

IN THE WAITANGI TRIBUNAL
OF NEW ZEALAND

WAI 2003

IN THE MATTER OF

the Treaty of Waitangi Act
1975

AND

IN THE MATTER OF

Te Paparahi o Te Raki
Inquiry

AND

IN THE MATTER OF

a claim by Cheryl Turner,
John Klaricich, Harerei
Toia (deceased), Ellen
Naera, Fred Toi, Warren
Moetara and Hone
Taimona on behalf of
Ngati Kororkoro Ngati
Wharara and Te Pouka
Hapu

SECOND STATEMENT OF EVIDENCE OF JOHN KLARICICH

Dated this 18th day of March 2014

Instructing Solicitor:

Tamatekapua Law
PO Box 75-015
Manurewa
AUCKLAND 2105
Tel (09) 268 1840
Fax(09) 268 1850

Counsel Acting:

K I Taurau
4 Pa Road
Kerikeri 0230
NORTHLAND
T: 021 63 60 64
E: kath.taurau@xtra.co.nz

Introduction

1. My name is John Klaricich, I introduced my background and provided evidence at Punguru in week 3 of stage one of this Inquiry. This, my second brief is a continuation of my earlier evidence.¹

*Hei konei e te puna i te ao marama, ka hoki nei
ahau e kore ano e hoki anga nui mai
Tu te po, Tu te ao tu
Ka marangaranga ki te wheiao ki te ao marama,
Takina te ara
Takina te ara a ngaru nui, ngaru roa, ngaru paewhenua
Takina te tiritiri o te moana tapokopoko a Tawhaki
He tai nui he tai roa i whakaturia e Kupe ki te marowhara
Tutu nui tutu roa i te uru te hiku o te Ika a Maui
Ko Araiteuru, ko Nuiā e pupuha mai na i te ana taniwha e-e
Tere i uta tere ki tai i matarangi
Tere i tai tere ki uta i matanuku
Te riu ki Tawakeroa ko Taikapiti ko Ruaputa
Ka u te tanihu ki raro
Toia hikina i runga, Toia hapaingia kia rewā
Ki te tumu herenga waka
He paiberenga kaihoe o runga
Ki te pa kanae a Kupe
Ka tau ka tau ki Maraeroa
K tarehua i te po, ka tarehua i te ao
E mihi ana ki te papa whenua
E tangi ana ki te tangata
He tai, he tai, he tai*

2. Today, I first describe our oral traditions and the places of significance within our rohe as I have been instructed by my elders. I then address the issues in support of our Second Amended Statement of Claim.²
3. I begin with an explanation of our oral history relating to the Sea, the Ocean and the Foreshore. We tautoko the version of our historic beginnings set out in Dr Hohepa's report but note our local traditions vary in some aspects as is usual within our understanding of our oral histories.³ In particular I note that our local traditions describe Araiteuru on the south headland as the male being, with Niua opposite on the north

¹ Wai 1040 #C9, #C9(a), #C9(b), #C9(c), #C9(f)

² Wai 1040, #1.1.330(a)

³ Wai 1040, #E36

point, the female being and Tokataa, her basking rock. The tapu on both of these places has never been lifted.

A The Sea, the Ocean and the Foreshore

4. Our old people viewed the sea with its ever changing surface, its depths and its edges; as the body that separates yet binds land with land, people to people, people to land; with power over life, the sustenance of life; its voice of lament, to the drawing and receding spiritual currents and tides, to spiritual Hawaiki. Pouahi the landing place; Pakanae the papakainga; Maraeroa the gathering place; Te Wahapu, the beginning place of the expanse of ocean that separates, yet takes us back to Hawaiki in body, mind and in spirit to the beginning and ending place of the ancestor Kupe. Maraeroa, the beginning place of the sea pathway that separates Hokianga from Hawaiki, yet inseparably binds one to the other, land to land, the living to the living and those of the spirit as one. Maraeroa, the place where we stand, the expanse, the sea pathway that led Kupe to Hokianga, that Nukutawhiti and Ruanui retraced.
5. As oceanic people, our ancestors understood the ocean and ocean travel and relied on its bounty. As the navigator of the ocean voyaging waka, Kupe had three key attributes: he could read the waves; he could deduce direction; and he could do the whole journey without sleeping. He knew always where the waka was and where it was going. The sea itself provided useful markers for navigation. Changes in colour, the presence of certain fish species, ocean currents, the 'scent of land' and the appearance of whirlpools were all important signs. The navigator was able to gather information from these signs to determine where the waka was and what was on the horizon.
6. Ocean waves or swells formed by the wind, interact and form interference patterns and reflect off islands. The waka was kept at the same angle to certain ocean swells. Sudden changes in canoe motion indicated that it had changed course. To avoid veering off course, a rope was trailed behind the canoe – if a wave suddenly jarred the vessel, the rope remained true to the original line of travel. The sea was full of clues when land was nearby. Seabirds such as gannets, petrels, frigate birds and terns roost on land at night and feed at sea by day, and are all indicators of land. The shape, movement and colour of clouds were important land indicators.

7. The sea brought our ancestors. The sea separates our ancestors' descendants from their ancestral beginnings. The founding ancestor and traditions belong solely and specifically to the place and features you see in front of you. We here in Hokianga claim an ancestral relationship to the sea, and the ocean pathway our ancestors travelled, it represents a tangible intergenerational tie between the people, the spirit world and our natural environment and people we have never seen. Today our common purpose is to assist others to gain the understandings that we have and our unity of purpose for the social wellbeing of our country. In that there is a common future, not as suggested by some, "a Maorification of Aotearoa" which is already implicit, immutable in the land. This term was used in an article by columnist Rosemary McLeod published in the Northern Advocate on 2 December 2013 commenting on the case of Alan Titchford. A copy of the article is attached at Appendix "A".

8. Before the open expanse of sea or the safer harbour waters of Hokianga can be reached, the swells or breaking waters of Ngarunui, Ngaruroa, Ngarupaewhenua must be met and crossed. Nukutawhiti and the Ngatokimatawhaorua arrived here during a storm and were met by those breaking waves. Through the power of his incantation and the discipline of his paddlers they arrived safely. My earlier evidence refers to this event.⁴

9. As ocean travellers, the sea was our ancestors' environment, a three week ocean journey posed no greater threat to them, than to walk the face of the land. What we need to remember, what gave them confidence over what we describe as the unknown ahead, was, that in those times the myths, legends and folktales bound the people and the spirit realm in a cosmic unity of purpose.

10. The beginnings for the journey already began for Nga Hapu o Te Wahapu o Hokianga, is anchored in the knowledge and dispositions of our ancestors, on our understandings of their usages of natural resources which sustained their culture and identity and their natural environment. Nga Hapu o Te Wahapu understand our human existence involves interdependence and interaction simultaneously between us and the nature we commonly share. The sea is the basis of Te Wahapu customs and cultural practices, it is the fundamental element in every sense and application of the terms 'origin' and 'culture' to

⁴ Wai 1040, #C9 paragraph 35

the identity and wellbeing of Te Wahapu o Hokianga Maori people. This relationship establishes the beliefs and legends from mythology to systems and legends of the ancestors.⁵The late Maori Marsden, Taurau Tamihana and others have explained how Maori knowledge came to be of the “Baskets of Knowledge”. Maori believe creation occurred in stages: the first, the age of thought; second, of darkness; third, of light; fourth, the sun and moon; the fifth, the dry land; sixth, gods and men. Spirit is placed before matter and thought before both.

11. By whakapapa the people of Te Wahapu o Hokianga are charged with the responsibility of maintaining the authenticity and integrity of their stories, place names and language. This is our spiritual capital. This is our intellectual property

Landmarks of Kupe

12. My previous evidence, supporting photographs and the stage one, week three site visit booklet provide a description of the landmarks left by Kupe.

Our Ancestors

13. To gain an appreciation of where our ancestors first settled and lived and to begin to identify our important sites, we need to “walk” the whole length of the seashore. We will start from the southern point of Omanawaiiti stream, on the open coast, to Araiteuru then along both sides of the harbour to Tokataa, and to the outer un-named coastline point. The walk is in essence a sharing of our ancestors “world”, and for us it will give a better understanding of place, and the traditions left to us.

⁵The legend of the origins of Maui-potiki of premature birth, is the starting point. The legend tells how he was wrapped in a tuft of his mother’s hair, and cast into the foam of the angry surf; how the seaweed enfolded him and he drifted like that in the surf, then cast up onto the sandy shore. There he was found by Tama-nui-ki-te-rangi, taken home and hung up in the rafters of the house to feel the warm smoke and the heat of the fire, where he recovered. Among Maui’s many later exploits was fishing up of the land Te Iká-a- Maui, that the ancestor Kupe found, and that we currently occupy with intact intergenerational Ahikaa status that represents the Inquiry district. Then the wonderful stories of Tawhiki and the Ponaturi, the sea people who live hidden in the dark valleys below the ocean in the day light hours. Of his wife Hapai and his search among the heavens for her and his child daughter after he had made careless words to them and they rose above and beyond him up into the sky. These stories sustain Maori spirituality and understanding of their life ethos. Fog mornings brings alive the stories of the Turehu, the mystical people of the hidden forested places; the calm seas those of the Ponaturi people and the significance of daylight to Maori beliefs.

14. During the early contact years, the land from Araiteuru to Omanawaiti was run as a sheep station, the remains of the sheep station can still be seen on the bank of the Omanawaiti stream.
15. The Te Wahapu outer coastline is a very distinctive coastline. It has strong character, diversity of natural features and an unique “openness”.
16. From Omanawaiti to Te Ihuiti and Te Ana Taniwha is about a mile of rough lava flows, all rock and boulder shoreline until the beautiful sheltered sandy bay Ana Taniwha is reached. The embayment is known as Ana Taniwha, the deep crevice ancient crayfish collecting place was known as both Ana and or Anga Taniwha.
17. On the hill above the bay is Ahiwaro. I know every rock channel and fishing pot, what and when can be caught or gathered from each place and their names.
18. The hill Ahiwaro was known and treated with respect by our old people as an old living place. Until recently we could not see any visible signs of why they said this. Nonetheless we accepted it and did not question it. Not so long ago wind destroyed the vegetation, took the soil away and Ahiwaro was exposed, laid out as the early people had left it.
19. Whalebone fish hooks, a stone oil lamp, stone files, drill points, rough adzes, obsidian and chert cutters, and worked whale bone were left behind. As a registered collector I have some of these items in my possession. The wind and erosion has continued and has removed all trace of the site, it has disappeared.
20. Sites that have become exposed by wind and the sea are quickly destroyed, however these natural cycles have given us glimpses that authenticate what I have been told. Accessing such sites, both here and in the harbour, and recording of their features and taonga needs to be actively programmed, otherwise they can be lost forever.
21. From Ahiwaro it is a mile to Ana Paroa, where the high impassable cliffs to Araiteuru begin. The rocks from Ahiwaro northward are conglomerate fingers of rock with sandy beaches between them. The uniqueness of the basalt rock formation is recorded as an Outstanding Natural Feature in the Far North District Plan.⁶

⁶ <http://www.fndc.govt.nz/services/environmental-policy-and-forward-planning/the-far-north-district-plan/district-plan-electronic-version/Appendix-1-Natural-and-Physical-Features.pdf> p61

22. The embankment is known as Ana Taniwha, the deep crevice is an ancient crayfish collecting place and was known as both Ana and/or Anga Taniwha. 'Anga', meaning there could be more than one.
23. Close to Ana Paroa is Morunga, a small but commanding hill that looks down on the main mussel gathering rocks and the well known snapper fishing rock. There are three features we know as Morunga. The hill, the fishing rock and the mussel rock. At high tide the fishing rock is surrounded, but never quite covered, by water. It resembles a whale breaking the surface as it swims toward the horizon. We understand the meaning of Morunga to be, "*a wide view of the sea*".
24. Our old people said the hill Morunga was as old as Ahiwaro and that the place should always be left alone. That was how the old people treated it and was what they wanted for it. For all these reasons we respect that place.
25. From certain places along this stretch of the outer coast we have retrieved single human remains and grouped burials, uncovered by the winds found usually close to the top of the southern coast sandhills, placed facing west, near old living places. The location of these burials close to the ancient pathway means that the human remains found, could be from anywhere.
26. From Morunga a pathway leads along the cliff tops to Araiteuru a mile away. Halfway along is the bay Aniwaniwa and a small beach, reached by climbing down the cliff. At the north end of the bay is a cave, that oral tradition tells us is the outlet to the underground pathway to Puhanga Tohora, the mountains at Otaua and volcanic vents at Tautoro where the water is influenced by the rise and fall of the tide on our coast. There the spirits enter down onto the pathway to reach the ocean from the cave, on their way to Te Reinga. During the local government commission hearings for the site of the Ngawha Prison I raised this issue with a geologist who confirmed that it was quite possible for that to occur. He gave an example where mangrove trees grow on mountains where there is a mixing of seawater and freshwater.
27. On the plateau above Aniwaniwa, whilst fencing and walking there, I have found the remains of small camp fires. Some were built on the hard white silica pan, which is now covered by about a foot of sandy soil. There are no shells or evidence of food, only the

stones and charcoal. At the time the fires were made, it must have been a barren lonely sterile place. In many ways it still has that lonely aura today.

28. In our traditions the plateau was the spiritual domain of Kupe's two pet dogs, a place avoided by the forebears and our parents. I have never found any evidence of occupied sites on this plateau. It remains unoccupied, free of dwellings to this day. The view should remain like this for visitors and those who walk the coastal walkway. The factor of importance to Te Wahapu is its cultural value, as part of the ancestral landscape.
29. We are now at Aratieuru where human remains have been retrieved from the top of it as well as amongst the boulders at the base. The first bay insider the harbour is Poroki from there and further on at Omapere, artefacts have been recovered from along the eroding harbour shoreline.
30. It was here at Poroki that when in 1819 Samuel Marsden walked overland from the Bay of Islands to the Hokianga, then travelled by waka down to Te Wahapu, he landed at Araiteuru and was scolded by the tohunga Te Waenga for stepping ashore onto the rock used by the ancients and himself, to deliver their karakia to Tangaroa.
31. After landing at Waiarohia, Ruanui and his people settled at Araiteuru. They built their whare wanaga there, on a small piece of flat ground, above the shore of the bay Poroki. Later they left and settled on Maukoro across the harbour.
32. The stream at the northern end of the beach is Ngutu-pakapaka. When waka voyagers arrived it was in these waters they washed their salt burned faces. In front of the stream are the rocks that Pokopoko, the renowned pursuer of Taniwha of later traditions, is said to have tethered taniwha he had captured.
33. At the southern end of Omapere bay are the rocks Ruakekeno. In the past when seals gathered here in the early spring, it was taken by our forebears as the omen of colder spring weather and a poor planting season. Behind Ruakekeno are the cliffs, Te Papaki of Tohe traditions, where Tohe and his slave Ariki landed from Whanui, on their journey from Kapowairua to Kaipara. From Te Papaki they walked up the ridgeline to the summit. When they reached it, Tohe sat down and was wiped dry by his slave. He named the place Pakia.

34. Midway along Omapere bay is the Waihuka stream. There was once an ancient wahi tapu and a tauranga waka at its mouth. The wahi tapu was on a point of land on the northern bank, the tauranga was on its inland side. Both were completely destroyed by flooding and rough tides in 1904. The foreshore further inland beyond where the wahi tapu and tauranga waka were in 1904, has also eroded. The human remains were gathered up and buried. Fewer human remains are now found. Among the artefacts recovered were unfinished adzes.
35. Past Waharau at the end of the bay, is the Waiarohia river. It is here the traditions of the ancestor Nukutawhiti and Ruanui began.
36. We are now at Taumatawiwi and Opononi which are both old sites. Onwards to Pakanae, the site of Kupe's papakainga. It stands alone as the beacon of beginnings, a reflection from Pouahi, the flame of a people's identity. The streams, Waikiri and Waimahutahuta are part of the name, Pakanae.
37. The Pakanae foreshore and Pouahi, Kupe's landing place, are the oldest occupied places in Hokianga. Accretion and sand drift have changed the Pakanae shoreline from what it was, when the ancestors first arrived. The Pakanae papakainga was occupied until 1860, when it was made a burial reservation. During that period drifting sand extended the shoreline out a 100m from where it was then. The sand drift, possibly from storms, affected other parts of the harbour and also the outer coast. The contour and the profile of the cemetery, the stream mouth and foreshore were changed.
38. Evidence of the early human occupation is quite close to the surface in sand blackened by fires and cooking. Fire scoops and house poles are sometimes found close to the surface when graves are dug and human remains can be found in the former shoreline sand strata. A recent archaeological investigation confirmed historical occupation of this site. A copy of the relevant section is Appendix B.
39. At the northern foot of Whiria, is the area of flat land where the Wesleyans built their mission station in 1837. All that remains today are two massive Norfolk Pines planted by Rev. John Hobbs in 1838, they are recorded as notable trees in the District Plan.⁷ The foreshore changed again in 1940, when reclamation extended the land at Motutoa

⁷ <http://www.fndc.govt.nz/services/environmental-policy-and-forward-planning/the-far-north-district-plan/district-plan-electronic-version/Appendix-1-Natural-and-Physical-Features.pdf> p5

outward to what is now known as Puata creek. Previous to that, the body of water was known as the Te Puata. Waimahutahuta was the stream which flowed at the south foot of Whiria, the term describes the riffling of water made by schools of mullet.

40. We look to Koutu, where there is a deep anchorage in the harbour, but no water and no known early occupation by our ancestors. There are wahi tapu and burial grounds from old battles at Waiparore Reserve.
41. We cross to the north side of the harbour to Kawehitiki Point, another ancient occupied place. Kawehitiki was used by successive generations as a special gathering and meeting place. It later became a place for special burials and ceremonial occasions. The chief Kahi of Ngati Korokoro is buried here. Whalebone artefacts, stone and grinding utensils have been recovered from this place.
42. Kawehitiki was ideal for all these uses because of its location, it is formed of clean white sand, with limestone cliffs and has access from the sea. It was the only place I ever heard described by elders as being “*he whenua rangatira*”. In old language it meant a place, “in a state of peace”.
43. They spoke with affection of the place and of their visits. The old people talked of the haka they saw in their childhood, performed naked. Kawehitiki is “untitled customary Maori land” a designation and description compatible with its history, traditions and continuing uses. I gave evidence about the meaning of ‘he whenua rangatira’ and Kawehitiki, following our hearing in Punguru.⁸
44. Before road access in the 1960’s, the people of Kawehitiki, Tairutu, Orongatea, Waitapu and Rangi Point communities were regular visitors, across the harbour to Opononi for shopping and entertainment.
45. Next, Tairutu, and Whanui where the stream once flowed from a deep ravine at the back of Rangatira. It was a large stream of clear water, in my lifetime, the Whanui Stream has disappeared under sand and the sand hills now cover the sites where Selwyn Watkins, George Hardiman and the papakainga of Te Mini Haretana once stood.
46. Walking west toward the coast, past Tairutu and Whanui, you arrive at the small sheltered bay lying behind the protective sandspit, this is Pouahi, Kupe’s landing place.

⁸ Wai 1040, #C9(b)

47. Pouahi has special unique features, one of these is the composition of the spit. It is made of beautiful coarse white sand, dissimilar from the finer brown sand common to the north side. The kutai beds in the bay, were established by the ancestors. The first “cultural aquaculture” venture. It is said they brought in rocks (from the south side) on which they propagated the mussels They are unique to that area. The beds continue to survive despite heavy usage from the people of Te Wahapu. During a visit to Pouahi, made some years ago, I saw at a very low spring tide, remains of hangi in the clay seabed at the low tide mark with paua shells and other hangi food remains.
48. Whalebone utensils and greenstone artefacts have been found among clumps of mussels and above on the dunes. Like Pakanae, successive layers of occupation and the effects of sand drift dominate Pouahi, Whanui and Kahakaharoa. It was from this old occupied place that John Webster gathered skull human remains. I attach at Appendix C, a copy of Auckland War Memorial Museum Ancestral Human Remains Database record reporting Webster’s correspondence in 1884. It is clear he and others, visited the sandhills seeking remains. He states:
- “... Respecting Maori skulls, I have always been on the lookout for these but find it very difficult to procure them. I will not fail to use my best endeavour to get a few sooner or later I hope to succeed. ... “*
49. Continuing along the beach toward the coast, Niua stands before you, her flat basking rock Tokataa, is at her feet, it is the commencement of the outer coastal environment. Above Tokaata is Te Puna o Kupe, Te Puna ki Hokianga.
50. It is here, the old people said, the Ngatokimatawhaorua was hidden. It was here the wreck of an early sailing vessel was found.
51. This seashore between Pouahi and Tokataa was known to the older generations of Te Wahapu, as Taniwhanui. We also refer to it as the, “lost bay.” The local tradition tells of this vessel and of steel helmeted people and that alabaster ornaments were left at the site. As a child, I remember how excited the people were when it was reported the remains were found uncovered. The expedition to cross the harbour was arranged for the next morning. When they arrived they found drifting sand had once more reclaimed the relics. It has not been exposed since.

52. It was not till the late 1940s that our people began using from Tokataa to the Wreck for shore-line fishing. The tapu of the place however is still respected, the same respect that is given to Araiteuru. We may walk it, fish at Tokataa and Araiteuru, walk over both, but they are respected, and have the same status as our burial reservation.
53. Our old people described Niua, to mean “*to shy away from*”, and that her face was ever changing never seen clearly. From Tokataa the shoreline to the point we refer to as, “the Wreck”, has remained tapu. This was how our old people treated it.
54. These traditional sites within the precinct of Te Wahapu bound together by the seascape, of which Whiria is an important element, constitute the statement of our beginnings. These are our beginnings as a people and of Hokianga, the place. Whiria represents the efforts of our ancestor who preserved the places of our beginnings in Te Wahapu. The Hokianga identity and the emergence of Ngapuhi confirm our Kupe traditions. Te Wahapu as it is today is that which sustains those traditions.
55. To retain our traditional sites and the harbour, to preserve them and protect them from misuse and abuse is an intergenerational obligation. Generations have multiplied since our beginnings-repeatedly adding to the strength of the birthright. All can claim turangawaewae. The population of our people living in the area changes with economic patterns. To those that remain ‘at home’ is the ultimate Ahikaa function; sustainability of the natural environment and things of nature.
56. We must also look to the strategic places in Te Wahapu which include, Pukekohe which was used as the waka lookout, and from there clear views of the sea from Maunganui Bluff in the south, to Owhata beyond Whangape in the north were found. Below Pukekohe on the southern side, is the Waiwhatawhata valley and stream. At its head are the hills Te Kore and Pukoru. From Pukekohe on a clear day, Maunganui Bluff is seen very distinctively as a prominent southern point landmark for Ngapuhi, with Whangape our northern landmark.
57. In ancient times the southern journeys usually began at Araiteuru, up the pathway to between the skyline peaks Patipatiarero and Ohineturere, then from there down to the floor of the Waiwhatawhata valley, to the coast, past Waimamaku and Waipoua onward to Waikara and Maunganui Bluff. When the Bluff was reached, travellers could either go

inland over the hills at Waikara, then down to the Kaihu valley and river to the Kaipara or climb over the Bluff, then down onto the beach and along Ripiro beach south.

58. The Te Wahapu rohe connections extend beyond the bounds of its present day uses to its rightful position as the context for familial ancestral places, people, sea, seascape, and landscape. For Te Wahapu to realise its role as kaitiaki, these ancient and traditional connections have to be acknowledged and given respect.
59. We acknowledge that Te Reinga, is the place of departing. We submit that Te Wahapu is the place of beginnings.

B Claim Issues:

60. The remainder of my evidence is based on my own personal experiences and reading including of the writings of missionaries, Hobbs, Woon, Turner, Whitely, and early visitors to Te Wahapu including Joel Pollack and others contained in various articles and books read over the years. I have also read documents and records from the old land claims commissions processes and the Native Land Court and some of the information contained in the historical reports and in the supporting documents prepared for this Inquiry.
61. The following issues are addressed below:
 - a. The loss of ownership, management and control of the Hokianga Harbour
 - b. Whenua Tuku Iho and landless in Te Wahapu
 - c. Local Government and rating issues
 - d. Taonga and tapu – denigration of our cultural practices
 - e. Education and wellbeing
 - f. Resolution with the Crown

Hokianga Harbour - loss of ownership, management and control

62. I have lived all my life in this area, and have had the privilege of growing up with elders whose parents perhaps were born as early as 1825. I wonder what the people who lived here in Te Wahapu one hundred and ninety years ago, would think and say now?

63. They were descendants of people who had survived major influenza epidemics, high infant mortality, measles and other sicknesses, whose ways of living and beliefs systems were compromised. We have no way of knowing how many lost their lives or even, who they were. After 1840 a new way of living with social and cultural adjustments emerged, thus requiring them to become individuals without the security of their former tribal systems.
64. I fully appreciate that it was those who survived that period, that shaped the present day customs and beliefs of Te Wahapu, and that they represent continuity of uninterrupted associations and understandings of the sea and land of seafood resources up to the present day.
65. In my experience, our parents and their grandparents' generations treated the sea and beach like their homes. And likewise they required us, the children of that time, to keep the beach and rocks below the high tide line clean, as if it was our own home. Rubbish had to be taken well above high tide, and it was there where people relieved themselves. It was not being fastidious, it was upholding and acknowledging their cultural respect for the sea and what it provided people.
66. The beach I remember, was of clean sand, bleached driftwood, flocks of birdlife, shallows full of schooling fish and prolific and easily found shellfish. Fish were never cleaned on the rocks, and neither scraps nor left over-bait ever left on the fishing rock. It all had to be taken ashore. Mussels were scraped clean at the low tide area, where they were gathered from. Taking mussels and relocating paua from beds threatened by sand banks was a deliberate practice. The quantity of any of the seafood resources gathered was very carefully considered, excessive amounts were never taken.
67. At the time of my childhood, leadership lay where skills relative to activity were found. People visited each other frequently. People no longer moved nomadically over or about the rohe as their homes were now fixed. This did not in any way diminish their cultural understandings and relationship with the sea. Proven and responsible ancestral practices and customs were still followed. Tapu and rahui were applied to recognise and to respect the sea and life lost, and to protect or allow seafood resources recovery. The shadowy spirit world of Turehu and seapeople were always part of life awareness and discussions, which brought these factors of Maori ways alive in our children's minds.

68. Our authority and control of our harbour resources has never been relinquished, in pre-1840 land transactions, the leadership at Te Wahapu specifically preserved access to the foreshore, harbour and sea including the fishing grounds at Whiria, Koutu and Opononi.⁹
69. In the early 1900's my grandfather was one of those who protested the location of a road (now State Highway 12) over our turanga waka at Waiarohia as it would separate the land and foreshore. In the 1930's our leaders protested the reclamation of the hapu resources on the Hokianga Harbour at Motutoa, however the Crown has failed to protect the fundamental relationship between the people of Te Wahapu and the harbour, and dispossessed us of our cultural use rights.
70. That was what it was then - what then of now and what then for the future? As I say the Crown has dispossessed us of our cultural use rights in the foreshore and seabed. The use of the term, "Takutai Moana", in the recently constructed Marine and Coastal Area (Takutai Moana) Act 2011, we see as designed to dispossess Maori of their fundamental mythological, spiritual and customary relationship with the sea and foreshore. This is the very substance of our beginnings, and such the legislation is unacceptable. It is a travesty of justice and in the cultural sense the worst form of mockery that could be inflicted on Maori.
71. In 2010 we placed our response to the government review of the Foreshore and Seabed Act 2004 before the Attorney General in Omapere, where he came to hear the korero from the Hokianga hapu. We stated that the proposal to introduce the public element into the foreshore and seabed by way of a, 'no title' option was, to us, a cultural insult. We noted the need for recognition and for effect to be given to the common interest, common bond and common responsibility of the Hokianga hapu.
72. We had also to make submissions in opposition to the Select Committee on the Foreshore and Seabed Bill, but our words went unheeded, and today the Crown continues to deny its responsibility to protect our customary rights. There is no doubt that hapu need to be given back their free traditional use rights and have to be re-invested mana-kaitiaki in the scope and strength of that term. This must be supported by statute and public understanding.

⁹ Berghan, Supporting Papers for Old Land Claims, Vol XX, pp.11924-11932, Vol XI, pp.6295-6297, and pp.6359-6362

73. The sea, a food bank? Yes. The sea and foreshore for recreation? Yes. The sea of customary interest to all? No! There has to be recognition that the foreshore and sea is the critical element in Maori culture and are inseparable from culture and race and that Maori ethnic origins, mythology, legend, beliefs, relationships and practices, stem from the sea and must be protected by Te Tiriti. This protection and acknowledgement is required from the Crown.
74. Today shared redress is proposed for the harbour following the agreements reached between Te Rarawa and the Crown in a Deed of Settlement signed in October 2012 (“the Deed”). We are also aware that Te Rarawa also seek customary title on the north shore and outer harbour within the Te Wahapu rohe. The past common interests need to be confirmed.
75. The Deed provides for a process to be established for shared cultural redress over the Hokianga Harbour as informed by the kaitiaki hapu. Negotiations are to be undertaken when Ngapuhi are ready.¹⁰
76. In any negotiations, the English understanding of ‘customary’ must not influence outcomes to superimpose those of Maori understandings. Maori are not an ethnic minority. They have a national identity.
77. The acknowledgment for ‘cultural redress’ provides an opportunity for the Crown to construct legislation that eliminates once and for all time the bitter and continuing opposition to actions and policy that separates and demeans Maori ethnicity derived from their relationship with the sea and foreshore.
78. At a hui held in 1989, it was agreed between representatives from Te Roroa, Te Rarawa and Ngapuhi that a claim be filed for Crown breaches in respect of the waters and waterways in the Hokianga Harbour. Today only 4 of the original 15 of us who attended that hui are still alive. This claim is known as Wai 250. On receipt Chief Judge Durie aligned Wai 250 with Wai 249 and 128 to be heard together as Hokianga land and water claims.¹¹ This is an illustration of agreements between Hokianga hapu at that time, to act

¹⁰ <http://nz01.terabyte.co.nz/ots/DocumentLibrary/TeRarawa-DeedofSettlement.pdf> and see clause 9.55, p

246

¹¹ Wai 250, #21 dated 11.11.91

together to protect and preserve their customary understandings in respect of this place of beginnings.

Fisheries

79. The coastal people of my childhood relied heavily on seafood for survival. Despite their poverty and the sea's bounty, seafood was never taken in a possessive or exclusive manner. As a result a rich flourishing resource available to the very shallows was left. In my lifetime, from 1937 to today, the seafood resources, including paua beds and crayfish, have been decimated, from their state of plenty to near extinction, in shallow places to the very deep. Patterns of use have shifted from basic needs and respect to that of greed, from dependency to recreation and indiscriminate take. To say this practice is unsustainable is a gross understatement.
80. I held a fishing license in the days before the quota system, from about 1965 to 1985, to fish for snapper and crayfish (and any other species) in the harbour and along the outer coastline. In those days, the local fisheries officer was located at Russell on the east coast and as a condition of the licence I kept a record of my catch and sent it to the fisheries officer. I don't know what happened to that information or how it was subsequently used.
81. In my experience the whole fishery in the harbour was still sustainable then. But when the quota system introduced, the whole shape and structure of the availability of fish and seafood in the harbour changed. For one of our fishermen, George Bryers who was not licensed under the new system., he lost his livelihood and all of the sudden the mullet available from the north side, fished by George, was no longer available. There is commercial fishing of mullet in the harbour now, they are supposed to fish mid channel by Pouahi, but in order to catch fish they have moved to shallow water, close to the bay to use their nets and this is not monitored.
82. In 1992 at a hui held at Kokohuia Marae, Hokianga hapu met to discuss the establishment of a fisheries and cultural use management system. A working group known as, Hokianga Taiapure Work Group, was established and a discussion document distributed. The members of the work group were: Cyril Chapman, Reihana Paniora, Malcolm Pinkney, Piripi Cope, Nicky Williams, Kevin Robinson from Te Rarawa, Simon Royal and myself. The group included those with commercial and customary interests and was supported by Ministry of Agriculture and Fisheries. We believed that given the

Fisheries Act 1983 and Maori Fisheries Act 1989, the task facing the government was to implement the understanding reached by the Treaty partners regarding the management of traditional fishing groups, and the interests of the wider community, for the wellbeing of all.

83. This has not been achieved, the difficulties with implementing a management regime under the legislation proved too difficult to overcome. I attach a copy of our discussion at Appendix D.
84. In the end we were not consulted on the Fisheries (Kaimoana Customary Fishing) Regulations 1998 which fail to accommodate flexible boundaries, and in our case these Regulations have effectively severed traditional understandings of rights of use. This factor, along with a flawed identification of the Te Roroa Area of Interest in their settlement legislation, has left our Marae at Te Kai Waha, Waiwhatawhata, without status as tangata kaitiaki under the Regulations.¹² The length of the coastline and its fisheries resources which were recognised as Te Wahapu and it is we who still hold the intimate knowledge of the shellfish disposition and their state of health.
85. As a result we have had to oppose Te Roroa's application for tangata kaitiaki status because the application seeks to put in place a regime that affects our customary area and our obligations in both the harbour and outer coastline without acknowledging our traditional and customary responsibilities in these areas.
86. In response to our submission (and others) in opposition to the Te Roroa application, the Minister has invoked a dispute resolution clause effectively saying, "you all go away and settle this matter before I go any further:" The Regulations are remiss; if we can't settle it, then there is no resolution and that is the situation we are in now. It is untenable to be left with the resultant stagnation in our area being able to be managed on a customary basis. A copy of the Minister's letter is attached at Appendix E.
87. It is important that we protect what is left in our fisheries, waters and the foreshore, for future generations. As children we were able to take paua and find crayfish on the outer coastline south of Araiteuru without diving. Now I doubt these areas can ever be rehabilitated, without customary measures, supported by regulatory authority. The

¹² We actively opposed the Area of Interest proposed in the Te Roroa settlement with the Crown.

unfortunate thing is that unless we breed something in our waters, we won't have anything left to catch, the damage that has been done is so great that it cannot regenerate naturally. Too much has been taken out of harbour and the coast. Thirty years ago the whole of the ancient morunga mussel fishery disappeared. About three years ago mussel spat appeared. These have re-established into a semblance of what the beds were formerly but require to be carefully managed onwards.

88. Statutory mechanisms, including the system of surveillance and apprehension over the behaviour of people taking seafood, have not worked particularly well for Hokianga. A different approach is needed. Hokianga has retained its cultural right to apply tapu and rahui over the sea and its resources. These are proven practices were used by our ancestors and stem from fundamental ancestral values and relationships with the sea. They are still relevant today and could be used to compliment statutory processes. Without a shadow of doubt such practices will extend into the future, regardless of legislative efforts and human behaviour to the contrary.
89. Some areas must be protected absolutely. Places like Te Ihuiti, Ana Taniwha and Ahiwharo should be under a rahui for crayfish and paua, extending 1km out to sea. Recreational use must be controlled, we are seeing excessive marlin fishing over the February/March months, with large numbers being caught by big recreational boats.
90. We must also look at new technologies, perhaps on land aquaculture for paua, crayfish, kina and even mullet. I attach a map of our proposed cultural use areas as Appendix F. We expect these to be given expression in the outcome of agreements reached over the future use, management and development of the harbour
91. The Crown acknowledges that the Harbour is an area reserved for settlement with Ngapuhi and Te Rarawa in the future, the question therefore is, how did the people of Te Wahapu lose a valuable tradable commodity and what is the appropriate redress for this loss?
92. We seek that the Tribunal and the Crown recognise us as kaitiaki, with the availability of statutory support for our kaitiaki management by regulatory enforcement. We seek to restore our customary and traditional autonomy over our foreshore, harbour and sea.

Pollution

93. Hokianga Harbour is seen as spiritual and unmodified, with strong Maori dimensions-dimensions that need to be recognised, understood and respected.
94. Of great concern to us, is the use of the surface of the sea at Waiarohia to carry away the treated community wastewater. This practice is contrary to and offends our customs for the sea. We ask in all seriousness, is this the relationship with the sea that the future holds for Maori?
95. What does a ‘clean sea’, and, ‘seafood resources for the future’ mean? What will they be, where and how do beliefs, practices and customs from the past, our legends, and our mythology, sit in the present day thinking about the sea? What foundations beyond statutory measures actually hold together people’s sense of care and respect for the sea? Our concern is how the public regard for the sea is cultivated in isolation of its founding cultural influences. To us, the answer is simple as it has already been given to us.
96. This claim, Wai 2003, is about Te Wahapu and the application of a community ethos based on haukainga, mana kaitiaki values. We have acted on matters associated with the Hokianga Harbour over many years including trying to limit the effects of pollution on the harbour, for example, by making submissions to reduce the area of benefit for consent to discharge waste water into the harbour and we would also oppose any heavy industry or discharge of any matter that would add to the pollutants. Cheryl Turner will address this issue further in her evidence.

Cultural landscape

97. I have described above some of the features of our cultural landscape on the foreshore and seabed of the harbour and outer coastline. This identifies the rohe of Te Wahapu as utterly unique, both in terms of our nation’s history, evolution, and in terms of its environment and living conditions. These factors set it apart from any other place. It raises the issues of ethics of use and the ethos of community, a balance we wish to ensure remains united around the symbol this place presents. We emphasise the importance the symbol of place, te haukainga represents for all Maori, and how Te Wahapu o te Hokianga Nui a Kupe is for Ngapuhi.

“ ... *ethics* has to do with principles worked out *consciously* or even *rationally*, and perhaps *intellectually*, whereas *ethos* relates to *symbols*, emerging from everyday experience in a particular community. Such symbols unite a particular community in a certain common *attitude* towards

life and give expression, or even form, to the very 'way of being' (tropos hyparxeos) to the how people are in relation to everything that is. ... ethos requires two conditions in order to exist. The first is a community united around a common worldview. The second is symbols through which this common worldview is shared, expressed and communicated in the community. Without these conditions ethos results into sheer custom or praxis which can be easily abstracted as individual behaviour and become prone to intellectual criticism and finally dismissed.”¹³

98. When speaking with international visitors who have been our guests, they have endorsed Maori culture as one that perpetuates a valuable ethos from which to view, preserve and conserve the world, both natural and human. Our cultural landscape includes our world view and our symbols. We have shared this world view with the Crown in our submission to the Department of Conservation on the Northland Conservation Management Strategy. We have specifically recorded our objection to any development within our rohe which proposes:
- a. Wind farms
 - b. Sea power generation
 - c. Built structures on the north shore and sandhills
 - d. Reclamations
 - e. High rise buildings in Omapere and Opononi
 - f. Buildings of more than 6m high
 - g. Marinas
99. We would be comfortable with Marae reserves for cultural aquaculture and emergency landing places for helicopters on the foreshore and sandhills
100. We would also oppose any development that prevented our visual connection to our cultural landscape and sites of significance from our Marae.

¹³ www.rsesymposia.org/themedata/File/1151678281-Ethic-pdf,

“Towards an Environmental Ethic”, of Metropolitan John of Pergamon at the Religion, Science and the Environment Symposium IV, 6 June 2002, p2

Kahakaharua

101. Kahakaharua, the area of the sandhills on the northern shore of the harbour is an iconic area of great significance to the hapu and iwi of Hokianga and beyond. It includes the area where, before he departed on his return voyage, Kupe left his son Tuputupuwhenua as a fountainhead. It is said he disappeared underground at Te Puna-i-te-Ao-Marama, a place marked by a freshwater spring. In our traditions Kupe sacrificed his child in the springs waters, a talisman of his claim to this place for his descendants. Kupe's parting words were "Hei konei ra e Te Puna o te Ao Marama, ka hoki nei tenei, e kore e hoki anga nui mai" (Farewell Te Puna o Te Ao Marama, I am going home and will not return). It is from these words that the name Te Hoki-anga-nui-a-Kupe is derived.
102. Kahakaharua is surrounded by many traditional places across Te Wahapu including: maunga which were used for navigational purposes, pa, toka, unga ki uta (landing places), puna, awa, roto, and wahi tapu. Near to Kahakaharua, are the healing springs known as Waimako, Wai-o-te-kauri, and Waitapu, which is the term used for washing the dead.
103. Kahakaharua is within the Te Rarawa Area of Interest, and is an area in which Te Wahapu and Ngapuhi ownership interests are recorded in Native Land Court titles. The Crown threatened to extinguish these customary ownership interests in settlement negotiations with Te Rarawa and we sought an urgent hearing to prevent any prejudice occurring. My Affidavit in support of the application refers to this.¹⁴ Through subsequent agreements reached with the Crown and with Te Rarawa a historic reserve, Te Tapairu o Kahakaharua Historic Reserve, is to be put in place over the currently Crown owned portion land known at the Pouahi Conservation Area. Te Wahapu will have membership on the reserve board to reflect the panga and mana of the people of Te Wahapu and Ngapuhi.¹⁵
104. Also within the precinct of our cultural landscape and the Te Rarawa Area of Interest are our hapu lands at Whanui. On 17th July 1912 Whanui was partitioned and nine blocks

¹⁴ Wai 2350, #A1

¹⁵ <http://nz01.terabyte.co.nz/ots/DocumentLibrary/TeRarawaGMLegMatters.pdf>. Clause 14

created. The largest was Block 9, of 142 acres which were allocated to 16 owners. The other eight blocks were on the coastal aspect of Rangatira, one of them was a landing reserve. A number of the owners in all nine blocks, were from the south side, their descendants have retained those interests in the land.

105. A conservation covenant is in place over Whanui 9 Block, Pouahi and other lands taken in their trust by Te Puna Topu o Hokianga. We see the need for the ongoing protection and maintenance of the terms of the covenant to ensure that those who use them are aware of their deep significance to the people of Te Wahapu, Ngapuhi and Te Rarawa. Many places are tapu and should not be disturbed. Unsupervised recreation should not include the use of vehicles there. A copy of the covenant is attached at Appendix G.
106. We are concerned that the Crown appropriation of the foreshore, which include places that evidence our beginnings, means that such places are being lost, not recorded or monitored. It is equivalent to a page of our narrative being removed. In addition local government processes have created public places on the foreshore which also mean that further loss and damage to significant sites will occur. For example the damage done by the boat ramp at Omapere is possibly too late to undo now, even if the ramp were removed. Any removal would result in the upper erosion area being transferred to the heads. In discussions with Northland Regional Council (“NRC”) and Far North District Council, (“FNDC”) neither party is willing to take responsibility for the ramps. It is very frustrating and while some anti-erosion measures have been undertaken on the harbour foreshore the long term the future is less certain.¹⁶
107. We seek a recommendation from the Tribunal, that the Crown recognise us as kaitiaki and our authority over our cultural landscape, and integrate this authority in current and future Crown and local government processes which affect our cultural landscape.
108. We are aware that a Hokianga Harbour report is to be commissioned for presentation later in this Inquiry. The information in this brief should be used in the report, however we wish to reserve our right to make comment or submissions on the content of the report when it is released. We also reserve our right to file further relevant evidence with the Tribunal following filing of any report or evidence on the Hokianga Harbour.

¹⁶ <http://www.nrc.govt.nz/Download/?file=/upload/5216/Omapere-Opononi Dune Restoration Strategy.pdf>

Whenua Tuku Iho and landlessness in Te Wahapu

109. In the following paragraphs I describe:
- a. Te Wahapu Area of Land Interests;
 - b. The meaning and effect of pre-1840 land transactions;
 - c. The Native Land Court and Crown purchasing in Te Wahapu;
 - d. Gifted lands;
 - e. Public Works;
 - f. The Waiwhatawhata land development scheme.

Te Wahapu Area of Interest

110. The people of Te Wahapu have customary and ancestral interests in approximately 23,000 acres, of land, not including the Hokianga Harbour foreshore and seabed, and, as noted above our interests overlaps those of Te Roroa to the south and Te Rarawa to the north. Our Area of Interest is attached as Appendix H.
111. I have briefly described the links between the people of Te Wahapu and Te Roroa at page 6 of my evidence filed for the Te Roroa claim, Wai 38.¹⁷ We can trace Te Roroa in Waiwhatawhata from about 1810, when the Ngapuhi chief, Parore occupied Waipoua and Te Roroa congregated in Waiwhatawhata Valley. There was no distinction then with the people of Kokohuia, Waipoua was their second home. The chief for Te Roroa, Hakaraia is an ancestor of the Paniora whanau today, they are descendant from Raunui and from the people at Rangi Point and Maukoro Pa on the northern shores of Hokianga harbour. Our links with Te Roroa, intertwine although the people of Te Wahapu all have Te Roroa ancestry, but not all of Te Roroa are of Te Wahapu descent.

¹⁷ Wai 38, #D17

112. As I mention above, the Te Roroa Area of Interest unfortunately included Te Kai Waha Marae and the north west area of the Waiwhatawhata and the coastal areas north of Wharewera which lie within the rohe of Ngati Wharara. This matter is, I understand beyond the jurisdiction of the Tribunal in this Inquiry, however I mention this background to demonstrate the Te Wahapu interests within the Te Roroa Area of Interest and reiterate my point above, that our cultural boundaries cannot be altered as a result of Crown settlements.
113. Te Wahapu links with Te Rarawa are well known and acknowledged as set out my Affidavit referred to at paragraph 103 above.
114. Of the approximately 23,000 acres of lands in which we have customary and ancestral interests, today our hapu land base is just over 16 acres (6.5045ha) composed of 3 Marae Reserves and 2 Burial reserves. These are:
- a. Matariki Burial Reserve, 2.0234ha (which remains in the name of Te Tao Pairama awarded title in 1875)
 - b. Pakanae Marae at Pakanae 2B Maori Reservation 0.893ha
 - c. Pakanae No.2 Wahi Tapu, Maori Reservation, 2.4821ha
 - d. Kokohuia Marae at Kokohuia B1B1 Maori Reservation, 0.499ha
 - e. Waiwhatawhata Marae at Waiwhatawhata 1A2B5, 0.607ha
115. Very few of our people retain their ancestral lands, and then mostly only in very small parcels. The total Maori freehold land holdings within the area in which Te Wahapu are Aahikaa is approximately 2,366 acres held mostly in small parcels in approximately 113 blocks. The only remaining customary land within our rohe is 14 acres at Kawewhitiki. I attach a table of lands claimed through the old land claims commissions, and a list of the land blocks dealt with by the Native Land Court from 1865 to 1912 at Appendix I.
116. By any measure of landlessness, today we are landless and ask that the Crown recognise this fact.

117. In 1840 the people of Ngati Korokoro, Ngati Wharara and Te Pouka hapu resided in their kainga located at Pakanae, Waiarohia, Waikohu, Kokohuia Opononi, Omapere, Waiwhatawhata, Whanui and Kahakaharoa.
118. With the arrival of newcomers, came their desire to transact land with our leaders. The subsequent impact of Crown actions after 1840 destroyed our traditional value of the land as whenua tuku iho. The Crown, through its land commissions and the Native Land Court superimposed English concepts of property, and distorted our concept of whenua into 'blocks of land' to be delineated and valued as an individual asset.
119. These impacts began with the Crown's investigation of those transactions which took place between our principal chiefs and new comers to the area prior to 1840.
120. In the twelve year period between 1828 and 1840, our chiefs transacted seven distinctive parcels of coastal land from Araiteuru to Koutu. After 1840 approximately 1300 acres of lands representing these transactions was claimed through the old land claims commission. I have read the journals of missionaries, and early visitors to Te Wahapu and some of the material from the CFRT reports as well as copies of the early Deeds and documents signed by our chiefs. I have formed a good understanding of what took place and reflected on the actions of the ancestors before writing this evidence.
121. Of relevance to the effect and meaning of these transactions is the late arrival of new comers into the Hokianga some 37 years after their arrival on the east coast. Although the people of Te Wahapu were shielded from Pakeha settlement and land acquisition for some time, our important ancestral places at Whiria and at Araiteuru were included in these seven early transactions, and remain as powerful footprints of our cultural identity and character.
122. One, Whiria established an ideological presence to safeguard the stronghold of the hapu. The second, Araiteuru, was where the chiefs supported a family and then an enterprise initiative suggesting their future thinking. In both of these transactions an underlying intention to create opportunities for Maori people and new social wellbeings may be seen.
123. We believe that Moetara and the other chiefs took deliberate actions in an effort to retain the presence of the new comers and to attract trade and benefits they believed would follow. But we now know that any benefits they perceived that arose from the pre-1840 transactions were short lived, not even of a lifetime duration. Significant commercial

opportunities were lost to Te Wahapu people as soon as lands at key places at Koutu, Opononi, Omapere and Araiteuru were transacted.

124. The magnitude of the loss of these four particularly strategic pieces of land, is very evident today. The newcomers who selected these coastal sites were aware of their commercial potential and that they physically provided the specific features they sought to conduct their business from.
125. We know our ancestor chiefs used their land and their women as incentives to retain and encourage newcomers to settle and be part of their lives, however the context of all seven transactions is the undeniable autonomy, power and authority of the chiefs at the time.
126. We have already recorded that Moetara signed He Whakaputanga in 1835.¹⁸ While he and the other chiefs were anxious to secure the presence of the newcomers and the advantages they could bring to the hapu, in some cases they also explicitly retained their authority over the land. This is seen in the transactions at Whiria, Koutu and Opononi where access to the beach and fishing grounds was reserved, and at Koutu, where one European, Nimmo, was allowed by Moetara to remain on land, transacted with another, Captain Kent.
127. The Land Commissions established by the Crown to investigate claims to land, confirmed all seven Te Wahapu transactions, however in some cases it took some years and the decisions of the Bell Commission, and Native Land Court, to finalise the claims. Neither the first land commissioners, nor Bell, nor the Native Land Court undertook a proper examination into the nature and context of the transactions, or recognised the power, authority and autonomy of the chiefs who entered into these transactions.

The meaning and effect of pre-1840 land transactions

The Bell Commission

128. In 1858 Rangatira Moetara, Wi Tana Papahia and Hohaia provided Bell with a sketch of the outstanding land claims in Hokianga, where 6 of the 7 Te Wahapu transactions drawn. I comment on each one below.

¹⁸ Brief of Evidence of John Klaricich and W Moetara Wai 1040, # C 9 and C 10.

Koutu (OLC 539)

129. The first transaction in Te Wahapu took place in 1828 between Captain Kent and Moetara, Kahi, Rangatira, Karekare, Tio, Tatoaora, Pona Aitu and Matu for 640 acres at Koutu (also called Koutu Mongero or One Tree Point).
130. With regard to the references to the chiefs involved, ‘Ta Tatoaora’, can only be Pairama Te Taoroa of Motutoa and ‘Aitu’ being Te Aitu, Moetara and Rangatira’s youngest brother. I do not know Matu.
131. In 1839 Kent is recorded as transferring the land to Mitchell in payment of a debt, who then transferred the land to William Young for 500 pounds. Young claimed the land before the first Land Claims Commission which recognised the transaction between the chiefs and Kent as a ‘bona fide purchase’. However by the time the commission considered the claim, Kent had died and there was no archival evidence presented to prove Mitchell’s claim to the land or right to dispose of it to Young.
132. The commission recommended grant on survey to Kent’s yet to be determined representatives.¹⁹ The commission also recorded the need to reserve the common understanding of Rangatira and Karekare for the continued use of the beach for Maori, noted as, “*a right of land, fishing from the beach be reserved to the Natives*”. This was never done.
133. When Commissioner Bell investigated the claim some 20 years later, Rangatira Moetara, the survivor of the original transaction confirmed that the land had been a ‘Maori’ sale for the benefit of his sister’s children. Relevant to this claim is that Wharo, a sister of Moetara and Rangatira, lived with Kent and they had children together. Rangatira Moetara stated that the basis of the transaction was to provide land for the children of Kent and his sister, Wharo.²⁰ It was for that reason that the claim by Young’s descendants before the Bell Commission, was not recognised by Rangatira.²¹

¹⁹ Stirling Towers, “Not with the Sword with the Pen”, Wai 1040. A#9, p329

²⁰ Stirling Towers, “Not with the Sword with the Pen” Wai 1040, #A9, p1121, 1352

²¹ Stirling Towers, “Not with the Sword with the Pen” Wai 1040, #A9, p249

134. Moetara had provided George Nimmo with a place to live at Koutu and Nimmo was granted title to 2 acres by Commissioner Bell²² To me Moetara's actions demonstrate his continued authority over the land, despite his agreement with Kent.²³
135. In 1874, a son of William Young, T E Young, brought the claim before Judge Manning in the Native Land Court. Rangatira continued to object to the land being claimed by Young's children.²⁴ Despite his objections, in 1880, that the Native Land Court awarded Young's descendants 225 acres of land at Koutu.
136. We don't know what happened to 412 of the 640 acres originally claimed, but of the seven pre-1840 land transactions, Koutu stands apart from the others. The time delay factors, dismissive attitude displayed toward Maori by the land commissioners, and the Native Land Court, stand out. The Kent/Young Claim and grants process to Nimmo and Young extended over 40 years. It seems incongruous that William Young could be a claimant for Koutu on the basis of a transaction between the chiefs and Captain Kent. For George Nimmo to be given title and for Young's descendant to receive 225 acres in 1880, but for the hapu to receive nothing is clearly unfair. This demonstrates what the Crown refers to as the "flaws" in the investigations of successive land commissions and the Native Land Court.

Present day

137. There is publically owned recreation reserve land at Koutu, which remains undeveloped. In the early 1990's the Pakanae No 2 Cemetery trustees secured land opposite this reserve for a new burial reservation.
138. The Far North District Council ("FNDC") made \$20,000 available to purchase this piece of land, but somehow the money was diverted off by the then Hokianga Community Board, into upgrading Rawene Public Cemetery, which FNDC decided would then become available for South Hokianga. The reasons for this reversal of understandings has never been explained to Te Wahapu residents and puts pressure on the Pakanae Trustees who have continued to petition FNDC to find a local public burial reserve for

²² Stirling Towers, "Not with the Sword with the Pen" Wai 1040, #A9, p1110

²³ Stirling Towers, "Not with the Sword with the Pen" Wai 1040, #A9, p129.

²⁴ Stirling Towers, "Not with the Sword with the Pen" Wai 1040, #A9, p1351, 1354.

this area. Pakanae Cemetery is the only public burial facility available within our rohe with a long history of availability to a wider community.

139. I am one of the trustees of the Pakanae Cemetery and we have continued to search for replacement land. Discussions have been held with FNDC officers, and a dedicated sum of money from a private Hokianga Trust is available to assist a purchase. About 5ha. of land is needed. FNDC have made acquisition of a burial reserve an item in their Long Term Plan and have set a sum of money aside to further the search.²⁵
140. While the people of Te Wahapu have accommodated the need for an urupa to date, now land needs to come from the wider community who wish to be buried within our rohe. Interestingly George Nimmo died at Koutu 13 April 1882, aged 80 years, and is buried at Pakanae along with family members of those who took up the governments offer of land at Waioitemarama for settlement.

Whiria (OLC 941)

141. In 1836, Moetara, Karekare, Rangatira and Tio agreed to provide the Wesleyan Missionary Society (“WMS”), with approximately 200 acres of land to the northwest and on the slopes of Whiria. Whiria will always be the force with the power to change people’s lives by causing them to look back at the past and into the future. There is no doubt in our minds, that the motives behind the transaction of such a large block of land which essentially included Whiria Pa, was driven by Moetara’s desire to establish the Wesleyan missionary presence at Pakanae within the Maori cultural context.
142. Whiria is the place that Moetara induced the Wesleyan missionaries to come to. Thus it is the Wesleyan missionaries, and their families, their parent Wesleyan Missionary Committee, our chief Moetara, and his associates with all our ancestors’ forebears, who are walking our pathway to the Tribunal and Crown with us.
143. Moetara saw the importance Christian religious teaching would have for his people. He saw that literacy, numeracy and other social skills would be needed by his people, because of the changes he saw ahead. As it transpired the Newark/Nuhaka (as Whiria was named

²⁵ <http://www.fndc.govt.nz/your-council/strategic-planning/ltp-2012-2022-far-north-long-term-plan/Long-Term-Plan-2012-2022-Volume-1.pdf> p116

by the missionaries) missionaries looked after the health of the people of Te Wahapu, with the medicines of their day they made available, and were in fact the first health providers against European diseases and serious accident rather than those of combat as previously.²⁶ They also provided early literacy and numeracy education to our people, learning Te Reo and then teaching our people to read and write in our language.

144. The transaction between Moetara and the WMS was never repudiated by the leadership at Te Wahapu and the establishment of the Nuhaka Mission, was in essence akin to the planting of kumara tupu, knowing the increase would be fruits for the people.
145. As noted above, the fishing grounds and the use of the beach in front of the Mission Station were reserved by the chiefs and this was confirmed by Reverend Hobbs before the Land Commission on 10 January 1842, but does not appear to have been recorded.

Present day

146. The Methodist Church retains this land and I and my family hold a perpetual pastoral lease over it. We purchased the lease awaiting an opportunity to ensure that it is held by Ngapuhi and forever kept as an open space available to people to visit, especially children and other groups, uncluttered and uncompromised by modern built structures or a cemetery – as it is now, simply left.
147. Issues such as the valuation of the land are constantly being raised and in our correspondence with the Church we have sought to ensure that the cultural value is the uppermost consideration when valuing the future use of the land at Pakanae, and not for example, for this land to be valued as high value coastal residential land.
148. The land is easily managed, although some more work is needed on the reclaimed area. The marine flats are outside the original Whira precinct and this is the area that would be suitable for an aquaculture development in future.
149. The retention of Whiria as a legacy for our future generations is what we seek. In this way, that immutable guiding presence is kept in place.

²⁶http://www.jps.auckland.ac.nz/document/Volume_81_1972/Volume_81%2C_No._4/Missionary_medicine_and_Maori_health%3A_the_record_of_the_Wesleyan_Mission_to_New_Zealand_before_1840%2C_by_J._M._R._Owens%2C_p_418-436?action=null

Oha

150. At the Land Commission hearing for Whiria, Reverend Hobbs also confirmed Karekare and Tio agreed with John Whitely to a transaction for land to be used for a Mission cemetery on behalf of WMS at Oha. This was a small tidal island of approximately 4 acres in the south eastern most corner of Whiria and is included in the 200 acre area claimed by Rev. Hobbs.
151. The tidal marine flats on which Oha was situated reclaimed by the Crown and a was given to the Methodist Church.²⁷ It is our desire that a memorial plaque be erected. The area of Oha remains unfenced and grazed by cattle, it should be kept that way.

Omapere (OLC) 326

152. When the chiefs, Moetara, Rangatira, Tirarau and others, entered to an agreement with John Martin for land at Omapere in 1831, (witnessed by Young, Mitchell and Nimmo and others), it was on the basis of Martin's relationship with Kiriora, who had swum out to the vessel, *Governor McQuarrie*, on which John Martin was a crew member, to warn of a possible attack. That is part of our hapu history.
153. John Martin left the vessel with Kiriora and settled on the land at Omapere, at the mouth of the Waihuka Stream. He and Kiriora established a piloting station for ships visiting Hokianga, on the site of the what is now the Opononi Area School. Later, in 1838, the chiefs transacted Araiteuru to enable a better pilot service to be provided for vessels.
154. For us, we see Omapere as part of Araiteuru. John Martin and Kiriora effectively binds them together in particular through Kiriora. Until his untimely death, Te Waenga was a regular visitor at their home visiting Kiriora, at Omapere and Araiteuru.
155. John Martin's claim for an area of 45 acres on the foreshore and beside Waihuka stream at Omapere was granted but reduced to 10 acres, 1 rood on survey by the Bell Commission in 1861.²⁸ Today the land at Omapere, between the shore and the highway is made up of three properties, including land owned by the Far North District Council for Pensioner Units.

²⁷ Alexander, "Land-Based Resources, Waterways and Environmental Impacts", Wai 1040, #A7, p896

²⁸ Berghan, "Northland Block Research Narrative, Wai 1040, #A39(a), p201

156. It is not clear what happened to the remaining 35 acres claimed by Martin but not awarded. In 1866 some of the Omapere Block came before the Native Land Court where Judge Manning 2acres to Hapakuku Moetara, Ngakuku Tete and Taharia Marupo (Omapere 243N Block).
157. Historically Waihuka stream contained a wahi tapu, an old burial ground, which was washed away by flooding possibly in 1860 and in 1904. Sand accretion also occurred on the foreshore at the mouth of the stream and when neighbouring landowners sought title to the area of accretion I applied to determine ownership through the Maori Land Court on behalf of the Omapere Maori Committee.
158. In my view if there was any title that was to be created or revived, then it should be for the hapu as part of our customary land. The Maori Land Court found that the area of accretion was customary land and this was upheld in an appeal to the Maori Appellate Court. The matter went onto the High Court, without our involvement as we had no more money to fight it. The High Court overturned the Maori Appellate Court Decision, finding that the land was part of the original grant to Martin and could not be Maori customary land. Irrespective of this outcome, our customary relationship with the land remains. The area of accretion remains landlocked and has not been subsumed into an adjoining title.

Araiteuru (OLC) 327

159. The guardian Araiteuru was upheld by Te Waenga who argued and defended his tohunga role over the sea from there with new comers, yet during his lifetime he accepted John Martin's presence there. The reason why, is not our's to ask.
160. Araiteuru was relinquished by our chiefs, Moetara, Rangatira, Tirarau, Hine Tapu, Apora and Ngarupo in 1838, to John and Kiriora Martin and their family to use. A woman known as Tarata who lived at Araiteuru was a well known matakite and people from the top of the harbour came to see her. I am not sure if Hine Tapu is the same person, or if she is of Ngati Whatua descent.
161. John Martin obtained a grant for 50 acres on survey, but the land was not surveyed and when Bell investigated it, he noted that John Martin was willing to trade the land at Araiteuru for land for his children closer to Auckland. This did not take place, John

Martin died in or around 1859, and the government acquired the land in 1870, for general purposes under the Waste Lands Act 1858.

162. We don't know whether Kiriora survived at that time.
163. Later part of the land was vested as a reserve with the Hokianga County Council who tendered the Harbour master's house for removal. It was dismantled and taken to Rawene. Eventually the signal mast was dismantled, and the boatmen's dwellings relocated to Horeke.
164. At the height of its use as a signal station, Araiteuru, the station had many visitors, notable among the visitors book are the regular visits made by young local couples who later married. It was the only place they could visit.
165. The reserve was administered for a short awhile by Lands & Survey, and eventually came under the care of DoC. In the 1980's, an effort to change the designation to Historic Reserve to allow a closer relationship that Maori people desired, failed.
166. The decision to refuse to accept the historic importance of Araiteuru is an example of the Crown's failure to recognise that for us, of Nga hapu o Te Wahapu o te Hokianga-nui a Kupe, Araiteuru with its north side partner Niua will never be anything other than the mana invested by Kupe, immutable, unextinguished - the pou whenua of the Ngapuhi beginning place.

Present Day

167. Araiteuru is now a Recreational Reserve administered by DoC, a place visited by many, many people. With the upgrading of the roading network, greater numbers of visitors occurred, the wellbeing and cleanliness of the place became an issue.
168. Our family who own the adjoining land provided 4000sq.m of farmland for a parking area. Now heavy gates have been installed to allow foot traffic and emergency vehicle access to the reserve. DoC have now completed the walkway re-development on the Reserve and removed the aged radiate pine and macrocapa on the minor slopes, planting natives there instead.

169. Down on the shoreline section, on the adjoining land to a FNDC esplanade reserve, is Ruanui's wharewananga at Poroki it is well removed from people's activity and should be kept that way.
170. From days of old, Araiteuru and Niua have exuded the mana of Ngapuhi. During the last 150 years, it has provided a caring role assisting the safety of commercial vessels. Yesterday it languished, today it captures the interest of travellers, but Maori interests remain undiminished. For tomorrow we rightfully have a place there. We seek that the Crown restore our role as kaitiaki of this place and provide capital development funding for an opportunity to protect and preserve this place in perpetuity.
171. In the same spirit as 4000sq.m was given for parking, we now seek a similar area close to Araiteuru, to be transferred over to Te Wahapu as a part of settlement – so that we can offer a tourist orientated commercial development, discretely, sensitively, designed and operated. Such a proposition has previously been discussed between DOC and the Hokianga Historical Society and we believe that as keeping Araiteuru protected is a major focus for us, we should deliberately use the adjoining land to support that focus.
172. We acknowledge the statutory acknowledgement of Te Iwi o Te Roroa, and what that inclusion means, however Te Wahapu as Ahikaa seek engagement with the Crown as described above.

Opononi (OLC) 541

173. In 1835, Captain William Young transacted with nine chiefs including Rangatira, Moetara, Te Puna, Tirarau for 100 acres of land at Opononi. A deed was signed at Koutu where Young resided on the land that had been given earlier to Captain Kent and Wharo. The chiefs reserved for their use, the beach at the front of the land.
174. Moetara appears to lower his profile when signing the Deed he was almost the last signatory, it is not clear why he would have done that. I attach a copy of the record of the transaction as Appendix J.
175. The Bell Commission investigated a claim by Webster who had acquired Young's interest. A grant was awarded but on survey the land was found to be only 41 acres. The fate and the exact location of the surplus land of 59 acres is unknown.

Taikapiti (Pakanae) (OLC 12)

176. In 1836 Captain Richard Oakes transacted 300 acres of land referred to as Pakanui” with Moetara and Rangatira and other chiefs. We know this place as Taikapiti.
177. In 1844 Oakes exchanged his claim for a 300 pound credit or script from the Crown, however on survey the claim was found to contain only 70 acres.
178. As referred above at paragraph 38, last year, a section of this land was subject to investigation by the Historic Place Trust following the grant of a resource consent and commencement of construction work. Remnants of prehistoric Maori cooking area and a further occupation layer were discovered on this site, consistent with our oral histories. It is in this area that we understand Moetara held his celebration hakari following his acknowledgement by Lieutenant George Arthur, as it was then the only place for 4000 people to be accommodated. Although there may have been no archaeological finds of his structure yet, they might be there and care should be taken because of the activities that took place in this area.
179. In 1859, Rangatira Moetara wrote to the Governor seeking to purchase this script claim back from the government, we do not know the outcome of his inquiries. The technical report records that a Court House was build there, but there is no local knowledge of this and it may be that the reference to the Court House should have been Oneke. We know that this block was said to be landlocked at the time, but today is part of the farm of a descendant of Webster, Iain McKenzie.

Effects of Early Land Loss

180. Whanau of Nga Hapu o te Wahapu will never find substitutes for these places transacted prior to 1840. What little land that is available to them cannot substitute or compete with what these places offer today. It is impossible to put a value on the loss of these sites to our hapu and whanau.
181. At Opononi, within the original claim area, there is undeveloped commercially zoned land which could possibly be purchased but is in any case available to the Maori community. Ironically the most economic commercial opportunity available to our hapu,

to regain a portion of the benefits lost with those key strategic sites, is to buy into these pre-1840 footprints when the opportunity presents itself.

182. There is no doubt that it was our forebears of post 1840, who took the brunt of the re-interpretation of the Te Tiriti o Waitangi by the Crown's Old Land Claims Commissions, policies and practices, and later Crown agents and the Native Land Court, leaving irreversible effects. The principles of the re-interpretation destabilised hapu leadership and security, effectively taking away the old system of leadership and chiefly responsibility to care for the people and the land on behalf of the hapu, to one where self interest or survival ruled. The lowering of the chiefs mana through the loss of personal tapu had significant, immediate and lasting effects.
183. After 1840 the people of Pakanae people suffered massive loss of land which brought irreversible changes for Te Wahapu. Crown policies and the Native Land Court process encouraged and abetted these changes, taking away any opportunity for commercial enterprise or opportunity, other than what our people could make from surplus produce from their "cultivation" land or indeed selling their land to repay debts to storekeepers.
184. In addition to the loss of land there was loss in every negative sense, depth and implication and effects, that term applies. The decisions of the Old Land Claims Commissions seemingly extinguished leadership and the resolution of independence implicit in the 1835 Declaration. However our ancestors commitment to retaining beliefs and systems of Marae functions ensured the hapu leadership and autonomy functions were retained.
185. That current of change has not yet abated. We cannot now recover all the land that was lost, but we can protect the set of values that once safeguarded the land, not for individual self determination interests, but to be held in common as common benefit.

The Native Land Court and Crown purchasing in Te Wahapu

186. While the historical records states that there were no Crown purchases in Te Wahapu in the period 1840 to 1865, the introduction of the Native Land Court to use as a mechanism for cloaking land in European title meant that Maori were encouraged to put

a significant amount of land through the Court. In Te Wahapu it was the Crown that was the largest purchaser of Maori land that had received title between 1865 and 1900.

187. The Crown paid money to individuals as a down payment for the future purchase of Te Wahapu lands prior to being them being brought before the Native Land Court, for example in the Pakanae Blocks purchased in 1875.
188. In 1865, Taumatawiwi was the first Te Wahapu block to be put before the Court. The following year 6 more blocks were before the Court, and by the beginning of 1875, over 4,320 acres in 18 blocks had been before the Court. However it is the titling and immediate sale of over 12,000 acres of land to the Crown at Pakanae in mid-1875 that are the most striking examples of the effect of the Crown's early reinterpretation of Te Tiriti o Waitangi which removed the traditional cultural governance safeguards that applied to land.
189. The Native Land Court system allowed and enabled Rangatira Moetara, as the principal leader of the time, to claim and sell to the Crown 8,128 acres of Pakanae land in one block, and 3,150 in another, seemingly on the basis of his own status. The names set out in the memorial to Pakanae 1 and 3 were not sufficient to recognise and accommodate the hapu interest. These lands were purchased by the Crown under the Public Works and Immigration Act 1873, to facilitate European settlement. I attach a copy of the record of these Crown purchases at Appendix K.
190. The sale of Pakanae No 1 and 3 to the Crown in the 1875, barely one week after it had passed through the Native Land Court, left the people there with only Pakanae No 2, and an area of 441 acres to live on. This was an irreconcilable, irreversible situation for the descendants of the original owners and the hapu, the names of whom are reflected in Pakanae No 2 Block record.
191. The Pakanae land blocks contain many of our significant cultural sites and are part of our cultural landscape as is set out in the table below.

Date of NLC Title Grant	Block Name	Acreage	No. of Owners	Date of Crown purchase	Ancestral Features
10 June 1875	Pakanae Block No. 1	8,128 acres	1 owner and 10 named on Memorial	17 June 1875 (Crown paid advance of 130 pounds)	Te Ramaroa and Hauturu
10 June 1875	Pakanae Block No 3	3,150 acres	10	17 June 1875 (Crown paid advance of 50 pounds)	Te Raukura and Te RauPua, Tewaheroa and others
21 March 1882	Pakanae Block No 2	400 acres	74 owners named		Ancient Pakanae settlement
19 June 1875	Pakanae Block No 5	740 acres	8		Te Ramaroa
19 June 1876	Pakanae Block No 4	258 acres	10		Motutoa and Oharotu
31 May 1875	Pakanae Block No 6	5 acres	1		Matariki Burial Reserve

192. The paternalistic approach of the Crown to say that approximately 441 acres is enough for our people to live on with no thought as the economic opportunity or use which Maori could utilise, seems to be a gross breach of Te Tiriti. The failure to provide for their use of the larger block, caused hardship and dispossession. Our Te Wahapu families have been alienated from even their remnant lands right up to today.
193. While the ‘public works’, ‘immigration’ delineation of land inferring that these lands were waste lands may have suited the Crown, it caused immense loss of land for the people of Te Wahapu as those lands had always served the needs of the hapu from the time of the first ancestors arrival.
194. By its location, size and ownership ratios, by the late 1900’s and throughout the 20th century much of the land remaining in Maori ownership in Te Wahapu had no commercial potential opportunity, nor provided sustainable employment opportunities. The end result was that the land was on sold for example to storekeepers to cover the cost of living, or to pay costs such as rates.

195. Some of the flat and sloping land at Te Wahapu is suitable for large communal gardens and, in some areas, for farming. Following the introduction of agriculture, small agricultural activities sustained the whanau within the rohe as a supplement to their sea food resources. But by 1890 virtually all of the Te Wahapu land had gone through the Native Land Court and was vulnerable to sale and permanent alienation.

Kokohuia Block

196. Significant lands at Kokohuia, although retained for a while, was with land at Kokutea and Waiwhatawhata, by 1920 much of it had been partitioned and some of it alienated. Subsistence farming and horticulture was eventually unable to sustain the Te Wahapu population and by the 1970's many whanau had left the area never to return. This seems to be a tragic waste because with Te Wahapu 120 acres would have been enough for whanau to make a living, but the land was gone, simply not available. Kokohuia is the reservoir of our whakapapa and has close ties to the whanau at Waipoua.

197. The Crown's land development schemes did nothing to help. In 1958, an Amalgamated Partition Scheme ("the scheme") involved the partitioning and amalgamation of 22 blocks. These were made up of:

- a. 10 Kokohuia Blocks, (originally 552 acres brought before the NLC in 1872 and awarded to 15 owners), and
- b. 10 Taumatawiwi Blocks (originally 435 acres brought before the NLC in 1865 and awarded to 1 owner), and
- c. 2 Maungaroa Blocks (originally a 100 acres brought before the Court in 1870 and awarded to 10 owners).

198. This scheme involved approximately 617 acres of land, and included closing and opening of an area of at least 21 acres in roadways, and the renaming of the blocks created.²⁹ In the process the Crown retained 28a3r3p of land known as Kokohuia B6 and acquired a shares in Kokohuia A2B an area of approximately 19hectares.

199. The Kokohuia lands included contiguous blocks of land forming the leading ridgeline behind Omapere and Opononi, which are a forested catchment area for the townships

²⁹ Berghan Block reports supporting papers p2002-2008.

public water supply. This land is also Maori owned land, but landlocked, with no ability to build on it without the provision of roading. In 1988 a 45 year forestry right was granted to the Hokianga County Council over 150 acres of Kokohuia Block E, also Maori owned.

200. The history of the upper and forest catchment forests at Kokohuia and local government and actions there is an appropriation of that area for public use in my view. This is borne out in the Chief Surveyor's notes on the amalgamation in 1958 where he referred to Kokohuia B6 stating:

“This block is designed to be the nucleus of a forest area along the top leading ridge. The Crown should ultimately acquire also B5B, A3B and A2B all adjoining for a forestry reserve.”

201. The Kokohuia Blocks (and others) were threatened with by legislation as a result of people not being aware the status of their land had been changed without their consent or knowledge, to European title. In 1993 FNDC proposed that land, including blocks at Kokohuia B1A23, B5B, A2B and A3B and Punguru A4B should go through a process toward sale for non-payment of rates as abandoned land. As a councillor, I opposed this approach and noted that:

“Though Council is legally entitled to dispose of B5B in the manner proposed, there is another dimension of Council exercising its due diligence consistent with the Treaty of Waitangi?”

202. In response, Council agreed to postpone the rates and notify the Maori Land Court to see if the owners could be traced and the land transferred back to Maori land. Judge Spencer subsequently directed that enquiries be made to determine owners in these blocks and restrained FNDC from proceeding with any action for the sale of the lands. I attach a copy of my correspondence and the Maori Land Court Notices and relevant Minute Book record as Appendix L.

203. Today the Crown holds more land in reserves within our rohe than we do as hapu. Reserves administered by DoC total approximately 173 acres. They are primarily located on the harbour coast and foreshore as listed in the table attached at Appendix M.

204. In addition, FNDC holds reserves which are conservatively valued at almost 1 million dollars, (\$993,478), a list of these reserves and their most recent valuation is attached at Appendix S. This does not include public esplanade reserves, many of which are along the foreshore area and contributed as a result of subdivision. A copy of these reserve details is attached at Appendix N.
205. As hapu we see our lands for their traditional cultural value, prior to their titling in the Crown system. Even though people may have been given land to build on-it was not 'their' land, the Crown has destroyed that understanding beginning in 1840.
206. The Crown should have anticipated and more closely guarded against this loss of land with its severe impacts on the way of life of the people of Te Wahapu. Many families of whom have left this their traditional area are unable to return. The emphasis of the people that remain or return here as tangata whenua and kaitiaki is to preserve those sacred sites which are fundamental to the Te Wahapu and Ngapuhi identity.

Gifted Land

207. Consistent with their efforts to obtain the skills of the new economy, our ancestors gifted land for two schools and land for a Church at Pakanae.
208. After the signing of Te Tiriti o Waitangi, the missionaries continued to provide education to our people, young and old, but when they left Pakanae in 1850, no schooling was available in Te Wahapu until 1873 when a Native School, Pakia, was established on the Putoetuae block. A booklet produced for the Omapere School Centennial in 1973 records that there were 54 children both girls and boys, at the school in 1875. The children were registered as either Natives, half castes or European. There were only 6 European children attending in 1875 and by 1878 only 19 children attended the school.
209. The Pakia Native school closed in 1880, but the people almost immediately sought an Education Board school for 42 children to be established on the same grounds. The Inspector of the Native Schools reported that the school house had been handed over to the people on the understanding that if they wanted a school they should get a teacher themselves, and if the attendance increased then the school would be taken up by the

Auckland Education Board. The school reopened in 1882 with Te Wahapu people engaging and paying a teacher 5 pounds per month.

210. The school became a Board school in 1899 and part of the original Putoetoe 17 Block lands remain as part of present day Omapere Area School site. There is a note in the booklet recording the sealing of the road in front of the school (SH12) in 1961. Over the years land was gifted, acquired and set aside for roads on the Putoetoe blocks, (there is uncertainty over the precise areas record at MLC and Ed Dept).³⁰
211. Two parcels of land were gifted for a school at Pakanae, first for the school in 1937 and then for a teachers house in 1940. The gifts were gazetted under the Public Works Act 1937 and were in addition to the 5 acres of land purchased at Pakanae by the Auckland Education Department from the Tokerau District Maori Land Board in 1910.³¹
212. Additional land for access was taken in 1963 for which 30 pounds compensation was paid to the Maori Trustee for the owners.
213. Pakanae School closed in 1972, and at a meeting held to discuss the disposal of the site it was agreed that the Education Board would retain an area required for a teachers residence (for Omapere school) and sell the two gifted areas at Pakanae to the Crown for \$5,000 with the monies to be utilised by Pakanae Marae.

Public Works -Roading

214. As our rohe lands are limited and some areas of access difficult, land taken for roading has been significant and in some cases the loss is exacerbated by the destruction of our ancestral places where roads have been placed without our agreement
215. As far as we are aware, most of land for roads within our rohe were taken without compensation.
216. In Kokohuia our people sought a road to support not only their farming activities but their social activities on land that was part of the land development scheme referred

³⁰ Gillingham, "Northland: Gifting of Lands", Wai 1040, #A8,pp358-361

³¹ Gillingham, "Northland: Gifting of Lands", Wai 1040, #A8,pp349-356

above. In 1953, uncle Piwai Toi wrote to the Crown for a road be built to link the farms at Kokohuia to the main Omapere-Opononi road.³²

217. Mr McBurneys' report gives a full account of the length of time taken for the road to be built, over 23 years, and the lack of Crown and the Hokianga County Council assistance given to uncle Piwai and others. Uncle Piwai was the interface between Maori and rest of community and Bill Te Whata was other senior leader there. The attitude of the county council and the Crown was of careless indifference to the reality of our people.
218. The Maori owners were asked to put in funds for the road at the rate of £1 per head carrying capacity of their respective farms and required to fence the road themselves free of charge, with the materials to be charged to the farm accounts, and also bear costs for finalising the land titles. The Kokohuia community comprised of related male families all recently married with young families of their own, who were the nucleus of the Omapere School Roll. Previously children came from families of boatmen and families attached to sea activities and dry stock farmers. The Kokohuia farming community descended from the old Waiarohia Maori community.
219. In my view, the council in particular should have been made to do more. They did not use their back blocks farming budget and the Crown was only stung into action by the eloquent language of uncle Piwai, but it was to a costly exercise for the people there. In the end they had to pay an exorbitant sum for their road, despite that their land blocks had been partitioned without legal access and they were up to date with their rates.
220. This generation of Kokohuia parents developed the Kokohuia Marae complex and handed on their strong sense of culture and community to their children. But despite their seeking to retain their way of life on their ancestral lands, by the 1960s, these families began leaving and some went to look for work in Auckland, the constant battles with government agencies, the Maori Affairs department took their toll.

³² McBurney, "Northland: Public Works & Other Takings c. 1871-1993" Wai 1040, #A13, p110

221. The eloquent words used by Uncle Piwai in 1953 were prescient when he wrote to the Crown:³³

“In a previous letter ... you promised us your full and fair consideration. If you had fulfilled that promise we would now have had our road. You are our representative in Parliament and we, in this remote district, rely implicitly on you and your officers, in such matters as this. For 23 years this project has been shelved by your department, and during those 23 years we have had to sledge our cream 2 miles across hills, watch our children arrive home exhausted from their long trek after school and deny ourselves, our wives and families the luxury of a social life, because of the impossibility of access. In times of sickness or accident, the trip to the road has been a nightmare to the patient. Every bag of manure, every roll of wire, everything that we have needed to improve our land, has been laboriously packed in by horse and sledge. At first the task was lighter, for we dreamed of the road soon to come. But 23 years is a long time. We are no longer young and optimistic, but prematurely aged and disillusioned. How can we ask our children to take over our farms and suffer in the same way?”

222. The land development scheme at Kokohuia was completely undermined by the Crown’s negligent approach to providing a road to service the farms.

Other public works

223. We consider that the loss of Araiteuru was in effect a public works taking. Mr McBurney has made the point that in 1870 when the Crown acquired the land for public works, it was not in Maori ownership, however, in our view, the land was given to John Martin and Kiriora for them and their descendants as part of the hapu.³⁴ The reason for the acquisition by the Crown there was for a public purpose, and the use of waste lands legislation to acquire the land, demonstrates, how in 1875, the Crown viewed Maori land and places of significance as part of its domain.

Harbour reclamation at Motutoa

224. Another acquisition which we consider as a public works taking by the Crown is the reclamation of the foreshore of the Hokianga Harbour located beside Whiria, known as Motutoa. This wetland area and inland islands was reclaimed in 1941.

³³ McBurney, “Northland: Public Works & Other Takings c. 1871-1993” Wai 1040, #A13, p111

³⁴ Responses of Peter James McBurney to Questions of Clarification from Claimant Counsel, Wai 1040, #A13(d),pp9-10

225. Part of the Crown’s reason for this reclamation work was to provide employment for our people, but in fact the Crown acquired land for itself to title and on-sell.
226. The reclaimed areas included the island burial place of Oha and the Methodist Church received a title to this area. Much of Motutoa was surrounded by Maori owned land in Pakanae Blocks 2 and 4.
227. The reclaimed foreshore was proclamation Crown land, and adjoining Maori farmers and other farmers had to buy their titles. The Maori farmers were advised by Native Affairs officers, under the Pakanae land development scheme, that if they did not buy the titles then they could be sold to European farmers.
228. David Alexander sets out the details of this reclamation in his report.³⁵ Today the land is still farmed, with DoC ownership in the stopbanks constructed to prevent flooding events. The Crown acquisition of this land is an example of its complete disregard for our ownership of the foreshore, whether you want to call it customary or not. The Crown, encouraged by the local authority, sought to control our use of our lands. I agree with David Alexander where he says the grounds on which the islands in the reclaimed area were treated as Crown owned land as being dubious- and in my view this extends to the whole foreshore area. Correspondence between government departments states:³⁶

“The [three islands] are not included in any Crown Purchase, nor are they included in any investigated Native Blocks. They are either Native Customary Land or Crown Land. In view of the pending claims by natives to Ngakaroro, [file] 20/764, I would suggest the areas be treated as CL, assuming they have come into existence since Treaty of Waitangi. This would throw the onus of proof on the Natives, and the Crown would be in no worse position if claims for compensation had to be met. If the areas are treated as Native Customary Land it would have the effect of weakening the grounds in the Ngakaroro case. The question as to ownership is one of fact and must be settled by evidence before the NL Court, and in the absence of such evidence it is not possible to give an opinion.”

Land Development Schemes

229. In 1936 there were 11 homes and families at Waiwhatawhata and three small functioning dairy farms. The Maori Consolidation Board was actively helping some of the families improve their situation, by assisting building homes, cowsheds and land drainage.

³⁵ Alexander, “Land-Based Resources, Waterways and Environmental Impacts”, Wai1040, # A7, p 895

³⁶ Alexander, “Land-Based Resources, Waterways and Environmental Impacts”, Wai1040, # A7, p 897

230. Within our rohe, the only scheme farm that was developed was at Waiwhatawhata where through my own personal circumstances I became very familiar with how the Waiwhatawhata land development scheme worked.³⁷ My mother had shares in Waiwhatawhata 2 Block and the portion of land she was given was scrubland with a few naturally occurring open spaces a few of our cattle grazed. In 1940 my parents decided to move inland to Waiotemarama and begin share-milking. My mother was afraid of the Japanese invasion, she wanted to move from the coast to safety inland. It wasn't a change we as children welcomed, every weekend most of us rode or walked back to visit the old home.
231. My brothers and sisters moved away as they finished school, to look for work, but I had decided to stay. I did not enjoy working with my father, I left school at the age of 14yrs and worked for a short time with a man Mr Jim Bracey. I still consider him to have been the best farmer in the Waimamku Valley. He fluent speaker of Maori and would spend time conversing in Maori with the old Maori people on their way to the local shop on horseback.
232. I was paid 1s 6d. an hour. Mr Bracey had given me a dog and calves from his best Ayreshire cattle. I was also given calves from an old Maori farmer Mr Pera Rueben of Waiotemarama. Finally I decided I would simply return to Waiwhatawhata and see if I could farm for myself. My dad gave me six cows so I began. I became one of the 'billy can farmers' and there were many of us.
233. I built a cowshed, milked by hand and supplied the little bit of cream to the Motukarka Dairy Company. It was a good learning curve. I lived on my own, hermit like for five years. What I was doing at that age was common farming practice in Omapere and Opononi and across Hokianga. The larger farms were in the Waimamaku Valley area.
234. The years 1936 to 1946 were outstanding years in my life. I grew up among older people and shared cultural, recreational and family experiences with them. My uncles at that time in their lives were the seniors of their communities but never lost any opportunity to share time with younger people. Diving, fishing and shooting and Sunday worship filled their weekly activities. Bill Te Whata and his wife and family often came to

³⁷ Bassett and Kay, "Tai Tokerau Maori Land Development Schemes 1930-1990", Wai 1030, #A10, p124, 251

Waiwhatawhata for picnics. Jellies, cream sponge cakes were standard fare for such visits. All on horseback.

235. With them I walked and shot over the entire Te Wahapu rohe. I have walked several times over this land, its streams, the bush areas and coastline down to Waipoua in the company of my uncles. They pointed out points of interest, the old traditional tribal pathways where events occurred, places to be avoided. Expeditions to shoot with my uncles over the Kahakaharoa sandhills were events on their own.
236. I had cleared extra area on my mother's land, grassed and fertilised enough area to carry 15 animals. I had reached the limit of what was physically possible. I was comfortable with that. I played rugby for Waimamku Rugby Club, had a good social life and lots of friends, always had cash in my pockets and was quite happy. I mixed a lot with my uncles at Kokohuia who were in the throes of improving their farms, with their growing families, aided by Maori Affairs.
237. Then a meeting, convened by the local Maori Affairs Supervisor at Waiwhatawhata Marae for shareholders of Waiwhatawhata 2 Block. My mother of course attended. The purpose of the hui was for shareholders to consider giving approval to amalgamate their shares in the Block and for the land to become a Maori Development Scheme farm for two settlers who were to be chosen. My mother agreed and the formal process of implementing that decision began.
238. The immediate effect was I and a neighbour had to pick up and vacate the land. He and his wife loaded their children and belongings onto horses and began their journey back to Matangirau to his wife's land driving their cows. They eventually reached there, however Te Wahapu was their home, they eventually came back and camped on vacant land wherever they could find a place.
239. He was lost overboard from the stern of a boat, on a night trip from Rawene to Opononi. He was never found, the children were taken in by an elderly couple until they finished primary school, when they returned to Whangaroa.
240. Rather than leave Waiwhatawhata to find alternative employment, after vacating Waiwhatawhata, I tried sharemilking on my mother-in-law's adjoining property of 100 acres. It proved difficult to earn sufficient income on that area, I took employment at the Waimamaku Cheese Factory. Then I was approached by the Maori Affairs Department if

I would be interested in working as a labourer on the Development Block. Boundary fencing was in progress and it needed someone to lay out material and other such work. I agreed to that and was allowed the use of one of the small bulldozer machines by the contractor, who was cultivating the area.

241. I was advised by the Maori Affairs Supervisor, one cowshed and one home were going to be built, rather than to immediately build 2 sheds and 2 homes as was originally discussed. With several other young men, I attended a panel of Maori Affairs officials at Auckland to choose 2 people to settle the land.
242. There was never any written correspondence given of how these discussions resulted in choice of settlers. This (settlers) was the term they used. A site for the one of the cowsheds was chosen and building began. Cattle were brought in and grazed ready for milking the coming spring. Fencing began. The block boundaries were the first dealt with.
243. About 1958 changes occurred to the companies-low pay out and high production costs for farmers. Motukaraka had closed down amid a lot of ill feeling, the Cheese Factory at Waimamaku struggled on but for a lot our marginal and small holdings it was not enough. .
244. The cowshed was finally completed and connected to electric power, but no internal fences, raceways or facilities to handle new born calves were begun. No metalled access to the main road about 800m away, no horse or machinery at all available and the first of the heifers were already beginning to calve.
245. For paddocks I had 2 x 200 acre run paddocks. It was a nightmare and I was part of it. No amount of talking seemed to encourage some sense in Maori Affairs officers. Not even for a supply of water for the cowshed and cattle. Water, roading, fencing a pig feeding facility I dealt with all in those first three months of the genesis from development to some form of farming systems were built.
246. That is how the Waiwhatawhata Development Scheme began its life. My day started at 3am to muster cattle back to the shed area, by then I had worked more than were in the week and was now able to direct cows into the cow yard. Back for breakfast at about 11am.

247. The agreed process to develop and settle the Waiwhatawhata Development Scheme farm was not followed as was explained at the first hui of owners. The matter of valuation and payment to shareholders was in my recollection not followed. As the purchaser I was advised the land was available and asked if I was interested in purchasing. By then the Crown had acquired the land and ran the scheme for 8 years, with no reference back to the shareholding owners, like my mother. I cannot remember my mother ever attending any shareholders meeting or receiving any payments from Maori Affairs.
248. Because of the experience I'd had with the Department and the heavy work load, I held back, I had been offered an opportunity at Kiriponui to sharemilk and purchase. It was far better land than Waiwhatawhata, finally the decision came down to the family connection with Waiwhatawhata and the life experiences there, were the eventual reasons to accept the sale and purchase offer. During this period I received two third Dairy farming placings in the Ahu Whenua Farming Award, which I've always been very proud of.
249. I do not intend to ever relinquish my ownership and my cultural relationship with Waiwhatawhata. I have worked and paid for the improvements I was party to developing it, and my mother's portion, the land we were brought up on, is just that and will always retain that value for me and our family.
250. Today only 2 farms, ours being one of them, operate on a commercial basis within the Waiwhatawhata Valley. The other farm is in actual fact made up of several of the titles that comprised much of the original area the Government put up for settlement from the Pakanae No 1 Block purchased in 1875. Other portions of the Pakanae No 1 Block are farmed but the owner of the Pukanui, Omapere portions holds much of what was No 1 Block. Previously in the 1950's and 1960's there were 7 dairy farms in the Te Wahapu rohe, left over from the consolidation schemes of the 1930s, where Pakanae is recorded as having 109 blocks of 2430 acres of land for farming.³⁸ None of these remain today.

³⁸ Hearn, "Social and Economic Change in Northland c.1900-c.1945: The Role of the Crown and the Place of Maori", Wai 1040, #A3,p 639

251. In 1963 the a Cabinet appointed committee arrived in Opononi to hear about our farms, Uncle Piwai, Tom Ngakuru, Bill Dunn, Chris Diamond and I few others met with them and told them of our difficulties. But nothing changed.³⁹

Kawanatanga and Autonomy – Hokianga and Local Government and Rates

252. In the early 1980's I was approached by the retiring member, to stand for Hokianga Riding of the then Hokianga County Council ("HCC"). The Hokianga Riding extended from Broadwood on the north side of the Hokianga Harbour, to Otaua and out to Waimamaku. Although by then I had only been involved in local Te Wahapu school affairs and issues affecting Maori I agreed to stand and was elected unopposed. In 1983 I was elected as Chairman for HCC and retained that role until 1987 when HCC became part of the current Far North District Council. I served a term as the Deputy Mayor of FNDC.
253. To me the outstanding thing in that first 5 years in the HCC was bringing the community closer to the operation of the council, so that they could understand what we were trying to do. This was important because when we raised the rates by 30%, everyone supported it because they understood the reason for the rates being increased. As a result we were able to purchase capital plant which was to our advantage in the decision making at the time of the amalgamation in 1986/1987, when the value of our plant meant we were self sufficient in roading maintenance.
254. The Hokianga County Council operated as the contractor for Transit and the National Road Board. We received all of the funding and carried out the work with our local contractors. I was appointed to the first NZ Transit Board and sat on the board for 5 years. I found that role frustrating, I didn't fit in well, my whole appreciation of money was to get the best result in terms of what it could do socially for people not a cost benefit ratio or investment perspective.
255. For local roading the Council relied on Fell's quarry located on Crown owned land at Waiotemarama, (this 6 hectares or so, was recently landbanked by OTS and I have registered the Te Wahapu interest it). That quarry ceased operations when the stone ran

³⁹ Bassett and Kay, "Tai Tokerau Maori Land Development Schemes 1930-1990", Wai 1030, #A10, p124

out, but it was used to seal roads into Waipoua. River shingle was used next, but it was too hard.

256. Other roading within Hokianga also required a lot of work, for example when the roads into Panguru slipped in the early 1980s and Mitimiti was cut off for 2 weeks, I worked with our young engineer with limited knowledge of the funding system but he developed knowledge in this area and was later able to assist us very well.

Local Government Amalgamation

257. In the 1980's and as a result of the amalgamation of counties into the FNDC, the Local Government Commission proposed that the electoral boundaries for Hokianga would be split into 2 wards, something decided without taking into account tangata whenua and to which I objected most strongly. I lodged a claim in the Waitangi Tribunal, with support from the Far North District Council, Hokianga Health Enterprise Trust and Te Runanga a Iwi o Ngaphui. That claim Wai 528 is now amalgamated into this claim, Wai 2003.

258. My objection was on the basis that the Local Government Act 1974 was contrary to, and failed to give effect to, the principles of the Treaty. The recommendations that were sought from the Tribunal were that:

- a. The Act be amended to give real and practical recognition of the Treaty in future to require any electoral review process to take into account the customary interest and ancestral values of the tangata whenua when determining boundaries for wards; and;
- b. Local body elections be postponed until the Commission reconsidered the boundaries of the Hokianga ward taking into account the customary interests and ancestral values of the tangata whenua of the Hokianga.

259. As it turned out, Hokianga remained a single ward. Although we had to argue for that, it was the only logical thing to do. There had been previous battles about splitting Hokianga into two districts, this was never a good idea we wanted to retain Hokianga in its entirety.

260. It is disappointing therefore that the Local Government Commissions most recent proposal for a single unitary authority proposes that Hokianga and Kaikohe be one ward. While a unitary authority itself might work well for us in Te Wahapu, as the current

regime and combination of FNDC and NRC has not served us well, the Hokianga entity should be preserved. In addition, local representation for our Te Wahapu Maori community is vital as is an independent Maori Statutory Board. We lodged a submission making these points.

261. While in local government there was always a call from our people for Maori representation and it was always avoided with a promise that we will do that ‘next year’, but council never did. There is a lot of benefit in being involved in local government but has to be at a high level and the Maori community must be clearly identified and shouldn’t be lumped in with the general community. The best result for Maori communities is to argue logically that they should receive a disbursement from a common fund to come back to them on a without prejudice basis and where their needs and aspirations are identified they should be ring fenced.
262. What I would say about my experiences in the practical application of local government is that it must be closely connected to the local community, and the local community must be given the opportunity to come up with their own local solutions to the issues they are faced with. The Pakanae Hapu Management Committee has tried to do this as part of our kaitiaki role, but much more needs to be done by the Crown to assist us in this role, otherwise the losses suffered to date will continue to accumulate.

Rates

263. Following my election in 1983, I was straight away involved rates and land, and I had to quickly pick up the rating issues especially. One of the biggest rating issues was the Status Declaration and conversion to European title of Maori land under the 1967 Maori land legislation. We had to deal with the fact that there were some people were unaware their land had changed over from Maori land to European title. An example is the Kokohuia Blocks referred to earlier.
264. There were I would say, literally hundreds of landlocked blocks in council and when I was asked, “How will we find out which land is landlocked?” I said that we needed to get hold of Valuation NZ as we are probably charging all sorts of rates. While I had some success with the blocks that came to my attention, the whole scheme of local government and rating on Maori land was a constant threat to many whanau who were

eventually forced to sell their land, unable to pay rates, and unable to utilise the small holdings that there were left with.

265. While in council I became aware that previous councils had become involved in promoting forestry development in Hokianga including from the area of Whanui, Pouahi and Kahakaharoa, the sandhills. As I have outlined above, these places are integral to our cultural landscape. The Council had land in Whanui blocks 1-8 vested under the Rating Powers Act by orders of the Maori Land Court.
266. I was approached by the descendants of Te Mini Haretana of Waiwhatawhata, who sought the return of their land at Whanui 3. Although the land had been on sold by the Hokianga County Council, FNDC was able to retrieve the land back for Te Mini Haretana's descendants and for others in the Whanui block.
267. Whenever I had to deal with a problem with Maori land problem – although it may have been resolved there would always be some residual matter to deal with and a bit of land left unspoken for. The question was, how do you deal with it? These issues were a hangover from the earlier mishandling and careless approach taken by those in charge and legislation and regulations that did not require owner consent.

Valuation

268. As I referred to above, the issue of the valuation of Maori land is ongoing. Where the valuer uses the 'highest and best use' method to value land it may be valued for residential purposes, when places like Pakanae have historically been used for pastoral grazing which preserves its historical value but provides a limited return. In terms of valuation of land practices, there is still insufficient acknowledgement of the values in cultural terms. There seems to be a standard 20% reduction in the value of Maori land, given the restrictions in the ability to sell land outside of the restrictions in Te Ture Whenua Maori, and yet valuation methods does not reflect this. It is unfortunate too that the Maori Trustee is not more proactive on this issue.

Papakainga Housing

269. In the 1980's Hokianga County Council issued building permits on Maori multiple owned land, we believed that it was possible to issue such permits to enable papakainga. We developed the papakainga provisions, because Maori people were living on their land

but in cowsheds and the like. I didn't have a problem with it and felt that our people could do what they needed to with what they had, but Council rejected that approach and made submissions to on the government on criteria to be applied to papakainga housing needs, including the use of sweat equity to raise peoples contributions.

270. Out of that process came rules drafted into the District Plan for papakainga housing, and the liberalisation of housing corporation requirements and specified housing standards.
271. We were also able to reduce the cost of reticulated schemes for papakainga by having one common treatment area. There was the issue of who would look after that, but now that is the way all of the group housing operates. A successful trial took place in Pawarenga.
272. Where there is land today, compliance with subdivision and papakainga rules and the costs of development for places like Kokohuia are huge. In my view there should be no rules for papakainga housing, apart from compliance with the building code and sanitary standards. The most expedient way to accomplish this would be for there to be forward thinking Hapu Environmental Management Plans, and appropriate resource management processes which are recognised in rules in the District Plan. There is a lack of housing in our area for our people returning home and, for the Kokohuia blocks in particular these are some of new solutions that must be considered.
273. Another barrier to our people living on their lands is that the coastal areas which are under the pressure through residential development and the wealthy who wish to exclude others for themselves. Our ancestors, as the first peoples here, sought the shoreline to live on and now we still want to do that. Our land rates are in some cases over \$2,000 per year and too expensive for many of our people to sustain.

Resource Management Act 1991

274. Over the years I have been involved at a national level with both historic places and resource management legislation. I was appointed by Minister of Conservation to NZ Historic Places Trust, and onto the review group for both NZ Historic Places Act and the RMA, to see how to protect Maori heritage sites and wahi tapu. I was also on the Maori advisory group to the Minister of Local Government when re-organisation took place in 1989, (talking about Te Tiriti in those days not fashionable!). In 1989 I was appointed onto the first NZ Conservation Authority where I remained for 3 terms, and chaired the working group recommending Maori Customary access to traditional

resources and made recommendations as to Maori Customary Uses for the Minister. I also worked with the Minister for the Environment on what is to be recognised and protected and given regard to as described in their publications.

275. I have to comment that my position as being part of a group who was sanctioning work through RMA processes during my last 6 years in Council meant that I saw little work other than seeing one to one ratepayers. I focussed on RMA matters as a hearings commissioner and got to the point where I was the worst thing that can happen to a Maori person - you are the most knowledgeable there- and can see now how people presented their objections could have done it differently and maybe more successfully.
276. That was brought home to me in Whangarei Deep Water Port hearings for Marsden Point. There were 7 of us members on the Hearings Commission and I was the one in the middle of a split. The port was supposed to be for forestry and fact that most of the forests were Maori owned - these were considerations to be taken into account. I agreed to grant consent to the port, for the use and benefit of Maori people who could have access to a port for their goods. I was also on hearing committee for Ngawha energy and agreed that consent be granted there, for the benefit of Maori people.
277. It is clear to me that the promised benefits to the recognition of Maori values in the RMA have not materialised and it needs reform. The Tribunal in the Wai 262 recommended changes to the existing RMA to remove unnecessary obstacles to the delegation of decision making powers and establishment of partnerships with iwi (and we would say, hapu). There is a real need for change and reform which could contribute to far more beneficial outcomes for Maori.

Taonga Tuku Ihu

Tapu

278. I am an ordained Minister of the Anglican Church and through my mother I have always been aware of our spiritual guide. I have upheld our spiritual customs throughout my life. However the Crown has failed to recognise that our customs and traditions operate as part of our kaitiaki role and I refer specifically to the tapu that surrounds us in everyday life and were traditionally used with rahui to control and influence behaviour.

279. A transgression of tapu, even unintentional demanded retribution. Early European writers soon learned that their ignorance would not excuse them from retribution for transgressions of tapu.
280. We in Wahapu continue to pay respect to places considered to be tapu-mostly by leaving those places and things alone, or carefully disposed of by burning or burying. The strongest element of tapu held today is the deep respect and desire to retain certain places how they are now. To protect and preserve their and our identity.
281. Educating the public as to the need for and use of tapu and rahui is still required. I attach a copy of a paper clipping from 1993 to emphasise this point at Appendix O. In that instance a tapu was put in place following a 3 person drowning in the harbour. This tapu was supported by hapu leaders on both the north side of harbour at Punguru, and up to Omanaia and Horeke. The police ceased their search for the bodies after 3 days, but we were aware that a longer time might pass before the bodies resurfaced because of the heavy clothing worn by those lost.
282. After the first week of the tapu passed, the media outlets began to report a 'red neck' commentary. I began to receive phone calls, including from one prominent local women who told me that as a Minister I should not be involved in such 'unchristian practises' as tapu. Others attacked me personally. I was supported by the other kaumatua involved. In the third week, one body was found at the boatshed by Araiteuru, vindicating our lengthy tapu and the last body, that of a local man, was found a short time later.
283. The length of the tapu and the idea of the tapu, caused much negative comment in some quarters of the community and public meetings were called for. It is in the Marae that these matters should be discussed to assist in community understanding.
284. I believe this treatment of our Maori culture as some sort of 'other world view', is a legacy of the deliberate practises of the Crown to assimilate Maori into a European way of living. This Crown must take responsibility for protecting and promoting our customs as the 'norm'.
285. The introduction of the Tohunga Suppression Act 1907 ignored the role our customary practises played in maintaining our culture and wellbeing. I was privileged in my lifetime to be privy to the talk and activities of women, who were learned kuia, they attended the sick, those in childbirth, and those that had died. They always acted in a practical and

respectful way. I provided a photograph one of the kuia, Rina Kelly who was 97 when she died, in my earlier brief and I recall hearing that when she was unwell, close to dying she lingered and the old people wondered why what she was waiting for. It was then remembered that another being, a 'lizard' was born with her, but cast into the sea. The old people sent for seafood and she was given that as her final meal, she left in peace.

Marae

286. In the 1970's we considered our Marae at Waiwhatawhata needed to be refurbished, badly, and we eventually decided on a carved house. Mac Taylor, one of our leaders then said, " If that's what you want, ok, but remember you cannot turn back once you start". I have never forgotten those words and applied them to my thinking often.
287. We, inexperienced and without funds, started. The whare was opened on 13 June 1980. We were honoured by mauhiri from Tainui, and Ngapuhi Nui Tonu. Ngai Tu brought the flag of the principle tohunga, Re Kauere and our elders who have gone now attended, Sir James Henare, Himi Henare and his wife, Rae Tana and extended whanau, Mac Taylor, Paepae Whautere, Manga Tau, Kiro Whautere, Rangi Mahi and his wife, Dr Bruce Gregory, Tom Howard, Hone Heihei were among those who stood and spoke to us. Maori Marsden preformed the ceremony and karakia.
288. The whare was named Te Kai Waha as had been named by Iehu Moetara several generations ago. The name for an ancestress, Tarata of Araiteuru. As I referred earlier, the fact that this whare has been left in a no man's land as a result of the Crown settlement process is a great grievance to us, and must be acknowledged.
289. The Te Roroa claim included much evidence as to the desecration of burial sites, and other wahi tapu and the looting of those places by early settlers, including Webster who was a notorious grave robber. These taonga were later received and kept by the Crown.
290. My role as the only surviving trustee of the toanga taken from Kohekohe Burial Caves in 1902 and now held in Auckland Museum has given me a deep appreciation of our need to preserve these customary roles, places, things and instil them in our people without interference and reinterpretation by statue. We must have the right to deal with these things as we see fit.

291. Bodies such as the NZ Historic Places Trust, Maori Heritage Council cannot be enabled to make decisions on our cultural practises and values. As suggested in the Wai 262 report advisory bodies that link to Aahikaa must be put in place to ensure we are able to effect decision making over our Taonga Tuku Iho.

Social and Economic Wellbeing

Education

292. I was enrolled in School at 5 years of age and began regular attendance at 8 years. I spent most of that period in the company of 4 old women, one was my mother (I never saw her as anything else but old !), Rina Kelly was another. Those women were, my mother excepted, children born and raised during that turbulent period from 1845 to 1875- times of physical and social hardship for Maori people. I never or cannot remember them ever speak negatively of their growing up times. Those women lived with and were comfortable with their life and in the world of spirits and folktales they remembered from their childhood teachings on behaviour and talked at length and openly of them with me. I left school aged about 14 years with Std 6 or Form 2 Proficiency Pass.
293. Although my involvement as a student in the education system was relatively short, I have maintained my involvement in the system as a parent, grandparent and community representative. It is curious to me how, given my own short lifespan in the formal education system, I have been able to contribute a critical awareness and active contribution to the improvement of schooling in our area. If the foundations of learning are laid in those first 14 years of your life, then I must attribute my educational worth to the value of the learning I gained spent in the company of those four old women. They gave me a deep understanding of the beliefs and values of the traditional knowledge they knew and lived by. So I myself have a strong sense of identity, and because of it, the confidence to think and act independently. Like those old women I live my life with spiritual freedom.
294. In her brief, my daughter will describe her experience of how traditional knowledge has transferred through to her children and as an educator she makes some links to what can be done to improve schooling for Maori children in Te Wahapu.

295. In 1961 I served as Secretary and then as the Chairperson of the Omapere school. It was difficult to attract teachers and provide adequate education for the older children, and many people sent their children away for secondary schooling. We sent our own children to Auckland.
296. In the early 1970's there was a consolidation and schools at Pakanae, Waimamaku, Waiotemarama and Whirinaki were closed. The Opononi Area School then began as both a primary and secondary school, with 350-400 children. The principle reason for the closures at the end of 1973 was to provide the highest level of education possible locally for senior pupils. In addition, efforts in the 1960's to rationalize a common school bus system between schools had failed and transport was also a significant factor in the establishment of the Opononi Area School.
297. It was the local community that, in the months leading up to the opening of the area school, mobilised a small workforce to ensure that the school opened on the date planned. The Ministry underestimated what was required and new staff would have arrived to a bare excavated area, without any amenities if the community had not undertaken a hectic three months of work.
298. Today education is provided for our children at Waimamanku Kohanga Reo, the Omapere Play Centre, the Kura Kaupapa Maori at Whirinaki and the Opononi Area School. 95% of the children enrolled at Opononi Area School are Maori. The Opononi Area School is an integral component of the Te Wahapu community. It has responded to the changing needs of its community and Te Wahapu parents of children at the senior level support the school for the general education in English that they want for their children, critical to employment opportunities.
299. However a deep and common held concern is the continuing security of Opononi Area School to provide for senior students. Recently the School has laboured under the burden of a falling roll, which has impacted on the critical level at which it can maintain quality learning at the senior end of the School. In addition Ministry of Education proposals to move Te Kura Kaupapa Maori (TKKM) from Whirinaki to Koutu and

expand to include Year 11-13 students thereby have two secondary schools competing for pupils from essentially the same rohe or catchment area will exert a huge threat to the security of both facilities.

300. I wish to emphasise that the aspirations of the parents of Te Wahapu in the 1960's continues today and the Opononi Area School facilities have been slowly but responsibly developed as were the large areas of open space it occupies. We believe it is now a well set up facility and is working towards providing a quality of education that meets the needs of the students and parents and caregivers within its rohe catchment area. It has been an uphill struggle to achieve this, and for the Ministry of Education to ignore Opononi Area School seems to me to be extremely cynical and indefensible.
301. We have made submissions on the proposal for TKKM at Koutu, stating that protecting the existing provision of educational services for those Year 11-13 students currently provided by the Opononi Area School should be a high priority for the Ministry of Education. If there are reasons why this is not possible, the reasons should be made plain now.
302. We have also made submission to the Far North District Council Hearings Committee, stating that the Minister of Education applying for a Koutu School Land Designation, must take into account, assess and evaluate the future stability of the Opononi Area School as we believe that what should be considered are the effects on the rohe as a whole. The purpose of providing two education settings within the same area should serve not to sacrifice one school of thought for another but instead to build on the potential of each together and so maximise the opportunities for our children. We argue that a point of unity should be defined and created in the proposal that supports children/young adults to see their home not as separated for the educational choices that parents had to make for them, but as a whole that strives to give them the best of both worlds.
303. Should the Koutu TKKM proceed, the support it requires must come from the established residential and cultural communities of Te Wahapu. However the Koutu location is peripheral not central; to either Whirinaki or Pakanae in cultural terms, but is

locally considered as being closer to Pakanae in those cultural aspects and overall respects. Should the Kura proceed, it demands our support.

304. The development of the Kura will compromise the continuing wellbeing of the harbour, waters and the shellfish resources as the main pipi shellfish beds used by the community are located in the sandy foreshore sandbanks immediately west of the Koutu promontory where the school is proposed. This as an important cultural issue, and must be taken into account in the resource consent stage. As mentioned earlier, we have identified the south bay of the harbour from a line between Koutu Point and Opononi as our desired cultural aquaculture area and have given reasons for this.
305. It is not clear that the Ministry of Education has taken into account that the two schools exist in an economically disadvantaged area, although our strength is in our location, our culture and our people, all three are intertwined, all of this cannot be compromised by decisions being made by the Crown and local authorities without engagement with the people who live in the rohe. This is what has occurred.
306. We look back at our tupuna and see many times the challenges they faced in new circumstances. The ancestor Rahiri can be credited with creative problem solving in using the kite Tuhoronuku to settle a conflict that, had it been treated in a traditional manner would have lost him one of his sons. He instead created new boundaries and new opportunities for each son, as well as retaining what was important to himself and his people.
307. Leaders of both schools and the Ministry of Education must work together with us, and for us, to identify the solution that is best for our children. Te Wahapu has always invested in education. We must be assured that the Ministry of Education is investing wisely in us by considering our needs from all views, and is prepared to share their decision making with Te Wahapu.

Te Wabaputanga

308. In 2008 an educational resource commissioned and printed by the Ministry of Education was launched for use with Year 7 to 10 students in Maori medium schools. The resource

shows key errors critical to us: the location of Whiria and the iwi designation for the area. During its development we were never engaged or consulted. The consequence of these mistakes is plain: our identity and history have been rewritten and this student reference map resource (poster) seriously compromises our iwi identity and hapu position.⁴⁰

309. The solution in avoiding similar practices is plain, it is imperative that processes and practices that protect our identity are actively promoted. To us real partnerships, whether at a community, regional or statutory level, mean deliberate actions and processes are negotiated with us to ensure our identity is kept intact and sustained.
310. Our school has a role to play to give effect to kaitiakitanga and to grow sustainability of kaitiaki status across all generations in the community. The culturally authentic and relevant curriculum of learning that is fundamental to who we are- our identity, our place- must be protected from changes that do not have our interests at heart. Such changes have been experienced through changes in governments, school principals and Boards of Trustees and from such factors as the decrease in attendance numbers.
311. What is needed is the reconstruction of the set of opportunities that provide a social and economic base for the people of Te Wahapu. Provision must be made to deliberately enable and support the processes of re-culturing organisations (all statutory boards and authorities, agencies and companies) that operate within Te Wahapu, and with respect to the education provided within the rohe.
312. As referred in my first brief, Moetara foresaw the benefits that literacy, religious and Christian teachings would have for the people.⁴¹ The Missionaries were the first teachers of literacy in Te Wahapu. They learnt Te Reo Maori and taught our people reading and writing in our own language enticing them this way to heir chapels at Waiarohia, Waikohu, Waiwhatawhata and Waimamaku and across the river at Taituru and Orongotea.

Toward Resolution with the Crown

⁴⁰ Te Wahi me te Taiao (Each) code: 114668. Maori Medium Education Teaching and Learning (http://www.thechair.co.nz/servlet/Srv.Ecos_Signon?CN=12587&UC=MOEVIEW&AC=A877804567019987)

⁴¹ Wai 1040, #C9, paragraph 95

313. We have outlined the thinking and the philosophy that we believe must underpin any agreements made with the Crown to work towards bringing equitable outcomes for the Maori people of Te Wahapu o Hokianga and their communities in a strategic document.
314. Like the navigator Kupe, the people of Te Wahapu, must have the skills and knowledge in order to navigate the journey ahead. As in traditional ocean voyaging, a common purpose and orientation is enacted by all who participate in the journey. Our marae is the vehicle through which collaborative and networked relationships are built, and collective dimensions of spirituality are acknowledged. They remain one of the few artefacts of our culture where we are able to reconnect with the social fabric which has traditionally given strength, support and a strong sense of belonging. They contain and sustain the spiritual artefacts that connect us to the physical and spiritual worlds, and so provide the spiritual conditions and interactions from the ancestors. Our marae address the needs of the human spirit and provide meaning in work beyond providing for material survival. Our marae serve to build the capacity of the people.
315. The overarching purpose of the strategic intent is to articulate, create and sustain opportunities that will provide and promote processes and outcomes that will enable local Maori people to truly be kaitiaki. These opportunities must be realised in both economic and cultural senses and at the same time have intergenerational robustness.
316. Our strategic intent aims are to:
- a. Place local Maori in a position of partnership with the Crown where they are actively involved in managing the short and long term goals, in those partnerships, for the community;
 - b. Embed local understandings and autonomy into cultural heritage and practices within management processes for the community;
 - c. Establish shared responsibility for the resources needed for growth.
317. For local Maori to be actively involved in partnerships with agencies at government, regional, or commercial levels requires a commitment to different ways of working for all involved. In other words, the support required for the process of re-culturing organisations so Maori can be actively involved should not just be expected to happen,

but deliberately be enabled. This means that resources must be allocated to support and enable the development of processes at all levels so that new values, beliefs and norms are developed and new conceptions about success can be built.

318. On behalf of Te Wahapu and the Claimant Group, I conclude our submissions with this comment, history is recorded by narrative, oral or written. For Maori our narrative is recorded in the land.
319. We submit Te Wahapu is unique and still retains the naturalness our ancestors experienced when they wrote their narrative into the land. The visual of Te Wahapu, is the ancestral narrative.
320. Losing part, or the whole, of a particular landscape in essence is the loss of chapters from a book. We, Nga hapu o Te Wahapu understand the responsibilities we have, culturally and in the spiritual sense.
321. Our submissions set out what we believe are Crown breaches of Te Tiriti o Waitangi that we know have prejudiced the very limited opportunities we have in Te Wahapu. Our submissions strive to capture how the spiritual wealth we attach to Te Wahapu has been, and continues to be, compromised and diminished by the legislation, regulation and policies and practises of the Crown. Yet, this spiritual wealth remains the basis of our identity and aspirations for the future.
322. I sincerely thank the tribunal for this opportunity to present our submissions. They have been presented from our sense of position in duty and necessity. It has been an honour for me to be chosen to present submissions to assist the Tribunal in considering our claims. I have endeavoured to be pragmatic and respectful.
323. We sincerely thank the tribunal for their courtesy. This is a defining historical point for us, whatever the settlement outcomes may be.

John Klaricich
18 March 2014