⁰⁷

However, the Crown considered that there were two issues needing to be addressed prior to negotiations commencing. One of the issues related to the representation of iwi interests on the PNBC team. The PNBC Deed of Mandate stated that two seats on the PNBC team had been set aside specifically for Ngati Tama representation. Both Ministers said:

As you are aware, a number of submissions were received from members of Ngati Tama expressing concern with the Ngati Tama representation, particularly in relation to the standing of Ngati Tama representatives compared to the other members of the PNBC. Since the Deed was submitted you have advised OTS that Helmut Modlik, the representative for Ngati Tama ki te Upoko o te Ika, has withdrawn from the PNBC. However, subsequent conversations between OTS and Mr Modlik suggest that Mr Modlik is unaware of any such decision to withdraw from the PNBC. We are therefore of the view that the Crown's

¹⁰⁶ Margaret Wilson. Media release of 28 January, 2004

¹⁰⁷ Letter from the Minister of Maori Affairs and the Minister in Charge of Treaty of Waitangi Negotiations to PNBC on 28 January, 2004 (referred to also in later correspondence as being dated 27 January, 2004)

recognition of the PNBC mandate should be conditional on steps being taken to address the issues regarding Ngati Tama representation. The submissions and other recent correspondence to OTS indicate that the relationship between members of the Ngati Tama organisations and other members of the PNBC has become strained. It is important that a mandated group is able to work together in a constructive manner to enable the negotiations to progress. The Crown is therefore prepared following the Ngati Tama mandating hui, to resource a facilitator to try to improve the relationship, if this is still considered necessary.¹⁰⁸

The Crown therefore recognised the mandate of the PNBC team to represent Taranaki whaanui during settlement negotiations, subject to the following conditions:

Before Terms of Negotiation are signed, provision for two permanent seats on PNBC for Ngati Tama representatives (one for Ngati Tama ki te Upoko o te Ika and one for Ngati Tama Te Kaeaea Trust) of equal standing to all other seats, and representatives for those seats should be elected at fresh mandating hui; should either Ngati Tama seat become vacant, a Ngati Tama hui-a-iwi will need to elect a replacement representative as soon as reasonably possible; and, PNBC will reconfirm their mandate within two years of the date of this letter via a hui-a-iwi that has been adequately notified".¹⁰⁹

Both Ministers expected the Ngati Tama representatives to be adequately represented in all stages of the negotiation process. Following the Minister's letter to PNBC on 28 January, 2004, Andrew Hampton of OTS wrote to all the other claimant groups with slight changes to its wording (*italicised*) and advising that OTS had completed its assessment of the Deed and the submissions, and as a result the Crown had recognised the PNBC team Deed of Mandate with the proviso that:¹¹⁰

¹⁰⁸ *Idem*

¹⁰⁹ *Idem*

¹¹⁰ (In the 28 January, 2004 letter from joint Ministers the wording was: Crown therefore recognises the mandate of the PNBC team to represent Taranaki Whaanui during settlement negotiations), subject to the following conditions (with slight amendments to the Ministers' letter as *italicised*):

Before Terms of Negotiation are signed, *there will be* two permanent seats on PNBC for Ngati Tama representatives (one for Ngati Tama ki te Upoko o te Ika and one for Ngati Tama Te Kaeaea Trust) of equal standing to all other seats. Representatives for those seats *will be* elected at fresh mandating hui; should either Ngati Tama seat become vacant, a Ngati Tama *ki te Whanganui-a-Tara* hui-a-iwi will need to be held to elect a replacement representative as soon as *reasonably possible*; and, PNBC will reconfirm their mandate within two years of the date of mandate recognition via an adequately notified hui-a-iwi.¹¹¹

In its view, OTS addressed the key issues raised in the submissions but flagged, without going into any detail, that there were a number of other aspects within the Deed that the Crown and PNBC team would need to work through. Nonetheless, OTS officials did not expect that PNBC would have concerns.¹¹²

In the meantime, the Crown acknowledged that there had been tensions within the claimant community relating to the representation of Ngati Tama in negotiations but considered that the three conditions would assist development of a positive relationship between PNBC team members and the Ngati Tama representatives.

There was a buoyant spirit at the PNBC mandate team report-back hui of 29 January, 2004 when all were advised of the Crown's recognition of the Deed. Minister Margaret Wilson was quoted as having emphasised that the Crown would like to work positively with the PNBC mandate team and endeavour to achieve an offer of settlement within two years.¹¹³

¹¹¹ Letter from OTS to all claimant groups dated 28 January, 2004

¹¹² Deed of Mandate Assessment from OTS to Minister Wilson dated 27 January, 2004, p2

¹¹³ PNBC mandate team report back hui #4 on 29 January, 2004

Post-Deed of Mandate

At the next mandate team report-back hui, Kara Puketapu spoke of the “need for concerns and issues to be raised at these hui with no back door antics to the Crown - the Maori way is to come to the marae and discuss internal matters.”¹¹⁴ PNBC chairperson Dr Ngatata Love joined the discussion agreeing with Puketapu’s korero: “some groups have tried using the media to air grievances, but media have realised that they would be liable for legal proceedings therefore they have not occurred”.¹¹⁵

It was further good news for the PNBC when on 8 March, 2004 the Hon Margaret Wilson, in conflict with her remarks six weeks earlier, advised that:

The Crown cannot compel the PNBC to agree to guaranteeing Mr Modlik full membership rights and holding a reconfirmation hui for the Ngati Tama Te Kaeaea representative. However, if these steps are not taken, I consider that there is a high likelihood that the PNBC’s mandate and/or the proposed settlement will be challenged by Ngati Tama individuals, either in the Courts or the Waitangi Tribunal.¹¹⁶

However, Minister Wilson realised from her advisors that in the event of a challenge the Crown would not be in a strong position to defend itself. She suggested that Dr Ngatata Love and the PNBC continue to address Ngati Tama representation issues to ensure an acceptable outcome for all in the claimant community.¹¹⁷

¹¹⁴ PNBC mandate team report back hui #5 on 26 February, 2004

¹¹⁵ Idem

¹¹⁶ Letter from Minister Margaret Wilson to PNBC’s Dr Ngatata Love on 8 March, 2004

¹¹⁷ Idem

At a hui later that month, Helmut Modlik made an impassioned plea on behalf of Ngati Tama ki te Upoko o te Ika (as recorded and minuted by the PNBC secretary). In defending Ngati Tama ki te Upoko o te Ika he said that the society did not want to takahi (trample) on the names and mana of others. While strongly disagreeing with the manner in which PNBC was established, he said that the purpose of the iwi authority was not just as a claimant group but also as an organisation rebuilding the iwi of Ngati Tama. He reminded those present at the hui that most shared the same whakapapa base. While his group had tried to be participative it had not been appreciated. The situation had come to a head recently with Ngati Tama and PNBC and he himself had played a 'Clayton's' role with signed documentation to this effect. Since his name had 'disappeared off the radar screen' a unilateral decision had been made by PNBC to break his membership. In closing, he said that the society would, "maintain an independent voice outside the process if necessary, but let us move forward".¹¹⁸

Neville Baker responded by making the point that "your organisation is just one part of Ngati Tama. There are many. I am here for a wider representation than just Ngati Tama".¹¹⁹ In Baker's opinion Ngati Tama ki te Upoko o te Ika had not been excluded. He referred to some historical facts about the history and fragmentation of Ngati Tama and again stated that:

The process is not exclusive. When it comes time for specific matters to be negotiated, it is important that we all understand the history. Although Ngati Tama ki te Upoko o te Ika did not participate on the

¹¹⁸ PNBC mandate team report back hui #6 of 25 March, 2004

¹¹⁹ Idem

mandate hikoi – Ngati Tama are well represented and voted to mandate the PNBC. We now need to progress forward.¹²⁰

In reply Modlik said that Ngati Tama ki te Upoko o te Ika's involvement in the claim had not been for personal gain.

We are not in this for the money. We want to reassert Ngati Tama's mana, and for it to be a vibrant and viable iwi in Wellington. It is acknowledged that the Tenth's have led this [claim]. I don't wish to takahi on the Tenth's, but I don't believe the Tenth's Trust is the most appropriate voice of the iwi.¹²¹

The following month's PNBC newsletter (April, 2004) recorded 'a lively discussion' at the Te Tatau o te Po Marae hui of 25 March, 2004. Included in the newsletter was the statement that, "it is the belief of the mandated representatives that although a seat was provided for a Ngati Tama ki te Upoko o te Ika Incorporated Society representative prior to the commencement of the mandating hui in August, 2003, the incorporated society chose not to participate".¹²²

The society had been keen to fully comply with the Minister's direction that a fresh mandating hui-a-iwi be held to elect its representative on the PNBC. On 3 April, 2004 OTS was advised that a hui-a-iwi for Ngati Tama had been held at Tapu te Ranga Marae, Island Bay to elect its representative on the PNBC and Helmut Modlik was elected unopposed as its representative.¹²³

¹²⁰ Idem

¹²¹ Idem

¹²² PNBC. Newsletter of April, 2004

¹²³ Letter from the chairperson of Ngati Tama ki te Upoko O te Ika, Karewa Arthur to OTS on 5 April, 2004

The hui also agreed that Ngati Tama ki te Upoko o te Ika work closely with the PNBC mandate team with a view to moving forward in unison with other iwi and claimant communities; and, that its chairperson, secretary, and Ngati Tama representative on the mandate team meet with the PNBC chairperson (and others) as soon as practicable to recommence a working relationship based on trust, mutual respect and good faith.¹²⁴

PNBC was keen to be seen actively progressing the Ngati Tama representation issue as requested by Ministers Wilson and Horomia. For example, it was reported that at the mandate team meeting on 25 April, 2004 it was agreed that PNBC executive officer, Wayne Mulligan, contact Ngati Tama ki te Upoko o te Ika with the aim of establishing a working relationship.

The purpose of the contact was to arrange a meeting between himself, mandate team member Neville Baker, and representatives of the society. The meeting would determine a constructive pathway forward for the society's participation, and that since the round of mandate appointments was well past, the participation would not be at the mandated representative level.¹²⁵

The May, 2004 newsletter¹²⁶ informed everyone that subsequent to PNBC presenting OTS with receipts amounting to \$864,835.61 for mandating costs, which was a sum substantially larger than mandated groups received for the

¹²⁴ Idem

¹²⁵ PNBC Newsletter of May, 2004; PNBC Newsletter of April, 2004

¹²⁶ PNBC Newsletter of May, 2004

entire negotiations process,¹²⁷ Ministers Wilson and Cullen had approved claimant funding of \$595,000. It was reported that \$100,000 for the mandating process would immediately go to reimburse the Wellington Tenth Trust and Palmerston North Maori Reserve, as they had funded the entire mandating process. Kara Puketapu was quoted as saying that he foresaw no problem with the reimbursement of \$100,000 to the Trusts.¹²⁸

The report-back hui of 27 May, 2004 noted that several reports had been provided at the mandate team meeting of 26 May, 2004 concerning Ngati Tama. In summary, they stated that, “constructive dialogue [was] underway with Ngati Tama ki te Upoko o te Ika. Meetings [were] held and further ones planned”.¹²⁹ However, Ngati Tama ki te Upoko o te Ika was no further ahead in its attempt to fully participate in the PNBC process, and in the meantime PNBC was making haste finalising the Terms of Negotiations. The 24 June, 2004 report-back hui noted that the PNBC had been considering its eighth draft.¹³⁰

It was in the context of appearing to work constructively with Ngati Tama ki te Upoko o te Ika that a proposal was put forward by PNBC’s Neville Baker for the society’s involvement in the PNBC. That approach did not include offering the society full membership rights and equal representation on the PNBC as stipulated by the Crown, rather it involved:

¹²⁷ OTS briefing paper entitled, Taranaki Whaanui ki te Whanganui-a-Tara Deed of Mandate Assessment to Hon Minister, Hon Margaret Wilson on 27 January, 2004

¹²⁸ PNBC mandate team report back hui #8 of 27 May, 2004

¹²⁹ Idem

¹³⁰ PNBC mandate team report back hui #9 of 24 June, 2004

An offer to work within the sub-committee structure and working party structure and moreover an opportunity to meet the full PNBC mandate committee on occasions.¹³¹

The PNBC mandate team who had been mandated before the claimant community at the twelve national mandating hui was unable to arbitrarily provide Ngati Tama ki te Upoko o te Ika or any other person or party a role as a mandated representative.

Ngati Tama ki te Upoko o te Ika was not impressed. "The proposal had been the latest in a series of events that reflected a hardening attitude of PNBC towards the society".¹³² The society's response was to seek a meeting with the Minister at the earliest possible opportunity to discuss its deep frustrations and the prevailing impasse.¹³³

In the letter, Arthur referred the Minister to her earlier undertakings such as the 28 January, 2004 letter from Andrew Hampton of OTS. This advised that the Crown had recognised the Deed subject to certain conditions being met before Terms of Negotiation were signed, including that there would be one permanent seat on the PNBC mandate team for a Ngati Tama representative from Ngati Tama ki te Upoko o te Ika, "of equal standing to all other seats". Arthur reminded the Minister that as a condition OTS had asked that Ngati Tama ki te Upoko o te Ika's representative be elected at a fresh mandating hui, which had been done on 3 April, 2004. Thus despite having accepted that

¹³¹ Letter from Neville Baker of PNBC to Ngati Tama ki te Upoko o te Ika dated 2 July, 2004

¹³² Participant 1

¹³³ Letter from Karewa Arthur of Ngati Tama ki te Upoko o te Ika to the Minister in charge of Treaty of Waitangi Negotiations on 10 July, 2004

the Deed had been recognised by the Crown and having complied with OTS requirements that the society secure a seat on the PNBC mandating team, the PNBC had shown over the past three months that it had no intention at all of including Ngati Tama ki te Upoko o te Ika.¹³⁴

Ngati Tama ki te Upoko o te Ika had effectively been barred from participation on the mandate team by not being included in its meetings, its decision-making, and its discussions with respect to the Terms of Negotiation. It took very seriously the intransigent views of the PNBC mandate team, and noted that those views had not been consistent with the advice OTS officials had provided.¹³⁵

On 15 July, 2004, Ngati Tama ki te Upoko o te Ika was contacted by OTS that the Minister had agreed to meet on 26 July, 2004, subject to the PNBC being in attendance as well. To the surprise of Ngati Tama ki te Upoko o te Ika, Andrew Hampton of OTS wrote back to Karewa Arthur five days later (on 20 July, 2004) advising that the Minister was going to go ahead and sign the Terms of Negotiation anyway, less than twenty-four hours after the planned meeting.¹³⁶ OTS director mentioned that:

The PNBC has advised the Crown that it is not prepared to fulfil the outstanding conditions in relation to Ngati Tama representation. The PNBC has advised that it cannot confer full PNBC team membership rights on any person that was not mandated before the Taranaki whaanui ki te Whanganui-a-Tara claimant community during the twelve national mandating hui of August, 2003. The PNBC also claims that

¹³⁴ Idem

¹³⁵ Participant 10

¹³⁶ Letter from Hampton of OTS to Karewa Arthur of Ngati Tama ki te Upoko o te Ika dated 20 July, 2004

Ngati Tama is adequately represented by the PNBC, with eight of the eleven current members affiliating to Ngati Tama. The PNBC contends that it is not necessary to fulfil the outstanding conditions.¹³⁷

A significant statement was that:

The Minister in Charge of Treaty of Waitangi Negotiations and the Minister of Maori Affairs have not yet made a formal decision regarding the outstanding Ngati Tama representation issues. However, both Ministers have expressed sympathy with the PNBC's views on this matter.¹³⁸

At the 26 July, 2004 meeting, Minister Wilson made a landmark decision to exclude from the PNBC negotiations the historical claims of those Ngati Tama people who did not consider themselves appropriately represented by the PNBC.¹³⁹ Immediately after the meeting, a joint letter was faxed to Minister Wilson from Ngati Tama ki te Upoko o te Ika and Ngati Tama Te Kaeaea ki te Upoko o te Ika a Maui outlining their understanding of the meeting outcome, including the proposal accepted by them.¹⁴⁰

While the Crown will continue to negotiate with PNBC it will also commence negotiations with Ngati Tama ki te Upoko o te Ika Inc and Ngati Tama Te Kaeaea ki te Upoko o te Ika a Maui Trust in respect of Ngati Tama's claims in the Wellington region. We hold firm to our view that PNBC team is not representative of Ngati Tama in the Wellington region. However, we accept that this provides a way forward in the interim. We also expect that it will be necessary to further address the issue of mandate for Ngati Tama at some point in the future, and

¹³⁷ Idem

¹³⁸ Idem

¹³⁹ On 26 July, 2004 representatives of Ngati Tama ki te Upoko o te Ika Inc (Helmut Modlik and lawyer Matanuku Mahuika) and Ngati Tama Te Kaeaea ki te Upoko o te Ika a Maui Trust (John Chadwick, Sheryl Connell), with support from Greg White of Ngati Tama (Taranaki), and Taku Parai of Ngati Toa, met with Hon Margaret Wilson, Minister in Charge of Treaty of Waitangi Negotiations. In attendance from the PNBC were (Dr Ngatata Love, Neville Baker, and Wayne Mulligan) and Dean Cowie from OTS.

¹⁴⁰ Letter from Ngati Tama ki te Upoko o te Ika Inc, and Ngati Tama Te Kaeaea ki te Upoko o te Ika a Maui Trust, to Minister Wilson dated 26 July, 2004

certainly prior to any settlement being concluded for Ngati Tama's claims in the Wellington region.

TERMS OF NEGOTIATION

The Terms of Negotiation was an agreement to establish the terms under which the Crown would negotiate with the claim team (i.e. PNBC) so as to achieve a settlement of historical claims. It was not legally binding and did not create a legal relationship.

On 27 July, 2004, the Hon Margaret Wilson and the eleven member PNBC mandated team signed the Terms of Negotiation between the Crown and the PNBC for the settlement of historical claims. In regard to Ngati Tama, clause 6.7 stated that:

The Crown and the PNBC acknowledge that some Ngati Tama people do not consider that they are appropriately represented by the PNBC. The Crown and the PNBC undertake to discuss with the representatives of those Ngati Tama people the extent to which their Historical Claims will be covered by the negotiations. The parties acknowledge that any agreement reached might require an amendment to the definition of Historical Claims in clause 5.7.¹⁴¹

Clause 5.7 (concerning historical claims) listed the claims to the Waitangi Tribunal relating to the Port Nicholson Block Claim, including Ngati Tama's Wai 735 claim. Clause 6.8 of the Terms of Negotiation stated that:

Subject to the outcomes under clause 6.7, the PNBC and the Crown agree to seek to involve the Ngati Tama Hapu/Iwi ki te Upoko o te Ika Society Incorporated (Society Number WN/1203758), the Ngati Tama

¹⁴¹ PNBC/Crown. Terms of Negotiation, 27 July, 2004

Te Kaeaea ki te Upoko o te Ika a Maui Trust and the Ngati Tama Te Kaeaea Trust in negotiations with the Crown when those negotiations directly relate to those entities.

The PNBC team also agreed that it would attempt to establish and maintain positive working relationships with the Ngati Tama Hapu/Iwi ki te Upoko o te Ika Society Incorporated, the Ngati Tama Te Kaeaea ki te Upoko o te Ika a Maui Trust and the Ngati Tama Te Kaeaea Trust during the course of the negotiations.¹⁴² Ngati Tama ki te Upoko o te Ika had not been consulted on the Terms of Negotiation. For instance, clause 10 - that negotiations, “ought to be led by the named claimant or claimants for that particular claim” - was unacceptable to the society.¹⁴³

Post-Terms of Negotiation

On 19 August, 2004, Minister Wilson replied to the society acknowledging that there had been some Ngati Tama individuals who did not feel that they were represented by the PNBC. In an effort to move forward she stated that:

I proposed that those Ngati Tama individuals who do not consider themselves to be represented by the PNBC could have their historical claims excluded from the PNBC's negotiations with the Crown.¹⁴⁴

However, on reflection and after taking further advice from officials, it became clear to Minister Wilson that the exclusion of any Ngati Tama historical claims from the PNBC team's negotiations presented some difficult issues:

¹⁴² Idem

¹⁴³ Idem

¹⁴⁴ Letter from Minister Wilson to Ngati Tama ki te Upoko o te Ika dated 19 August, 2004

This was because the Crown enters into negotiations with claimant groups that are based on common lines of descent from the same tupuna and have historical claims founded on a right arising as a result of descent from those tupuna. It is therefore difficult to distinguish the historical claims of those Ngati Tama individuals who wish to be represented by the PNBC team from those who do not.¹⁴⁵

While the Minister preferred all Taranaki whaanui ki te Whanganui-a-Tara historical claims to be included in one set of negotiations, if a way could not be reached those Ngati Tama individuals who did not consider themselves to be represented by the PNBC team could choose to have their historical claims excluded from the PNBC negotiations with the Crown, as the Minister proposed on 26 July, 2004.¹⁴⁶

Further meetings were held with the representatives of Ngati Tama ki te Upoko o te Ika Inc, Ngati Tama Te Kaeaea ki te Upoko o te Ika a Maui Trust and the PNBC to discuss those Ngati Tama people who did not consider themselves to be represented by the PNBC team regarding the extent to which their historical claims could be covered by the negotiations. Little progress was made.¹⁴⁷

The matters set out in the Minister's 19 August, 2004 letter were noted but not necessarily agreed by Ngati Tama ki te Upoko o te Ika. The society maintained that PNBC team had not been representative of Ngati Tama in the Wellington region and continued to take issue with the approach taken by the

¹⁴⁵ Idem

¹⁴⁶ Idem

¹⁴⁷ Participant 10

Crown in dealing with the various matters that had been raised by both Ngati Tama groups. A meeting with officials was proposed as the next step.¹⁴⁸

On 1 November, 2004, OTS invited representatives from both Ngati Tama groups and the PNBC team to an independently facilitated hui, to explore opportunities for involving Ngati Tama individuals and their claims in the Crown's negotiations with the PNBC.¹⁴⁹ The hui agreed that each group's respective legal counsel would meet on 1 December, 2004 or sometime that week to further discuss how those Ngati Tama persons who did not consider themselves appropriately represented by the PNBC team might be adequately included in the negotiations.¹⁵⁰

For various reasons legal counsel was not able to meet until 5 April, 2005. As far as OTS was concerned Ngati Tama representation was still unresolved, and if an agreement could not be reached then members of both the Ngati Tama groups would have to be excluded from the PNBC negotiations. In response to the cancelled hui of 1 December, 2004 and 27 January, 2005, Matanuku Mahuika of Kahui Legal, representing Ngati Tama ki te Upoko o te Ika, outlined to OTS in advance the nature of the issues the society hoped to address.

A key objective for Ngati Tama ki te Upoko o te Ika had been recognition of the society as an iwi exercising its own mana and tino rangatiratanga within the Wellington region. Another consideration had

¹⁴⁸ Letter from Ngati Tama ki te Upoko o te Ika to OTS dated 1 September, 2004

¹⁴⁹ Letter from OTS to Ngati Tama ki te Upoko o te Ika, Ngati Tama Te Kaeaea ki te Upoko o te Ika a Maui, and PNBC dated 1 November, 2004

¹⁵⁰ Letter from OTS to Ngati Tama ki te Upoko o te Ika, Ngati Tama Te Kaeaea ki te Upoko o te Ika a Maui, and PNBC dated 23 November, 2004

been its ability to determine the outcome of negotiations in so far as they related to Ngati Tama's claims, and to secure specific recognition for Ngati Tama and its interests going forward.¹⁵¹

On 21 March, 2005, OTS wrote to PNBC encouraging it to further engage with both Ngati Tama groups on the representation of Ngati Tama in the negotiations and reminding them that as legal counsel had not yet met, the Ngati Tama representation issue, "remains unresolved". Furthermore, with respect to the negotiations:

As long as there is uncertainty on whether all Ngati Tama persons and historical claims are included in the current negotiations, the Crown is either negotiating a comprehensive settlement of all Ngati Tama claims, or negotiating a partial settlement of Ngati Tama claims.¹⁵²

OTS mentioned that if some Ngati Tama were excluded from the current negotiations, the Crown would need to reserve a sufficient proportion of redress in order to make both Ngati Tama groups, who would be considered overlapping claimants, a fair offer in the future to settle any well-founded claims they had. OTS' view had been that:

It would be in the Crown and PNBC's interests to have the Ngati Tama representation issues resolved as soon as possible.¹⁵³

The key outcome sought by Ngati Tama ki te Upoko o te Ika throughout this process was an assurance that its mana and rangatiratanga as an iwi in Wellington would be recognised and provided for in the claim negotiations. In

¹⁵¹ Letter from Kahui Legal (representing Ngati Tama ki te Upoko o te Ika) to Philip Green and Richard Cathie (PNBC lawyers) dated 24 December, 2004

¹⁵² Letter from OTS to PNBC dated 21 March, 2005

¹⁵³ Idem

particular, the society sought to have the ultimate say in any settlement relating to Ngati Tama's claims. Unfortunately, despite the goodwill and best efforts of all concerned, it had not been possible for PNBC to give the level of assurance that Ngati Tama ki te Upoko o te Ika was seeking. In the view of PNBC team, its current mandate did not allow it to give such an assurance, but it accepted the decision.¹⁵⁴

In addition, PNBC made it clear that the position of any individual iwi would need to be balanced against the interests of the wider grouping that PNBC represented. In light of that, Ngati Tama ki te Upoko o te Ika requested that the Crown honour its earlier undertaking to deal separately with the society and the Ngati Tama Te Kaeaea Trust in respect of the settlement of Ngati Tama's Wellington claims. Such a settlement would need to be negotiated concurrently with the PNBC negotiations.¹⁵⁵

On 2 September, 2005, the Crown duly acknowledged that the two Ngati Tama groups had chosen to have their historical claims excluded from the PNBC negotiations. All that was left was for the two Ngati Tama groups and the Crown to discuss details; for example, how the exclusion of the two Ngati Tama claims from the PNBC negotiations would be affected.¹⁵⁶

By 1 October, 2005, Ngati Tama ki te Upoko o te Ika and the Ngati Tama Te Kaeaea Trust (represented by the Ngati Wai o Ngati Tama Trust) had agreed

¹⁵⁴ Letter from Philip Green to Matanuku Mahuika dated 4 July, 2005

¹⁵⁵ Joint letter from Ngati Tama ki te Upoko o te Ika and Ngati Tama Te Kaeaea Trust to OTS dated 14 June, 2005

¹⁵⁶ Letter from OTS to Ngati Tama ki te Upoko o te Ika dated 2 September, 2005

to work together towards, amongst other things, the settlement of Ngati Tama's Wellington claims. The agreement was set out in a Memorandum of Understanding (MoU) signed by the two parties on 1 October, 2005. Under this, the two parties agreed to establish a single entity to represent Ngati Tama in Wellington.¹⁵⁷

At a hui in Levin later the following month it was agreed that the name of the new single entity be Ngati Tama ki te Upoko o te Ika a Maui Trust. It would represent the iwi of Ngati Tama, and be chaired by Helmut Modlik.¹⁵⁸ Subsequent hui were held to finalise the details (e.g. Trust Deed, strategic planning) and to formally set up the legal entity by the end of December, 2005.

SUMMARY

This chapter outlined the process of PNBC gaining its mandate from the Crown to represent all claimant groups and individuals with genealogical connections to Taranaki whaanui tupuna who lived in Wellington from the 1820s. While Ngati Tama ki te Upoko o te Ika asserted that it had the right to represent Ngati Tama on the mandate team, its application had been rejected. This case study demonstrated the role of the Crown in making mandating rules and processes, monitoring such processes, and then deciding who receives a mandate for claim settlements and on what terms.

¹⁵⁷ Joint letter from Ngati Tama ki te Upoko o te Ika and Ngati Wai o Ngati Tama Trust to OTS, dated 26 October, 2005; Minutes of Ngati Tama hui in Levin on 1 October, 2005

¹⁵⁸ Minutes of Ngati Tama hui in Levin dated 26 November, 2005

The PNBC team had taken that mandating process and applied it to suit its own needs. It had repeatedly said that Ngati Tama ki te Upoko o te Ika did not attend the mandating hui and therefore had not been mandated by the people – i.e. Taranaki whaanui. The Crown had not disagreed. It had encouraged the PNBC to resolve the Ngati Tama representation issue, to which the PNBC said it would but did not. However, that did not stop the Crown from recognising PNBC team's Deed of Mandate or agreeing with the Terms of Negotiation.

In the meantime, because of Ngati Tama ki te Upoko o te Ika's exclusion from the PNBC process, its only recourse had been to pester the Crown to act and threaten legal action if the Crown continued to ignore its request for inclusion in the PNBC team - which the iwi had mandated.

The iwi's mandate to represent its members is a long and drawn out process in a constantly changing environment. The commitment of the iwi membership and its leadership to tribal autonomy and values in the face of considerable resistance is the only constant, as demonstrated by this case study.

CHAPTER SIX: CASE STUDY III: MANA WHANAU

INTRODUCTION

This third case study differs from the previous two in that it is an examination of internal iwi relationships. The iwi is Ngati Tama based in the South Island, and the example used to illustrate the complexity of issues involves the whanau of Paremata Te Wahapiro living at the Wakapuaka land block, north of Nelson.

In common with the other two case studies, this study highlights the role of the Crown and its agent the Native Land Court in dealing with iwi, hapu and whanau inter-relationships. All three case studies have in common a significant grievance, a dominant yet indifferent Crown, influential individuals favoured by the Crown who were intent on maintaining the status quo and resisting change, a determined group of individuals agitating for change despite opposition, and, in the end, success.

Again, the focus is on an aggrieved group of Ngati Tama people seeking to exercise mana and tino rangatiratanga, take charge of their own affairs, represent themselves, and to come up with their own solutions as to what they want from the Crown and need from the iwi. This study demonstrates self-determination in the relationship of a whanau within its iwi, and how a whanau

group - by asserting its voice strongly and persistently - was able to achieve its desired outcome (to exercise mana and tino rangatiratanga) in a way not dissimilar to that of Ngati Tama ki te Upoko o te Ika.

The history of Wakapuaka is outlined, as are the various formal and informal relationships with key individuals and groups from a whanau perspective. It assesses what the Crown did and did not do with respect to policies and practices, and the subsequent impact of these actions and inactions on the whanau of the Ngati Tama chief, Paremata Te Wahapiro. The case involves the protection of the Wakapuaka land block from alienation so that Ngati Tama whanau and others living on the block, and their descendants, could be provided for. The study highlights key events relating to the whanau's ownership of the block, alienation of land, the effects of partitioning and of key court decisions, and repeated attempts at legal redress through petitions and appeals.

Extensive use has been made of the Appendices to the Journal of the House of Representatives. Another key source of material has been private interviews with kaumatua and kuia.

NGATI TAMA WHANAU

Ngati Tama has been the main tribal affiliation of many of those closely associated with the ownership of Wakapuaka land block since the 1830s through to modern times. Its iwi members were involved in Ngati Tama's

migration south along with the leader Te Puoho, or 'Te Manu' as he was also known (on account of his melodious voice). He was Ngati Tama's paramount chief, a high priest,¹ and as such a central figure in leading Ngati Tama's exodus south. Te Puoho, having been dissatisfied with Te Whanganui-a-Tara, was keen to explore further south, to establish additional territories, and to create more opportunities and a safer environment for his people in the South Island.²

The 17,750 acre Wakapuaka land block is situated a short distance northeast of Nelson. It was originally a Ngati Tumatakokiri site, but Ngati Kuia acquired possession of it in the late eighteenth century. In the 1820s, Ngati Kuia's paramount chief, Tutepourangi, gifted the land to Ngati Koata in return for his life, although Ngati Kuia continued to live at Wakapuaka.

Raupatu (conquest) and Ahi ka (occupation)

In the early 1830s, Ngati Toa, under the leadership of Te Rauparaha and assisted by its allies including factions of Ngati Tama, crossed the Cook Strait and undertook an invasion of iwi resident in the top of the South Island, which included the sacking of Wakapuaka. During the ensuing battle the Ngati Tama chief, Paremata Te Wahapiro, killed Tutepourangi. This act was the beginning of the whanau of Paremata Te Wahapiro and other Ngati Tama people who took up residence at Wakapuaka.

¹ AJHR 1936, G-6b, p4

² Ibid, p3

Te Puoho

In 1836, after becoming dissatisfied with the ongoing petty disputes over the division of the spoils of war, Te Puoho led a Ngati Tama southern expedition down the west coast of the South Island through Haast Pass in search of more territory and to expand Ngati Tama's interests - despite Te Rauparaha advising Te Puoho against such a raid.³ The war party intended to make a surprise attack on the Ngai Tahu stronghold at Ruapuke Island. The group included Te Puoho's nephew and stepson, Paremata Te Wahapiro, who was Te Puoho's second-in-command. The two had a close relationship, which spanned a quarter of a century. In war, and in the short intervals of peace, the two were inseparable. At an early age Paremata had become known as Te Wahapiro to commemorate Te Puoho's cleansing of the infected mouth of his Ngati Toa ally, Te Rauparaha. Paremata Te Wahapiro was also known as Te Kiore.⁴

The taua set out from Te Puoho's pa, Rotokura, at Cable Bay on the Wakapuaka block and travelled via Whakatu, Motueka and other places. In Golden Bay Te Puoho left his wife, Kauhoe, and his other sons at Parapara and other places to hold the land. It was at Parapara (Golden Bay) after 1836 that Kauhoe and her son Wi Katene Te Puoho, who was in his early twenties, heard the news of Te Puoho and Paremata Te Wahapiro's deaths in battle (at Tukurau, near Gore). They did not know that, in fact, Paremata Te Wahapiro's life had been spared and that he remained in the custody of Taiaroa of Ngai

³ Ibid, p8

⁴ Participant 1

Tahu. Paremata Te Wahapiro was not taken to Ruapuke with the other prisoners but was taken by Taiaroa to Otakau on the Otago Peninsula, where he was treated as befitted his rank.

According to some accounts, Taiaroa owed his life to Te Puoho, who had on an earlier occasion allowed him and his small Ngai Tahu contingent to withdraw during an earlier siege at Kaiapoi. Taiaroa had done his utmost to avoid bloodshed at Tukurau. His hospitality extended to providing Paremata Te Wahapiro with a Ngai Tahu wife (Hiria or Ngamianga), and marking out two pieces of land at Tukurau in his honour.

Te Puoho's widow, Kauhoe, composed a moteatea (lament) in memory of her husband and her son, Paremata Te Wahapiro. It was at that time that Kauhoe came to Ngati Koata and asked Te Patete, a son of Te Putu, to give her Wakapuaka for her son, Wi Katene, as she thought that her husband and her son had been killed in the Ngai Tahu district.⁵

Ngati Koata offered practical assistance to Kauhoe, a grieving widow and mother. They formed two war parties with others (e.g. Ngati Rarua) and set out to avenge the deaths of Te Puoho and Paremata Te Wahapiro. The difficulties of the journey were too great, however, and both war parties returned after having gone only a short distance, and having been dissuaded from going further.⁶

⁵ JR Elkington Jnr, Petition of 3 July, 1935, p4

⁶ AJHR 1936, G-6b, p10

Tuku Whenua (gift of land)

Kauhoe went to Rangitoto and made a request to Ngati Koata for land. As Ngati Koata had been gifted Wakapuaka from Ngati Kuia's paramount chief, Tutepourangi, the Ngati Koata chiefs (e.g. Te Whetu and Te Patete) in turn agreed to gift Wakapuaka to the widow and son of Ngati Tama's paramount chief, Te Puoho.

This bequeath was made jointly and not to the exclusion of Kauhoe's other children. In some respects Kauhoe probably had not needed to ask permission because the land was part of Ngati Tama's rohe by conquest. Even if it were a gift, Smith⁷ identified three ingredients that would have been necessary to constitute a complete gift of land:

Firstly, the donor must have had sufficient right to make it, secondly, the gift must have been widely known and publicly assented to, or tacitly acquiesced, by the tribe; and thirdly, the donee or his direct descendants must have consented to occupy the portion gifted. The rule was that the gift was absolute. However, where the donee died without issue, or having issue they (or descendants) failed to occupy or perform any conditions attached to the gift, the land reverted to the donors. Most gifts were made unconditional, and usually by the chief.

The nature of a gift is less about the generosity of the donor than the obligations placed upon the receiver. A gift requires that the integrity of the giver be respected and accorded a place of honour. Moreover, by accepting the gift the receiver undertakes to acknowledge its source and return the honour when the opportunity presents itself.⁸

⁷ Smith, 1942:p68

⁸ Durie M, Mauri Ora, 2001, p78

In a nutshell, a gift is a commitment to the perfection of a lasting bond, intended to survive generations.⁹

The gesture of *tuku whenua* (gift of land) on the part of Ngati Koata's chiefs was consistent with the prevailing *tikanga* – *rangatira to rangatira*.

Paremata Te Wahapiro

Paremata Te Wahapiro returned to Wakapuaka about 1839, and carried on where he had left off, as a Ngati Tama rangatira at Wakapuaka. The news of his survival and his return to Wakapuaka made the *tuku whenua* redundant in some respects. Paremata Te Wahapiro's customary right to Wakapuaka was based on conquest (i.e. his killing of Tutepourangi) and backed up by occupation.

While Paremata Te Wahapiro spent some time after 1845 in Wellington, his home was at Wakapuaka where he was a recognised senior Ngati Tama rangatira. Paremata was also regarded as a leading chief of Ngati Toa, and as such was sought out by the New Zealand Company and Crown representatives to execute their Deeds of Purchase. The prominence and importance of this role attests to his standing among his people – particularly among Ngati Tama of Wakapuaka, but also within the wider community.¹⁰

⁹ Durie ET, 1986

¹⁰ Participant 9

Kauhoe died at Wakapuaka in 1843. After her death Paremata Te Wahapiro cemented his place as the head of Kauhoe's whanau. He had been the toa and the eldest of Kauhoe's children. With that position came responsibility, especially managing relationships within the whanau, the tribe, other tribes and the local community.

Migrant ships began to arrive in the new settlement of Nelson from 1842. At first Paremata was not opposed to European settlement, and welcomed the newcomers. He had been aware that the English were numerous, but did not expect them to arrive in such large numbers. The settlers soon outnumbered local Maori, and their propensity for clearing large areas of land gave rise to great alarm.

Other matters of concern to Paremata Te Wahapiro included the unavenged death of Te Puoho, which weighed heavily on him. The 1836 southern expedition had taken place partly because of the refusal of some Ngati Tama and allied chiefs to accept Te Puoho's land partitioning policies in Waimea and Te Taitapu. Paremata therefore considered some of those chiefs responsible for his uncle's death, albeit indirectly. The increasing influence of Christianity over many of his people, including his half-brother, Wiremu Katene Te Puoho, was a concern to him also.

Paremata Te Wahapiro held the church's influence partly responsible for the erosion of the Maori lifestyle, including the failure of the two war parties to avenge Te Puoho's death. In September 1842 there was a quarrel, which

resulted in an exchange of shots between Paremata and another Ngati Tama chief, Rautaami Te Kauri. Nelson's police magistrate, Henry Augustus Thompson, visited the pa to inquire into the incident. His intervention was regarded as an attempt to undermine Paremata's chiefly authority. It also served to unite the community and fan the embers of Paremata Te Wahapiro's resentment¹¹.

Upon the death of Paremata Te Wahapiro in 1854 his sister, Kahiwa, composed a lament ¹², "which goes far towards establishing the rights of both Wahapiro and Tipene Paremata to a prominent place in Whakapuaka". The following is a translation:¹³

Agitated are the waters at Te Kawau-a-Toru (a)
And farther away the headlands of Whangarae (b) pierce the horizon
With but little beyond the promontory of Whakapuaka thrusting itself
upwards
And below standing Te Wahapiro the son of the absent one (c)
With it firmly in its grasp.

Hold thou then the lands scooped out by Te Puoho (d)
What time, of season, the number of men
Was like unto a broad-leaved forest
In the density of shade they cast.

What matters (that you are no longer protector)
Leave it to your son (e) after you

¹¹ Richardson, 2002

¹² AJHR 1936, G-6b, p36

¹³ Notes:

a) Kawau-a-Toru – the rip in Cook Strait – here applied to a rip in Current Basin between D'Urville Island and the mainland.

b) Whangarae – Croiselles – The poet is describing natural features as they would appear from a viewpoint on Rangitoto Island

c) The absent one – i.e. Te Puoho. In this and the next two lines Wahapiro is referred to as a "son" of Te Puoho

d) Scooped out – Laid bare by conquest

e) Tipene Paremata

He who was nourished on strength-giving foods and thus emerged into
the light of day
To seal the root of the land and thus hold Whakapuaka.

Kahu Matao will be angered that the land of her grandchildren has
passed to me
And will never be returned
It is now firmly clasped as a charm for my grandchildren
And as a sustenance for my descendants always
In time to come it will be displayed by valiant men and by many
women, my choicest daughters, as their cherished possession.

Retire then, O Ngati Koata to your home at Rangitoto
And so clear the way for the journeyings of the son of Wahapiro.
Let Ngati Rahiri from beyond the ranges hear this my song
Ngati Tama will fix the boundary at Titere Moana
As a reservation for the hundreds and thousands
Rahiri, gather all your forces.

And raise your weapons so that the death of Te Puoho may be
avenged by you
And thou, O son, call upon the armed company of Ngati Whakaterere to
support Rauparaha in marshalling together the avenging band
Whose voices will resound along the shores of Whakatu
Then will Whakapuaka be firmly held.

Wi Katene Te Puoho

When Paremata Te Wahapiro died in 1854, the mantle of responsibility,
especially for the Ngati Tama community at Wakapuaka, was passed to his
younger half-brother, Wi Katene Te Puoho, the son of Te Puoho and Kauhoe.
Notwithstanding the sibling rivalry between the brothers and some quarrelling
over land and status, Paremata expected his younger brother to protect the
interests of the whanau he left behind. His whanau included four children from
his first marriage to Ngahopi of Ngati Tama/Ngati Rarua (Tipene Paremata,
Ripene Paremata, Wi Katene and Heni Tipu) and two daughters from his
second marriage to Ngamianga (Ataraira and Ngawaina). Some of his
children lived at Wakapuaka during the second half of the nineteenth century.

Wi Katene Te Puoho married Wikitoria Te Keha of Te Atiawa and they had one daughter, Huria. Wi Katene Te Puoho, his daughter Huria, and her husband Hemi Matenga were leading figures at Wakapuaka in the 1870s. Wi Katene Te Puoho was a man of peace, and a follower of the pacifist teachings of Te Whiti-o-Rongomai and Tohu Kakahi, both of whom visited Wakapuaka while they were under house arrest at Nelson, a short time after Wi Katene Te Puoho's death.

LAND ALIENATION

The intentions of Wi Katene Te Puoho, Huria Matenga and her husband Hemi Matenga became clear when the Crown wanted to buy ten acres of Wakapuaka land for a telegraph station in the mid-1870s. In order to obtain legal title to the land to effect the sale, the matter had to be referred to the Native Land Court.

In 1877, Alexander MacKay, Native Commissioner, a personal friend of Wi Katene Te Puoho and particularly Hemi and Huria Matenga, wrote a memorandum to George Clarke, the Native Protector and argued why Wi Katene Te Puoho should not have to refer the matter relating to Cable Station to the Court:¹⁴

[Wakapuaka] has been held in undisputed possession by Wi Katene Te Puoho for a period of fully forty years [since Ngati Koata gifted it to

¹⁴ AJHR 1936, G-6b, pp20-21

Kauhoe, and her son]; no other tribes have exercised acts of ownership over it since the property has been in the possession of the present owner [*i.e. Wi Katene Te Puoho*];

[Paremata Te Wahapiro was] invited by his brother to share the Wakapuaka lands with him, and subsequently joined him there, but the alliance owing to the turbulent nature, was nearly having a disastrous termination for all concerned, [that] Te Wahapiro's violence was nearly involving all his people in a conflict with the settlers.

On that occasion he threatened the lives of some of the settlers, besides breaking into a house, stealing some flour, and destroying and burning some of their property.¹⁵

In McKay's view, Paremata Te Wahapiro had forfeited his right to share the remaining lands with his brother. While there were several sons of Te Wahapiro still living McKay considered that while they might have a right to share the land co-jointly with Wi Katene, they only occupied a subordinate position so any rights they had were of a secondary character.¹⁶

Distinguishing himself as a defender of Maori rights, MacKay suggested that there was no question as to Wi Katene's title to the land. Such a term of uninterrupted enjoyment conferred a legal right. The practical question was how to devise some satisfactory method for vesting the land in the Crown other than by using the Native Land Court. He further suggested that, "as there are no conflicting claims to the land a more acceptable course to the owner should be adopted".¹⁷

The Native Land Court had gained a reputation as a negative force for the tenure of Maori land throughout the country. The individualisation of land title

¹⁵ Ibid p 21

¹⁶ Idem

¹⁷ Idem

had been a major cause of the problems for Maori, and land alienation would not have been what Wi Katene Te Puoho would have wanted for Wakapuaka. His strategy of keeping Wakapuaka away from the Native Land Court was a sure way of preventing the block from being alienated, either through lease or sale of the land. Effectively, Wi Katene Te Puoho denied the Crown a title to the land for the Cable Station site, and only granted an occupation right.

In 1877 Parliament passed the Wakapuaka Telegraph Station Site Act (1877). It stated that Wi Katene Te Puoho, Huria Matenga and Hemi Matenga (in right of his wife) owned Wakapuaka. Parliament conveniently authorised the Governor to purchase the land from its owners without reference to the Native Land Court, as the Court had not ascertained the title. That action by the Crown served to strengthen the position of Wi Katene Te Puoho, Huria Matenga, and Hemi Matenga with respect to the ownership of the wider Wakapuaka block. Curiously, the largely unsubstantiated claims outlined in MacKay's memorandum to Clarke seemed to have gone unchallenged. For example, the information about Paremata Te Wahapiro's whanau having proprietary rights was significant evidence that was not followed up. MacKay should have given that information when the title to Wakapuaka was investigated in the later Court case of 1883 to determine ownership of Wakapuaka.

With an influential ally like MacKay, Wi Katene Te Puoho was able to accomplish a rare feat in circumventing the court process. Ironically, his daughter and son-in-law (Huria and Hemi Matenga) would reap more success

in combination with MacKay, with the difference being not in bypassing the courts but in relying heavily on the court processes to meet their own ends. It was alleged McKay had a conflict of interest given his close relationship with the family and also that an uncle of his, Thomas MacKay, leased 950 acres of the block for twenty-one years from 30 December, 1886.¹⁸

Rather than working towards Wi Katene Te Puoho's goals of protecting Wakapuaka from alienation and providing for whanaunga and others living on the block, Hemi and Huria Matenga's efforts had the opposite effect and ultimately resulted in the systematic break-up of the block. While a clever sleight of hand to partition ten acres out of the Wakapuaka block was transacted outside of the machinery of the Native Land Court for the Cable Station, it was only a matter of time before Wakapuaka matters were dealt with within the auspices of the court. For the next sixty years, Wakapuaka was to be the subject of court cases, grievances relating to court decisions, wills, petitions to Parliament, and land partitions.

THE 1883 NATIVE LAND COURT HEARING

Determining Ownership of Wakapuaka

When Wi Katene Te Puoho died in 1880 at the age of sixty-five, the Wakapuaka block was put through the Native Land Court shortly thereafter. Up until his death Wakapuaka did not have a title in the European sense as it

¹⁸ Ibid, p43

remained in original native title. Wi Katene Te Puoho had strenuously avoided any surveying or partitioning, as he believed that such activities would lead to alienation of Wakapuaka land. On his death, however, in order for succession to his interest to occur, an investigation of title in the Native Land Court became necessary.

On 1 November, 1882 an application had been made to the Court Registrar with Huria Matenga as claimant, and listing Ngati Tama as the tribe on whose behalf Huria Matenga claimed the whole of Wakapuaka. The application was unsigned on an obsolete form and was filled out in the handwriting of Hemi Matenga and Alexander MacKay, the two men who were to dominate the history of the block, both of whom were neither direct descendants of Kauhoe nor of Ngati Tama descent.¹⁹

The Case

The evidence given by Mere Paaka²⁰ during the court case suggested that a pre-hearing deal had been made between Huria Matenga and her cousins, the descendants of Paremata Te Wahapiro, shortly before the court sitting. They had all agreed that Huria Matenga would front the case to obtain title, and that Huria would include her cousins in the list of people to go on to the title. However, that vital information was not presented in court. Hemi Matenga, who presented the case for Huria Matenga in court, prevented Huria from appearing to represent the interests of her cousins. Therefore, as far as

¹⁹ Ibid, p10

²⁰ Ibid, p40

the court was concerned Huria Matenga was the only Ngati Tama claimant to the land.²¹

The Native Land Court hearing to determine ownership of Wakapuaka was heard by Judge Mair on 15 November, 1883 at Nelson. Hemi Matenga appeared on behalf of his wife Huria Matenga, claiming the whole block except for the ten acres sold for the Cable Station and the one hundred acres set aside for Ngati Koata. The claim was based on the grounds that Ngati Koata had gifted Wakapuaka to Kauhoe for Wi Katene Te Puoho. Therefore, Wi Katene Te Puoho had outright ownership of the block, which fell to Huria Matenga – his sole offspring.

There were two cross-claims to that of Huria Matenga's. The first was from Meihana Kereopa and others on behalf of Ngati Kuia, Rangitane and Ngati Apa - the original owners. They claimed that Ngati Kuia's paramount chief, Tutepourangi, had gifted the land to Ngati Koata but that Ngati Kuia and Rangitane people had continued to live at Wakapuaka with Ngati Koata people until the second gifting of the land to Kauhoe, and some beyond that. Their case was withdrawn, "subsequent upon a great feast (hakari) given exclusively to those tribes by Hemi and Huria Matenga".²²

The second cross-claimant was Tepine Te Ruruku for Ngati Koata. The claim was based on Ngati Koata's receipt of Tutepourangi's gift, and the continued occupation at Wakapuaka of some of its people alongside Ngati Tama after

²¹ Ibid, pp29-32, 39-40

²² Ibid, p12

the gift of land had been made to Kauhoe. They also claimed that Huria Matenga had agreed to acknowledge a joint right with them in Wakapuaka, but that her husband Hemi Matenga had prevented her from keeping that agreement.²³

The crucial evidence that seems to have swayed the court was that of Alexander MacKay in his role as Commissioner of Native Reserves. He gave evidence supporting Wi Katene Te Puoho's ownership of the block even though Wakapuaka had never been a reserve in the terms of the 1856 or 1873 Native Reserves Acts, under which he operated. MacKay was very influential. He stated that Ngati Kuia, Rangitane and Ngati Apa were not the original owners of Wakapuaka at all, but that the block represented ancestral lands of another tribe - by whom he meant Ngati Tumatakokiri. With respect to Ngati Koata, MacKay claimed that Tutepourangi's gift had not extended beyond Rangitoto, that Te Rauparaha had allocated Wakapuaka to Ngati Tama in the 1830s, and that Ngati Koata's gift of land to Kauhoe was purely ceremonial and had no practical meaning.

Discrediting the cross claimants, MacKay professed that Wi Katene Te Puoho enjoyed full and exclusive authority over the land since the 1840s, that Wi Katene Te Puoho had successfully prevented its sale in the 1850s, and that he had leased parts of Wakapuaka in the 1860s and 1870s without ever having to consult anyone or pay them rental. MacKay lauded Wi Katene for being the only one interested in holding on to Wakapuaka.

²³ Idem

The records showed that Wi Katene was the only one concerned in reserving the land. He repudiated the sale by his half-brother [Paremata Te Wahapiro], “and the Natives did not press the matter, and consented to leave the block entirely in his lands”. That land had been reserved from sale at his (Wi Katene’s) instance.²⁴ Three days prior to the court delivering its judgement, the Ngati Kuia, Rangitane and Ngati Apa claims were withdrawn.

The Judgement

On 20 November, 1883, Judge Mair stated that:

The evidence in this case has been perfectly clear. It appears that Wi Katene came into possession before the great sale [the Waipounamu purchase]. This land was reserved from sale at his instance. He and his heirs have enjoyed undisputed possession to the present time. Even Ngati Koata, who set up a counter-claim, admit to the mana of Wi Katene. They argue that Huria ought to admit them, not that they have any right. With that aspect the Court has nothing to do with any promise she may have made. When Huria gets her title she is free to do with it, as she will. Therefore, the Court makes an order in favour of Huria Matenga for the Wakapuaka block, excepting the one hundred acres set apart for Ngati Koata and 10 acres for the Cable Station. A certificate of title will be issued on production of an approved survey.²⁵

The Native Land Court determined Huria Matenga to be the sole successor to her father Wi Katene Te Puoho, and therefore sole owner of Wakapuaka. It was the first Certificate of Title to be issued for any of the Wakapuaka blocks. The Native Land Court’s findings had little material effect on the ground as Huria Matenga’s cousins (Paremata Te Wahapiro’s whanau), continued to live

²⁴ AJHR 1936, G-6b p12

²⁵ Ibid, p13

at Wakapuaka and farm the land. As far as they knew, and there did not seem to be any reason to doubt it, they had been included in the Certificate of Title alongside their cousin Huria Matenga.

The Effects of the 1883 Decision

In 1895, Huria Matenga entered into a peculiar arrangement whereby she leased Wakapuaka to Hemi Matenga for the rest of his natural life, in return for one hundred pounds per annum. It was a, “merely colourful transaction”²⁶ that was designed to give Hemi Matenga some form of legitimacy, which he was to use against the whanau of Paremata Te Wahapiro and others who were living on the block. On 29 May, 1895, Alexander MacKay - now a judge of the Native Land Court - confirmed the lease in the Native Land Court.²⁷

Having established himself as lessee of the land, Matenga’s prospects of being the eventual sole owner heightened as Huria Matenga’s health deteriorated rapidly in later years. Huria Matenga was too weak-willed, or perhaps too fair-minded to carry to a conclusion any drastic action that would hurt her relatives.²⁸

There is considerable evidence that Huria acted generously towards her relatives and favoured their interests during her husband’s absences, but that he controlled her closely when he was present, and explained her occasional lapses as the result of a severe drinking problem.²⁹

²⁶ Ibid, p45

²⁷ Ibid, pp28-29

²⁸ Ibid, p28

²⁹ Ibid, p10

Over the following decade, and armed with the lease, Hemi Matenga started a process to evict Paremata Te Wahapiro's whanau from Wakapuaka for the purpose of leasing the majority of the block to Europeans. The eviction of Paremata Te Wahapiro's whanau and others led to the first of many petitions to Parliament for a rehearing of the title to the Wakapuaka block.

From the time of the 1883 decision until Huria Matenga's death in 1909, 1298 acres, 1 rood and 29.8 perches of the block were sold. From the time of Huria Matenga's death in 1909 until Hemi Matenga's death in 1912, a further 3,553 acres of the estate were sold. The two Europeans appointed to administer Hemi Matenga's estate sold 746 acres in 1914.

The judge, in making his decision, did not have the advantage of Wi Katene Te Puoho being present, or for that matter Huria Matenga, both of whom would have been key witnesses. Furthermore, the key petitioners - Paremata Te Wahapiro's whanau - had been talked out of appearing before the court, naively thinking its interests would be looked after by its cousin Huria Matenga and her husband. Instead, the judge was to observe an orchestrated presentation by Hemi Matenga and his star witness, Alexander MacKay.

Kauhoe's whanau was split in two: one son, Wi Katene Te Puoho's whanau (the winners) was on one side and her other son, Paremata Te Wahapiro's whanau (the losers), on the other. There was also the matter of other Ngati Tama people living at Wakapuaka over the past forty years who had taken part in the raupatu and had maintained ahi ka since that time. The awarding of

sole ownership to Huriā Matenga was highly contentious and the decision had a number of consequences.

Firstly, an 18,000-acre land block for the one hundred or so people who lived there had been put in just one person's name. Secondly, for the many owners and occupiers of Wakapuaka, no provision had been made or protection afforded. Thirdly, there was no restriction on the sale of Wakapuaka imposed by the Court, thus creating a risk of further alienation. The court decision showed how inadequate the legal process was when dealing with tikanga matters, including its limited comprehension of the customary view of Māori land tenure. There was no general right of private or individual ownership except the right of a Māori to occupy, use or cultivate certain portions of the tribal lands subject to the paramount right of the tribe.³⁰

The mounting costs of litigation for Māori seeking redress for their grievances was of concern. At the later 1934 hearing into the ownership of Wakapuaka, Taite Te Tomo, the MP for Western Māori, stated that the reason for many Māori not being able to afford the cost of pursuing redress of grievances through the courts, "was that we had no funds to brief good counsel to work the case".³¹

The 1891 Royal Commission investigating the workings of the Native Land Courts was very critical of it because of its policy of individualising title, in that it brought into existence a regular system of concocting false claims by which

³⁰ Salmon 1913, p87

³¹ AJHR (Te Tomo) 1934, p273

the real owners were often driven out and their land given to rogues of their own race.³²

The alienation of Wakapuaka land was affected by a key Native Land Court decision, which resulted in the loss of land previously held by the whanau of Paremata Te Wahapiro and others. The 1883 alienation occurred with little regard for the welfare of the whanau of Paremata Te Wahapiro or of the other residents of the block.

It was clear that the Native Land Court was an inappropriate forum to rule on customary Maori concepts such as raupatu (conquest), tuku whenua (gift of land) and ahi ka (occupation). More importantly, the ownership of Wakapuaka was no longer an issue to be discussed and resolved on a marae (a Maori-controlled environment where Maori tikanga predominated, and rangatira ruled). Significantly, it was now within the domain of a court of law (a European-controlled institution where the law and other legal processes predominated, and judges ruled).³³

WILLS AND PETITIONS

Huria Matenga's Will

Huria Matenga's will, signed in February of 1886, made her husband Hemi Matenga her sole beneficiary. As a result, when Huria Matenga died in 1909

³² AJHR, 1891, G - 1, p vii

³³ Participant 1

at the age of sixty-six Hemi Matenga became the sole owner of Wakapuaka. That meant that Wakapuaka was now in the exclusive ownership of a non-Ngati Tama person; that is, someone who was not related by whakapapa to the whanau, hapu and iwi.

At the time of Huria Matenga's death approximately 15,500 acres remained of the original Wakapuaka estate. Even so, in 1910 Hemi Matenga applied to the Maori Appellate Court to reclassify the block as 'European land' so he could bring his estate out from under the cloud of a possible Native Land Court rehearing. His application was dismissed.³⁴

Hemi Matenga's Will

When Hemi Matenga died in 1912 aged seventy-six, the land was further alienated as his will resulted in the entire Wakapuaka block passing to the heirs of Hemi Matenga's brother Wi Parata, who lived at Waikanae. Wi Parata had died in 1906.

Hemi Matenga's will also made some provision for Mamae, his daughter by Ngawaina, and Huria's whangai daughter. As Huria Matenga was unable to bear children an arrangement had been made with Huria's first cousin, Ngawaina Paremata, to conceive a surrogate child by Hemi Matenga. That child was Mamae, who was raised by Huria and Hemi Matenga as their own daughter.

³⁴ AJHR 1936, G-6b, p57

The provision in Hemi Matenga's will bequeathed a life interest to Mamae Stephens in his house as well as 338 acres. On the death of Mamae Stephens the interest passed to her children. Unfortunately for her whanau, Mamae predeceased her father, Hemi Matenga by one week. She was only thirty-six years of age and, by her marriage to Warena Stephens, left two children; Reuben and Konehu Stephens.

The executors of Hemi Matenga's estate refused to recognise Mamae Stephens' two children on the grounds that she was not Hemi Matenga's legal daughter as she had not been legally adopted, even though she was his natural daughter. Therefore, the two children of Mamae had no automatic rights to a share of his estate.

The decision of the executors was challenged in the Native Land Court in 1914, and the executors of Hemi Matenga's estate were ordered to pay maintenance for Reuben and Konehu Stephens of one hundred pounds per annum while they were minors. In 1929, by order of the Native Land Court, 338 acres and 2 roods were partitioned from the Wakapuaka block with Reuben Stephens awarded 150 acres, and Konehu Bailey (nee Stephens) awarded 188 acres. After that partitioning, the Wakapuaka block consisted of 11,376 acres. Apart from those court-ordered transfers of title, the executors of Hemi Matenga's estate remained constrained from further alienations of any part of the block. As no provision was made for Paremata Te Wahapiro's whanau, it challenged Hemi Matenga's will and as a result probate was held

up for many years. The executors were also severely constrained in their management of the Wakapuaka blocks.³⁵

At the time when Huria Matenga and her husband Hemi Matenga died, the law allowed Maori land to be left by will. Such legislation led to many injustices, and Wakapuaka was a prime example. Disputes over ownership of Wakapuaka lands became the norm, as Paremata Te Wahapiro's whanau and others sought European legal solutions to a problem that arose out of the propensity for their whanau to utilise European legal instruments (e.g. courts and wills) for their own purposes.

The Aggrieved Whanau

The Wakapuaka block had been the subject of at least twenty-three formal petitions and many semi-formal and informal approaches to Members of Parliament, as well as other individuals and state agencies between the years 1896 and 1948. The Wakapuaka grievance stood out among the many petitions because of the persistence of the petitioners and their depth of feeling in the decision of the Native Land Court to grant Wakapuaka to Huria Matenga in sole ownership.³⁶

For Maori who felt wronged at the hands of the Native Land Court a petition taken to Parliament was a useful way to have a grievance investigated and to hopefully bring the matter to an end. That was far from reality. For many of our tupuna, they got no satisfaction at all.³⁷

³⁵ Idem

³⁶ Waitangi Tribunal, 1996a p35

³⁷ Participant 9

Later, in 1895, matters came to a head at Wakapuaka. Huria Matenga leased the entire estate to her husband Hemi Matenga who, in turn, entered into sub-leases with European tenants. None of the tenancies of Paremata Te Wahapiro's whanau appear to have been recognised by formal leases.

Hemi Matenga's actions precipitated major ructions with the whanau of Paremata Te Wahapiro and others. They questioned Huria Matenga's right to alienate by lease their interest in the titles, and/or their own improvements on the land. Hemi Matenga's reaction was swift and brutal.

Life was made very unpleasant for Paremata Te Wahapiro's whanau. Many were harassed into leaving of their own accord. Hemi Matenga forced other whanau residing on the estate at Wakapuaka from their homes. In addition their sheep, cattle and horses were shot; fences were destroyed; sheds and even homes were burnt. According to the evidence given by many witnesses, Huria Matenga's first cousin, Ataraira Paremata had horses, sheep and cattle shot by Hemi Matenga. He also burnt down Ataraira's home, after removing their personal effects first.³⁸

Attempts at Legal Redress

Paremata Te Wahapiro's whanau took the only legal steps available. Its members began petitioning Parliament and the Legislative Council, approaching individual Members of Parliament, and seeking redress through

³⁸ Ibid, pp28-29

the Native Land Court. In 1895/96, the Government received the first of a long series of petitions and submissions. Almost all of the petitions came from Paremata Te Wahapiro's whanau. Prominent among the petitioners were Heni Tipu, her son Wi Katene Tipu, her brother Wi Katene Paremata, and her half-sisters Ngawaina Hanikamu (nee Paremata) and Ataraira Paremata.

Occasionally, the Native Affairs Committee of Parliament responded positively to such petitions, but the matters would be invariably influenced by the constant recycling of Alexander MacKay's reports, which gave unequivocal support to the Kauhoe/Wi Katene Te Puoho/Huria Matenga succession to Wakapuaka, at the exclusion of the other branch of Kauhoe's whanau through Paremata Te Wahapiro.

In 1896, Wi Katene Paremata (son of Paremata Te Wahapiro) petitioned Parliament for a rehearing of the Wakapuaka Block decision.³⁹ The Native Affairs Committee reported on the petition on 27 August 1896, and agreed that a rehearing should be allowed, but when Judge Alexander MacKay intervened and made an affidavit to the committee the following day, the committee altered its first report and drew up another, which was against the petitioners. MacKay had told that committee that Ataraira Paremata was the daughter of a second wife of low rank, and could not have presumed to make such an agreement to include her cousins in the land title. He also denied their claim that they had not known about their exclusion until 1896, and added that they had occupied Wakapuaka only by the permission of Wi

³⁹ AJHR 1896, I-3, pp10-11

Katene Te Puoho and then of Huria Matenga. MacKay also told the committee that Paremata Te Wahapiro had sold Wakapuaka in 1853 as part of the Waipounamu purchase, but that Wi Katene Te Puoho had preserved it from alienation.⁴⁰

The committee's final report concurred with the 1883 court decision that Kauhoe and her son Wi Katene Te Puoho owned Wakapuaka, and that Paremata Te Wahapiro's rights had been alienated to the Crown in the Waipounamu purchase of 1853 to 1856. As for the promise allegedly made to Ataraira Paremata by Huria Matenga, the committee noted merely that Huria Matenga denied having made such a promise. Furthermore, the petitioners had made no claim in 1883 and had waited thirteen years to make this claim. The petitioners' absence from the court and their delay in making a claim seemed to have confirmed the view that Wahapiro's descendants did not think they had any claim to the land. The committee concluded that the petitioners had not proven their case.⁴¹ The committee's decision was reissued in later years in response to further petitions over the next three decades with similar outcomes.

Some individual parliamentarians were sympathetic to the petitioners. According to H.K. Taiaroa MP the Legislative Council's Native Affairs Committee also reported on the 1896 petition, but in a more favourable way than the House committee. It found that the petitioners had established a case for inquiry as to their claim to be registered as beneficial owners in the

⁴⁰ AJHR 1936, G-6b pp 29-31

⁴¹ AJHR 1896, I-3, p10

Wakapuaka Block, and recommended the Government to inquire whether action should be taken under section 14 (10) of the Native Land Court Act, 1894.⁴² However, the Government refused to act on the committee's recommendation.⁴³

In 1897, Ngawaina and Ataraira made a second petition to Parliament for a rehearing. It was heard in 1898. MacKay's 1896 affidavit was repeated in the court and the Native Affairs Committee chose to believe MacKay's version of events.⁴⁴ In 1899, Ataraira Paremata tried again with another petition. Both Houses adjourned consideration of it for two years. In 1901 the petitioners succeeded in convincing Henare Tomoana MP that their case might have some substance. He recommended to the Legislative Council that there be an inquiry into the ownership of Wakapuaka. Tomoana told the Council that Paremata Te Wahapiro had been the main owner of the block under Maori custom, and that there had certainly been more than one owner.⁴⁵ H. Scotland MP supported the motion, arguing that it was very unlikely for such a large block of land to have had a single owner:

Knowing as he did something about Native lands, it seemed to him highly probable that there might be in existence equitable claimants to the land. They knew, unfortunately, that the decisions of the Native Land Courts had not always given satisfaction to the Natives. Sometimes a Native Land Court would seem to have gone on the principle – that those who did not ask did not want.⁴⁶

⁴² NZPD vol 119, p873

⁴³ Idem

⁴⁴ AJHR 1936, G-6b, pp41-42

⁴⁵ NZPD Vol 119, pp871-872

⁴⁶ Ibid, p872

Scotland hoped that justice would be done to the petitioners. The Council passed Tomoana's motion, but the matter appeared to have lapsed thereafter. The Government failed to act on the motion.

In 1903, the House's Native Affairs Committee finally reported on the 1897 and 1899 petitions. It concluded that there was no reason why the decision arrived at in 1896 should be altered.⁴⁷ The Council's committee also considered the 1899 petition in 1903, and decided to reopen the question of whether or not Huria Matenga had made a pre-hearing agreement with Ataraira Paremata and other members of Paremata Te Wahapiro's whanau. It recommended that the Minister of Justice instruct the Stipendiary Magistrate in Nelson to examine Huria Matenga and to allow cross-examination by the other interested parties.

Although Huria Matenga could not be placed under any compulsion to attend or to answer questions, she nevertheless appeared before Stipendiary Magistrate H.W. Robinson on 16 November, 1903. Among the petitioners present were her first cousins, Ataraira Paremata and Ngawaina Hanikamu. Asked whether she had given undertakings that if successful at the 1883 hearing she would permit her cousins and others to share in the ownership of Wakapuaka, Huria Matenga was adamant that she had made no such undertakings. No further action resulted from the examination by the Stipendiary Magistrate.⁴⁸

⁴⁷ AJHR 1903, I-3, p7

⁴⁸ AJHR 1936, G-6b, pp39-40

Ataraira Paremata and Ngawaina Hanikamu tried again with a further petition in 1903, which was held over for consideration until the following year. Frustrated that they had no success with petitions, they sought independent legal advice - knowing that it would be costly - and applied for an Order in Council in 1904 under the Land Titles Protection Act 1902. It authorised the Native Land Court to inquire into the Wakapuaka title under the equitable owners' provisions of the Native Land Court Act 1894.

Under that application, the issue was not whether the customary title had belonged to more than just Huria Matenga, but whether she had promised to act on behalf of the others and to include their names in the list of owners presented to the court. Huria Matenga's solicitors produced affidavits from Alexander MacKay and his cousin James MacKay, which had been used not merely to combat the Order in Council, but as evidence against later petitions. Ataraira Paremata's lawyers argued that MacKay had been a biased and unreliable witness in that case. That view was ignored. The Government declined to issue an Order in Council under the equitable owners' legislation.⁴⁹

In the meantime, the House committee had considered the 1903 petition. On 18 October, 1904, it reported with the all too familiar response that the committee had no further recommendation to make. Having failed to obtain either a favourable report or an Order in Council, the whanau of Paremata Te Wahapiro tried a further petition in 1906. At that time the House committee

⁴⁹ Ibid, pp42-46, 52

reported that it had no recommendation to make, “because the petitioner has not exhausted his legal remedies”.⁵⁰ It was not clear what the committee meant by that; i.e. whether it thought that further attempts could be made to reopen the court proceedings by obtaining an Order in Council.

In 1909 Wi Katene Tipu (a nephew to Ataraira and Ngawaina) fronted a petition to try again for a hearing. In response, the House’s Native Affairs Committee reported in 1910 that it simply had no recommendation to make to Parliament on the matter.⁵¹ Wi Katene Tipu tried yet another petition in the year of Hemi Matenga’s death (1912), but the House committee once again delivered a single-sentence report to the effect that it had no recommendation to make.⁵² Although in a later reference the report stated that it seemed very strange that any one Native should be entitled to such a large area [18,000 acres].⁵³

By 1912, the whanau of Paremata Te Wahapiro had been petitioning Parliament for sixteen years. It rested for the next fifteen years. However, in the late 1920s and early 1930s; as special rehearings became fairly common through an annual Act of Parliament, there was another (and more successful) flurry of petitions. At that point a wider group of petitioners joined the fray, including Ngati Koata and the representatives of a larger Ngati Tama group.⁵⁴

⁵⁰ AJHR 1906, I-3, p13

⁵¹ AJHR 1910, I-3, p11

⁵² Idem

⁵³ AJHR 1936, G-6b, p57

⁵⁴ Waitangi Tribunal, 1996a p43

In 1928, there were two petitions: one from Reuben Stephens, and another by Wi Katene Tipu. The House committee reported simply that it had no recommendations to make on the petitions in 1928 and 1929 respectively.⁵⁵ In 1929 Wi Katene Tipu tried again but his petition was held over until 1933, when the committee made its usual one-sentence report.⁵⁶ Undeterred by that rebuff, Wi Katene Tipu submitted another petition in 1933. That petition was held over until the following year, at which time it was joined by a petition from Waka Rawiri and Hoani Meihana on behalf of the members of the Ngati Tama tribe - other than those of the Wi Katene Te Puoho and the whanau of Paremata Te Wahapiro - who had lived at Wakapuaka.⁵⁷

The committee considered those petitions in October of 1934 when it changed its stance of the last thirty-seven years and finally yielded to the repeated presentations continually being made by Paremata Te Wahapiro's whanau to Parliament, to Members of Parliament and to the Maori Land Court, and recommended that the Government inquire into the matter.⁵⁸ No indication was given as to the reasons for the change. As a result of the committee's recommendation, the two petitions were included in the schedule of the Native Purposes Act 1934 to be referred to the Maori Land Court for inquiry, a recommendation supported by the Legislative Council. The Chief Judge was empowered to take whatever remedial action he saw fit upon receipt of the court's report.

⁵⁵ AJHR 1928, I-3, p6; AJHR 1929, I-3, p4

⁵⁶ AJHR 1933, I-3, p3

⁵⁷ AJHR 1936, G-6b, p2

⁵⁸ AJHR 1934-1935, I-3, p7

In 1935, Ngati Koata, buoyed by the success of the two previous petitions, took the opportunity to submit its petition to Parliament on its own behalf. J.A. Elkington Junior and others argued that Ngati Koata had given the land to Kauhoe for her son, and that they had continued in occupation alongside Wi Katene Te Puoho. The end of his line meant, they suggested, that the gift reverted to Ngati Koata as sole owners.⁵⁹ The committee recommended that Elkington's petition be added to the schedule to the Native Purposes Act 1934, which had been duly done by Parliament in 1935.⁶⁰

THE 1934-1936 MAORI LAND COURT HEARING

Three Further Petitions

Chief Judge Jones referred the three petitions (Wi Katene Tipu, Hoani Meihana and JA Elkington Junior) to Judge Harvey in the Maori Land Court on 13 December, 1934. The case ran for several months. There were four parties to the hearings.⁶¹

Hari Katene (eldest son of Wi Katene Tipu and great grandson of Paremata Te Wahapiro) appeared for the descendants of Paremata Te Wahapiro, claiming that Ngati Koata had given the land to Kauhoe, and that as Kauhoe and her descendants resided permanently on the land from 1836-1883 the persons entitled to the land would be those who could properly claim rights

⁵⁹ AJHR 1936, G-6b, p2

⁶⁰ AJHR 1934-1935, I-3, pp9-10

⁶¹ AJHR 1936, G-6b, p2

according to Maori custom under that gift.⁶² It was conceded that Huria Matenga as the only child of Wi Katene Te Puoho would be entitled to a considerable share under that arrangement.

John Arthur Elkington Jnr and others claimed on behalf of Ngati Koata that the land was originally given to Ngati Koata by Tutepourangi in return for his life; that the Ngati Koata occupied the land in conjunction with Wi Katene Te Puoho; and that as Wi Katene's 'line had failed', the gift reverted to its source and thus left Ngati Koata sole owners of the land.

John Arthur Elkington Senior (aka Ratapu), the father of John Arthur Elkington Jnr, brought a personal claim arguing that his mother was part-Ngati Tama and that he was an adopted child of Tipene Paremata (aka Rau-o-Kewa) and his wife, and therefore entitled to Wakapuaka through Tipene Paremata's mother, Kauhoe.

Hoani Meihana, Waka Rawiri and others appeared for Ngati Tama katoa, claiming the land for the members of the Ngati Tama tribe who lived at Wakapuaka and for whom the land had been set apart long before 1862 through the dominant role of Ngati Tama tupuna in the conquest of 1828-29, and the subsequent occupation of Wakapuaka by successive generations of Ngati Tama from several whakapapa lines. It was a petition that did not include the ancestors of any of the petitioners in Hari Katene's petition.

⁶² Participant 1

Judge Harvey's Findings

Judge Harvey inquired into the history of the Wakapuaka block and the petitions, and made his report⁶³ to Native Land Court Chief Judge Jones seven months later on 8 July, 1935. He concluded that the evidence to the Native Land Court of 1883 was insufficient to furnish that court with the facts of the true history and ownership of the Wakapuaka block. In his opinion, Huria Matenga had agreed to contest the Ngati Kuia and Ngati Koata claims on behalf of the descendants of Kauhoe (all were relatives and all were affiliated to Ngati Tama) and that she failed to have their names included with her own in the title to the Wakapuaka block. Through that action and the failure of her husband Hemi Matenga and witnesses at the 1883 hearing to have the full history of the Wakapuaka block disclosed to the court, the rights of the people occupying parts of the block had never been the subject of a proper judicial inquiry.⁶⁴

The judge considered it reasonable for the people resident on the block in 1883 to remain quiescent and to rely upon the substance of the promise of Huria Matenga to them to have their names included in the title until 1896 when the actions of Hemi Matenga, in evicting them from Wakapuaka, should have made it clear to them that Huria Matenga had not honoured such a promise to them.

⁶³ Ibid p57

⁶⁴ Waitangi Tribunal, 1996 p44

The judge thought that the descendants of Kauhoe had taken all reasonable steps and had made every endeavour to have the question of ownership of the land reopened, but that statements by some people (e.g. Commissioner Alexander McKay) had thwarted their efforts - statements which the judge considered were not worth the value placed in them. He thought Kauhoe had been of such high rank and Maori custom that she could not have assented to a gift to her son Wi Katene Te Puoho of the Wakapuaka land without participating in the benefits of such a gift. While there was a possibility of Ngati Koata being entitled to rights in Wakapuaka with others, such rights had been prejudicially affected by the long delay that ensued between the investigation of 1883 and the petition of protest in 1935.⁶⁵

Those claiming under the petition of Waka Rawiri had shown no strong claim to the land, and had offered no satisfactory reason why they failed to make a claim before the Court of 1883, or why they waited fifty-two years since 1883 before pressing to have their rights investigated. The fact that the Wakapuaka block issue had never been mentioned without reference to Kauhoe in some way was considered strong evidence that she had at least considerable interests in her own right in the block. As the block had been deemed to be Native reserve land in 1883, the court could not but suggest that all descendants of Kauhoe must have been found to have had some share or interest in the block and that a determination which gave the land to any one descendant to the exclusion of all others had been wrong in principle and unjust in effect. The judge was of the view that a reinvestigation of the

⁶⁵ AJHR 1936, G-6b, p57

ownership of the Wakapuaka block, and if necessary, an adjustment of the equities upon the basis of such a finding, appeared to be desirable.⁶⁶

Those were significant findings by Judge Harvey who was of the view that the court had made the only decision it could upon the evidence before it, but that the witnesses had not relayed all the information that they could and should have given. He also dismissed the argument that Paremata Te Wahapiro had sold any rights he might have had by signing the Ngati Toa Deed of 1853.

The judge held that the Deeds signed by Wi Katene Te Puoho did not indicate a sale of Wakapuaka. In terms of occupation after the 1853 to 1856 Waipounamu purchase, the judge concluded that Wakapuaka was reserved for Ngati Tama living there.⁶⁷ It was good news for the whanau living on the land block. Judge Harvey was particularly scathing of Alexander MacKay's arguments in his report to the Native Affairs Committee in 1896, and MacKay's affidavit of 1905.⁶⁸ Harvey blamed MacKay for misleading the committee and subsequent committees, and endorsed the statement made by counsel for the petitioners:

I am amazed at the deadly persistency with which Alexander MacKay pursued these unfortunate people. Whenever and wherever they sought a way of relief they saw the massive figure of Alexander MacKay blocking the path. I am amazed at the tremendous efforts he made to establish Huria Matenga in the sole ownership of that land. I am amazed at his devotion to her cause and at the way he wrestled with the truth and sometimes overcame it. It is no wonder from his frequent appearances in that case the Maoris got the idea the decision

⁶⁶ Idem

⁶⁷ Ibid, pp13-16

⁶⁸ Ibid, pp20-32, 41-46, 52, 56-57

against them was given by Judge MacKay. It was he certainly who killed every attempt they made to get a rehearing.⁶⁹

The judge reported to the chief judge R.N. Jones, that the petitioners on behalf of the descendants of Kauhoe had proved their case to his satisfaction.⁷⁰ Chief Judge Jones reported Harvey's sixty page decision to Parliament on 18 May, 1936, and informed the Native Minister that:

The true facts were not sufficiently disclosed to the Court of 1883 to enable it to judge properly the rightful ownership, and that, had the Court known the true history of the gift, it would have included Kauhoe's other descendants in the title. The main point at issue hinges round the question of whether the land was bestowed on Kauhoe and her son Wi Katene jointly, in which case the other children of Kauhoe would, according to Native custom, participate; or was it confined to Wi Katene Te Puoho, resulting in Huria Matenga being the proper owner.⁷¹

The Chief Judge presented Judge Harvey's report to the Legislative Council with a recommendation that there was a case to answer and that a hearing into the matter of ownership of Wakapuaka be held.⁷² The Legislative Council adopted the recommendation of Judges Jones and Harvey and sent the case to the Wellington Maori Appellate Court.

Having petitioned Parliament on and off for nearly forty years, and having endured the expense of a Maori Land Court hearing of their claim, the petitioners had to await yet another hearing in the Maori Appellate Court.

⁶⁹ Ibid, p56

⁷⁰ Ibid, pp37-42, 57

⁷¹ Ibid, p1

⁷² Idem

THE 1937 MAORI APPELLATE COURT HEARING

The Case

In April, 1937 the case⁷³ opened in the Wellington Maori Appellate Court before Presiding Judge McCormick, assisted by Judges Brown and Carr. The same claimant groups, which presented in the 1934/35 hearing reappeared, but in addition the now adult children of Mamae Stephens (Reuben Stephens and Konehu Bailey) also appeared to claim their inheritance. However, their claim was not to reaffirm what earlier courts had already ruled. Now their claim was to a share of any interest that the Maori Appellate Court might convey to the whanau of Paremata Te Wahapiro – i.e. to their grandmother Ngawaina Hanikamu.

The Appellate Court judges emphasised the importance of Wi Katene Te Puoho, maintaining that his had been by far the strongest and most continuous land occupation, and that he had been the ahi ka of the family at Wakapuaka. The judges concluded that:

Any idea that the rights of a family become crystallised in the year 1840 has long been disposed of by judgements of this Court, which has invariably for many years taken into account happenings subsequent to that period. We, therefore, are of the opinion that the right of Wi Katene must be held to be much larger than that of Te Wahapiro.⁷⁴

⁷³ Wellington Maori Appellate Court Minute Book 6, 14 July, 1937

⁷⁴ Idem

While those judges differed with Judge Harvey about the weightings relating to the rights of Wi Katene Te Puoho and Paremata Te Wahapiro, they basically upheld Judge Harvey's findings (with one important exception). Ngati Tama's tribal claim was weakened by the fact that no adequate reason was shown for the long delay in protesting the decision between 1883 and 1934. The judges felt that Ngati Tama could not show that it had conquered the area on its own or that its intermittent occupation was sufficient to establish a tribal right.

Although the Ngati Koata case was considered to be stronger than the tama one, the court held that all Ngati Koata rights had been given away in the gift to Kauhoe and Wi Katene Te Puoho. In response to the Ngati Koata contention that they had ceded 'a mere right to occupy', the judges concluded that the Ngati Koata chiefs made an absolute gift of the land.⁷⁵

The 1937 Judgements

The three judges admitted the descendants of Paremata Te Wahapiro to the title, but only to a quarter share of the remaining land. The executors of Hemi Matenga's will were required to relinquish about 3,600 acres – approximately twenty-five percent acreage then remaining at Wakapuaka. The personal claim of John Arthur Elkington Snr was dismissed. The claim of John Arthur Elkington Jnr and others on behalf of Ngati Koata katoa was dismissed, as was the claim of Hoani Meihana and others on behalf of Ngati Tama katoa.

⁷⁵ Waitangi Tribunal, 1996, p46

Ngawaina Hanikamu, who had made an impassioned plea before the court, was included as a beneficiary as a result of the ruling.⁷⁶ Since the Court had also accepted the evidence concerning Mamae Stephens (nee Matenga) as Ngawaina's natural daughter, then in due course Mamae's children, Reuben Stephens and Konehu Bailey, would benefit alongside Ngawaina's other descendants by Hanikamu Te Hiko, in Ngawaina's share of Wakapuaka.⁷⁷

The 1937 judgements left seventy-five percent of Hemi Matenga's holdings at Wakapuaka in the hands of the beneficiary of his will; his brother, Wi Parata. The judgements demanded the identification of the blocks remaining in Maori ownership at Wakapuaka; the identification of the entitled beneficiaries who were descendants of Kauhoe, and their respective entitlements; and the development of appropriate management structures for each of the blocks, and their allocation to the respective beneficiaries. While a long time coming, people's reactions to the court judgements were predictable as not everyone was pleased with the outcome, which favoured some over others.

Reactions to the 1937 Judgements

There was some dissatisfaction among some of the iwi claimant groups following the 1937 judgements, and over the following decade another round of petitions and submissions emerged. Hoani Meihana made several more

⁷⁶ Participant 9

⁷⁷ Reuben Stephens and Konehu Bailey were already owners of sections at Wakapuaka, as a result of earlier judgements of Hemi Matenga's will. As the grandchildren of Hemi Matenga, they were not affected by the new judgements favouring them as grandchildren of Ngawaina.

attempts to re-open the case for Ngati Tama katoa, but in 1947 he formally withdrew and made no further attempts. In 1945, Pauline Selwyn, daughter of John Arthur Elkington Snr, became the petitioner in similar attempts to re-open a case for Ngati Koata, but after reviewing the situation the Maori Affairs Committee did not make any recommendation.⁷⁸ In 1945, and for the first time since the 1883 case, Ngati Kuia, at least one whanau thereof, re-emerged through petitions from Frank Sciascia on behalf of the descendants of Tutepourangi. The Maori Affairs Committee would not make any recommendation on that claim either.⁷⁹ By 1948 there had been ten petitions against the Native Appellate Court decision.

The Native Land Court was clearly sympathetic to the whanau of Paremata Te Wahapiro. However, like the judgement in the 1883 case, the court's findings placed the significance of tuku whenua at the expense of ongoing occupation of Wakapuaka by the whanau of Paremata Te Wahapiro, and Paremata Te Wahapiro's role in Wakapuaka's conquest in the mid-1830s.

PARTITIONS

The state of the original Wakapuaka titles was already complicated by earlier alienations. One hundred acres had been allocated to Ngati Koata over a boundary dispute in 1862 between Wi Katene and Maaka Tarapiko of Ngati Koata. Interestingly, nowhere in the records of that entire 1862 dispute does Ngati Koata make any reference to a gift to Kauhoe.

⁷⁸ AJHR 1938, I-3, pp6-7

⁷⁹ AJHR 1945, I-3, p13)

Wi Katene had sold ten acres at Cable Bay for the Cable Station site, and Huria and Hemi Matenga had sold Pepin Island and a sizeable section on the southern side of Cable Bay. Another large block on the southern boundary with the coast at the Glen had also been disposed.

There had been other sales. A number of other partitions and subdivisions of title had also occurred – e.g. to provide land for Reuben Stephens (150 acres) and Konehu Bailey (188 acres) in the late 1920s, as ordered by the court. (Reuben Stephens and Konehu Bailey had since sold their sections). By the 1930s, the original 17,575 acres had been reduced to approximately 13,564 acres.⁸⁰

From 1937 onwards, hearings were held to determine the additional beneficial owners to be admitted to the remaining titles of the Wakapuaka blocks, and for the creation of an incorporation and a committee of management. Beneficiaries had been identified and separate sections at Wakapuaka defined and partitioned. Some three thousand six hundred and forty one acres were transferred to the descendants of Kauhoe designated as the Wakapuaka 1A, 1B and 1C blocks.

The site of the original homestead of Huria and Hemi Matenga of approximately 0.24 of an acre was partitioned off from Wakapuaka 1A as Wakapuaka 1A1, and allocated to Turama Mohi Nopera as the sole owner.

⁸⁰ Mitchell J & Mitchell H, 1995

However, in 1978 Adam Takiari and Queenie Matenga, descendants of Turama Mohi Nopera gifted their inheritance back to the Wakapuaka Committee of Management. Wakapuaka 1B was the main farm block. Te Matau Mau or Bishop's Peninsula had always been of significance both historically and culturally to the whanau, and was partitioned as Whakapuaka 1C and designated as a native reserve.

On 21 December, 1944 Judge Shepherd found in favour of nineteen named individuals, all direct descendants of Paremata Te Wahapiro, as the rightful owners to share in the three thousand six hundred and forty one acres; being twenty-five percent of the acreage then remaining at Wakapuaka as stipulated by the 1937 court judgements.

The executors and trustees of Hemi Matenga's estate retained seventy-five percent of his holdings, comprising approximately 11,000 acres; those lands comprised the remnant of the southern No.1 block and the northern No.2 block. From 1947 onwards, the executors and trustees of Hemi Matenga's estate eventually sold all of Wakapuaka, which they administered. Not one acre remains in Maori ownership.⁸¹

CONTEMPORARY SITUATION

The Committee of Management of Wakapuaka 1B block own and administer all the original blocks, as well as 1A (under two separate titles as 1A1 and

⁸¹ Idem

1A2), 1B and 1C. The committee oversees farm operations that include professional administration of the incorporation's businesses.⁸²

After a number of years' managing a not too profitable farming operation, the Wakapuaka Committee of Management⁸³ leased the farm, placed one hundred and fifteen hectares of land into three blocks of radiata pine, and developed a small vineyard. The forestry and vineyard operations had disappointing results.⁸⁴ By 2005, the Committee of Management decided to investigate ways to utilise the land in a leasehold joint venture property development with the local booming tourist market in mind.⁸⁵ Utilising the land is a priority for Taku Parai, Wakapuaka Committee of Management's chairperson.⁸⁶

The Committee of Management was also aware of the impact of the top of the South Island Waitangi Tribunal claim on Wakapuaka 1B block.

Each iwi has claimed that their interest in Wakapuaka 1B block has been taken from them. The Tribunal may agree. It seems that we have a valuable asset and everyone wants a 'slice of the cake'. However, the Crown should recompense the other iwi who may have a claim, not Wakapuaka 1B block.⁸⁷

⁸² Idem

⁸³ Committee of Management members as at 31 March, 2005 include: Taku Parai (Chairperson), Keith Warren, John Studd, Hemi Ropata, and Larry Bailey.

⁸⁴ Wakapuaka 1B Block. Annual Report of the Committee of Management, for the year ended 31 March, 2005, p7

⁸⁵ Wakapuaka 1B Block. Minutes of the Annual General Meeting of owners held at Porirua on 17 September, 2005, pp3-4

⁸⁶ Personal communication, December, 2004

⁸⁷ Idem

Several whanau members with ties to Wakapuaka assisted Ngati Tama Manawhenua ki te Tau Ihu a Maui Trust at the Waitangi Tribunal hearings in 2003. As a consequence, those individuals expressed concern at later hui that the Committee of Management needed to be more visible and vocal in protecting the land and mana of all Wakapuaka whanau. On 17 September, 2005 the committee agreed to set up a sub-committee to explore options for the whanau to become more involved in the top of the South Island claim.⁸⁸

In June 2003, Ngati Tama was one of several iwi making a claim to foreshore and seabed, centred on the Marlborough Sounds, which went all the way to the Court of Appeal. That court ruled that the iwi's common-law right to title had not been extinguished, and that the Maori Land Court might, in rare cases establish a customary title – which could then convert to a freehold title. Confronted by public outrage, the government overturned that common law property right in legislation, which vested the foreshore and seabed, although not the privately owned parts, in Crown ownership while providing for ancestral connection and customary rights for Maori and non-Maori. Interestingly, while the 1937 Maori Appellate Court hearing into the ownership of Wakapuaka dismissed outright Ngati Tama's iwi claim in favour of the whanau of Paremata Te Wahapiro, it appeared that nearly seventy years later the iwi had usurped control over matters relating to the Wakapuaka estuary. The whanau owners and their management committee were powerless to assert their rights over that part of Wakapuaka, which the iwi regarded as under its control.⁸⁹

⁸⁸ Wakapuaka 1B Block. Annual General Meeting, Porirua, 17 September, 2005

⁸⁹ NZPD, 18 September 2003, p8821; Participant 10

SUMMARY

Unlike the other two case studies that dealt with external relationships, this study focused on internal relationship management within the iwi and amongst whanau members. The iwi needed to stay cohesive externally as well as internally. The whanau was intent on maintaining its rights to the Wakapuaka block, and like its iwi counterparts, whanau members retained the right to decide who best represented them. This case study showed the determination and persistence of the whanau at a time when the iwi was more concerned with matters of strategic importance – e.g. acquiring more land. It also showed how the dislocating relationships between whanau and hapu were managed. The Crown was more intent on retaining the status quo, and when it did intervene it had the effect of undermining the custom, tikanga and leadership of the whanau, disrupting traditional balances of power in the area. In this way, the study illustrated the wider issue of how embattled whanau have to manage competing influences. It also showed the resilience of whanau: When it had a specific issue to deal with, the whanau stuck to the task.

Finally, the whanau of Wakapuaka showed that when its mana and tino rangatiratanga were threatened, it responded in an appropriate fashion by becoming more visible, more vocal and more adamant that they - and their distinctiveness as a whanau grouping - would be retained.

CHAPTER SEVEN: AN IWI VOICE

Ngati Tama has always supported Ngati Toa,
Evidenced in the migration down from Kawhia and Poutama,
Settling in west Wellington around Nahauranga, Kaiwharawhara,
Thorndon, Tinakori, Karori,
Over the hill to the West Coast up to Komangarautawhiri.

The exhilarated rate of colonial settlement,
Demanding the making of land available immediately,
Opposed by Ngati Toa,
Ngati Tama supported Ngati Toa, Te Atiawa did not.

The outcome – Ngati Tama forcibly removed from their lands,
Dispersed to Chatham's and Hutt Valley and mixed with others,
Ngati Tama lost its identification with Wellington.

The Government set up the Tenths Trust,
An office to deal with the minor iwi groups of Wellington,
As one voice.

Rise Ngati Tama from the dust of obscurity,
To stand, to be seen, and acknowledged,
To have dignity and rangatiratanga restored.

Ngati Tama will speak for itself not through a non-iwi group,
An idea will send ripples of deep concern throughout the Government,
And, the favoured Te Ati Awa who have long benefited,
By the Government that they supported.

Its time to balance the equation,
By the voices heard of those speaking from the dust,
Those of Ngati Tama blood-lines, mixed with Ngati Toa,
Hear those voices and respond in advocacy for their resurrection,
And, demand that they should be brought to the light of day.

The spirit of Te Rauparaha's haka reflects this intention:
Kamate, kamate – ka ora, ka ora – hupene, kaupene, whiti te ra,
Death, death, no life, life, step by step to the shining sun.¹

¹ Katene, Te Puoho, Voices from the dust, 2003. The Ngati Tama kaumatua, Te Puoho Katene, wrote this article entitled 'Voices from the dust' at a hui while reflecting on the historical relationships between local tangata whenua groups, in light of difficulties experienced by the emergence a new Ngati Tama Iwi entity in Wellington.

INTRODUCTION

This research focuses on an iwi and its quest for autonomy and recognition by both the Crown and other Maori polities. In each case, although for different reasons, the politics of iwi voice appear to be biased against the principles of manawhenua, self-determination and historic claims.

The independent stance of an iwi authority exercising mana and tino rangatiratanga can be seen as acting as a wedge against assimilation. The issue for the modern urban iwi is not only whether custom and tradition should be maintained, but also how a distinctive Maori identity can be maintained, and how the iwi's material circumstances can be advanced.

Maori throughout the country are seldom of one mind. Tribes in different locations have different viewpoints; iwi-focused Maori may not be in agreement with their non-iwi counterparts; Treaty settlements may have revived long-established tribal rivalries; and no matter what their situation, all iwi and Maori are faced with enormous challenges and adjustments.

This chapter draws on the interviews, reviewed literature and discussions of the previous chapters relating to the experiences of an iwi attempting to assert its own autonomy in preference to a collective Maori voice. The rationale and experiences of the iwi are juxtaposed against theoretical propositions to help explain what happens as iwi members decide who best represents their interests in maintaining a distinctive iwi presence and voice.

TREATY FRAMEWORK

Claim settlement establishes both the claim and the corresponding duty of the Crown to remedy a breach of the Treaty of Waitangi when a claim has proven merit. Where a statute imposes a duty to act consistently with the Treaty or its principles then there is no question that a legal duty exists. Sometimes a statute imposes an obligation on the decision-maker to 'have regard to' or 'take account of' the Treaty in decision-making. For example, the Local Government Act 1974 includes a statutory obligation on the part of local authorities to consult with Maori and have regard to Treaty principles on matters relating to Maori.

The Treaty is widely acknowledged as representing the special relationship between iwi and the Crown. Central to this relationship is a common understanding that the Crown has an important role in relation to the three Treaty articles: government, tribal autonomy and equity – articles one, two and three respectively. With respect to Ngati Tama ki te Upoko o te Ika Society Incorporated, the Crown is therefore able to support the iwi in asserting its voice, exercising its mana and tino rangatiratanga, and retaining the right to decide who best represents it.

The government or kawanatanga article (article one) provides for the Government or its agencies to govern. It is the basis for strengthening working relationships between the Crown and Ngati Tama ki te Upoko o te Ika, and

requires each partner to act towards the other reasonably and with the utmost good faith.² The central aspect of Ngati Tama ki te Upoko o te Ika's assertion of iwi rights, evidenced by its Waitangi Tribunal claim, has been to seek no more than the re-establishment of partnership with the Crown as a legitimate tribal entity.

Demonstration that the Ngati Tama iwi entity had received the mandate to represent the iwi's interests was an important first step in the development of a partnership relationship between the Crown and the new iwi authority. It paved the way for other government agencies at central, regional and local levels to follow suit. It has been noted that prior to receiving the Crown mandate to represent the iwi's interests, Crown agencies had shown little interest in recognising Ngati Tama ki te Upoko o te Ika preferring instead to continue working with other groups, particularly the Wellington Tenth's Trust, and Te Runanganui o Taranaki Whaanui.³

The self-autonomy or tino rangatiratanga article (article two) emphasises the right of iwi to decide its own affairs and provide services for its own people. Rangatiratanga appears to be simply that Maori should control their own tikanga and taonga, including their social and political organisation, and to a practical and reasonable extent fix their own policies and manage their own programmes.⁴ Maori have interpreted the promise of rangatiratanga in this article as being able to manage their own affairs through their own methods. It

² New Zealand Law Report, *New Zealand Maori Council v Attorney General* (1987), 1 NZLR 641, (CA)

³ Ngati Tama ki te Upoko o te Ika runanga minutes dated 6 July, 2005

⁴ Waitangi Tribunal, 1998, pxxv

provides for Ngati Tama ki te Upoko o te Ika to exercise its authority in respect of iwi affairs, and for the Crown to protect those rights to the fullest extent practicable.⁵ Rangatiratanga also lies at the heart of each group's Maori identity, tribal ethos, and sense of pride and self-respect vis-à-vis the Crown.⁶ The Government's recognition of the society's right to represent its iwi member interests in negotiating and settling a claim with the Crown was a significant step and demonstrated that iwi can represent iwi members in modern times and in modern environments.

The question of rangatiratanga (control over resources) applies to process as well as property. The Crown's relationship is with iwi and hapu because they signed the Treaty. However, there is a tendency by governments and officials to deal only with a small number of iwi or individuals. This can be responsible for creating grievances against the Crown. Rangatiratanga also means allowing iwi to nominate their own leaders or spokespeople rather than the Crown selecting who it considers to be iwi representatives.

The third article, incorporating the principle of equity or oritetanga ensures that iwi members receive similar societal benefits as other New Zealanders. The case of Ngati Tama ki te Upoko o te Ika opens the way to negotiate terms and conditions for services and programmes with the Crown at no less a level than other citizens in Wellington enjoy. While this was not evident in the initial years of the Ngati Tama iwi's reunification, the Government's recognition of

⁵ New Zealand Law Report, *New Zealand Maori Council v Attorney General* (1987), 1 NZLR 641, (CA)

⁶ Kawharu IH, (ed) *Waitangi: Maori and Pakeha Perspectives of the Treaty of Waitangi*, 1989, pxxi

the society and the Ngati Tama Wai 735 Treaty of Waitangi claim has helped accelerate progress with other government agencies as well.

Equity is about the protections of citizenship applying equally to Maori and non-Maori. Sometimes expressed as the principle of equal treatment, it requires the Crown to treat Maori and non-Maori fairly and equally, and to treat Maori tribes fairly vis-à-vis each other.⁷ This logically extends to disallowing one iwi or Maori group to have an unfair advantage over another. It does not mean treating all groups exactly the same. It does mean that the Crown must treat each grouping fairly, vis-à-vis the others, and in doing so create goodwill and foster positive and constructive relationships.

THEORETICAL FRAMEWORK

This section explicitly considers the three case study findings in light of the four theoretical concepts outlined in Chapter One: institutional design, agency theory, interest group theory, and pluralism.

Institutional design

Giving iwi members more than one option, with the necessary benefits and risks carefully explained, ensured a degree of choice in the desired organisational structure that members required. The first two case studies considered in Chapters Four and Five showed that an iwi organisation was an

⁷ Waitangi Tribunal. Report on the Crown's Foreshore and Seabed Policy, 2004, p133

acceptable entity to represent the iwi's interests, and that although other institutional models of Maori representation - such as trust boards, Maori councils, federated Maori authorities, and Maori land incorporations - have a place, they may not necessarily be the most appropriate replacement for the conventional iwi structure.

Trust boards had become the embodiment of the people in many districts from about the 1940s and some boards currently claim a mandate. The Maori Councils have also been effective from an early period and predominated in some areas. It would have been difficult to bypass the efficacy of local branches of the Federation of Maori Authorities (FOMA) in some places, especially in major land-owning areas (e.g. the East Coast of the North Island) that involved resource use and ownership questions. Maori land incorporations, established under an Ahu Whenua trust such as Nelson's Whakatu Inc, exercised a valuable role in promoting the use and administration of land and other assets in the interest of its beneficiaries.

More recently, runanga have been created expressly to represent iwi. There is currently a diversity of structures and different institutions that represent the iwi in different places. For example, for Tainui and Ngai Tahu settled arrangements combine marae or hapu based representation (Nga Marae Toopu and Runanga Nui-a-Tahu respectively) with a trust board (Tainui and Ngai Tahu) under a uniting umbrella (Kingitanga and iwi authority). There are three separate bodies for Te Arawa: a trust board, a runanga and a branch of FOMA. In that district consultation may be necessary with each of them.

Separate bodies are also important in Ngati Kahungunu, but the main ones are a district Maori council, a trust board and a runanga. Ngati Tuwharetoa people are represented by a single trust board. The extent to which any of the other structures might have represented the iwi or replaced the traditional Maori authority remains problematical, and the tribe exists irrespective of them.⁸

The PNBC has served a useful purpose for individual Te Atiawa Maori in Wellington, who are also represented by a runanga, Maori land incorporation and council. An iwi organisational structure for Ngati Tama people was a viable option. At issue was the purpose of the institution. It could be said that the PNBC had the peoples' mandate (from individual beneficiaries and shareholders, rather than that of the iwi) to undertake a specific task, which was claim-related. In the society's case, it could be said that its limited mandate (restricted to its registered members) was associated with a broader task; that is, to represent the iwi's interests in all social, cultural and political matters relating to Ngati Tama, of which the claim was only one part.

There has been a proliferation of Maori institutional structures competing for the benefits of Treaty settlements and rights of representation. There has been rivalry between districts on treaty settlement allocations. However, for either scenario the unilateral development of a claim resolution policy by the government, irrespective of structure, has no significant Maori input:

⁸ Waitangi Tribunal, The Fisheries Settlement Report, 1992, p21

These raise serious questions of both structure and equity – equity as between Maori, and equity as between Maori and the state. They involve fundamental questions about Maori societal structures.⁹

Maori conventional structures such as whanau, hapu and iwi were networks that had adapted and endured for centuries. Yet in modern times they appeared to have been abandoned in favour of corporate ‘arms’ of iwi entities, even though conventional iwi structures were available. Those conventional structures were well placed to continue meeting the realities and the needs of the modern era, but the iwi identity became enmeshed in the structures of corporatised bureaucracies.

There were compelling reasons for developing an iwi structural identity for Ngati Tama. Remaining small and focused were important as was being able to operate in a culturally sensitive, appropriate and responsive fashion. While there may have been economies of scale to be part of a large corporate body, the Ngati Tama experience indicated that there was also economy in having a tighter focus. The society had the ability to be more focused than larger organisations with wider spans of interests and responsibility. This might have been attributed to a high level of commitment and greater concentration of effort on fewer strategic projects such as the land claim, and health and social service delivery. However, the smaller size might have also been accompanied by lack of critical mass or ‘clout’, and sheer numbers of people, and their availability to the iwi.

⁹ Durie ET, Keynote address to Kia Pumau Tonu: Proceedings of the Hui Whakapumau Maori Development Conference, Massey University, Palmerston North, August, 1994

If raising the profile of the iwi and maintaining a distinctive iwi presence were primary iwi objectives, then the society probably demonstrated that it was an effective institutional form. However, goals were more important than structures. If issues of unqualified government support were paramount then an iwi would have not necessarily been a sensible organisation to represent those interests. Nonetheless the strength of the iwi was in all its members working together for the same goals and it being able to convert aspirations and plans into realities for its members. Departures from that theme had the potential to unduly destabilise the values and philosophies and practices of the iwi and their relevance to the iwi members and their inter-connectedness. When a new iwi authority attempted to assert its voice, the government was likely to come under pressure to mediate or ensure the balance of power was retained by the dominating interest so that friction and turbulence in the iwi and Maori communities could be minimised.

Agency Theory

The runanga of Ngati Tama ki te Upoko o te Ika had an agreed relationship with its membership that it would abide by its Trust Deed and regularly consult with it on major policy-related matters. In implementing iwi policy, the runanga acted in a sense as the people's agent. In turn, it formally sub-contracted out work for example to an iwi co-ordinator to assist in carrying out its responsibilities. It also developed memoranda of understanding and strategic alliances with various like-minded entities, and entered into contracts for services with Crown agencies.

The attraction of people to Ngati Tama ki te Upoko o te Ika seemed to have had less to do with their dissatisfaction of other group/s acting for them and probably more to do with wanting to be part of a new iwi authority that was singularly focused on Ngati Tama issues. The newness of the contractual relationship brought with it energy, enthusiasm and a willingness of members to offer services without thought of recompense. Some iwi members regarded being a part of the society as an opportunity to influence the decision-making process, and therefore to make a difference. Others were attracted to the prospect of working within a whakapapa-based entity where old alliances and relationships could be exercised.¹⁰ As with any new contract, mistakes and shortcomings were inevitable. People therefore had to be patient, therefore, as its members and leaders gained the necessary knowledge and experience and developed important relationships with key stakeholders. Arrogance and an abundance of confidence caused some damage to the society and some runanga members, and at times fostered resentment.

The PNBC was an agent of its registered members. The question as to whether, and if so how, iwi, hapu, whanau and other Maori organisations reflected and responded best to their constituents was an important matter in all three case studies. Proper communication and consultation processes became a key issue in ensuring that members were kept well informed. The Court of Appeal¹¹ decision identified certain elements of consultation that could be used as a benchmark for consultation with iwi. For example, the

¹⁰ Participant 4; Participant 8

¹¹ *Wellington International Airport v Air New Zealand* [1993] 1 NZLR 671, 675

issue at stake should not be fully decided on. Listening to what others had to say and considering the responses is important as well as ensuring that the process is genuine with sufficient time being allowed, and providing enough information to enable people being consulted to be adequately informed so as to make intelligent and reasoned responses. Finally, the party obliged to consult must keep an open mind, and be ready to change and even start afresh if considered necessary.

It was crucial that the PNBC, as agent, acted in the best interests of its principals (i.e. all registered members) and not in the interests of selected member clusters. Attention naturally focused on whether some people had been receiving unequal attention from the PNBC. The Wai 105 claimants considered that their needs were not getting the desired attention from PNBC, which in turn motivated the group to agitate for change within PNBC.¹² The PNBC had difficulty maintaining a neutral, objective stance in the best interests of all parties when it was funded by the Wellington Tenth's Trust, and led by the same Trust's leadership. PNBC had varying degrees of autonomy and was regarded by the Crown as being less democratic, less open to scrutiny and less accountable to its membership.¹³ Nonetheless, the PNBC by its very nature was not a permanent entity. It was set up to perform a particular task - at which it was very good. Never before had the various iwi been better informed. Neither were the people better led than at any other time. At some point, however, it would need to be replaced when its

¹² Submission to PNBC Mandate from Vern Winitana, chairperson of Arohanui Ki Te Tangata Arts and Culture Centre Trust to OTS, dated 30 October 2003

¹³ OTS, Briefing paper to Minister Wilson dated 27 January 2004

usefulness or contract had expired (although it could possibly be replicated for another purpose like settling claims related to fisheries).

With respect to the third case study (outlined in Chapter Six) the Native Land Court, as an agent of the Crown, gained a reputation as a destructive force for Maori land tenure. The individualisation of land title was a major cause of the problems for Maori that developed in the years following the Court's establishment in 1862. In this way, the Court was seen to act in the interests of its principal (the Crown) and certain segments of the public (new settlers), but at the expense of Maori.

Interest Group Theory

It is not surprising that the Crown is perceived as being the most powerful interest group in all three case studies. It had its own interests, including that of the general public, to protect. It appeared that the Crown imposed those interests on the claimant groups, especially the whanau group in Wakapuaka. In this way, the Crown's role was to provide a 'level playing field' and set the rules of engagement. The Crown effectively became a broker for all the 'other' parties and limited itself to being a forum for the various competing interests.

In the first case study (outlined in Chapter Four) all the groups shared common interests of concern. The central goal of all claimants was to research, prepare and deliver quality proposals to the Crown agent, the Waitangi Tribunal, in an attempt to have the Crown report favourably on its

claims for compensation of past Crown wrongdoings. The Crown aimed to provide financial and commercial redress that reflected present-day social and economic realities.¹⁴ In so doing the Crown attempted to minimise the grievance while the aim of the claimant groups was to maximise the wrong and therefore obtain greater recompense.

The Wellington Tenth Trust is an example of a private organisation set up under the auspices of the Maori Land Court by the state or political system and to which certain officially vested powers were conferred. It became a legitimised interest group to assist the Crown determine public policy. It was the Wellington Tenth Trust that played a leadership role in setting up the PNBC. The Tenth Trust became 'institutionalised' in that it was formally recognised by the Crown and its agencies. The status that the Tenth Trust had with the Wellington City Council was that of an institutionalised interest group, which formulated policy advice and organised programmes, and therefore received unique and special treatment. The Maori 'voice' for the purposes of the Council was reflected in the pronouncements of the Trust, on behalf of its shareholders and beneficiaries and others.

It is evident that the Crown found it difficult to maintain an objective stance. This was due to certain privileged groups having had previous experience working with the Crown on a number of other initiatives, and as a result gaining insight into how the Crown works and being in a favoured position. For example, the Crown, including Ministers and senior department officials, had

¹⁴ OTS, 1999, p31

been comfortable with the PNBC leadership because of its previous dealings with the group that spanned some decades. It was difficult for the Crown to resist being reliant upon, influenced and in some cases 'captured' by those powerful interest groups. The risk to the Crown was that those interest groups were seen to advance themselves at the expense of other interests, including the general public. All three case studies demonstrate the undue influence of certain individuals over proper process. Land Commissioner Alexander MacKay's personal influence over the Native Land Court with respect to the ownership of Wakapuaka land block covering a period of decades was legendary; as is the mana of Dr Ngatata Love with respect to PNBC's relationship with the Crown, including Ministers.

Ngati Tama ki te Upoko o te Ika qualifies as an interest group. It sought to take advantage of Crown statutory obligations to advance its own interests. Key individuals within the society intent on pursuing the resurgence of Ngati Tama have also been accused of advancing their own interests as well.¹⁵ The Ngati Tama way of working and its culture, however, aimed to be open, transparent and accountable. The iwi members appeared independently minded people more likely to challenge than accept the status quo, and who were not unwilling to see changes to the political landscape of local Maori politics. The expertise needed to assist in the establishment of an iwi authority was found in ordinary people who had a passion for things Ngati Tama, and who exhibited a broad range of practical whanau-focused skills; for example, in Maori culture, social services, health, and education. Ngati Tama ki te

¹⁵ Letter from Dr Ngatata Love of PNBC to OTS dated 20 January 2004

Upoko o te Ika aimed to be the primary repository of knowledge about Ngati Tama in Wellington; a bold claim considering its relatively short existence, but one that was founded both in history and the developing relationships with the other two Ngati Tama entities.

Ngati Tama ki te Upoko o te Ika's attempts to assert its 'voice' in Wellington met with measured success. It was still an 'outsider' organisation in many respects, whereas successive governments routinely consulted Wellington Tenth Trust. As an 'insider' group, the Trust had ease of access to government machinery and processes and tended to rely on different tactics to get the attention of key persons in power. As a result it became well informed and further interested in policy issues whether as a general interest or a specialised interest. With respect to the latter the Trust's advice on complex and technical issues over time became more respected over time, and in turn the government felt obliged to do it further favours.

Pluralism

Pluralism is part of the interest group theory system. It could be argued that umbrella groups such as Wellington Tenth Trust and Te Runanganui o Taranaki Whaanui o te Upoko o te Ika a Maui, while providing a useful collective focus for its minority constituents, failed in being able to nurture and protect those minority interests, including their respective cultures, language, and art. There was a disincentive for the umbrella group to do so for fear of a minority group separating out from the collective to advance its own interests

and values. Seldom were the individual groups within a collective equal. If there were competing interests then one usually departed the scene (e.g. Ngati Tama) and the dominant party remained 'in charge'. Within the PNBC umbrella there were four main iwi of which Te Atiawa was easily better organised, had more impact and was hence the strongest, to the point where the subservience of other iwi became institutionalised. The case in point is Ngati Tama, which Te Atiawa regarded as its hapu.

Ngati Tama ki te Upoko o te Ika regarded itself as an efficient interest group and a form of plural society in the sense that its interests represented a co-existence of interdependent whanau groupings, each with its own leadership, value system and goals. Ngati Tama ki te Upoko o te Ika determined to be autonomous from the PNBC and in so doing was of sufficient number to confidently choose separate membership within a non-assimilating iwi enclave. The society's role was to advocate those interests to a range of target groups, from central, regional and local government to iwi and even private organisations. Chapter Three outlined the extent to which society officials promulgated those interests.

The first two case studies (outlined in Chapters Four and Five) showed the PNBC to be a classic example of pluralism. The umbrella group was an illustration of the co-existence of a number of interdependent, autonomous claimant groups. Each claimant group had its own research team, negotiators and separate grievance. They all voluntarily agreed to work within the boundaries of a single polity and set of rules that made them interdependent.

Many members of Te Atiawa iwi belonged to a number of diverse groups with differing interests - Wellington Tenth's Trust, Te Runanganui o Taranaki Whaanui o te Upoko o te Ika a Maui and Waiwhetu Marae to name a few. The first managed iwi assets, the runanga delivered social services and the latter functioned as a marae. This pluralist perspective gave rise to people's interests being met through a number of groups and in a number of ways. Te Atiawa is still a complex plural society with iwi members belonging to other sectional groups and interests such as other neighbouring iwi (Ngati Toa) and other marae (Te Tatau o te Po), which are equally valid and meaningful.

The third case study (outlined in Chapter Six) showed how the whanau of Paremata te Wahapiro became leaders in the movement to regain ownership of Wakapuaka's communally-owned and communally-farmed land. Wakapuaka community comprised whanau, hapu and iwi members of Ngati Tama and other iwi (Ngati Koata) living in a state of interdependence and autonomy yet practising their own distinctive beliefs. The wrangle over plural ownership rights began earlier, however, when Huria and Hemi Matenga fought for and became the legitimate owners of the land by court decree. The other 'interested' owners bound together, albeit informally, to protest the ruling and over ensuing years the dominant (and most aggrieved) party - the whanau of Paremata te Wahapiro - petitioned Parliament with eventual success. In typical plural state fashion the other interest groups joined the whanau in court action to secure rights to ownership of the land.

A MODERN, URBAN SETTING

The society's urban setting gave rise to a number of important matters of significance in contrast to the typical rural placement of most other tribes. New Zealand's capital city of Wellington is the base location of Ngati Tama and Te Atiawa. The highly urbanised society has been home and/or a base training ground for some of Maoridom's most influential leaders, many of whom were of Te Atiawa descent. The Wellington region was the home of the renowned Ngati Toa chief Te Rauparaha in the 1800s, and Te Atiawa's Sir Peter Buck and Sir Maui Pomare were both well-known medical practitioners and politicians at the turn of the twentieth century. Close ties between Wellington and Taranaki meant that the passive resistance Parihaka prophets Te Whiti and Tohu, as well as Te Ua Haumene, founder of the Pai Marire religious movement, and south Taranaki's guerrilla fighter, Titokowaru had all had a major influence on the lives of those who migrated to Wellington. In contemporary times, Wellington has given rise to high quality leaders such as Sir Paul Reeves (former Governor General and Anglican Archbishop), Dr Ngatata Love (University professor and former head of Te Puni Kokiri), Dr Kara Puketapu (former head of Maori Affairs), and Neville Baker (former Maori Trustee). Those leaders were (and are) expert in the art of politics and other socio-cultural matters. It was of no coincidence that the urban politico-capital environment of Wellington provided the opportunities for them to not only excel in their chosen fields but to be effective tribal leaders as well. Few other tribes could boast such an array of talent at one time.

Being resident in Wellington meant that they seldom had to travel outside of their area of influence whether for university studies, work or other pursuits. Access to Parliament, its executive, the judiciary, local and regional governments, non-government organisations and private sector head offices provided certain privileges for Te Atiawa's tribal leaders (in particular) over successive generations. They became highly experienced at courting political and business leaders alike. Their knowledge of parliamentary processes and government machinery combined with their business acumen and social skills gave them an advantage and special status as tribal leaders in comparison with their counterparts from other provincial/rural centres.

The members of the various Wellington-based iwi were, as a consequence, not only politicised but also socially advantaged. One participant commented that being situated "on the front door-step of government, we were well looked after in terms of access to social services and getting a good education, compared to our whanaunga back in Taranaki".¹⁶ However, being a member of a Wellington iwi did have some disadvantages. Knowledge of tikanga, the Maori language and other cultural symbols was not valued highly.¹⁷ This was probably due to the tangata whenua being a minority group compared to larger numbers of taura here and Pakeha, and being in close contact regularly with non-Maori neighbours and experiencing different ethnic activities, lifestyles and belief systems. The society's members were similarly positioned to the other tangata whenua although its membership was less experienced, and less known in political and social circles than that of Te Atiawa.

¹⁶ Participant 4

¹⁷ Idem

MANDATING

Crown's Role

The role of the Crown is particularly crucial where there are already fragile relationships within and between iwi and other groups.¹⁸ If critical issues surrounding appropriate iwi representation are not addressed, then they lead to claimant dissatisfaction.

The mandating process should allow the iwi adequate opportunity to debate and discuss important matters. Where the process of working towards securing a mandate causes fall-out in the form of deteriorating relationships either within or between iwi and Maori groups, the Crown cannot afford to be passive. It must exercise an 'honest broker' role as best it can to effect reconciliation, and to build bridges wherever and whenever the opportunities arise. There is potential for misunderstandings and confused messages, which give rise to fear and resentment otherwise Crown officials must be at pains to be even-handed in their dealings with different groups, as well as open and transparent:

Officials must be constantly vigilant to ensure that the cost of settlement in the form of damage to tribal relations is kept to the absolute minimum.¹⁹

¹⁸ Waitangi Tribunal, *The Te Arawa Mandate Report: Te Wahanga Tuarua*, March, 2005, p4

¹⁹ Waitangi Tribunal, *The Ngati Awa Settlement Cross-Claims Report*, 2002, p88

Crown officials appear reticent about becoming caught up in claim politics for fear of exacerbating tensions and further polarising factions within the claimant community, particularly when high profile iwi and Maori leaders are involved. However, there is the potential for harm to Crown-iwi relations if this area of risk is not carefully and positively managed.

Questions about the presence and absence of certain groups on a mandate team and whether all the groups involved are entitled to representation, are issues that must be rationalised and articulated so that the broader claimant community can see that there are real and transparent reasons for the composition of any mandate team. The position of those iwi that remain outside the formally recognised mandate should be dealt with promptly. Negotiations cannot be described as comprehensive when significant sectors have been excluded. Negotiations that do not involve every iwi represent a flawed process that the Crown could well avoid.

There is also a fundamental question of jurisdiction: whether the Crown could or should deal with iwi mandate disputes at all. Although claims are technically aimed at the Crown, they are complicated by what is essentially an internal dispute between iwi as to which organisation speaks for them. The Crown or its agencies would be unwise to deal with these categories of dispute, as they require prior determination in a forum appropriate to iwi.

The political nature of decision-making, the artificiality of treating internal disputes as if they were disputes against the Crown, and the inherent difficulty

of the subject matter means that the Crown should not interfere in mandate decisions except in clear cases of error in process, misapplication of tikanga Maori, or apparent irrationality.²⁰ Any mandate decision has to be inclusive of all iwi to be enduring, otherwise there is the danger that certain iwi identities could be written out of local history – and thereby creating a fresh grievance out of the settlement of an old one.

Comparisons with other Indigenous Groups

In the Mashpee case in the United States, the court wrestled with the idea of what constitutes a tribe. An anthropologist, Jack Campisi, determined that the Indian Mashpee did indeed fit the description of a tribe on the basis of five criteria: birth, a kinship network, a clear consciousness of kind ‘we’ versus ‘they’, a territory or homeland, and a political leadership.²¹ Its relevance is: who represents Ngati Tama? Is it the Wellington Tenths Trust? Is it Te Runanganui o Taranaki Whaanui Trust? Or is it Ngati Tama ki te Upoko o te Ika? On the basis of the above-mentioned criteria, could the answer be all three? In a radically changing Maori society and political environment where loyalties alter frequently, it is not uncommon for people to ‘hedge their bets’ or for those who feel disenfranchised with one group to seek membership and association with another.

Ngati Tama ki te Upoko o te Ika was a vocal critic of the lack of a focus and ‘voice’ for Ngati Tama in Wellington. The group had identified a niche and had

²⁰ Waitangi Tribunal. The Pakakohi and Tangahoe Settlement Claims Report, 2000, pp56-57

²¹ Clifford, 1998, p319

exploited the opportunity presented by a Waitangi Tribunal hearing to raise its profile. In so doing, it received a number of expressions of interest in membership from those of Ngati Tama descent seeking to reassert their linkages and know more about their tribal origins. This reflected a revival in being indigenous and of tribal dynamism in recent times. Similarly, the Mashpee had:

Taken advantage of the latest wave of pan-Indian revivalism and the prospect of financial gain to constitute themselves as a Mashpee tribe.²²

The society was keen to forge relationships with key government agencies and secure contracts for services to meet the social and economic needs of its members. Similarly, the US Government's preliminary pronouncement to recognise the Mashpee tribe made the Mashpee eligible for federal assistance with education, housing and healthcare.

This decision will ensure that our unique history, culture, and language will not die, and that the men and women who make up this tribe will have the economic tools necessary to remain in our ancestral home.²³

Like Ngati Tama in Te Whanganui-a-Tara from the 1820s, the Mashpee from 1870 and the 1920s was subject to state assimilationist policies. The Mashpee was forced to abandon its tribal organisation and face the future as regular Massachusetts and United States citizens. Ngati Tama had been forced off its lands by militia-backed encroaching settlers and manoeuvred back to Taranaki, the Chatham Island's or assimilated into neighbouring iwi

²² Clifford, 1998, pp300-301

²³ Marshall, Glen. Cultural Survival Quarterly Vol 30, 2, Massachusetts, USA, 2006

such as Ngati Toa and Te Atiawa whose identity replaced their own. For both Ngati Tama and Mashpee Indian, this turning point marked the end of their distinctive institutional indigenous status stemming from their past.

The Supreme Court of Canada's majority decision involving the Gitksan and Wetsuweten tribes of British Columbia was significant for its ruling on the use of oral traditions for claims to aboriginal rights and title, and was a highly significant mark for recognition of indigenous peoples' rights. The chiefs of the Gitksan and Wetsuweten nations described how the evidence of their oral histories showed the interconnectedness of the people between their land and their laws. Chief Delgamuukw stated in his opening testimony:

My power is carried in my House's histories, songs, dances and crests. It is recreated at the Feast when the histories are told, the songs and dances are performed, and the crests are displayed. With the wealth that comes from respectful use of the territory, the House feeds the name of the Chief in the Feast Hall. In this way, the law, the Chief, the territory, and the Feast become one.²⁴

The introduction of a significant body of oral tradition into the court record was a challenge to the Canadian judiciary unlike in New Zealand where, since 1862, the Native Land Court and its successors (the Maori Land Court, and more recently the Waitangi Tribunal) have had long associations with admitting Maori oral traditions as evidence. Court presentation of oral evidence was a way of dealing with indigenous societies on their own terms, as it was given in their own words, under the direction of the people themselves, and not constructed by 'outsiders'. Australia's aboriginal society,

²⁴ Sterritt, 2003, p2

like those of New Zealand, Canada and the United States has a proud history of oral tradition. Australian Aborigines kept records through song, dance and stories rather than in writing. Their ceremonies were secret, restricted under severe penalties to certain people with individual Aboriginal groups frequently having overlapping claims. The emphasis that the Supreme Court of Canada placed on the need for flexible rules in relation to evidence given in native title claims offered advantages to Australian litigation if such a requirement was stressed there. It would allow the Australian judiciary to better ascertain the scope of traditional laws, customs and practices that define the nature of a native title interest. That approach would have ensured that Aboriginal people, for whom English was a second language, were given opportunity to provide the evidence necessary to articulate and establish their traditional customs.

Outside the courts of New Zealand there had developed a myriad of processes and approaches for recognising existing indigenous rights. Increasingly, indigenous peoples have been achieving their aspirations for self-determination through integration into resource management, social and economic development, and Treaty negotiations. Observing the benefits and pitfalls of the changes in indigenous societies has served to provide direction to other communities following similar paths. Bridging the gap between indigenous and non-indigenous perspectives has provided openings for mutual understanding and respect in a world that increasingly recognises indigenous rights.

Comparisons with Other Iwi

A comparative analysis is made with respect to the experiences of other iwi; for example, the struggles of Te Tai Poutini within Ngai Tahu as it sought to establish its own negotiating mandate. Te Tai Poutini Ngai Tahu people are defined as the section of Ngai Tahu who, by whakapapa, derived their status as tangata whenua from their ancestors who held the customary title and rights to the lands of Westland or Poutini (West Coast) at the time of the signing of the Treaty of Waitangi in 1840. Poutini Maori, in particular the Tuhuru hapu, claimed to be under threat of domination by Ngai Tahu, the large iwi group, and of having their existence under challenge.²⁵

In the Ngai Tahu Report 1991,²⁶ the Waitangi Tribunal put forward the need for some tribal authority for all Ngai Tahu people.²⁷ In 1993, Sandra Lee and Tuhuru Tainui lodged a claim for themselves and the rangatira Tuhuru and his descendants, endeavouring to establish that the passing of the Ngai Tahu Bill would cause a grievance. The claimants were concerned that their hapu might not have a voice under the proposed bill, or that their voice may be drowned out in the suggested post-settlement structures.²⁸ The real matter of concern though was effective representation.²⁹

²⁵ Waitangi Tribunal. The Fisheries Settlement Report, 1992

²⁶ Waitangi Tribunal, Ngai Tahu Report, 1991

²⁷ Waitangi Tribunal. Report of the Waitangi Tribunal on the Tuhuru Claim, 1993, p2

²⁸ Idem

²⁹ Waitangi Tribunal, 1993, p1

The Crown asserted that it had taken steps to obtain the approval of Tuhuru descendants in respect of the Tuhuru purchase, which was undertaken in 1858. Nonetheless, it was the unanimous decision of the Tribunal that there were other remedies available to the claimants, which should have been canvassed before the Tribunal conducted an inquiry. Those remedies included: making a submission to the Select Committee dealing with the Ngai Tahu Bill upon its introduction to Parliament; seeking leave of the Maori Land Court to determine matters of representation; prevailing upon the House of Representatives to refer the bill to the Waitangi Tribunal for consideration; and finally that the claimants file a grievance claim with the Tribunal if a grievance did eventuate through the application of the legislation.³⁰ It was the fervent hope of the Tribunal for the parties to have had their differences resolved by way of traditional tribal process rather than the cold and impersonal forum provided by the law.³¹

The practice of only recognising Ngai Tahu as having rights to resources and land in the South Island was to become the hallmark of all negotiations with the Crown. Ballara stated:

In the South Island, the Government, as far as it was prepared to deal at all with the Ngaitahu claim between 1910 and 1938, wanted one body of negotiators to deal with rather than several. This programme was adhered to in spite of protest...The people of Puketeraki settlement were not happy to allow those of Kaiapoi to make decisions on their behalf. Ngatimamoe, Poutini, Ngaitahu and some other northern descent groups struggled to make their presence felt.³²

³⁰ Ibid, p3

³¹ Ibid, p4

³² Ballara, 1998, p315

An understanding of the Crown's role in the formation of iwi groupings such as Ngai Tahu is important when considering the contemporary situation in Wellington. The subjugation of many separate tribes had occurred because of the Crown's insistence for more manageable groups with which to negotiate. By forcing alliances or 'umbrella' groupings those structures became the accepted norm, and many did not wish to accept that a different situation had existed prior. It is through examination of the Ngati Tama iwi authority that contradictions to those structures surfaced and provided validation of useful alternative organisational structures.

Rongomai Wahine within Ngati Kahungunu, and Ngati Hine within Te Tai Tokerau, also struggled as they sought to establish their own negotiating mandate. Rongomai Wahine of Mahia and the Northland-based Ngati Hine had launched a bid to be recognised as independent iwi under the Maori Fisheries Bill, a move opposed by the Hawkes Bay-based Ngati Kahungunu runanga and Northland's Te Runanga o Ngapuhi respectively, including Te Ohu Kai Moana.

Te Runanga o Ngati Hine deputy chairperson Erima Henare stated: "Ngati Hine is sad that Ngapuhi and Te Ohu Kai Moana have to resort to bullying, insidious and underhand tactics in an attempt to derail the parliamentary process". Ngati Hine had spent eight years trying to get its status as an iwi recognised.³³

³³ NZ Herald. 4 August 2004

Give us credit that the case that we put up was sufficiently persuasive enough to lead the committee to seriously consider our inclusion in the bill as an iwi. Ngati Hine had no problems with the Ngapuhi nation and was a proud member of its collective strength. But it reserves the right to develop itself in accordance with the wishes of its people.³⁴

Parliament's Fisheries and Other Sea-related Legislation Select Committee in its examination of the Maori Fisheries Bill in 2003 found that Rongomai Wahine had a separate ancestral genealogy, the existence of which was accepted by all other adjacent iwi - including Ngati Kahungunu, which had previously claimed Rongomai Wahine to be one of its hapu. Rongomai Wahine also had hapu that considered themselves to be hapu of Rongomai Wahine rather than another iwi; had traditional takiwa that was recognised by other iwi; and had recognition by all but one adjacent iwi (Ngati Kahungunu) as a traditional iwi. The Committee considered that the lack of recognition by adjacent iwi amounted to an unreasonable veto in the face of the other evidence and that Rongomai Wahine met the commission's iwi criteria.³⁵

In its consideration of Ngati Hine, the Committee revealed that although Ngati Hine had referred to itself at times to be a hapu of Ngapuhi, in this particular case the evidence showed a separate ancestral line. There were hapu that considered themselves to be Ngati Hine, and Ngati Hine was recognised by adjacent iwi except Te Runanga o Ngapuhi as an iwi. The evidence before the Committee demonstrated that both groups should be recognised as an iwi for the purposes of the Maori Fisheries Bill.³⁶

³⁴ Idem

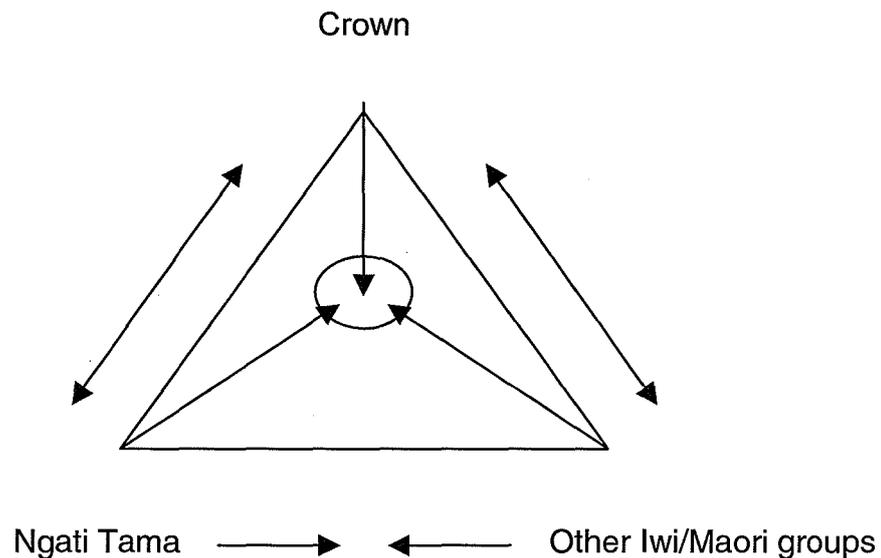
³⁵ Fisheries and Other Sea-related Legislation Committee. Maori Fisheries Bill, 2004, pp14-15

³⁶ Ibid, pp15-17

RELATIONSHIPS

This thesis is largely about internal relationships within a modern urban iwi; and the external relationships between that iwi and other iwi and Maori entities; between those iwi and Maori groups and the Crown; and between the iwi and the Crown. The focus is on reconciling competing interests and analysing the interactions and exchanges between the various parties, particularly where the interests of all parties intersect in the centre – the place of interaction and debate (see figure 7.1).

Figure 7.1 Stakeholder Inter-relationships and interactions



Ngati Tama ki te Upoko o te Ika developed formal support arrangements with other iwi, namely Ngati Tama in Taranaki and in the South Island. The society's relationship with opposing iwi (i.e. Te Atiawa) was mostly unpleasant. The iwi had some success in forming alliances with the Maori

entity, Nga Rauru Tetere, through a Memorandum of Understanding, and even entered into a commercial contract with a private non-Maori group; Wellington Independent Practices Association. The iwi's relationships with these other parties were generally of a short duration, and therefore were yet to stand the test of time.

Examples of Ngati Tama ki te Upoko o te Ika's interactions with the Crown included frequent liaisons with the Office of Treaty Settlements (OTS) through the claims process, and contractual linkages with several government agencies; e.g. the Department of Labour. Again, the relationships were characterised by little depth or breadth, and lacked continuity. Apart from several Ministers and a thin tier within the large bureaucracies, access to key decision makers was not easy. This was mainly due to a lack of being formally recognised as an iwi by some other iwi and not meeting iwi definition guidelines produced by government agencies like Te Ohu Kai Moana.

On the other hand, the Crown had solid, long-standing continuous relationships with Maori entities such as the Wellington Tenth Trust and the PNBC, and with the iwi of Te Atiawa and Ngati Toa, whether through the claims processes or through government department contracts. Those allegiances were not questioned and were widely accepted, unlike Ngati Tama ki te Upoko o te Ika's experience.

Even within the three main relationships (iwi, Crown, and other iwi and Maori groups) there were inter-connecting ties. For example, within the Ngati Tama

iwi there were constant interactions inside the Wellington claim processes of those of Ngati Tama descent affiliated with the Wellington Tenth Trust, and those allied to Ngati Tama Te Kaeaea Trust of Wanganui. With respect to the Crown's internal connections they included Cabinet, the Executive including government departments such as Te Puni Kokiri, Crown entities such as the Waitangi Tribunal, and local territorial authorities. Iwi and Maori groups had a history of interacting regularly especially in a regional setting on matters of mutual interest including cultural, socio-economic and political pursuits.

As discussed throughout this thesis, governments articulate their relationship with Maori through partnership arrangements, where Maori are deliberately positioned and consulted with as one constituency or 'stakeholder' group among many. This, in turn, keeps the sovereignty of government firmly in place with 'Maori Incorporated' within its terms of engagement.³⁷

The government, through the Waitangi Tribunal, encourages large natural groupings of tribal interests to settle its claim/s. This does not help a modern iwi authority that seeks recognition of its tino rangatiratanga status and its right to represent its own interests first and foremost directly with the Crown. There is little incentive for the Crown to deal with singular iwi in this situation.

While Ngati Tama ki te Upoko o te Ika may have altered the dynamics in Wellington's tangata whenua community it did not act to directly challenge the Crown and its agencies. The society did not have access to broader levers of

³⁷ Kelsey, 2002, p79-82; Potter, 2003 p241

government. Many of the society's proposed goals and activities required action by various parts of government. Working collaboratively with government would be a priority for any new iwi authority.

The case studies (outlined in Chapters Four and Five) show that the Crown relationship was marked by indecision and broken promises. For example, the Crown accepted the PNBC's Deed of Mandate subject to certain conditions being met. When those conditions were not met by PNBC, the Crown caved in, despite being advised by their officials that the Crown would not be in a strong position to defend itself in the event of Ngati Tama ki te Upoko o te Ika becoming litigious.³⁸

In another instance, Ngati Tama ki te Upoko o te Ika was forced to repeat mandating processes when requested to do so by the Crown; processes that were later rendered meaningless and a wasteful of time and resources.³⁹ A later instance⁴⁰ showed how the Crown advised the society that it could settle its claim directly, only to change its mind later and request more discussions take place, which took over a year to complete. Those experiences seemed to indicate that the Crown had been less than sympathetic to the Society, and probably had its own interests in mind. The Crown's relationship with Ngati Tama ki te Upoko o te Ika was a developing relationship in which trust and respect was progressing slowly.

³⁸ Letter from Hon Margaret Wilson, Minister in charge of Treaty of Waitangi Negotiations to Dr Ngatata Love of PNBC dated 8 March, 2004

³⁹ Letter from Karewa Arthur of Ngati Tama ki te Upoko o te Ika to Hon Margaret Wilson, Minister in charge of Treaty of Waitangi Negotiations dated 10 July, 2004

⁴⁰ Letter from OTS to Ngati Tama ki te Upoko o te Ika dated 1 November 2004

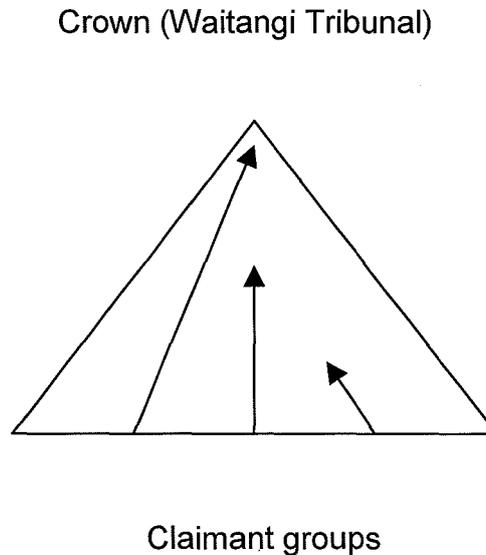
In the society's experience, difficult political relationships have been roadblocks in securing medium-long term relationships including commercial contracts from government agencies. Some small contracts were obtained, but not at the level required to ensure the iwi authority's independence. The onus fell on the society to prove to Government agencies and other iwi authorities that it had the capability and capacity to provide quality services. In this way, the roadblocks were not as insurmountable as originally thought.

The Crown's recognition of Ngati Tama ki te Upoko o te Ika with respect to the Treaty claim went a long way to ensuring that, despite the impasse with Te Atiawa, the society's position as an iwi authority was strengthened. The iwi needed the Crown mandate as much as the Crown realised it must recognise the society's mandate. In recognising the interests of the iwi authority the Crown was indifferent about how that representation was to be accorded, hence the problems the society faced in meeting government agency guidelines as an iwi. While relationships were characterised by mutual respect and pragmatism, the focus was on the potential for useful alliances, co-operative ventures and sharing of resources.

CASE STUDY RELATIONSHIPS WITH THE CROWN

Each of the three case studies (developing a claim, securing a mandate, and mana whenua), in their own way demonstrated important relationships between the groups in those studies, and the Crown including other parties.

Figure 7.2 Case Study I – Developing a Claim



This first case study (Figure 7.2) illustrated how all the claimant groups concentrated their efforts on the Crown, represented by its agent the Waitangi Tribunal, in developing their specific claims and for recognition as tangata whenua. Claims to the Waitangi Tribunal were, by nature, complaints that the Crown had breached the Treaty by particular actions, inactions, laws, or policies and that Maori had suffered prejudice as a result.

As the focus of the claimants was the Crown there was, as a result, little need for interaction between claimant groups who often had competing interests in the land but were allied themselves to prove Crown wrongdoings. The Crown-centred nature of the process meant that it was a dominant Crown that set the rules and the framework, refereed the process, wrote the Tribunal report, and then decided who had a mandate. To illustrate, once a claim is submitted to

the Waitangi Tribunal it is checked to see if it meets requirements set down in the Treaty of Waitangi Act 1975. There is also a Waitangi Tribunal booklet for claimants, *The Claims Process of the Waitangi Tribunal*, which outlines the framework by which the Crown handles claim processes. Each claimant group has their own process for preparing a claim for hearing in the Waitangi Tribunal. Each also have their own lawyers, historians, research teams and constituency.

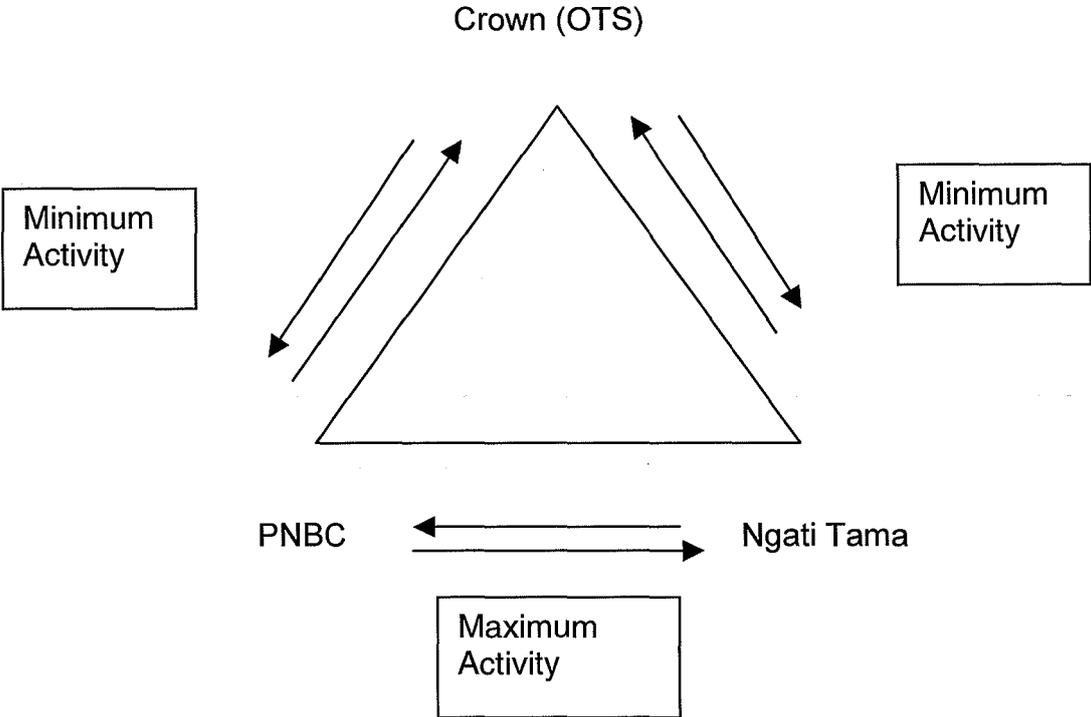
As illustrated in Figure 7.2 by the different lengths of the arrows, some claimant groups have clear advantages in their relationship with the Crown over other groups. In this case study, the Wellington Tenth Trust had a long and proven history of close involvement with the Crown particularly in the management of Maori reserves, and therefore enjoyed the status of principal claimant compared to the other claimants.

The Tenth Trust, therefore, was able to exert a leadership role in bringing together smaller groups under the PNBC umbrella group. Furthermore, key individuals were able to exert considerable influence in the development of a claim strategy. Dr Ngatata Love and Kara Puketapu, former senior public servants, had an expert knowledge of parliamentary processes and government machinery, including valuable networks within the public service.

Each claimant group focused on meeting Crown expectations to have their claim prepared, researched and heard in the Waitangi Tribunal. Often hearings were contentious with geographical boundaries contested and

historical facts disputed. Nonetheless, each claimant group was able to 'tell their story' to the Tribunal as they saw it. This was in stark contrast to what was to happen post-hearing whereby the claimant groups, having had their 'day in court', had to eventually work together and face the onerous task of seeking a combined mandate from their respective constituents. The Crown as a target for allied claimant groups each targeting the Crown seeking recompense for past wrongs was replaced by a new target - each other.

Figure 7.3 Case Study II – Securing a Mandate



The second case study as illustrated in Figure 7.3 was marked by heightened activity amongst and between claimant groups. Having set the claim rules, heard the grievances in the Tribunal, and published the Tribunal report; the Crown took on a monitoring (or observer) role as the focus of attention turned

to the claimant groups competing against each other for mandating and representation rights. That situation was broadened and amplified as each claimant group sought active engagement with the wider claimant constituency through disseminating newsletters and holding information and mandating hui for the purpose of securing mandate.

This second case study also shows how two opposing factions emerged with contrary views over the issue of representation. The main protagonists were Ngati Tama ki te Upoko o te Ika Society Incorporated and the PNBC. The society constantly challenged the PNBC over rights to represent its nearly 900 members on the PNBC mandate team. The society voiced its concerns that PNBC could not possibly represent its members, and that it had the mandate of those 900 people to represent its interests on the mandate team as well as in negotiations with the Crown to settle the Ngati Tama claim.

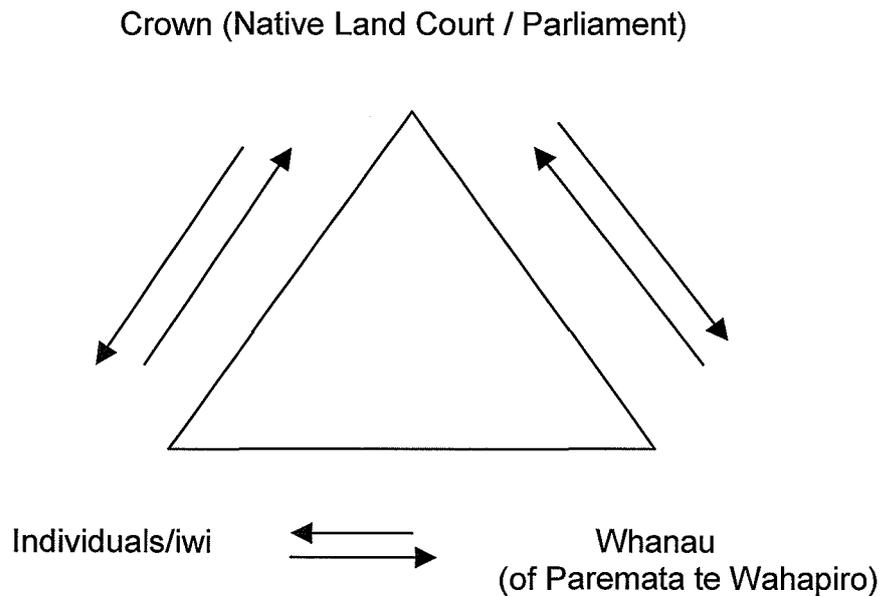
The PNBC, in turn, argued that it too had many people of Ngati Tama descent on its register and that it could justifiably represent Ngati Tama interests; a fact that had been confirmed at numerous mandating hui around the country, including Australia. In this way, the smaller groups had a double grievance; the main one with the Crown and a secondary one pertaining to their concerns about representation and mandating. The latter situation was exacerbated as the smaller groups were not as well resourced, led or funded as the better-equipped PNBC team.

While the main issue related to claimants competing for seats on the mandate team, and therefore increased interaction at claimant level, there were times the Crown was forced to intervene. For example, OTS provided a mediation process for Ngati Tama and PNBC to work through their differences over Ngati Tama representation. On other occasions both parties complained to OTS about each other, which again led to Crown intervention by way of written advice and face-to-face meetings. The regular confrontation between the two opposing factions overshadowed the successful way in which the PNBC was able to build its base of claimant groups.

The interaction between claimant groups, which marked this case study, was not always adversarial. The PNBC was able to achieve consensus with the majority of claimants and that collaborative effort continued for some time. Ngati Tama's relationship with the PNBC was a notable exception. In the end, it was of comfort that the Crown sprung no surprises in recognising Ngati Tama as tangata whenua in Te Whanganui-a-Tara.

The third case study (Figure 7.4) illustrates a lengthier process than the previous two case studies and was marked initially by a well-constructed process of acquiring ownership of land that involved key individuals (Wi Katene Te Puoho, Hemi and Huria Matenga and Alexander MacKay) and the Native Land Court; followed by frequent interactions between the whanau of Paremata te Wahapiro and Parliament in attempts to overturn court decisions.

Figure 7.4 Case Study III – Mana Whenua



Part One, which detailed Hemi and Huria Matenga gaining sole ownership of the land, signalled a well-orchestrated arrangement between the Matenga whanau, their intermediary MacKay, the judge and the Native Land Court. The relationships of all parties were based on mutual respect and trust, and marked by frequent contact not always related to Wakapuaka. However, once the court decision was made in favour of the Matenga's, there was no desire on the part of the Crown to review let alone rescind the decision. In common with the second case study, this case demonstrates the difficulty aggrieved groups had convincing the Crown to accept its mandate for action, to recognise its grievance, and to make the necessary changes.

Part Two reflects a later time period, and features two different relationships. Firstly there were the genealogical ties between the whanau of Paremata te

Wahapiro on the one hand, and the Matenga whanau and the Ngati Tama iwi on the other. They lived in close contact with each other at Wakapuaka, yet Huria Matenga omitting to add her cousins' names to the land title meant that it became a strained situation. Secondly, there was the relationship the whanau of Paremata te Wahapiro had with the Crown, which was in marked contrast to the warm relationship the Matenga whanau and their ally MacKay had with it. For thirty years the whanau of Paremata te Wahapiro experienced stern resistance by a Crown unwilling to properly investigate the grievance, was unhelpful, and did not question previous court and select committee decisions.

Alexander MacKay played a similar role for Hemi and Huria Matenga to that which Sir Paul Reeves, Dr Ngatata Love and Kara Puketapu played for the PNBC. All had excellent political and public sector connections, and all were effective intermediaries for their clients/constituents. For thirty years, MacKay's affidavit in support of Hemi and Huria Matenga proved to be the difference with successive court hearings and parliamentary select committee meetings believing MacKay's version of events in spite of the petitioners' protestations.

The whanau of Paremata te Wahapiro persisted in its attempts to regain ownership of its land. This persistence, passion and commitment to the cause are common to the aggrieved parties in all three case studies. The whanau, unable to resort to traditional Maori customary practices to resolve its grievance, was forced to utilise the Native Land Court in much the same way

that the Waitangi Tribunal and the Office of Treaty Settlements had to be used by claimants in the two previous case studies. Parliamentary petitions and court hearings were the instruments that the whanau used to highlight its grievance.

Claimants in the first and second case studies sought remedial action through similar government and parliamentary structures, although the support base of constituents provided them with the necessary mandate to prove their respective cases. In the third case study, support for the whanau of Paremata te Wahapiro was divided. Even the iwi of Ngati Tama, other iwi (Ngati Koata) and certain individuals disputed the whanau's ownership rights to Wakapuaka.

In the final analysis, the Crown was left to make a decision for the whanau of Paremata te Wahapiro. Where disputes arose, with the only remedy being to petition, people's experience had been that the process was laboriously slow, and heart-breaking. All three case studies showed that the decisions made by the Crown merely served to pose further questions. Not everyone was entirely satisfied and often Crown decisions brought about no closure of grievances.

A summary of the major themes of all three case studies is outlined in Table 7.1 as follows:

Table 7.1 Summary of Case Study Themes

Case Study Themes	Case Study 1: Developing a Claim	Case Study 2: Securing a Mandate	Case Study 3: Mana Whenua
Setting	Waitangi Tribunal claims hearing	Claim negotiation and settlement process	Retention of whanau land
Grievance	Past Crown wrongdoings	Non-recognition of mandate	Non-recognition of land ownership
Aggrieved Party	Ngati Tama	Ngati Tama ki te Upoko o te Ika Society Inc.	Whanau of Paremata te Wahapiro
Representing the Crown	Waitangi Tribunal	Office of Treaty Settlements	Native Land Court and Parliament
Favoured by the Crown	Wellington Tenth Trust	PNBC	Hemi and Huria Matenga
Influential individuals	Sir Paul Reeves Dr Ngatata Love Kara Puketapu	Sir Paul Reeves Dr Ngatata Love Kara Puketapu	Judge Alexander Mackay
Outcome	Ngati Tama recognised as tangata whenua ki Te Whanganui a Tara	Mandate of Ngati Tama ki te Upoko o te Ika Society Inc recognised by the Crown	Land ownership vested in the whanau of Paremata te Wahapiro

BY IWI, FOR IWI

- 1 In resisting attempts to assimilate into a broader coalition of iwi, why would an iwi authority prefer to maintain and develop its own distinctive iwi identity?**

Although only a small iwi, the members of Ngati Tama ki te Upoko o te Ika knew that they wanted to act independently of a larger collective of Taranaki whaanui interests:

I joined Ngati Tama because it helped me and my whanau learn about our tupuna. A separate Ngati Tama outfit is the only way to go. Isn't that what tino rangatiratanga is all about?⁴¹

The iwi authority modelled itself after the other two Ngati Tama entities; the iwi in Taranaki, and the iwi in the South Island. It wanted the same for Wellington as those iwi enjoy in Taranaki and the South Island, having their own distinctive identity, and both iwi are being recognised by the Crown and other iwi throughout their rohe. In turn, both recognised Ngati Tama ki te Upoko o te Ika as an iwi, and one that represented Ngati Tama's interests in Wellington. The iwi moved forward with confidence with this mandate.

This confidence was further reinforced by the nearly 900 iwi members registered with Ngati Tama ki te Upoko o te Ika. They came principally from those Ngati Tama whanau who were not beneficiaries of the Wellington Tenths Trust, and many were of Ngati Toa descent as distinct from Te Atiawa. People identified with the society for several key reasons: it was new, it was an iwi, it had a sole focus on Ngati Tama, and the new iwi members were passionate about wanting to learn more about their heritage, kawa and whakapapa.

⁴¹ Participant 9

I'm becoming proud of my Ngati Tama heritage. This is what got me interested in jumping on board this waka. I wanted to know more about my roots. I've lived in Wellington all my life but over the years have neglected my Ngati Tama side.⁴²

Established in 2002, Ngati Tama ki te Upoko o te Ika represents Ngati Tama's iwi interests in Wellington. The Wellington Tenths Trust (and other pan-Taranaki umbrella groups) had purported to represent Ngati Tama for more than a century prior to that time. In recent times the iwi authority had become disaffected with the Trust because it paid little or no attention to promoting the socio-cultural aspects of Ngati Tama. In Wellington little was known about Ngati Tama being tangata whenua. Te Atiawa was by far the more populous and well-known tangata whenua group, and Wellington marae for Taranaki whaanui (Te Tatau o te Po) are widely regarded as Te Atiawa strongholds.

Iwi members appeared to view umbrella groups such as the Wellington Tenths Trust as not being able to best serve or represent the smaller constituent groups that make up the collective arrangement. Other groups such as the Wanganui-based Ngati Tama Te Kaeaea Trust, Te Atiawa Iwi Authority in the Hutt Valley, and some factions within Ngati Ruanui in Taranaki held similar views. Ngati Tama ki te Upoko o te Ika's claims and its iwi aspirations were considered to be best left to iwi members themselves to represent.

Dissatisfaction with the leadership and direction of the Wellington Tenths Trust was a consideration for establishing an iwi authority but was not the

⁴² Participant 4

prime motive. The iwi members considered there to be a gap and plugged it with the new iwi authority - a focus for all things Ngati Tama. There was no shortage of confidence within the iwi but there was a relative dearth of expertise:

Within their ranks the Tenths/PNBC can call on a former Governor General, a Professor, people with PhDs, honorary doctors, lawyers and many senior public servants, all of them well-known to the Government and Ministers on both sides of the House.⁴³

It was in this context that iwi members considered it important to keep their minds focused on the outcome they wanted for the iwi – i.e. an autonomous Ngati Tama iwi authority in Wellington, notwithstanding the odds. To achieve that meant asserting an iwi voice, and not being afraid of doing so. With a growing knowledge of their history and whakapapa came an increased confidence to speak out:

The more I read about who I am, the more I know, and the stronger my voice and the more I feel responsible to speak my mind on thins.⁴⁴

The prime reason why Ngati Tama ki te Upoko o te Ika preferred to maintain and develop its own distinctive iwi identity has a parallel in the example of the Auckland iwi, Ngati Whatua. Some 112 years after 1840 that iwi was reduced to a landless few people living off the state. By 1951 it was without a marae on which to fulfil its customary obligations and was left with a quarter acre cemetery, being the last piece of land it could tribally claim as its own. In 1991, by an Act of Parliament, Bastion Point was transferred back to Ngati

⁴³ Participant 5

⁴⁴ Participant 1

Whatua. The iwi in turn gave the land back to the people of Auckland. It was the most expensive piece of land with the best views in Auckland. Ngati Whatua agreed to manage the land jointly with the Auckland City Council for the benefit of all the people of Tamaki Makaurau. For over 150 years the people of Ngati Whatua fought to get some form of justice, yet in their moment of triumph, with such generosity, they gave this prized possession back to those who had dispossessed them years earlier. For Ngati Whatua people, their prime motivation was the recovery of their mana and rangatiratanga.⁴⁵

Similarly, for Ngati Tama ki te Upoko o te Ika, the key objective was the retention of the mana and tino rangatiratanga of the Ngati Tama authority in Wellington. The assertion of an iwi voice through re-establishing a distinctive iwi presence was the clear objective.

2 What constitutes being an iwi authority? (i.e. what are the key components of being an iwi authority; and to what extent is an iwi an organic product of conventional Maori society?)

Does simply claiming that you are something necessarily make you that entity and, if a group of individuals cannot prove long-standing continuity of existence are they able to claim a tribal status?⁴⁶

As discussed in Chapter Three, Te Ohu Kai Moana considers essential characteristics of iwi to be: shared descent from tupuna; having hapu; holding a marae; belonging historically to a takiwa; and traditionally acknowledged by

⁴⁵ Sneddon P. 18 March 2005, p2

⁴⁶ Waymouth, 1998, p225

other iwi. Te Ohu Kai Moana adjudged that Ngati Tama ki te Upoko o te Ika did not meet those criteria. According to Te Ohu Kai Moana, the society's bid for iwi status faltered on not having a marae, and not being acknowledged by Te Atiawa and the Wellington Tenths Trust. Those criteria are largely recognised as being the main components that constitute an iwi, and in particular shared descent from a remote ancestor:

Iwi is whakapapa-based, is about awareness and identity, is a function of whakapapa, and the way people want to be perceived by those outside the iwi.⁴⁷

Whakapapa is the sole determinant of right of membership to a particular group, which is determined by the iwi groups themselves, not by the Crown. O'Regan states that, "only the tribe can ever be responsible for identifying and accepting its tribal members".⁴⁸ It is not for an outside group or body to define who can be a member. It is the collective force of whakapapa that determines membership within a particular tribe. It is this common ground that links an individual conclusively to the tribe of which he or she identifies.⁴⁹

Iwi must be afforded the opportunity to define themselves and nominate their own spokespeople. Government should not become involved in determining the status, membership or legitimacy of iwi. Equally, the question of how mandate is given is not important as long as it is clear that the nominated person is mandated to speak for their iwi.

⁴⁷ Participant 5

⁴⁸ O'Regan, 1989, p260

⁴⁹ Waymouth, 1998, p220

One participant considered iwi an extended whanau collective, incorporating in-laws especially. As an extension of the whanau, the iwi is a compilation of whanau groupings as well as a representation of hapu collectives that demonstrate allegiance to each other through identifying as iwi at the political level.⁵⁰

The main aims of iwi continue to be focused on political authority and economic self-sufficiency. Issues of wider community impact such as resource management; marae activities; wananga (schools of learning); service delivery; iwi politics; local, regional and national matters; and the settlement of Treaty of Waitangi claims; all come within the province of iwi interests.

In contemporary times, iwi organisational structures tend to accommodate the needs of the western world. It is a channel through which the Crown distributes resources and programmes to meet the social, cultural and political needs of Maori. Therefore, Crown recognition of an iwi has a major bearing on that iwi's acceptance in the wider community, such as by other iwi and Maori groups, regional and local government agencies, and non-governmental organisations. The influence of the Crown has been considerable in Ngati Tama ki te Upoko o te Ika's quest for recognition as an iwi. The Crown's acceptance of the society to negotiate and settle its claim separately from the PNBC is a significant gesture that gives further legitimacy to the claim of being an iwi authority. Ngati Tama ki te Upoko o te Ika constitutes being an iwi authority because:

⁵⁰ Participant 4

It gives its members a voice to promote their interests to the Crown, and because 900 people say it is...so do Ngati Toa, and Ngati Tama down south, and Ngati Tama up the mountain.⁵¹

3 Is an iwi authority the relevant body to best represent iwi interests today?

A blunt response from one participant was typical of the passion and boldness of some iwi members. “Well if it isn’t the best, then we have to make it the best.”⁵² Another participant, along similar lines, remarked, “If there is a need and sufficient interest in setting up the group, with support from others, then we need not be afraid.”⁵³

At Ngati Tama hui-a-iwi, iwi members are unanimous in affirming that Ngati Tama ki te Upoko o te Ika be an iwi authority. The reasons given included that there is no other iwi authority that represents Ngati Tama’s interests in Wellington, and the group that purports to represent Ngati Tama’s interests is not an iwi at all. In terms of what Ngati Tama ki te Upoko o te Ika should actually represent, one participant comments that, “It has to fairly represent all the main families, and their ‘big picture’ combined interests.”⁵⁴ Another participant explains, “I don’t expect the iwi to pry into my personal affairs. That is my business. But it is welcome to act on my behalf, and others to raise

⁵¹ Participant 8

⁵² Participant 9

⁵³ Participant 10

⁵⁴ Participant 1

money and to lead us and to get us all together to do things like building a marae in our community for all of us to benefit from".⁵⁵

The manner in which the person representing Ngati Tama acts is considered important, too. Ngati Tama ki te Upoko o te Ika's strength relies upon the professionalism and integrity of its iwi members and representatives. This means that everyone knows what is expected of them and that each member has a contribution to make and can reasonably expect collective and personal benefits. If in the short to medium term Ngati Tama ki te Upoko o te Ika is considered the relevant body to best represent iwi interests, then what about its future prospects?

The relevance of Ngati Tama ki te Upoko o te Ika as the most appropriate body to represent Ngati Tama's interests is at the heart of the tension between the iwi and the Wellington Tenths Trust. The latter is in a strong position with very influential players and a track record of delivering to its beneficiaries and shareholders handsome dividends, and wise property investments. Its focus is commercially oriented in order to maximise returns to its shareholders. It need not concern itself with any social or cultural agenda. It is also apparent that many people are not interested in having to deal with cultural pressures such as the observance of marae protocols. In this way, the Trust appeals to a broad group of Ngati Tama people. The Tenths Trust and the society are effectively competing for the same constituency.

⁵⁵ Participant 10

Relevance for Ngati Tama ki te Upoko o te Ika in the future is the key. Its leadership needs to consider how best to meet the needs of constituents. It may necessitate consideration of a three-way 'socio-cultural-economic dream':

Firstly, provide members of the iwi with employment and educational opportunities (social), secondly, develop a quality marae facility of which the iwi can be proud (cultural), and thirdly, secure an optimal economic return for the iwi with the putea from the claim (economic).⁵⁶

Nonetheless, the leadership of the iwi authority needs to ensure that the social and cultural agendas do not negatively affect the iwi's commercial activities. Lessons well learnt from other iwi groups (e.g. Ngai Tahu and Tainui) suggest that there seems to be an inherent contradiction within Maori economic models where priority is placed on people-centred development over market-led economic growth.⁵⁷

It is the role of Ngati Tama ki te Upoko o te Ika's leadership to clearly articulate points of differentiation - that is, what the iwi can do better than any other group. The retention of mana and tino rangatiratanga of Ngati Tama is just one example. It is also about having a vision and working towards realising it.

To make our mark on the Wellington scene, to earn the respect of others, to have our very own marae, to practice our own culture, and feel important enough to influence the powerbrokers.⁵⁸

⁵⁶ Participant 10

⁵⁷ Kelsey. 1995, p366

⁵⁸ Idem

Ngati Tama ki te Upoko o te Ika has been a strong advocate for Ngati Tama's interests in Wellington. The other two Ngati Tama groups (Ngati Tama in Taranaki and Ngati Tama in the South Island) have had little impact on tangata whenua relations in Wellington. Members of Ngati Tama ki te Upoko o te Ika had high expectations for it from the outset.

This was evident in the reaction of Te Atiawa (including the Wellington Tenths Trust and Atiawa ki Whakarongotai) particularly when the society was established. The society proved itself effective in representing a defined understanding of being Ngati Tama and promoting the Ngati Tama perspective to other iwi, Maori groups and to the government. However, it was not as effective in being recognised as an iwi authority.

When it was established, Ngati Tama ki te Upoko o te Ika's runanga (the iwi's governing body comprising eight elected trustees) did not have a significant degree of autonomy nor did the runanga aspire to it. The runanga considered itself to be accountable to the iwi members it served, and its focus was on carrying out their wishes. Whether Ngati Tama ki te Upoko o te Ika brought the wider Taranaki tangata whenua community into 'correct' balance in terms of cultural awareness or whether it was previously in balance is a value judgement, but clearly the advent of the society shifted the balance towards a broader awareness of being Ngati Tama.

Conflict was inevitable as the society attempted to address serious issues regarding Ngati Tama representation in Wellington. The Government's

agencies (e.g. OTS) constantly asked the society to engage with the PNBC, and vice versa, with the perception being that PNBC was not managing the process well. This situation was concerning as throughout the claim process PNBC adopted an intractable attitude towards Ngati Tama ki te Upoko o te Ika. In response, the society concentrated its activities on promoting Ngati Tama's interests and was able to articulate them in a compelling manner.

Maori have always resisted any hint of assimilation and have undertaken a long and continuous search for ways of enhancing their own culture and of organising their lives according to their own priorities. That attitude is certainly reflected in Ngati Tama ki te Upoko o te Ika, which has resisted attempts to be assimilated into a broad coalition of pan-Taranaki interests in preference to developing and maintaining its own distinctive iwi presence.

4 What decisions did the iwi authority make, and not make?

Iwi members make the decisions for the Ngati Tama iwi authority. The role of the runanga of Ngati Tama is to carry out decisions made by the iwi members. The decisions relate firstly to maintaining the iwi's tikanga, protocols, culture and values; and, at a practical level, its properties, etc. Such matters are integral to what Ngati Tama stands for.

There are also decisions made about the extent and nature of interactions with other iwi and Maori groups, other community organisations and the Crown. Those interactions are at a political level or connect to the business

relationships that have relevance to the iwi. For example, iwi members made decisions about the claim such as what to claim for and why, who represented the iwi, when to seek separate negotiations from the PNBC with the Crown, and the financial issues.

The society through its members made a significant decision in not challenging the Crown in the High Court when the PNBC rejected full membership rights on the claim mandate team for one of its members, even though the Crown admitted it would not be in a strong position to defend itself.⁵⁹ This decision was made after much debate, and after seeking legal advice. In the end the preference was for continuing the dialogue and proceeding forward with a facilitated reconciliation process. The iwi was pragmatic: the costs of taking the case to the High Court were to be prohibitive.⁶⁰

Similar decision making processes are followed with respect to the iwi's political and business interactions with others including Ngati Toa, Te Atiawa, the two other Ngati Tama groups, other iwi and Maori groups and a range of government agencies, including private partnerships. Iwi members make decisions pertaining to iwi membership through an advisory group of kaumatua and kuia. According to its Trust Deed, membership of the Ngati Tama ki te Upoko o te Ika Society is restricted to those with whakapapa connections to tupuna who lived in Whanganui-a-Tara from the 1820s. The

⁵⁹ Letter from Minister Wilson to PNBC's chairperson dated 8 March, 2004

⁶⁰ Ngati Tama ki te Upoko o te Ika runanga notes dated 7 April, 2004

names of the tupuna are listed on the society's website and each membership form is vetted to ensure the whakapapa is correct.

Ngati Tama ki te Upoko o te Ika did not decide to support government initiatives and policies across the board or unquestioned. Nor did it feel obliged to back the government unconditionally, especially if its policies prove incompatible with the iwi such as the foreshore and seabed legislation. In this sense, the society's independence and mana is of paramount importance. At times the society's agenda coincides with the government's agenda, but it is not dependent on government priorities. Decision-making for an iwi authority is about being open and transparent. In this way the Iwi has been able to be more competitive, effective and resourceful.

5 What rights or responsibilities did iwi members have to assert an iwi voice vis-à-vis the rights of other iwi/non-iwi groups? And how were those rights enforced?

The right of an iwi authority to assert its autonomy has to be viewed in a global perspective. The protection of indigenous people's rights has become increasingly prominent at the United Nations level as indigenous people seek an international platform to give effective voice to issues of concern to them. For example, the Working Group on Indigenous Populations (WGIP) was established in 1982 to review national developments affecting indigenous peoples, and to develop international standards concerning their rights. The draft United Nations Declaration on the Rights of Indigenous Peoples and the

International Decade of the World's Indigenous People are further examples of international initiatives promoting the indigenous voice. In 2002, a Permanent Forum on Indigenous Issues was established within the United Nations structure.

Most indigenous groups insist that they alone have the right to identify and acknowledge who is a member of their group. They are entitled to the same rights as others in the countries in which they live. It has nevertheless been accepted that they also have particular rights that require promotion and protection. For Maori, those indigenous rights are embodied in the Treaty of Waitangi.

Maori people have focused on the iwi base to seek economic and political alternatives for self-determination, tino rangatiratanga and promoting iwi empowerment.⁶¹ It has therefore been important to Ngati Tama ki te Upoko o te Ika that it was recognised as having legitimacy to assert an iwi voice, to exercise the iwi's mana and tino rangatiratanga, and to represent its tribal interests.

Legitimacy applies to Ngati Tama ki te Upoko o te Ika in the sense that there is a degree of popular acceptance of the society as a governing regime and the authoritative voice of Ngati Tama iwi. Legitimacy was originally gained by tribal approval. In this way, legitimacy is a basic condition for the iwi to govern.

⁶¹ Hopa, 1999, p105

Without at least a minimal amount of legitimacy, an iwi will be burdened by uncertainty and diffused leadership.

Ngati Tama ki te Upoko o te Ika claims a popular mandate to exercise power on the grounds that the iwi authority has regular hui with iwi members and conducts fair, contested elections. The society also gains legitimacy as a result of being accountable, having a written constitution, offering a high level of participation (e.g. at hui and on advisory committees), and maintaining a system of checks and balances. That legitimacy, however, is partially contingent upon there being no resistance or opposition from other legitimate and/or autonomous Maori authorities.

The case of Ngati Tu, a hapu of Ngaruahine from Taranaki, can be used to echo the experiences of the society as an example of a group asserting its rights (i.e. its hapu voice) vis-à-vis the rights of a non-iwi group, Parininihi ki Waitotara (PKW).⁶² PKW is a Maori incorporation based in Taranaki, and incorporated by virtue of an order in council dated 16 February, 1976 under the Maori Reserved Land Act 1955. It is the registered proprietor of lands throughout Taranaki that it owns and manages, known as the West Coast settlement reserves. The total area of reserves land held by PKW on behalf of its 8,200 shareholders is approximately 26,000 hectares. Those reserves include an area of just over thirty-nine hectares of land situated at Winks Rd in Manaia which was the subject of a dispute with Ngati Tu.⁶³

⁶² Participant 7

⁶³ Statement of Claim dated 4 August, 2003 in the High Court of New Zealand, New Plymouth Registry, between Proprietors of Parininihi ki Waitotara block (plaintiff), and Hori Tamakiterangi Manuirirangi and Tongawhiti Warwick Manuirirangi (defendants)

This area is the ancestral land of Ngati Tu. The land was never returned to Ngati Tu hapu control. Instead it came under the control of the Crown-appointed entity, PKW. In 1990, the land was leased by PKW to the Ngaruahine Tribal Trust (NTT), the iwi authority of which Ngati Tu is the biggest hapu. Shortly thereafter Ngati Tu made representations to PKW that the land was Ngati Tu land and it should resume rightful ownership. This was rejected outright by PKW. As a result, NTT did not pay its rentals for the property. In November of 1996, PKW terminated the lease, and eventually NTT was wound up by the High Court at New Plymouth on 15 April, 1999.

Various attempts by PKW to use the land commercially had been thwarted by Ngati Tu whose tactics included: provocative media statements, a week-long occupation of the Winks Road property on ANZAC Day 1999, and in December of 1999 the imposition of a rahui (sacred ban) on the land to protect Ngati Tu ancestral land ownership and to uphold the status quo in accordance with tikanga Maori until the issue was resolved. This resulted in legal proceedings by PKW against Ngati Tu individuals for actions including trespass and damage to property. One individual was heavily fined by the Court for the sum of \$200,000,⁶⁴ although only \$5,000 court costs were ever paid.⁶⁵

The rahui remained in force so the land was not being farmed, and PKW were reluctant to take further civil action for fear of a Ngati Tu backlash. Instead

⁶⁴ Taranaki Daily News. 1 November, 2003

⁶⁵ Participant 7

PKW, on advice from the government, adopted a more conciliatory stance including negotiating a joint venture arrangement with the hapu to operate the Winks Road property.⁶⁶

The Crown had acknowledged in the 1927 Royal Commission of Inquiry, and further confirmed in its 1996 Waitangi Tribunal Report, that the land had been unjustly confiscated.⁶⁷ The Ngati Tu example illustrates the power that an autonomous hapu has in asserting its rights, even against overwhelming odds. Significantly, the voice of the hapu (and its members) was affirmed. While PKW had the might of the law on its side, the hearts and minds of the people were on the side of the hapu because it was 'fighting' for a principle. The individuals within the hapu showed great courage and fortitude. They chose to do what was right, according to tikanga and customary practice.

6 To what extent did Ngati Tama ki te Upoko o te Ika promote iwi identity and development?

The importance of an iwi identity is widely recognised as a basis for claims against the Crown. Thus for iwi members the aspiration for tino rangatiratanga is to some extent propelled by and through claims of an iwi identity; an identity that emerges in and through a myriad of whakapapa relationships.

Ngati Tama ki te Upoko o te Ika faces the ongoing task of not only asserting its iwi status but in some cases having to rebut public statements questioning

⁶⁶ Idem

⁶⁷ Waitangi Tribunal. Taranaki Report: Kaupapa Tuatahi, 1996

such status. An example of this is the view espoused by some that Ngati Tama is only a hapu of Te Atiawa.⁶⁸ It does, however, provide society members with an opportunity to debate the issue, and correct inaccuracies.

The relationship between Ngati Tama, Ngati Mutunga and Te Atiawa had been confused by the application of the term 'Ngati Awa' and 'Ati Awa' to all those iwi. Percy Smith⁶⁹ referred to the great confederation, which made up the Ati-Awa tribe, and often referred to Ati Awa as including Ngati Tama, Ngati Mutunga and hapu of Te Atiawa. At times, he used the terms 'Ati Awa' and 'Te Atiawa' interchangeably, which caused confusion as to exactly whom he was discussing. Witnesses in the Native Land Court in 1882 were aware of the links between those iwi when using the term Ngati Awa. Te Rangikatutu was quoted as saying, "My hapu is Ngati Tama of Ngati Awa". Wi Tako also stated that: "Ngati Awa, Ngati Tama, Ngati Puketapu, and Pukerangiora are all sections of Ngati Awa".⁷⁰

Alan Ward largely resolved the matter. He considers that the use of 'Ngati Awa' and 'Te Atiawa' has complicated the identity of tribes and their interrelationships. He notes that the term 'Ngati Awa' appears most commonly in the records of the mid-nineteenth century, and generally refers to the tribes of the northern and mid Taranaki. It is often used inclusively of Ngati Tama and Ngati Mutunga.

⁶⁸ Evening Post, 7 December, 2002

⁶⁹ Smith P. 1910, p467

⁷⁰ Mokau Waitara MB 1, p16

The term 'Te Atiawa' started to appear in the records in the 1860s. Its core reference seems to have been in relation to the tribes on the north and south banks of the Waitara, southward to Nga Motu (New Plymouth) but exclusive of Ngati Tama and Ngati Mutunga. The inclusion of Ngati Tama as part of Ngati Awa should not be interpreted as placing Ngati Tama as a hapu of current day Te Atiawa. Rather, at the time of contact Ngati Tama was part of a broad tribal confederation linked through the Tokomaru called Ngati Awa.

It would be quite inappropriate to categorise Ngati Mutunga or Ngati Tama simply as hapu of either Te Atiawa or of Ngati Toa. In the documentary record they are, however, often included in the wider category of 'Ngati Awa'.⁷¹

The 'one' tribe notion brings about a direct confrontation with the 'guardians of tradition', as espoused by Smith. The rhetoric of persuasion focuses on the continuous conquest and subjugation by one group over another to ensure homogeneity in beliefs and social practices. "To these ends the communal culture must be redefined and reconstructed through a national and civic appropriation of ethnic history, which will mobilise members on the basis of a rediscovered identity".⁷²

The ancient chant⁷³ *Tokomaru* reinforces the point that four separate and distinct iwi descend from the Tokomaru waka:

Tokomaru

Tokomaru te waka
Tama Ariki te tangata o runga

Tokomaru is the waka
Tama Ariki is the captain

⁷¹ Ward A, Wai 145, M1, pp5-7 and pp33-34

⁷² Smith, 1989, 362

⁷³ Te Reo o Taranaki Poutama, August, 2005, p1

Rakeiora te tohunga
Tokowha nga Iwi e putaina
I te waka rongonui nei

Rakeiora is the Priest
Four Iwi descend
From the important waka

Ka tau te waka

Ka tau te waka ki te whangao Tokomaru Bay
Karapotia te Hiku o te Iku kau ki
the Mohakatini
Whakatu tona whare, Ko Maraerotohia
Hei whakapiritanga i tona iwi nei e

The waka landed at Tokomaru Bay
Then went around the northern tip of
North Island to Mohakatini
He built his house, named
Maraerotohia
As a meeting place for his people

Anei ra ana uri

Anei ra ana uri
Ngati Tama mai Mokau ki raro tae atu ki
to Titoki
Ko Ngati Mutunga
Mai Titoki ki Te Rau o te Huia
Mai Te Rau o te Huia ki Whakaahurangi
Ki Onukutaipari
Te rohe o Te Atiawa
Ko Ngati Maru ki uta
Te Hikuwai o Waitara e

These are their descendants
Ngati Tama from Mokau below over
Titoki
Ngati Mutunga
From Titoki to Te Rau o te Huia
From Te Rau o te Huia to
Whakaahurangi and Onukutaipari
Is the Te Atiawa area
Ngati Maru inland
The source of the Waitara river

Part of promoting an iwi identity is the exercise of those functions associated with being an iwi. The Ngati Tama ki te Upoko o te Ika example is used to show how an iwi advances its iwi presence, and the many and varied ways it undertakes those functions.

Hui-a-iwi provide useful fora for Ngati Tama ki te Upoko o te Ika to not only promote an iwi identity but to debate and decide a strategic direction, approve financial statements, share information, and allow members to socialise one with another. Other hui were held to update iwi members, particularly on claim related matters. Some hui-a-iwi were held for more specific purposes. For example, one hui took the form of workshops to survey the needs of Ngati Tama people, and another focused on genealogical research. This was

followed up by a number of whanau-based hui over the ensuing months. Information from those activities formed the basis of developing a three-year strategic plan, a blueprint for the iwi's future.⁷⁴ Annual General Meetings (AGM) are another way in which an iwi raises its profile and promotes its iwi identity. Wananga enable iwi members to be together for a longer period of time, so more issues can be discussed and in greater depth.

There were opportunities for whanau to meet kanohi-ki-te-kanohi to discuss matters relating to their whanau including Ngati Tama issues, and to encourage and strengthen whanau and individuals within Ngati Tama. A strong desire to reconnect with tribal roots provided the impetus to organise several hikoi (return journey) back to where Ngati Tama originated in Taranaki. These hikoi promoted the iwi identity, as there were many unanswered questions that could only be addressed back in Taranaki by koroua (elders) and on the marae.

Other ways in which Ngati Tama ki te Upoko o te Ika promoted its iwi identity included regular waiata classes, and informal occasions spent discussing Ngati Tama matters such as tours around Wellington to visit historic sites of cultural significance. Another effective method to promulgate Ngati Tama issues and raise awareness to the wider public was through the media. Ngati Tama ki te Upoko o te Ika's website provided another opportunity to interact with iwi members and the general public. The website included information

⁷⁴ Ngati Tama ki te Upoko o te Ika hui-a-iwi report dated 20 July, 2002

ranging from letters of support from other iwi to membership registration forms, media releases, reports and submissions.

CORNERSTONE FOR A WHANAU'S IDENTITY

No one could possibly have foreseen the nature and extent of the Wakapuaka grievance, and its impact on the lives of its people, and their descendants. In Chapter Six, the history of Wakapuaka was dealt with in two parts: pre-Native Land Court and Native Land Court. With respect to the former, the whanau of Paremata Te Wahapiro was in control of its land, and Maori tikanga was observed. In the latter, in which the use of courts and legal recourse to solve Maori land disputes was frequent, the whanau was rapidly dispossessed of its land, and Maori custom became subservient to European law.

Before the 1883 court case to determine ownership of Wakapuaka, disputes over land were discussed and resolved on the basis of traditional Maori values and customs, with rangatira providing leadership and direction. Accordingly, Kauhoe, Paremata Te Wahapiro and Wi Katene Te Puoho set the scene. From 1883, Hemi and Huria Matenga showed a preference and propensity to use the courts and its processes to the maximum. Therefore, the resolution of Wakapuaka land disputes came within the realm of Parliament and the Native Land Court, where western European values and laws prevailed. The following Table 7.2 illustrates the different perspectives and attitudes.

Table 7.2 Pre-1883 and Post-1883 Wakapuaka

Characteristics	Pre-1883	Post-1883
Wakapuaka	18,000 acres	(3,641 acres in 2003)
Land	Retention	Alienation
Dispute resolution	Tribal consensus	European law
Setting	Marae	Parliament, Court
Leadership	Rangatira	Judges, lawyers, MPs
Tikanga Maori	Dominant	Subservient
Ownership	Collective	Individual title
Proof of ownership	Occupation, use, gift	Deed of sale/lease, wills, title
Significance	Eco-cultural, spiritual	Economic status
Occupants	Part-owners, trustees	Owners or tenants
Classes of land	Conquest, occupation, gift	Freehold, leasehold, waste land/arable land
Value	Identity and security	Market potential

The Crown failed to have serious regard for the customary and traditional rights of whanau in this case. It also assumed that the 1883 Native Land Court decision was correct in conferring ownership of Wakapuaka to one person only; a transaction effectively extinguishing the interests and rights of the whanau of Paremata Te Wahapiro for fifty years. The land at Wakapuaka was necessary for the spiritual growth and economic survival of the whanau of Paremata Te Wahapiro. It contributed to sustenance, wealth, resource development and traditions. It strengthened whanau solidarity, and added value to personal and iwi (Ngati Tama) identity, as well as the wellbeing of future generations.

This case study showed the whanau's growing ambition to exercise its mana and tino rangatiratanga, and to be an effective 'voice' of Wakapuaka. Although Wakapuaka's ownership changed over the years, there was a strong commitment to ensure that the remaining land was not lost but retained and utilised, and that the mana and tino rangatiratanga of the whanau was exercised.

For the iwi, Ngati Tama Manawhenua ki te Tau Ihu a Maui, its continuing role should be to encourage, support and resource the whanau to realise that goal. With this in mind, at Wakapuaka 1B Block's 2005 Annual General Meeting⁷⁵ a remit was passed that a claims committee be set up to explore options for the whanau itself to represent Wakapuaka's interests in the top of the South Island claim against the Crown. There was a preference for direct representation rather than by the iwi via Ngati Tama Manawhenua ki te Tau Ihu a Maui, as other iwi including Ngati Koata, and Ngati Toa had expressed opposing views of the block's ownership during the claim hearings.

WHAT MAKES FOR SOUND IWI LEADERSHIP?

Most definitions of leadership assume that it involves the intentional influence exerted by one person over other people to guide, structure and facilitate activities and relationships in a group or organisation. In Ngati Tama's case leadership includes the clear articulation of a vision for the iwi, which members of the iwi are willing to follow.

⁷⁵ Wakapuaka 1B Block. Report of the Annual General Meeting of the Wakapuaka 1B Block Management Committee, Porirua, 17 September, 2005

As a result of acknowledging their traditional support base, a new generation of leaders are beginning to show leadership skills and are steadily gaining the respect of others. Their philosophy is 'Ka pu te ruha, ka hao te rangatahi', loosely translated as 'a worn out net is discarded and a new one taken fishing'. Their leadership style closely resembles that proposed by Parry,⁷⁶ which consists of role modelling (setting the benchmark of performance that others can look up to); inspirational motivation (engendering passion and teamwork); being visionary (clearly communicating expectations and demonstrating commitment to shared goals); individualised consideration (considering people as individuals); and intellectual stimulation (thinking about problems in new ways by being creative and questioning old assumptions).

One of the most characteristic features of modern Maori leadership is that it rests primarily upon achieved rather than ascribed status. Nowadays it is personality and character, or skill of a professional or administrative nature that tend to give a person a significant role as a leader.

Multiple or shared leadership situations are becoming a feature of modern Maori leadership. No single leader can now be expected to harness all the expert skills necessitated by the position. Because of the complex nature of leading an iwi in modern times there is a need to adopt a more strategic approach via a network of leaders. The society shared its leadership responsibilities since its inception. There was one leader (Karewa Arthur) that

⁷⁶ Parry. 1996, p3-5

chaired the runanga and iwi hui, and another (Helmut Modlik) that led the way with key stakeholders such as the Crown. Often it was a kaumatua (e.g. Te Puoho Katene or Bill Matenga) who provided spiritual guidance. Similarly it was left to runanga member Tamati Tapara to furnish leadership with respect to cultural and tikanga matters.

These leaders were required to exhibit the necessary 'soft' people skills such as competency in interpersonal relationships, being a good communicator, being a team player, and possessing sound organisational skills. In addition, exhibiting good leadership within the whanau ranked highly too, "If you're not any good in the home, how can you lead the iwi?"⁷⁷

Ngati Tama ki te Upoko o te Ika's strength resided not so much in its runanga but its kaunihera kaumatua. The leadership and mana of the iwi came from this group, which provided sage advice and support.

It was common practice to consult with, and seek the approval of, our tuakana before acting on our ideas.⁷⁸

The entire process of re-establishing Ngati Tama iwi's presence and receiving a mandate to represent the interests of its members heightened awareness of leadership accountability as well.

We must remember the ethics and principles of inclusive leadership in our communities. We must remind our leaders what those ethics and principles are in their dealings with us just as the old people did in their time – respectfully and firmly. We must encourage our leaders to be

⁷⁷ Participant 10

⁷⁸ Idem

accountable and transparent in their leadership without requiring them to surrender their mandate to lead. We must encourage our leaders to show generosity of spirit in their dealings with outsiders – native and non-native, just as the old people did. These values must be shown in a world where the temptation to take a different tack can be unbearable.⁷⁹

In this way, it is important for a tribe to give strength to an individual by providing a place for them to stand and feel secure, and endowing a degree of mana on them.⁸⁰

SUMMARY

This chapter has analysed and discussed various issues pertaining to a small iwi's rights to assert its independent voice in the face of assimilationist attempts by a much larger and more influential collective of Maori interests. Ngati Tama ki te Upoko o te Ika's existence was threatened and its capacity to exercise tino rangatiratanga was compromised. In the end, and in a metaphor articulated by a thesis participant, "the persistence of a few lean fox terriers held at bay the powerful bulldog."⁸¹

The experiences of Ngati Tama ki te Upoko o te Ika illustrate the difficulties inherent in re-establishing an iwi voice when an iwi is small, poorly resourced, has untried leadership, and has both support and opposition from neighbouring iwi. Kept at arms length by an ambivalent Crown and government agencies intent on preserving the status quo, the society was

⁷⁹ Williams J. 2002, p6

⁸⁰ Te Heu Heu H. Quoted in Dora Alves *The Maori and the Crown: An Indigenous People's Struggle for Self-Determination*, 1999, p66

⁸¹ Participant 1

caught between Maori political manoeuvrings and government policies that favoured well-established, large-scale operations.

This thesis has identified forces opposed to the establishment of a separate entity for Ngati Tama. Those forces included a large, influential and well-resourced iwi with senior, nationally renowned leaders that had established strong working relationships with successive governments over many years; other groups with split loyalties; and the Crown. Despite the tensions and conflicts, all those parties can claim victory. The small iwi has been able to stay true to its purpose, and retains the unwavering support of its membership and some other iwi. It has begun developing a presence in Wellington, is providing social services to its members, and has been recognised at a political level by the Crown in its Treaty claim. In the process its leadership has been tested, and has emerged with new skills and experiences.

The multi-iwi/Maori collective has been able to maintain its stance of not recognising the iwi, and has succeeded to an extent in retarding the growth of the small iwi by excluding it from any inter-tribal relationships, and preventing it from developing formal contact with local, regional and central government agencies. The other iwi and Maori groups have had to make some adjustments to accommodate the new iwi, as has the Crown. The latter has been forced to consider the views of not just one player, but also of a new entity. Prospects for the future indicate that in order for all parties to mutually co-exist more effort needs to be placed on co-operation rather than conflict, and on building robust relationships that will provide mutual benefits.

CHAPTER EIGHT: CONCLUSIONS

INTRODUCTION

This thesis started by posing the question:

In order to maintain a distinctive iwi presence in a modern urban environment, how do iwi members retain the right to decide who best represents them?

In addressing this, other questions were also answered. What constitutes an iwi? Is an iwi authority the relevant body? Who does an iwi authority actually represent? What decisions does an iwi make, and not make? What are the criteria for iwi membership? What rights (or responsibilities) do iwi members have to assert an iwi 'voice' vis-à-vis other iwi/non-iwi groups? How are those rights enforced and monitored? The previous chapter, Chapter Seven, contains an analysis and commentary on those questions.

This study has focused on the first few years of an iwi's re-emergence: a result of the diaspora of a people from their original homeland over a century ago to other places. It has been about an iwi's search for validation and influence, the quest for mana, and a redefinition of the iwi authority's place in iwi/Maori society.

Five themes, presented as conclusions, emerge from the thesis (Table 8.1). The first conclusion is about the significance of tino rangatiratanga. The next three relate to: the wider issue of iwi dynamics; mandating; and third-party intrusions (particularly by the government/Crown). The fifth conclusion is drawn about relationships and is informed by key lessons learned over the past decade or two.

Finally, there is a brief commentary on the wider implications of this research; some recommendations are made with respect to further research; and, following the chapter summary, a Ngati Tama moteatea (song of lament) brings this thesis to a close.

Table 8.1 Themes and Issues

Theme	Issue
1 Tino rangatiratanga	Determining tribal autonomy.
2 Iwi dynamics	Methods of survival in response to multiple and opposing forces. Being flexible, evolving, dynamic, relevant, people-focused.
3 Mandating	Iwi membership representation.
4 Third-party intrusions	The imposition of processes, conditions and requirements. Political expediency. Personality-driven.
5 Relationships	External and internal. Environment, land, history, values, leadership quality.

TINO RANGATIRATANGA

The first and central finding from the study is the right of an iwi authority to exercise tino rangatiratanga in not only its capacity as an indigenous tribe but also as a Treaty partner.

Tino rangatiratanga, self-determination, legitimacy, and autonomy are all at the centre of iwi-based customs and practices. At an international level, an example of a country where such tribal concepts are clearly evident is Fiji, where the interface between tribal autonomy and the constitution of the state has been marked by competing claims for authority and voice. The indigenous Fijians have found a commonality in their shared ethnicity, which draws them together but apart from other communities such as the Indian-Fijian community. Their attempts to secure control of their own affairs and to reconcile indigenous rights with democracy have been an ongoing and evolving process.¹

At a tribal level, iwi must also go through a process of finding a commonality or community, organising themselves, then gaining recognition as being distinct from other communities and, in so doing, gaining endorsement as an autonomous self-determining entity. A common identity through a shared ancestor is a unifying factor as well as several other characteristics. These include a common purpose, a process for recognition of membership,

¹ Kubuabola R, Media Statement from Minister for Information and Communication, Fiji Government dated 6 September, 2000 entitled Fijian soul not for sale

standards required of members, rules acceptable to the group, and leadership. There must also be a common understanding, shared goals and objectives. While individual members need not agree on every issue, a shared vision or purpose for the group and a shared place in history must be part of the common ground.

From this position, therefore, while important to have the Crown recognise an iwi's mana and tino rangatiratanga it is not vital, because those two concepts do not require to be acknowledged or 'given back' by governments in order to be made 'real' and operational. Tino rangatiratanga pre-dates 1840 and the signing of the Treaty of Waitangi. Tribal policies are not legislated through Parliament but are made outside that jurisdiction at an iwi level and according to Maori tikanga and protocols.

Exercising tino rangatiratanga need not be either traumatic or disintegrative, nor need it result in alienation of all iwi members. An iwi authority while developing its own characteristics may still retain continuity with other iwi. In this way, tino rangatiratanga is not synonymous with isolation.

At stake then is the iwi authority's capacity to determine its own future and identity in such a way as will allow it to carry into the wider community the aspirations of its people. Helping the iwi develop its collective potential could be the most creative role iwi members could ever fulfil for an iwi, especially in its early developmental stages.

IWI DYNAMICS

The second conclusion of this thesis relates to the wider issue of iwi dynamics in a modern society. Urban iwi authorities in contemporary times are likely to be confronted by multiple and opposing forces when they assert themselves as tribal entities alongside other groups.

An iwi authority struggles with other neighbouring iwi to be recognised as a legitimate voice. Each asserts its own validity and at times may do so by undermining the validity of the others. The iwi view can be criticised for being unnecessary, divisive, and not sufficiently geared to commercial realities, but equally for being too commercially driven - often at the expense of an evolving culture, tikanga and history.

The issue, therefore, is how opposing groups manifest themselves within Maori society as a whole. The legitimacy and rights of an iwi authority to act as a political, social, economic, and cultural entity cannot be lightly dismissed, especially if the constituent members have chosen it as the best vehicle for representing them. On the other hand, if some iwi members choose not to identify with and affiliate to the iwi, opting for an alternative vehicle does not necessarily negate the collective tribal position despite potentially adding another level of complexity. This is because the two (or more) vehicles have arisen from different pathways.²

² O'Regan H, 2001, p171

An iwi authority in modern times must be prepared to adapt in the face of considerable odds in order to survive. First, it must be flexible, be able to adjust and revive as recovery proceeds, and be constantly evolving and advancing in response to an ever-changing environment. An iwi is more likely to maintain and develop its distinctive identity by maintaining flexibility.

Second, in order to survive amid opposing pressures, an iwi authority needs to be dynamic and relevant. If an iwi is dynamic it will not stagnate and die. By constantly addressing its people's needs, an iwi continues to be vibrant and relevant because it is being true to its purpose; listening to what the people want and responding accordingly. Decisions by its leaders are being made as close as possible to where the problem and/or need lies. In this way, an iwi consolidates its position in wider contemporary Maori society. Other parties including the Crown, its various agencies, and other iwi and Maori groups, need to accommodate iwi legitimacy even if it offends notions of simplicity and uniformity. In modern times the word 'iwi' has sometimes taken on a new meaning that has seen hybrid arrangements simply to meet commercial objectives.

A third requirement for survival is to realise that although land and other tangibles are important economic bases, it is the people who are important culturally and spiritually: 'he tangata, he tangata, he tangata'. As the iwi has had to adapt to changing surroundings, so do iwi members grow and develop in their personal ways. The iwi must be seen to put its people first as it asserts their voice and seeks to be their face to the wider community.

The process of building and maintaining an iwi authority involves enlarging people's choices, and enabling iwi members to actively take part in decisions affecting their lives, as well as to maximise opportunities to realise their individual and collective potential. It places people at the centre of its development efforts: people are able to define their own goals and envisage a way forward to realise their aspirations for themselves and future generations.

If Maori organisational structures fail to change and adapt to a changing environment, and neglect the needs of the people, then they will be replaced with other structures. If a limited and static approach to iwi development is perpetuated then it will alienate everyone with genealogical ties to the iwi.

Further, should opposing forces be unable to accommodate the differences in socio-cultural and political aspirations that identify a person as belonging to a particular iwi, then membership of that alternative grouping is not conducive to the development of a positive sense of cultural self-belief and worth. If, however, those differences are valued and affirmed by iwi members, then it can only help to enrich and strengthen iwi participation in the broader sense, and longer term.

MANDATING

The third conclusion of this thesis regards mandating. More specifically, the issue of who has the right to decide whether someone speaks on behalf of the

iwi authority is addressed. Achieving a mandate is essentially an internal matter for iwi. However, the Crown also has a duty to ensure that Waitangi Tribunal claim mandating processes are consistent with the Treaty terms and provisions. This requires the active scrutiny and the proper application of tikanga at every stage - a process that would clearly be in the interests of the claimants and the Crown. A more active role in such monitoring and scrutinising is required to ensure the Crown's actions in recognising a mandate remain Treaty-compliant, and that hybrid mandate arrangements can be transparent.

An iwi is an appropriate organisational structure for raising the profile and protecting the resources of Maori descent groups. In terms of efficiency, the placement of an iwi's interests in an iwi authority rather than a non-iwi entity is more consistent with Maori lore, notions of tenure, and cultural transmission. This thesis proposes a future that reflects positively on the co-existence of separate identities. The reality may not ever feature one or the other scenario, but a situation where mutually beneficial arrangements allow for iwi and non-iwi to operate side by side harmoniously.

Iwi members themselves must be free to choose who and what they want, and decide what is appropriate for them. Furthermore, they should be protected from the imposition of certain protocols, which may be inconsistent with their own preferences.

THIRD-PARTY INTRUSIONS

The fourth conclusion of this thesis focuses on third-party intrusions as they relate to the Crown (and government), but also to others including the wider Maori community, and private interests. This thesis suggests that the Crown is sometimes deliberately obstructive in facilitating the recognition of an iwi for claim negotiation and settlement purposes.

The Crown is not always interested in encouraging an iwi authority to exercise tino rangatiratanga. Instead, the Crown sometimes appears to obstruct the iwi by imposing processes, conditions and requirements that become barriers rather than pathways to progress. The Crown avows that it has the right to impose such conditions and processes because it holds sovereignty over its entire people and the territory they reside in. By defining sovereignty in this way, the Crown considers that it has the sole and exclusive authority to govern. As the sole and exclusive authority it has the right to decide the limits to tino rangatiratanga, its boundaries, and who has the right to assert tribal status. Iwi and Maori groups that agree to work within this mandate may be rewarded, while those that choose to exercise their tino rangatiratanga outside of it can be penalised.

Even those iwi that decide to work within the Crown's processes struggle with those processes. Any practice imposed by the Crown which forces iwi to conform to government systems and requirements, while failing to recognise that iwi have different cultural and political imperatives, creates tension and

injustices. At risk are the impacts of those processes on an iwi and on the relationships with other iwi and Maori groups.

The only way in which inter-iwi (and intra-iwi) relationships prosper is through ongoing dialogue. Where there is dialogue, results of sorts will occur. Despite the discrepancy between the coercive power of the Crown and the relative lack of experience, knowledge and resources of iwi, even incremental progress can be made if there is a willingness to continue discussion.

The Crown's interventionist policies and practices can have a destabilising effect on an iwi, especially one that is struggling to be recognised. When the Crown pursues a policy of intervention it must do so with care, and do so responsibly to prevent weakening iwi leadership, disrupting balances of power or dislocating social, cultural and political relationships between whanau, hapu, iwi and other groups. Equally, the Crown has to ensure that resource use and the economic/political structures of the iwi are not hampered and/or hindered in the utilisation and development of new economic resources.

RELATIONSHIPS

Relationships based on lessons learned over the past decade or two is the subject of the final and fifth conclusion. One such lesson concerns the maintenance of appropriate relationships of iwi and Maori people with the environment, traditional land and historic origins. Another lesson is about the importance of social values as the basis for inter-group relationship

management. The final lesson focuses on leadership as a critical prerequisite for sound relationships. All three are inter-related and complementary.

One of the more significant findings from this thesis has been the fluctuating relationship between iwi and Maori groups, the Crown and third parties. Self-reflection by iwi members upon the dynamics between iwi, between iwi and non-iwi, and between iwi and the Crown can lead to greater understanding and a readiness to build bridges:

More important, Maori organisations are being challenged and are challenging themselves to promote relationships that will further protect and enhance what they hold in trust for future generations.³

An iwi authority cannot ignore the tensions its existence causes amongst other iwi and Maori groups. It needs to confront any problem, address the concerns and deal with the issues. The venue, the process and the solution all need to be in accordance with Maori protocol and tikanga.

Not enough can be said about the importance of developing and maintaining effective relationships. It is clear from this thesis that an iwi authority cannot operate alone. Economies of scale, for example, require collaborative arrangements between groups with similar goals. It is in the inter-relationships between groups that the dynamic nature of contemporary Maori is experienced. A richer future occurs by working together across groups, complementing each other where possible, co-ordinating efforts, and sharing resources.

Focusing on the nature and value of relationships with generosity of spirit and tolerance offers greater potential for building alliances, co-operative ventures, and the sharing of scarce resources. Consequently, an iwi needs to demonstrate its capability to function properly while maintaining shared Maori values and socio-economic goals. Maintaining a distinctive identity will also require sound working relationships between iwi, and between iwi and non-iwi.

The future will most certainly be less about iwi relationships with the Crown and more about the relationships that iwi and Maori groups develop with each other. As competition increases and opportunities no longer rest solely on the collective strength of iwi, then the interplay between iwi and Maori groups invariably lead to the creation of new alliances and the strengthening of old pacts. It seems that the most important outcome for any developing iwi is an ongoing constructive relationship with others - one based on mutual goodwill, co-operation and trust in which the unity, strength and authority of the iwi is recognised and enhanced through its dealings with other parties.

The next lesson emerging from this thesis underpins effective relationships. It stresses the significance of prized generic values such as whanaungatanga (kinship), arohanui (love), whakapono (truth), manaakitanga (kindness and respect) and ngawari (humility). Those values are part of the system of regulating how iwi members and their leaders think and behave. They are important because they underpin the performance of tasks relating to iwi

³ Puketapu B. 2000, p307

governance and operations, and to relationships with others. Rules are necessary procedural aids to achieving specific goals, and appropriate social behaviour is assessed by reference to desirable character traits. Equally important are other cultural values such as knowledge of te reo, tikanga Maori and whakapapa that remain highly desirable qualifications for both leaders and followers. When relationships falter it is invariably due to misunderstandings and miscommunication, as well as personal agendas interfering with greater visions for the whole iwi.

Quality of leadership is the other crucial lesson that this thesis has uncovered. It follows on from the previous lesson about values, and it ties to relationship building. Leadership is a potent factor in the governance and management of an iwi, and an effective catalyst for change. Leaders have obligations to themselves, their whanau and the iwi, as well as rights irrespective of lineage or qualifications. Perhaps the primary characteristic of leadership that this research has reinforced is the importance of focusing on the vision, rather than the leader.

While the leader is a valued member of the iwi it is the common vision that is most important. This thesis suggests that the leadership quality most useful to an iwi is service to others:

True leadership status should be reserved for those who serve others. This idea has sparked interest as to the more humble roles of servant leadership, altruism, empowerment, and stewardship.⁴

⁴ Inkson K and Kolb D, 1995

Some key messages have become evident. For example, leaders have had to adapt and modify in order to cope with the leadership changes over the centuries. This progression of leadership is intertwined with the changes that Maori society as a whole has undergone. Leaders have to be patient, effective and accountable to those whom they serve. They must be role models and be able to inculcate the groups shared vision and values into the next generation:

It also places a heavy burden on our shoulders to look after our present day interests but be mindful of the future interests of our tamariki and mokopuna.⁵

In the Maori world, leadership reflects a combination of skills and a range of influences. Regardless of technical or professional qualifications, unless there is strong leadership beginning at grassroots level, it is unlikely that initiatives within the iwi will take shape or prove fruitful. Iwi leaders have important roles to play but given the nature of iwi dynamics in a modern urban society of many dimensions, there must be some co-ordination of effort.

Iwi leadership is more effective if a relational approach is fostered and strategic alliances are forged between groups who are able to bring diverse contributions together for the greater good. No single leader has sufficient expertise to encompass the range of skills and expertise necessary for effecting change. Often simply bringing leaders together is an act of progress, whereby there is no place for rigid boundaries or isolated initiatives.

⁵ Participant 4

WIDER IMPLICATIONS OF THE RESEARCH

This thesis has attempted to increase understanding of the organisational, economic and political strategies that enable small re-emerging iwi to remain focused on their goals despite opposition and the obstacles from various quarters. The commercial opportunities afforded a small re-emerging iwi as described in Chapter Three were to an extent unrealised, at least for the time being. That experience shows how the development and operation of small iwi can often be hampered by the practices of larger Iwi and Crown agencies, especially when they collude to deny small iwi opportunities for growth. Not only is the small Iwi's effectiveness compromised but its members also miss out on opportunities for growth. Forces in the marketplace often lead to small iwi being shackled by conditions imposed unfairly by organisations with more clout. However, the experience of the Ngati Tama iwi has shown that with a more strategic approach, barriers can be overcome - if not totally, then certainly to a significant extent.

As illustrated in Chapter Three, the vision, goals and strategies of an iwi must be realistic, achievable and focused on areas of need such as for cultural activities like wananga and waiata workshops. For the Ngati Tama iwi authority, the provision of a focal point of general interest for iwi members that was non-threatening and non-confrontational to other iwi was important in the end. When it became clear that openly challenging the rights of more established, well-recognised entities did not produce the desired outcomes,

less counter-productive and more pragmatic adaptive strategies had to be implemented.

This thesis suggests that iwi recognition and the exercise of mana and tino rangatiratanga have the hallmarks of pragmatism as much as carefully reasoned Treaty principles. Sensible steps can be taken to afford wider community contract opportunities to consolidate social service capabilities, and capacity building aligned with agreed community development priorities. There is scope for collaborative efforts on local/regional matters; e.g. iwi consultation on local government annual plans, and opportunities for inter-iwi initiatives like sports and art events.

Continuing to form alliances and collaborative efforts with like-minded groups to ensure a firm foundation for building the re-emerging iwi was both crucial and strategic. Building strong and lasting relationships requires active effort and attention to historic, geographic and economic commonalities in order to allay any sense of indifference. While tino rangatiratanga and autonomy was an oft-stated aim, the reality was that interdependence was more likely to achieve results for the iwi than a dogged resolution to operate in isolation or ignore options for co-operative development. After all, co-operation need not mean any forfeiture of identity.

The management of strategic alliances that maximise collective capacity without challenging the recognition of whanau, hapu and iwi to act in their own interests in certain situations has merit. The iwi has to demonstrate an ability

to develop its own human and economic capacities to engage in formal alliances to its economic and political advantage. Accepting the reality of Maori resistance and resilience in the face of iwi/Maori and Crown obfuscation, iwi need to build the capacity required to sustain tribal development. Investing in human capital has enduring benefits, but as with any development has to be phased in over time and with the full support of the iwi membership.

It will be clear from this thesis that the viability of a small iwi is a challenge in modern times. Apart from a sustainable resource base, other viability factors include governance capability, an actively engaged registered membership and a level of infrastructure to support requirements in administration and communication. Having secured the support of its membership, and being mandated by the Crown, the studied iwi was obliged to deliver to its best endeavours a reasonable service for its members. Although not having the only role, or even the major one, government has some duty to contribute to iwi capacity and to be even-handed in its dealings with all iwi. This study showed that government departments were initially reluctant to be seen as too supportive of the new iwi, least dealings with other iwi were compromised, or institutional neutrality was offended. As a result, they generally provided only a modicum of support by way of short-term assistance and funding.

This research is intended to produce both change and understanding. It provides an insider's perspective on the experiences of an iwi intent on maintaining a distinctive iwi presence rather than being assimilated into a

larger collective, with its members asserting and retaining the right to decide who best represented them.

The research, however, had its limitations. Firstly, the time span for the first two case studies was short - only five years. Research that focuses on an insider's perspective of those same experiences over a longer period of time would provide additional insights. Secondly, wider aspects of the study could be explored by seeking additional perspectives from larger coalitions of iwi/Maori interests. This present study was largely from the perspective of Ngati Tama. Thirdly, useful knowledge could also be obtained from a comparative analysis of iwi involved in Crown claim negotiations and settlements, or between an iwi and a Maori land incorporation involved in the same. There are clear differences between a newly re-established modern iwi and one that has been established for a longer period of time. Such differences and similarities, including Crown inter-relationships, may require further research.

At the same time, and despite its limitations, the analysis of Ngati Tama that makes up the greater part of this thesis has deliberately been centred on a Ngati Tama worldview. It demonstrated how tribal identity and tribal fortunes are buffeted by both tribal and urban contestations as well as by changing political directions. Moreover, the iwi-centric approach underlying the methodology is itself commentary on the challenges inherent in autonomy, relationship building, and differentiation for iwi. If there is a single conclusion to be drawn from this thesis, it is that a Ngati Tama future away from the

Taranaki homeland - whether it be in Wellington or in Wakapuaka - will depend primarily on the resolve of the tribe to retain a distinctive identity while participating in a dynamic and often oppressive environment.

SUMMARY

Essentially, this thesis has been concerned with a re-emerging modern, urban iwi authority with an independent iwi voice and its struggle to secure political recognition from other iwi and the Crown. The response of the local iwi or the wider Maori community, the Crown, and others, including their relationships and interactions, was critically examined.

Three case studies were presented in this thesis. The first two demonstrated how an iwi authority resisted attempts to assimilate into a broader coalition of iwi, hapu, whanau and marae interests, preferring instead to maintain and develop its own distinctive identity. In both cases, Wellington's Ngati Tama ki te Upoko o te Ika was used as an example to illustrate the diaspora of an iwi, and how in modern times and in urban settings an iwi striving for autonomy and control over its own affairs while being buffeted by multiple and opposing forces, responded to such challenges and managed to survive. The third case study was not dissimilar, but focused on internal relationship management within an iwi group and amongst whanau members at a South Island locality.

The thesis concludes that in order to maintain a distinctive iwi presence in a modern, urban environment, iwi members should have the right to decide who

best represents them. Establishing and maintaining a strong iwi authority is determined by the ability to develop adaptive and innovative strategies both internally and externally, which builds on the customary tribal foundation and acknowledges contemporary realities.

An iwi is considered an appropriate vehicle for an iwi to represent its members, and to manage its interests. To survive in a constantly changing environment, an iwi must be dynamic, flexible, relevant and focused on meeting the needs of its membership. Quality iwi leadership is about negotiating relationships, including third-party interventions, in good faith and seeking pathways that will advance mutual interests into the future.

MOTEATEA

The following Ngati Tama moteatea (song of lament) is for Tupoki. He and his brother-in-law, Raparapa, were both renowned fighting chiefs of Ngati Tama prior to the tribe's migration south. In 1822 Raparapa was killed at Mokau by a war party led by Ngati Maniapoto. Te Maropounamu, the widow of Raparapa, and sister of Tupoki, composed this song. *A Lament for Tupoki*,⁶ brings this thesis to a close.

Tera nga whata ka möiri kei Parininihi,
Nana I hoatu ki waho.
Haere ra, e pa, I te apu rorowhio,
O ruhi, o ngenge, o te makinikino tonu,

Behold the watchtowers are raised on
Parininihi,
Because of him who went over the
border.
Depart O sir, with the whirlwind,
With strength gone, thy weariness
brought an untimely end,

⁶ Ngata AT & Pei Te Hurinui Jones, 1974, pp170-177

I whakahokia atu e koe ki te hauauru.
Te whakahokinga mai ka whiti te rore;
Kihai koe I whakaaro kia maunu te wai
I runga o Ngamotu.
Kei to tamaiti ma Rau-a-Matuku,
Mana e pütiki te ua o te pakanga;
E tauwhiro mai ra te hiku o te taua.

Hirautia ra o kahu angiangi;
Parurutia ra te pu ki Waiau;
Paerangitia ra te pu ki Wharekohu.
Kia nui o tohu ki runga ki to rangi,
Kia rewa nga ngohi i te ati.
Manu whakarewaia, kia whakakau koe
I te whana whatiwhati I roto Pararewa,
Kei pēhia koe te ahi a te tipua.
Tenei Poutu nana I here mai,
Hei whakatu atu te maru I muri nei.

Kaua e runga, hei koaina mai.
Tukua atu ki waho mo Tautari ma,
Mo te waiaruhe, e tanga tonu nei;
Ma te hau takaha e turaki
Taku rata tiketike,
Taku whakaruru totara
E tu ki Poutama ra.
Hurihuri noa ana
Te mokai o te wahine;
Taku riri whakaniko,
Te kiri o Awanui,
Ka whara kei muri.

Karanga mai e Pare I te rae ki
Rangikohua
Tena taku manu, he manu takupu,
He takupu matakana, he aua
matawhero
Mo nga utu e hira ki te pae ki Karakaura

And it was thus fortune recoiled upon
thee in the west.
Whilst retreating thou wert caught in a
snare;
Thou did'st not think to await the waters
From the summit of Ngamotu.
It was to have been thy young kinsman,
Te Rau-a-Matuku,
To hold and turn the tide of battle;
Belatedly, alas, he rallied forth his
warrior band.

Throw off thy threadbare garments;
Pile up the guns at Waiau;
Raise on high the guns at Wharekohu.
Let there be many tokens of this thy day,
And let the warriors strike down the foe.
If thou wert a bird swooping aloft thou
would'st
Have fled the broken ranks within
Pararewa,
And escaped the demon's fire.
Here is Poutu who brought it hither,
He now stands guard on our native soil.

Rejoice not ye people of the south,
because of this.
Let him go forth as payment for Tutari
and the others,
Aye, for the many unavenged deaths
that do lie here;
It was indeed a raging tempest which
o'erwhelmed
My sturdy towering rata tree,
My sheltering totara tree
That once stood at Poutama yonder.
Turning about (in fear and trembling)
Is that slave of a woman;
(Alas it was thee) my richly tattooed one,
With skin adorned with the Awanui
pattern,
Who was desecrated yonder there in the
north.

Raise your voice O Pare, from the
summit of Rangikohua.
For he was my exalted one, an ocean
bird of renown,
A watchful gannet, a red-eyed
herring (was he),
Now slain in payment for the many at
Karaka-ura.

Katahi e Poki, ka tahuri to rakau toa,
I ngaua putia e te ipo wahine,
Te whatinga I reira te puhi o te waka,
He tumu herenga waka no runga,
No raro, no Te Rauparaha;
Tahurihuri ana te papa ki Rarotaka.

I whea koia koe te tohi atu ai
To patu whakatu ki te ihu o Mama?
O Mama ra I te kai a wai?
O Hari ra I te kai a Oro,
O Tua ra I te kai a Maene.
Ka mahungahunga te whakahoro
I to angaanga, e tohe nei
To angaanga ki te hau o te riri.
Ko Kahutuatihi hei utu mo aku taro,
I ngaua iho nei, e i.

At last, O Poki, thy sturdy weapon failed
thee,
It was bitten off by a cherished maiden,
And thus was broken the plume of the
canoe,
(He was) the mooring post for canoes
from the south,
And from the north for Te Rauparaha;
Now swaying to and fro is the rock of
Rarotaka.

What possessed thee not to strike out
swiftly
With your uplifted weapon at the nose of
Mama?
Of Mama yonder, food for whom?
Of Hari, there, the food of Oro,
Of Tua too, the food of Maene.
Crushing was the downward blow
Upon thy head, that most obstinate
Head of thine always seeking the
tempest of war.
Kahutuatihi shall be the payment for my
exalted ones,
(The loss) of whom gnaws on within.

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OLC1 Old land claims case files No 906, New Zealand Company – Port Nicholson claim, National Archives

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BDM1 Registered files of inward correspondence

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GLOSSARY

ahi ka	fires of occupation
Aotearoa	New Zealand
hapu	sub tribe
heke	migrate
hui	meeting(s) or gathering(s)
ihi	power
iwi	tribe
kainga	abode
kaitiaki	guardian
karakia	prayer or incantations of a spiritual nature
kaumatua	elder(s), male or female
kawa	custom
korero	talk, oratory
kuia	elderly woman
kumara	sweet potato
mahi	work
mahinga kai	cultivations
mana	authority, power, prestige
mana wahine	female descent line
mana whenua	customary rights over ancestral lands
mana tane	male descent line
Maori	person of the Maori race of New Zealand; and includes a descendant of any such person
marae	courtyard in front of meeting house
matua	parent
mauri	spiritual force
mokopuna	grandchildren
moteatea	chants
murū	confiscate
non-Iwi	not of a tribe but still of a Maori collective
non-Maori	not of the Maori race, or not Maori
panui	notice
rangatahi	youth
rohe	area
runanga	council
takahi	trample
take	issue, cause
take raupatu	conquest
takiwa	area
tamariki	children
tangata whenua	indigenous peoples of New Zealand
tangihanga	funeral
taonga	asset
taonga tuku	treasured gift
taua	war party
te ao Maori	the Maori world

te reo	Maori language
Te Tau Ihu	area known as the top of the South Island
tikanga	customary values and practices
tino rangatiratanga	full authority
tribal	of a tribe
tuku whenua	gift of land
tipuna/tupuna	ancestor/s
urupa	cemetery
wahi tapu	sacred place
waiata	songs
wairua	spirit
waka	canoe
wananga	places of learning, knowledge,
whakapapa	genealogy
whakatauki	proverbial sayings
whanau	family (extended)
whaanui	wider community
whangai	person adopted in accordance with tikanga
whenua	land

The Politics of Iwi Voice

INFORMATION SHEET

Tena koe

My name is Selwyn Katene (Ngati Toa, Ngati Tama, Ngaruahine, Ngati Tuwharetoa) and I am researching for my PhD under the supervision of Professor Mason Durie (who can be contacted at Massey University, Palmerston North on Ph 06 350 5799).

This doctoral study is an attempt to describe and understand the dynamics and contextual nature of a small re-emerging iwi in Wellington – Ngati Tama.

The research will illustrate how a small iwi group resisted attempts to assimilate into a broader coalition of iwi, hapu, whanau and marae interests, preferring instead to maintain and develop its own distinctive iwi identity. The study will also show the extent to which the interests and aspirations of a small iwi (seeking to assert its voice and affirm its own mana and tino rangatiratanga) had been supported by the Crown, and others

It is envisaged that interviews will take approximately one hour. You will be asked a series of 12 questions about Iwi development/mandating. For example, what strategies are the most effective in promoting Iwi development, its strengths and weaknesses, and how it is measured. Some general questions will be asked about the relevance of the Treaty, and key traditional Maori concepts such as whanau, hapu and iwi, and other organisational structural arrangements. Specific questions relating to leadership styles will conclude the interview.

The information will be used specifically for the purpose of this research. When the information is obtained, a hard copy of the interview notes will be stored in a safe place, and once analysed the information will be an integral part of the thesis, which will be available for reading at University libraries. You may request a summary of the thesis at the conclusion.

Confidentiality will be protected through the allocation of a number system to each interview and the originals being placed in a locked safe.

On completion of the project the data will be stored in a secure place.

Your right as a participant includes rights to:

- decline to participate;
- refuse to answer any particular questions;

- withdraw from the study at any time;
- ask any questions about the study at any time during participation;
- provide information on the understanding that your name will not be used unless you give permission to the researcher;
- be given access to a summary of the findings of the study when it is concluded.
- confidentiality.

The results of the project would also be used in publications.

This project has been reviewed and approved by the Massey University Human Ethics Committee WGTN Protocol 02/123. If you have any concerns about the conduct of this research, please contact Dr Pushpa Wood, Chair, Massey University Wellington Human Ethics Committee, telephone 04 801 2794 ext 6723, email P.Wood@massey.ac.nz

I can be contacted at the Ministry of Health, Old Bank building, Wellington, Ph 04 460 4942 or on Ph 021 500991.

Thank you for your assistance.

Selwyn Katene

The Politics of Iwi Voice

CONSENT FORM

I have read the Information Sheet and have had the details of the study explained to me. My questions have been answered to my satisfaction, and I understand that I may ask further questions at any time.

I understand I have the right to withdraw from the study at any time and to decline to answer any particular questions.

I agree to provide information to the researcher on the understanding that my name will not be used without my permission. *(The information will be used only for this research and publications arising from this research project).*

I agree to participate in this study under the conditions set out in the Information Sheet.

Signed:

Name:

Date:

The Politics of Iwi Voice

INTERVIEW SCHEDULE

Background

This doctoral study is an attempt to describe and understand a little more the dynamics and contextual nature of a re-emerging iwi in an urban modern setting. The study will focus on the historical and contemporary experiences of Ngati Tama, and its relationship with the Crown, and other iwi/Maori groups in Whanganui a Tara particularly from 1997-2004.

The purpose of this research is to examine attitudes towards the development of an iwi, its identity, and relationships with the Crown and from other iwi/Maori groups. The research will also identify concerns, aspirations and barriers to Iwi development and mandating processes, and how they were dealt with. Issues such as the role of traditional iwi structures and other Maori institutions in a contemporary setting, and the leadership styles and personalities involved, will also be keenly explored.

The questions are outlined below.

Date

.....

Name

.....

QUESTIONNAIRE

The schedule was used for in-depth (one on one) interviews with ten participants who were asked a series of 12 questions. It provided a guide rather than a prescriptive set of questions to be asked. Consequently, the research results in Chapter Seven represent the sum total of the responses.

- 1 What constitutes an iwi authority? (i.e. what are the key components of being an iwi authority? Is iwi an organic product of conventional Maori society?)
- 2 Is the iwi authority a relevant body to represent Maori today, and why? Who does the iwi authority actually represent?
- 3 What decisions does an iwi authority make, and not make?
- 4 What rights (or responsibilities) do iwi members have? How is that right enforced?
- 5 What is the relevance of iwi, hapu and whanau identity (and development)?
- 6 In May 2003 the Waitangi report on the Wellington district was released and affirmed that Ngati Tama, Ngati Toa, Te Atiawa, Ngati Ruanui and Taranaki had *ahi ka*, and *take raupatu* rights over Wellington. How does this affect you and/or /your organisation's interest area?
- 7 In your opinion, who should represent Ngati Tama in Wellington, and why?
- 8 In resisting attempts to assimilate into a broader coalition of iwi, hapu, whanau, and marae interests, why would a small iwi group prefer instead to maintain and develop its own distinctive iwi identity? What is the relevance of asserting an iwi voice?
- 9 What should be the role of iwi and/or a non-iwi entity in representing Ngati Tama iwi in a claim mandating process with the Crown? How do you measure the success or otherwise of a claim mandating process? What is a fair and just mandating process?
- 10 In your opinion, what are the barriers with regards to the development and acceptance of a Ngati Tama iwi 'voice' in Wellington and how can those barriers be overcome?
- 11 What style of leadership is appropriate in heading an iwi? (What makes for a good leader?). Is there any person you admire as a leader, and why?
- 12 Is there anything else, which you think is important?