

Kei mua i Te Rōpu Whakamana i Te Tiriti o Waitangi
Taihape: Rangitīkei ki Rangipō Inquiry

Wai 2180
Wai 37
Wai 933

I te take o

Te Tiriti o Waitangi Act 1975

Ā

I te take o

The Taihape: Rangitīkei ki Rangipō Inquiry

Ā

I te take o

Claims by Te Manuao (Terrill) Campbell, Margaret Poinga, Terrence Poinga, David Turanga, Melvin Turanga and Whakatere Whakatihi (Wai 37 and 933) on behalf of Ngāti Tuope

Closing Submissions for Ngāti Tuope

Dated Tuesday the 20th of October 2020



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May it please the Tribunal

1. These are the closing submissions for Ngāti Tuope, claims Wai 37 and Wai 933.

Te Mea Tuatahi

2. These submissions address the interests and experience of Ngāti Tuope in this rohe, an assessment of the actions and omissions of the Crown for compliance with Te Tiriti and the prejudice that resulted where those standards were not met.
3. The rangatira of Ngāti Tuope were not signatories to Te Tiriti, but as a hapū of Tamakopiri, they and their descendants, these claimants, are entitled to rely on the undertakings the Crown made as to the benefit and protections which the Crown promised would accrue to all Māori as a result of the signing of Te Tiriti.¹
4. This entitlement to rely on the Crown's commitments in Te Tiriti and the mana which Te Tiriti reserved to the rangatira and hapū of Aotearoa is now well-established.²
5. The Urewera Tribunal found that, since "their rangatira did not sign the Treaty and, indeed, were not given the opportunity to do so, Tuhoe did not owe reciprocal Treaty duties to the Crown. Since the claimants' tipuna knew nothing of the Treaty, it could not, in any real sense, take effect to bind them to its terms."³ Therefore, the Treaty took effect for the claimants' tipuna in 1840 only as a unilateral set of promises made to them by the Crown. Article 2 promised to protect their tino rangatiratanga and, in Tuhoe terms, mana motuhake."⁴
6. These submissions centre around the heartland of Ngāti Tuope, which, in 1896 was recognised as being the Motukawa 2B block, an estate of 23,145 acres.⁵ Due to the rarely accurate designations of interests by the Native Land Court, the inevitable compromise of ancestral interests which comes with the individualisation which the Court necessitated, and for completeness, these submissions also address issues that relate to those Ngāti Tuope and closely connected Tamakopiri interests in the whenua tupuna which came to be

¹ Waitangi Tribunal *Te Urewera Vol 1* (2017), 164.

² Waitangi Tribunal, *Rekohu : A Report on Moriori and Ngati Mutunga Claims in the Chatham Islands*, 30.

³ Waitangi Tribunal *Te Urewera Vol 1* (2017), 164.

⁴ Waitangi Tribunal *Te Urewera Vol 1* (2017), 164.

⁵ Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 437. This figure remains approximate as to the true interest of Ngāti Tuope due to the Crown interests purchased following the original investigation into Motukawa in 1886, some ten years earlier.

designated as the blocks of Ōwhāoko, Ōruamatua Kaimanawa, Awarua and Rangipō Waiu. These submissions will show the impact of Crown actions on those rangatira and whānau members of Ngāti Tuope, their whenua and their livelihoods.

7. As the evidence from the claimants and technical researchers show, the interests of Ngāti Tamakopiri and Ngāti Tuope are within Motukawa 2B, but extend across various other blocks, with those divisions and partitions made by the Native Land Court rarely representing a distinction between hapū and iwi, but a shift in the dynamics of the ownership across those various whānau, hapū, iwi and rangatira.

Adopting the Generic Submissions

8. These submissions adopt the generic submissions filed on the key themes set out for inquiry by this panel.⁶ Due to the timing of filing deadlines, the clarification of their adoption by Ngāti Tuope will be confirmed orally at the hearing scheduled for these submissions.
9. Where the generic submissions specifically compliment these submissions for Ngāti Tuope, and have been filed, this is noted throughout the submissions made.
10. Where the submissions made here are at odds with the generic submissions on a particular theme, these submissions are to prevail.

Claimant Evidence

11. The evidence produced directly for this claim was given by Whakatere (Terrence) Whakatihi who presented evidence at;
 - a. The first Ngā Korero Tuku Iho week;⁷ and also at
 - b. Hearing week six.⁸
12. Hemi Biddle also produced evidence;
 - a. At hearing week six⁹ and
 - b. In writing.¹⁰

⁶ Wai 2180, #1.4.3, *Tribunal Statement of Position and Concessions*.

⁷ Wai 2180, #4.1.4, *Transcript of Korero Tuku Iho Week One*, 117-124

⁸ Wai 2180, #J11, Signed Brief of Evidence of Whakatere Whakatihi, accompanied by #J11(a) support documents to the evidence of Whakatere Whakatihi and Hemi Biddle.

⁹ Wai 2180, #J11, Signed Brief of Evidence of Whakatere Whakatihi, accompanied by #J11(a) support documents to the evidence of Whakatere Whakatihi and Hemi Biddle.

¹⁰ Wai 2180, #N8, Second Signed Brief of Evidence of Hemi Biddle, accompanied by #N8(a) support documents to the evidence of Hemi Biddle.

13. Technical evidence supplements the claimant evidence, both through the reports produced and the questioning of those report writers.

Crown Concessions and Individualisation

14. A key claim issue for Ngāti Tuope is that despite the recognition of hapū customary interests, they did not obtain any kind of hapū title over all or even some of their whenua. Rather, all land was received as interests held by individuals.¹¹ There were 167 owners listed in Motukawa 2B.¹²
15. The importance of a hapū rohe, hapū ownership and hapū management, as provided by customary ownership, is that it maintained continuity between generations, allowed for complex whakapapa connections, and a place where all those hapū members could say: ‘this is where we are from, this is our whenua, here is where we maintain our ahi kā, this whenua will continue from our tupuna to those generations to come.’
16. Hapū ownership would also, these submissions argue, better serve the hapū in the development, utilisation, profitability and retention of whenua tupuna.
17. Even more importantly, there was not support for individualisation or the Native Land Court process. The rangatira of Ngāti Tuope, with the vast majority of Mōkai Pātea rangatira, clearly spelled out their desire to retain, manage and carefully select any land that might be available to the Crown in a collective fashion. All of these powers, and all of these specific requests fall easily within those powers that Te Tiriti retained for Māori allowing tino rangatiratanga to prevail over how their whenua and taonga would be held.
18. The Crown's policy of individualisation of customary title, as embodied by the Native Land Court system is well established as a breach of Te Tiriti, and the Crown has acknowledged this in its concessions.¹³

“The Crown concedes that the individualisation of Māori land tenure provided for by the native land laws made the lands of iwi and hapū in the Taihape: Rangitīkei ki Rangipo inquiry district more susceptible to fragmentation, alienation and partition, and this contributed to the undermining of tribal structures in the district. The Crown concedes that its failure to protect these structures was a breach of the Treaty of Waitangi and its principles.”¹⁴

¹¹ Wai 2180, #A30(a)(7) 136, Whanganui Appeal Court 5 MB 226, Motukawa 2B Ownership list.

¹² Wai 2180, #A30(a)(7) 136, Whanganui Appeal Court 5 MB 226, Motukawa 2B Ownership list.

¹³ Wai 2180, #1.3.1, *Crown Statement of Position and Concessions* [2].

¹⁴ Wai 2180, #1.3.1, *Crown Statement of Position and Concessions* [2].

19. These submissions will outline the significance of this individualisation for Ngāti Tuope and the lasting impact on their place here in this rohe, and in particular the impact throughout the 20th century.

Ngāti Tuope: Hapū of Ngāti Tamakōpiri

20. Ngāti Tuope, hapū of Ngāti Tamakōpiri, are the product of a tatau pounamu between Ngāti Tamakōpiri and Ngāti Tuwharetoa, a marriage that brought peace and an end to significant and ongoing pakanga between those groups that had continued for some time.¹⁵
21. Whakatere Whakatihi spoke to this marriage at the first week of korero tuku iho¹⁶ and at hearing week six.¹⁷
22. Ngāti Tamakōpiri and Ngāti Tuwharetoa had agreed to end the pakanga that had continued between them for some time. That peace was formalised in marriage between Tamakaitangi of Ngāti Tamakōpiri and Ripoarangi and Hinetu, two grand-daughters of Rakeiatu of Ngāti Tuwharetoa.¹⁸ This account is the view of the claimants¹⁹ and also the evidence of Tony Walzl.²⁰
23. Mr Walzl references Te Hau Paimarire in the Native Land Court which records that “the marriage of Ripoarangi and Tamakaitangi was the first time that Ngāti Tamakōpiri became connected with Ngāti Tuwharetoa”.²¹
24. Tamakaitangi and Ripoarangi had three children; Tupoto, Tuope and Hinemihi, Tamakaitangi and Hinetu had Taongakore.²²
25. That marriage did not bring an end to pakanga with other groups though, and Mr Walzl records the accounts of rangatira confirming that Ngāti Tamakōpiri became involved in conflict between Ngāti Whitikaupeka, Ngāti Apa and Whanganui. During a conflict with Ngāti Apa, Ripoarangi was killed and Tuope was taken prisoner.²³ Tamakaitangi, with Taongakore and Hinemihi escaped the attack.²⁴ Mr Walzl references Heperi Pikirangi as the rangatira which indicated that it was after this time, that Tamakaitangi took his children Taongakore, Tuope and Hinemihi to Poutu near Rotoaira to live, and that this

¹⁵ Wai 2180, #4.1.4, *Ngā Korero Tuku Iho Week 1 Transcript*, 127.

¹⁶ Wai 2180, #4.1.4, *Ngā Korero Tuku Iho Week 1 Transcript*, 118.

¹⁷ Wai 2180, #4.1.14 *Hearing Week Six Transcript*, 615-628.

¹⁸ Wai 2180, #A12, Tony Walzl, *Tribal Landscape Overview*, 436.

¹⁹ Wai 2180, #J11(a) 1-2, *Support documents to the evidence of Whakatere Whakatihi and Hemi Biddle*.

²⁰ Wai 2180, #A12, Tony Walzl, *Tribal Landscape Overview*, 434-439.

²¹ Wai 2180, #A12, Tony Walzl, *Tribal Landscape Overview*, 437.

²² Wai 2180, #A12, Tony Walzl, *Tribal Landscape Overview*, 436, Whakatere Whakatihi’s whakapapa chart at #J11(a), 2.

²³ Wai 2180, #A12, Tony Walzl, *Tribal Landscape Overview*, 437.

²⁴ Wai 2180, #A12, Tony Walzl, *Tribal Landscape Overview*, 437.

was the beginning of Ngāti Tamakōpiri living at Rotoaira.²⁵

26. There are reports that after the marriage this incident pushed Ngāti Tamawhiti to the north, to Rotoaira, Turangi, and Tokaanu, and Ngāti Whititama to the south, which operated as a kind of aukati.
27. That separation was repaired by the return of Te Rango, one of the sons of Te Pou, after which the presence of the Ngāti Tuope line, along with other lines of Ngāti Tamawhiti, (now Ngāti Tamakōpiri) returned and remained in this rohe.
28. Tuope married Ketewaero and Te Aotuhi, two sisters who were descended from an early Ngāti Tamakōpiri tupuna Kehu, who was the sister of Tumakaurangi.²⁶
29. Tuope had children to both Ketewaero and Te Aotuhi; Mangai and Te Pou respectively.²⁷
30. Mr Walzl suggested that it was the descendants of Tuope's son Te Pou,²⁸ rather than Mangai, that became known as Ngāti Tuope,²⁹ referring to the evidence of Ihaka Te Hau Paimarire.³⁰
31. Mr Walzl's evidence aligned with Mr Whakaterere's korero tuku iho account of how Te Pou, as a young man and with Te Rango³¹, carried the youngest son of Whitikaupēka, Te Ika Kaimatau, now an old man longing to return home back from Rotoaira to the Patea rohe, and to Motukawa, and in recognition for that gifted them land on the Motukawa block.³²
32. Whakaterere Whakatihi outlined the interests of Ngāti Tuope both here in Motukawa in this rohe and to the north, outside of this inquiry district around Rotoaira and Tokaanu, but also in response to questions about this by the Tribunal.³³ One of those key questions was about Tuope Marae, and Mr Whakaterere emphasised the connections with Opaea Marae.³⁴ Another key question from Judge Harvey was whether there "were any blocks awarded to

²⁵ Wai 2180, #A12, Tony Walzl, *Tribal Landscape Overview*, 439.

²⁶ Wai 2180, #A12, Tony Walzl, *Tribal Landscape Overview*, 440.

²⁷ Wai 2180, #A12, Tony Walzl, *Tribal Landscape Overview*, 441, Walzl notes that it is said that Tuope himself did not return to Patea. It was his children and descendants that came back to Patea and maintained the connection with the land.

²⁸ Wai 2180, #A12, Tony Walzl, *Tribal Landscape Overview*, 459.

²⁹ Wai 2180, #A12, Tony Walzl, *Tribal Landscape Overview*, 459.

³⁰ Wai 2180, #A12, Tony Walzl, *Tribal Landscape Overview*, 460.

³¹ Wai 2180, #A12, Tony Walzl, *Tribal Landscape Overview*, 461, Te Rango also referred to as 'Te Rongoriri'

³² Wai 2180, #A12, Tony Walzl, *Tribal Landscape Overview*, 461, referring to the evidence of Hiraka Te Rango, and Wai 2180, #J11, *Brief of Evidence of Whakaterere Whakatihi*, 5-6.

³³ Wai 2180, #4.1.4, Ngā Korero Tuku Iho Week 1 Transcript, 121-128.

³⁴ Wai 2180, #4.1.4, Ngā Korero Tuku Iho Week 1 Transcript, 127.

Ngāti Tuope exclusively or with other hapū by the Native Land Court or by Crown grant.”³⁵

33. Those descendants from Tuope are the members of Ngāti Tuope and were recognised as the owners of Motukawa 2B.³⁶ Those descendants include prominent rangatira as Hiha Akatarewa and Pura Rora, who, amongst others, were closely involved in the life of the Opaea Marae and the Church on the same site.³⁷ Pura Rora is credited with funding the construction of the St Peter’s Church at Opaea Marae in her later years.³⁸ Mr Whakatihi’s Uncle Hepi Whakatihi was married at Opaea in a double wedding, which also served as the celebration for the return of the soldiers from World War 1.³⁹
34. Mr Walzl confirmed during cross-examination that the Tuope line never became wholly a part of Tuwharetoa, but that they retained their Tamakōpiri status.⁴⁰ When asked if they had given up their place in Ngāti Tamakōpiri, Mr Walzl replied:

“No, which is indicated by the descendants that are you know in front of the Land Court, the Akatarewa whanau for example. I mean they’re very much in the area and were able to testify as to their rights and places there so, no.”⁴¹

35. This whakapapa is further supported by the Blake series held at the Turnbull Library which were placed on the record.⁴²
36. The status of the connections between the iwi can be seen in the gravestones which recognise the individuals as rangatira of Ngāti Tama and Ngāti Tuwharetoa.⁴³ Clearly showing they were not the same, nor were they subject one to the other.⁴⁴ These burial sites include Opaea Marae, but also the former Marae of Pouorongo, just south of Tokaanu, which is the burial site of Heperi Pikirangi.⁴⁵
37. The evidence of Hohepa Patumaoana in the Awarua Native Land Court provides further support for this account of how Tuope whānau were both in

³⁵ Wai 2180, #4.1.4, Ngā Korero Tuku Iho Week 1 Transcript, 127.

³⁶ Wai 2180, A006(f), *Bundle of Documents for Cross Examination*: Decision of the Native Land Court on Motukawa 2, Whanganui Herald 21 February 1896.

³⁷ Wai 2180, #J11, *Brief of Evidence of Whakaterere Whakatihi*, 5-6.

³⁸ Wai 2180, #J11(b) *Further Documents referred to in evidence of Hemi Biddle and Whakaterere Whakatihi*, 1, 4.

³⁹ Wai 2180, #J11(a), *Brief of Evidence of Whakaterere Whakatihi*, 67.

⁴⁰ Wai 2180, #4.1.8, *Transcript Hearing Week One*, 232.

⁴¹ Wai 2180, #4.1.8, *Transcript Hearing Week One*, 232.

⁴² Wai 2180, #E1(a) *Document Bank to the evidence of Richard Steedman*, Tabs F and R Tamakōpiri, 22-24, 79-90. 86 showing the whakapapa of Tuope and descendants.

⁴³ Wai 2180, #J11(a), *Support Documents to the Briefs of Evidence of Whakaterere Whakatihi and Hemi Biddle*, 4-5.

⁴⁴ Wai 2180, #J11(a), *Support Documents to the Briefs of Evidence of Whakaterere Whakatihi and Hemi Biddle*, 4-5.

⁴⁵ Wai 2180, #J11, *Brief of Evidence of Whakaterere Whakatihi*, 5.

this rohe and in Pouorongo, near Turangi and Tokaanu, moving “back and forth.”⁴⁶

38. Ngāti Tuope’s historical, contemporary and continual standing in this rohe, as a hapū of Ngāti Tamakōpiri, and tangata whenua with ahi kā, is shown by the direct representation of the hapū in the current Mōkai Pātea Runanga structure.⁴⁷

Ngāti Tama, Ngāti Tama-whiti, Ngāti Tamakopiri

39. Before the marriages between Tamakaitangi and Ripoarangi and Hinetu, the two closely linked iwi were known as Ngāti Tamawhiti and Ngāti Whititama, and at that time there had been no intermarriage with Ngāti Tuwharetoa. Mr Walzl provides his explanation of the use of the terms.⁴⁸
40. The term Ngāti Tama-whiti came to be used to describe the kinship line which included the descendants of both lines.⁴⁹
41. The Native Land Court records show Ngāti Tama-whiti and Ngāti Whiti-tama were “not a homogenous group as Ngāti Tamakōpiri and Ngāti Whitikaupēka commentators held different perspectives on the matters.”⁵⁰
42. The distinction between the lines of Ngāti Tamawhiti is seen in Mr Walzl’s evidence about Ngāti Tama Tuturu which was the Tarewa line, and also Ngāti Tama “Pure” which was one line of Ngāti Tamawhiti which was not connected to Ngāti Whititama.
43. Ngāti Whititama used the tipuna Oruake in much of the Native Land Court records.⁵¹
44. The use of the term Ngāti Tama continued right up until the late 19th century and is demonstrated by this use on the headstones of the rangatira.⁵²

Ngā Awa: Connections between the South Taupo and Taihape Rohe

45. The movement between southern Taupo, these Ngāti Tama or Ngāti Tamakōpiri areas and this rohe, is noted by multiple authors across evidence

⁴⁶ Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 526.

⁴⁷ Wai 2180, #3.2.193(b) Appendix B Draft Mandate Strategy for Mōkai Pātea Waitangi Claims Trust, 5, 11, Appendix D Ngāti Tamakopiri Interests Map, Appendix F Registration form, also Wai 2180, #L9(a) Appendix A to Utiku Potaka brief of evidence, draft Mandate Strategy for MPWCT, 30 August 2018. This is to be contrasted with the approach taken to some structures which records “historical hapū” that are not part of the contemporary structure.

⁴⁸ Wai 2180, #A12, Tony Walzl, *Tribal Landscape Overview*, 443-444.

⁴⁹ Wai 2180, #A12, Tony Walzl, *Tribal Landscape Overview*, 443.

⁵⁰ Wai 2180, #A12, Tony Walzl, *Tribal Landscape Overview*, 443.

⁵¹ Wai 2180, #A12, Tony Walzl, *Tribal Landscape Overview*, 108, 443.

⁵² Wai 2180, #J11(a) 4-5, Support documents to the evidence of Whakatere Whakatihi and Hemi Biddle.

not just from Ngāti Tuope but other hapū that are of Ngāti Tuwharetoa.

46. This was seen in the report by Paul Meredith and Robert Joseph⁵³ who noted and supported the evidence of the use of the Moawhango and Rangitīkei Rivers not just by Ngāti Pīkiahū and Ngāti Waewae but by all of the hapū in the area.⁵⁴
47. Meredith and Joseph stated that the accounts of the use of these rivers were as a “description of a highway in its truest sense, one that does not discriminate according to affiliation but is free for all to use.”⁵⁵
48. During cross-examination they endorsed the description that claimants had given of these rivers, that they were “[a]n aqua highway being used in terms of a means of transport.”⁵⁶
49. These submissions move now from the pre-Tiriti history to the post Tiriti era of the late 19th century.

Opposition to the Native Land Court and the Plan of Mōkai Pātea Rangatira

50. As already noted, the Crown has acknowledged and conceded that Crown’s policy of individualisation of customary land title as embodied by the Native Land Court system is well established as a breach of Te Tiriti.⁵⁷
51. The fall-out from the system which the Crown imposed is the focus of these submissions, showing the fractioning of interests and the difficulty of retaining, utilising and developing that land experienced by Taihape Māori and specifically Ngāti Tuope.
52. The complexity that comes with an attempt to translate those interests from a tikanga guided customary interest to a British concept of freehold title reveals;
 - a. firstly, the prima facie inadequacy of the system to comprehend those connections;
 - b. secondly the inability of the new title to satisfactorily represent those underlying interests; and

⁵³ Wai 2180, #A044, Hohonu Ltd, *Ko Rangitikei te awa: The Rangitikei River and its Tributaries*, *Cultural Perspectives*, 90-91.

Wai 2180, #A044(a), P Meredith and R Joseph, *Summary of ‘Ko Rangitikei te awa: The Rangitikei River and its Tributaries’*, *Cultural Perspectives*. Wai 2180, #A044(c), P Meredith and R Joseph, *Responses to Questions of Clarification*.

⁵⁴ Wai 2180, #4.1.9, *Final transcript of Wai 2180 Hearing Week Two on 30 May - 2 June at Central Energy Trust Arena* at 179 – 180.

⁵⁵ Wai 2180, #A044, Hohonu Ltd, *Ko Rangitikei te awa: The Rangitikei River and its Tributaries*, *Cultural Perspectives*, 91.

⁵⁶ Wai 2180, #A044, Hohonu Ltd, *Ko Rangitikei te awa: The Rangitikei River and its Tributaries*, *Cultural Perspectives*, 91.

⁵⁷ Wai 2180, #1.3.1, *Crown Statement of Position and Concessions*, [2].

- c. thirdly, that deference to the approach sought by rangatira and tangata whenua would have been, and would always be, the most appropriate approach and would have best reflected the right of Taihape Māori to exert their Tiriti right to assert and manage their whenua in accordance with their tino rangatiratanga.
53. The rangatira in this rohe were quick to identify the issues with the Native Land Court system, and the Crown purchasing and partitioning which came with it, this lead to early assertions of tino rangatiratanga in the form of carefully considered plans for the management of their landholdings and economic development.⁵⁸
54. Those issues with the Native Land Court were recorded and resulted in notice to the Crown following the 1860 Kokako Hui which was attended by Te Hau Paimarire, Heperi Pikirangi and Ngāti Tama were strongly represented in the discussions which covered the interests of the various iwi gathered and their aspirations for their whenua.⁵⁹
55. The hui which followed, held at Poutu in 1867 and Turangarere in 1871 continued those discussions.⁶⁰
56. The Poutu hui focused on the Ngāti Tama and Ngāti Whiti lands, and the boundaries were clearly spelled out with the “main names” the rangatira, including Te Hau Paimarire and Hiha Akatarewa, saying that ‘they knew the “little names... and in time you’ll also see them.’⁶¹
57. Those boundaries in the north and western corners were “Motukawa, Kumeterua, Puponga, Turangarere, Hihitahi, the mouth of the Waiōuru... Ruapehu, Tongariro, Rotoaira, Rangipō...” and as Stirling says, this was not an articulation of the Mokai Patea rohe as a whole but the Ngāti Tama and Ngāti Whiti rohe, given the lack of inclusion of Awarua and other southern areas.⁶²
58. The significance of the 1871 hui was recorded by the building and opening of a pataka called Niu Tirenī at Turangarere.⁶³
59. Opposition continued to be articulated by Te Komiti o Patea in 1872-1878⁶⁴ in the form of a petition from Retimana Te Rango and Ngāti Tama stating clear

⁵⁸ Wai 2180, #A046, Tony Walzl, *Twentieth Century Overview*, 610.

⁵⁹ Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 16-24.

⁶⁰ Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 25-34.

⁶¹ Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 26.

⁶² Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 26-27.

⁶³ Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 28.

⁶⁴ Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 235-259

opposition to the Native Land Court, roads, road boards and other developments in the Mokai Patea district.⁶⁵ Mokai Patea rangatira had already expressed support for the Repudiation movement which insisted on local Māori self-governance through district runanga.⁶⁶ Support for the Repudiation movement was most explicitly stated in pan-tribal hui at Pakowhai and Ōmahu in 1876 and 1877.⁶⁷

60. The concern and opposition to the Native Land Court was made in this way:

*“The Native Land Court must cease to wield its present power.
Let all land sales cease, and let single individuals for the future
cease to sell land, and let the people agree or not as to what
lands are to be sold by the Native people.”*⁶⁸

61. At this point, by the late 1870s the Crown is clearly on notice that the broad position of Mōkai Pātea Māori is opposition to the Native Land Court and its processes. This had been communicated in person at meetings, in petitions sent to Crown Ministers, and publicly notified in newspapers. The Crown received better notice of the Mōkai Pātea position, than those Taihape Māori that were subject to public works takings for Defence purposes.
62. Following those early expressions was the 1892 event, iconic in the cultural and historic landscape of this rohe, as the plan for development clearly put forward by a host of the rangatira of Mōkai Pātea in 1892. That plan called for a conference between the rangatira and government to organise the Awarua block before any Crown purchasing got underway.⁶⁹
63. This request resulted in a conference with the Native Minister on September the 7th of 1892, but did not result in any kind of response or recognition by the Crown of the clearly articulated tino rangatiratanga from those rangatira as to how they wished to manage and care for their whenua prior to any alienation.⁷⁰
64. In a letter which followed this request, dated 9 September that same year, the rangatira suggested that the Crown purchasing be spread across the Awarua blocks and Motukawa 2 block in order to retain their lands while allowing some Crown purchasing in a way that would best serve them, the hapū and the iwi.⁷¹

⁶⁵ Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 237.

⁶⁶ Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 236-237.

⁶⁷ Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 240.

⁶⁸ Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 241, as stated in Te Wananga 8 April 1876, 168-170, Stirling references at footnote 849.

⁶⁹ Wai 2180, #A46 Tony Walzl, *Twentieth Century Overview*, 180-181.

⁷⁰ Wai 2180, #A46 Tony Walzl, *Twentieth Century Overview*, 181

⁷¹ Wai 2180, #A46 Tony Walzl, *Twentieth Century Overview*, 181.

65. Mr Walzl points out that the crisis of court costs that had emerged around the Awarua hearings was at least one of the key backgrounds to this appeal from the rangatira.⁷² The owners participating in those hearings were facing £5,000 in costs each for enduring the eight months of hearings for Awarua at Whanganui.⁷³
66. At a meeting just two years later in 1894 at Moawhango attended by Premier Seddon, these requests seem to have been either misunderstood or deliberately misquoted, with the Premier asking the rangatira and Māori landowners at Moawhango if they preferred subdivision or “did they desire to hand it [the land] to the Government”.⁷⁴
67. Walzl rightly interprets this as Seddon envisaging those representative trustees simply handing the land over to the government, after which the government would be the decision-maker in relation to the utilisation of the land.⁷⁵ This is not what had been sought or articulated in the letters and requests to the government to date and show a fundamental lack of willingness to recognise the suitability of Taihape Māori overseeing and managing their whenua in a comprehensive way.
68. The Crown responded either by ignoring the clear communication or showing careless disregard for the clear opposition to the legislation.
69. The proposal which the rangatira were offering was clearly spelled out.⁷⁶
70. The offer did include the offer of 11,000 acres of the 30,000 acres from Motukawa 2, but it came with terms that made this satisfactory to them for the ongoing maintenance of the life of the hapū and iwi.⁷⁷
71. Those terms included, amongst other things;
- a. Limiting further sale; and
 - b. Legislation which would allow for the formation of committees of management.
72. The response from the government was:

“a complete rejection of everything the Awarua owners had proposed and amounted to nothing more than the standard,

⁷² 2180, #A46, Tony Walzl, Twentieth Century Overview Report, 193-194.

⁷³ 2180, #A46, Tony Walzl, Twentieth Century Overview Report, 194.

⁷⁴ Wai 2180, #A46 Tony Walzl, *Twentieth Century Overview*, 184.

⁷⁵ Wai 2180, #A46 Tony Walzl, *Twentieth Century Overview*, 184.

⁷⁶ Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 411.

⁷⁷ Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 412.

*disruptive, and uncontrolled Crown purchase practise of acquiring as many undefined and undivided individual shares as it could for as little as it could get away with.*⁷⁸

73. The Crown then began purchasing individual interests in the land.⁷⁹
74. There are issues with the partitions and the rationale of the Court, but the recognition of the different hapū even as the land was individualised, places a spotlight on the shift from hapū whenua to individualised title, and subsequent fractioning of title and removal of the hapū from the landscape.
75. This time period, showing the mobilisation of Mokai Patea rangatira as a collective, making decisions together and communication with the Crown, during the Native Land Court era, up until the end of the 19th century and into the early 20th century, creates an issue for the Crown.
76. As was see throughout much of the 20th century, there was almost a complete lack of awareness by the Crown of who Taihape Māori were, almost as if these events and this engagement had not taken place.
77. While the Crown will no doubt put this down to the changing of staff, the loss of institutional knowledge, or some other excuse, the loss of knowledge of the Crown of who their partner in Te Tiriti was in this rohe, is inexcusable because of the established contact year after year through out those later 19th century decades.
78. Active protection required the Crown to retain a working knowledge of who was on the ground, who the iwi and hapū, who the rangatira were, without that knowledge, their ability to maintain those Tiriti duties would be peril, and that loss of knowledge would be another breach that would further prevent the Crown from being able to maintain duties to Taihape Māori, and to Ngāti Tuope, as they moved into the upheaval of the 20th century.

Precedent – Hapū entitled to recognition and collective landholdings

79. Against the background of these requests and the Crown's response we have the findings of the Rohe Potae Inquiry which addressed a largely similar set of circumstances where rangatira wanted large hapū level titles, and no further partition beyond that.

⁷⁸ Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 415.

⁷⁹ Wai 2180, #A46 Tony Walzl, *Twentieth Century Overview*, 184. Walzl refers to the *19th Century Overview* report by Stirling, #A43, which takes up the sequence of purchasing which was taken up by the Crown in the period that immediately followed.

80. Supporting the Central North Island Tribunal earlier findings, the Te Rohe Potae Tribunal considered that individualised titles provided by the Native Land Court ‘were in fundamental violation of Treaty guarantees’ because they ‘deprived communities and leaders of their collective rights and their tino rangatiratanga, and created structural pressures for alienation of interests in land’.⁸⁰
81. The Te Rohe Potae Tribunal found that “in failing to prevent subdivision below hapū titles, and in making provision for the individualisation of interests, the native land legislation further aggravated that Treaty breach,”⁸¹ which was further exacerbated by the fact that, by 1886, when the court was introduced into Te Rohe Pōtae, the effects of individualisation on Māori land retention and society were well-known to Māori and to the Crown. In response, Te Rohe Pōtae Māori had sought a different kind of title, one that would primarily be awarded to hapū, not individuals. The Crown’s failure to provide or to even contemplate providing such a title was contrary to the article 2 guarantee of tino rangatiratanga, and also breached the Treaty principles of partnership and active protection.”⁸²
82. The Crown was obliged to respect the wishes of Te Rohe Pōtae leaders and enact laws that they had sought for the protection of their land. It was also obliged to use its law-making powers to actively protect Te Rohe Pōtae Māori in possession of their lands. And it was obliged to honour any conditions they imposed in return for their consent to the railway, and to keep its promises, in accordance with its duty to act honourably and in good faith. The Crown did none of these things. Instead, the Māori land laws enacted under Ballance’s stewardship fell short of what was sought and promised; and the Crown was never willing to relinquish the power to determine land titles. Even during Ballance’s tenure, the Crown began to make plans for large-scale land purchasing in this district.⁸³
83. The situation for Ngāti Tuope, like so many of the hapū in this rohe, is directly analogous, and they, like those Rohe Potae hapū were entitled the same protections and hapū land title.

The Whenua

⁸⁰ Waitangi Tribunal, *Te Mana Whatu Ahuru, Parts II and III* (2018), 1249 citing Waitangi Tribunal, *He Maunga Rongo*, vol 2, p 537.

⁸¹ Waitangi Tribunal, *Te Mana Whatu Ahuru, Parts II and III* (2018), 1250.

⁸² Waitangi Tribunal, *Te Mana Whatu Ahuru, Parts II and III* (2018), 1250.

⁸³ Waitangi Tribunal, *Te Mana Whatu Ahuru, Parts II and III* (2018), 1361.

84. The evidence shows the role that the rangatira for these hapū took in the not only in the Native Land Court but in those hui of rangatira discussing the land and planning a model that would work for them. The evidence shows their position in their hapū and specifically how Te Hau Paimarire, Rawiri Pikirangi, Heperi Pikirangi and Hiha Akatarewa some of the most prominent rangatira of Ngāti Tuope contributed to the recognition of Ngāti Tuope in the rohe, in the form of the award of Motukawa 2B, and in other whenua in Mōkai Pātea.⁸⁴

Ngāti Tuope Land Interests

The 1886 Hearing of Motukawa at Whanganui

85. The Motukawa block investigation was initially conducted alongside the Awarua block investigation started in 1886 as it was traditionally seen as an integral part of the same Awarua area.⁸⁵ The Court decided to hear the evidence on Motukawa separately.⁸⁶ The first Motukawa block investigation took place in Whanganui in 1886.⁸⁷
86. From that initial hearing Motukawa 1 was found to be Ngāti Rangituhia whenua, belonging to the hapū of Ngāti Piwa and Ngāti Tutakawa.⁸⁸
87. The initial partitions in 1896, demonstrated some acknowledgement by the Native Land Court that different iwi, hapū and whānau had interests in different places across the block. Due to the connections and inter-marriage between those hapū and iwi, this is a significant feature of most of the blocks in this rohe.
88. The documentation of the Awarua court process and ultimately the partitions made, also show significant Ngāti Tamakōpiri and Ngāti Tama-Whiti interests over the fence in the Awarua, 3, 3A and 4A blocks.⁸⁹

Costs of hearings

89. Stirling points out that the preferred venue for this hearing was Moawhango but that the Court claimed a venue with a telegraph connection was needed, although this was not a necessity, and those attending other than the Māori applicants, wanted a higher standard of accommodation than was available at

⁸⁴ Wai 2180, #A46 Tony Walzl, *Twentieth Century Overview*, 121-123 showing the Akatarewa whanau with interests in Awarua 2C9 and 2C10.

⁸⁵ Wai 2180, #A8, Evald Subasic and Bruce Stirling, *Sub-district Block Study – Central Aspect*, 39.

⁸⁶ Wai 2180, #A8, Evald Subasic and Bruce Stirling, *Sub-district Block Study – Central Aspect*, 39.

⁸⁷ Wai 2180, #A8, Evald Subasic and Bruce Stirling, *Sub-district Block Study – Central Aspect*, 39-42, and Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 319.

⁸⁸ Wai 2180, #A8, Evald Subasic and Bruce Stirling, *Sub-district Block Study – Central Aspect*, 41.

⁸⁹ Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 393.

Moawhango.⁹⁰

90. In lieu of that, the option was Marton or Whanganui, and the preference by the owners was Marton, being closer to the whenua, but the Court went with Whanganui prioritising its own preferences.⁹¹
91. Even before the hearing got under way the owners were raising the issues of the cost of attending the court hearing and the continual adjournments to the proceedings, but those complaints lead to no changes to the Court's plans.⁹²
92. Stirling points out that the plan proposed in 1892 was partly in response to the continual and ascending costs of the Native Land Court hearings, which the rangatira had to bear in order to attend and present their case.⁹³
93. Stirling spells out in considerable detail the many, varied and weighty costs that were borne during these hearings, and in particular the first Awarua hearing,⁹⁴ the decision from which was "all but useless to the owners and undermined all that the committee had tried to achieve."⁹⁵

Agreement of the Komiti Māori at Te Houhou

94. Before the first Awarua (and Motukawa) hearing in 1886, a Komiti Māori had met at Te Houhou and agreed to the boundaries of the block and the claimants to be included in it.⁹⁶
95. But these komiti had no binding powers, and were not recognised at all until legislation was passed after 1900, too late for Mōkai Pātea, and in "the absence of statutory authority, the work of the komiti was always vulnerable to an appeal by any individual to the Native Land Court."⁹⁷
96. Motukawa 2 was issued to 249 owners, and the title was ordered to be "absolutely inalienable by sale, lease or mortgage."⁹⁸

Motukawa 2 Investigation

97. Motukawa 2 was investigated for partition by the Native Land Court in

⁹⁰ Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 319. Stirling points out that hearings finally took place at Moawhango for the hearing on the Ōruamatua Kaimanawa Block, 437-448.

⁹¹ Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 319.

⁹² Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 319-320.

⁹³ Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 315-316.

⁹⁴ Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 395-402.

⁹⁵ Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 315.

⁹⁶ Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 317-318.

⁹⁷ Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 317-318.

⁹⁸ Wai 2180, #A43, Stirling, *Taihape District Nineteenth Century Overview*, 328, and Wai 2180, #A30(6)369 showing the list of owners from Whanganui 11 MB.

February 1896.⁹⁹

98. The decision was appealed and heard again that same year, with the decision of the appeal court coming in November 1896.¹⁰⁰
99. The 1896 hearings concerning Motukawa took place in Marton, some 80 kilometres to the south and while not as far away as Whanganui it was still a significant distance from that part of the Mōkai Pātea rohe which was being considered.
100. Mr Walzl confirmed during cross-examination that the established custom in this rohe was for decisions about land to take place on the land, that this was repeatedly expressly requested by the rangatira involved, but nonetheless turned down.¹⁰¹
101. Mr Whakatihi provided tangata whenua and korero tuku iho evidence to the same effect, saying that his grandfather Whakatihi was opposed to a process dealing with the land elsewhere, finding it deeply contrary to tikanga.¹⁰²
102. Those hearings were of considerable length, with the first hearing regarding Motukawa 2 running from 10th to 18th December 1895 and then the 10th of January through to the 21st of February 1896.¹⁰³

The Initial Decision

103. Mr Stirling makes the point in his evidence that most of the work of the Native Land Court had already been dealt with, in relation to the Awarua and Motukawa blocks, by agreement between the rangatira.¹⁰⁴
104. This impression of the Court's process and its negative impact is shown clearly in a quote from Mr Stirling's report:

“Contrary to the Court's dim view of the claimants, they had reached agreement on the customary interests in almost the entire Awarua block, which is quite a remarkable achievement for such a vast area, containing within it various tribal interests. It was only the Motukawa portion nearer the borders of the Mōkai Pātea rohe potae that was still contested.

⁹⁹ Wai 2180, #A30(a)(6), The hearing regarding Motukawa 2 took place from 10 - 18 December 1895 & 10 January - 21 February 1896.

¹⁰⁰ Wai 2180, #A8, Evald Subasic and Bruce Stirling, *Sub-district Block Study – Central Aspect*, 39-42.

¹⁰¹ Wai 2180, #4.1.8, *Transcript Hearing Week One*, 230 – 233.

¹⁰² Wai 2180, #J11, Whakatere Whakatihi, 3.

¹⁰³ Wai 2180, #A30(a)(6), Wanganui 27 MB 271-272, 274-275, 276-306, 308-339 and Wanganui 28 MB 3-13, 19-76, 80-311, 319-325, 328, 331-346.

¹⁰⁴ Wai 2180, #A43, Stirling, *Taihape District Nineteenth Century Overview*, 324.

Even then Motukawa had previously been inquired into and decided by a Komiti Māori operating in a more customary context but it was the court – rather than custom – that now dictated the outcome. It was thus the court itself that led to this protracted contest, one that cost both sides heavily in return for delivering a result scarcely different from that arrived at by Māori in 1871.”¹⁰⁵

105. Mr Stirling records that:

“The bulk of the block was awarded to the Ngāti Tama, Ngāti Whiti and Ngāti Tutakaroa claimants, being Motukawa 2 (30,935 acres)¹⁰⁶ and that the

“court awarded all of Motukawa to the claimants, except for 2,000 acres which was awarded to the counter-claimants, Ngāti Piwa and Ngāti Tumaunu in the northwest corner of the block, where they had some settlements, this was designated Motukawa 1.”¹⁰⁷

106. Stirling pointed out the part of Motukawa 2 had been “incorrectly included in the adjoining Rangipō Waiu block purchased by the Crown.”

107. As a result, and following legislation to make the correction, 1,375 acres was added to the northern section of the Motukawa block, but Stirling points out that:

“[D]espite the Motukawa 2 land being wrongly claimed by the Crown, the 1894 and 1895 Acts did not fully restore it to its rightful owners for it stated the land ‘shall not vest in the owners of the Motukawa Number Two Block for any purpose whatsoever other than sale to Her Majesty’ or partition by the Native Land Court.”¹⁰⁸

The Motukawa 2 Partition

108. Stirling records the decision of the Court as follows:¹⁰⁹

¹⁰⁵ Wai 2180, #A43, Stirling, *Taihape District Nineteenth Century Overview*, 324. Stirling is making this statement in the context of the original and then appealed Awarua decisions. The original Awarua decision having included the Motukawa area, which would then be dealt with separately, see 311, map at 313.

¹⁰⁶ Wai 2180, #A43, Stirling, *Taihape District Nineteenth Century Overview*, 324, referring to Whanganui 10 MB 244-247.

¹⁰⁷ Wai 2180, #A43, Stirling, *Taihape District Nineteenth Century Overview*, 324, referring to Whanganui 10 MB 244-247.

¹⁰⁸ Wai 2180, #A43, Stirling, *Taihape District Nineteenth Century Overview*, 325, referring to Section 2 of the Native Land Claims and Boundaries Adjustment and Titles Empowering Act 1894 Whanganui 10 MB 244-247.

¹⁰⁹ Wai 2180, #A43, Stirling, 430.

Title Award	Location	Tribal Group	Area (acres)
Motukawa 2A	Beside Moawhango	Descendants of Whiti Kaupeka, "i.e., of Rangi Pawhaitiri and his brother Ikatakitahi"	4,500
Motukawa 2B	West of 2A in middle of block	Descendants of Hinemihi and Tuope	15,225
Motukawa 2C	West of 2B	Descendants of Hinemihi, "i.e., the branches of Rongoiri, Koko, and certain of the descendants of Rurumai who have occupied on this part."	7,810
Motukawa 2D	Beside Motukawa 1	Descendants of Tutakaroa	2,500
Motukawa 2E	South-eastern corner inside Hokio bend of Hautapu river.	Descendants of Tuwhakapuru	800
Motukawa 2F	Beside 2E	"Take Kore"	100

109. Ngāti Tuope and Ngāti Hinemihi were awarded the whenua to the west of the Tikirere stream known as Motukawa 2B.¹¹⁰

110. The area for Ngāti Tuope and Ngāti Hinemihi was described as:

*"the land to the west of the Tikirere stream... except as to the three portions on the Hautapu stream already awarded...commencing at the point where the Pakaingarara stream strikes the southern boundary line of this block then northerly in a straight line to trig M.M., from thence due north in a straight line to Trig V.V., and from thence to the north boundary of this block as shown on the corrected plan, the land between this boundary line and the Tikirere Stream to be for the Tuope people...the owners to arrange the division of shares and allotment to each individual owner...This portion to be known as Motukawa 2B."*¹¹¹

111. Ngāti Hinemihi were awarded Motukawa 2C¹¹² the Court saying *"the land lying to the west of this line to be for the descendants of Hine Mihi, i.e. the branches of Rongoriri, Koko, and certain descendants of Rurumai."*¹¹³

112. In that decision, the Court demonstrated the limitations of its comprehension of customary interests when it stated:

¹¹⁰ Wai 2180, A006(f), *Bundle of Documents for Cross Examination*: Decision of the Native Land Court on Motukawa 2, Whanganui Herald 21 February 1896.

¹¹¹ Wai 2180, #A30(a)(6), 745, Wanganui 28 MB 306, also at Wai 2180, A006(f), *Bundle of Documents for Cross Examination*: Decision of the Native Land Court on Motukawa 2, Whanganui Herald 21 February 1896.

¹¹² Wai 2180, A006(f), *Bundle of Documents for Cross Examination*: Decision of the Native Land Court on Motukawa 2, Whanganui Herald 21 February 1896.

¹¹³ Wai 2180, #A30(a)(6), 745, Wanganui 28 MB 306.

“In our opinion there never has been continuous occupation on this block before the introduction of sheep. The block was occasionally used by various people for the purpose of hunting. The introduction of sheep altered all this, and as the flocks of the few people who placed sheep on the block spread, so did the ideas of the owners of their sheep as to their rights on the block. We think they made a mistake in this, as we cannot see our way to partition the block according to the ideas of those people, or according to the land used by these every spreading flocks.”¹¹⁴

Appeal of the Motukawa 2 Decision

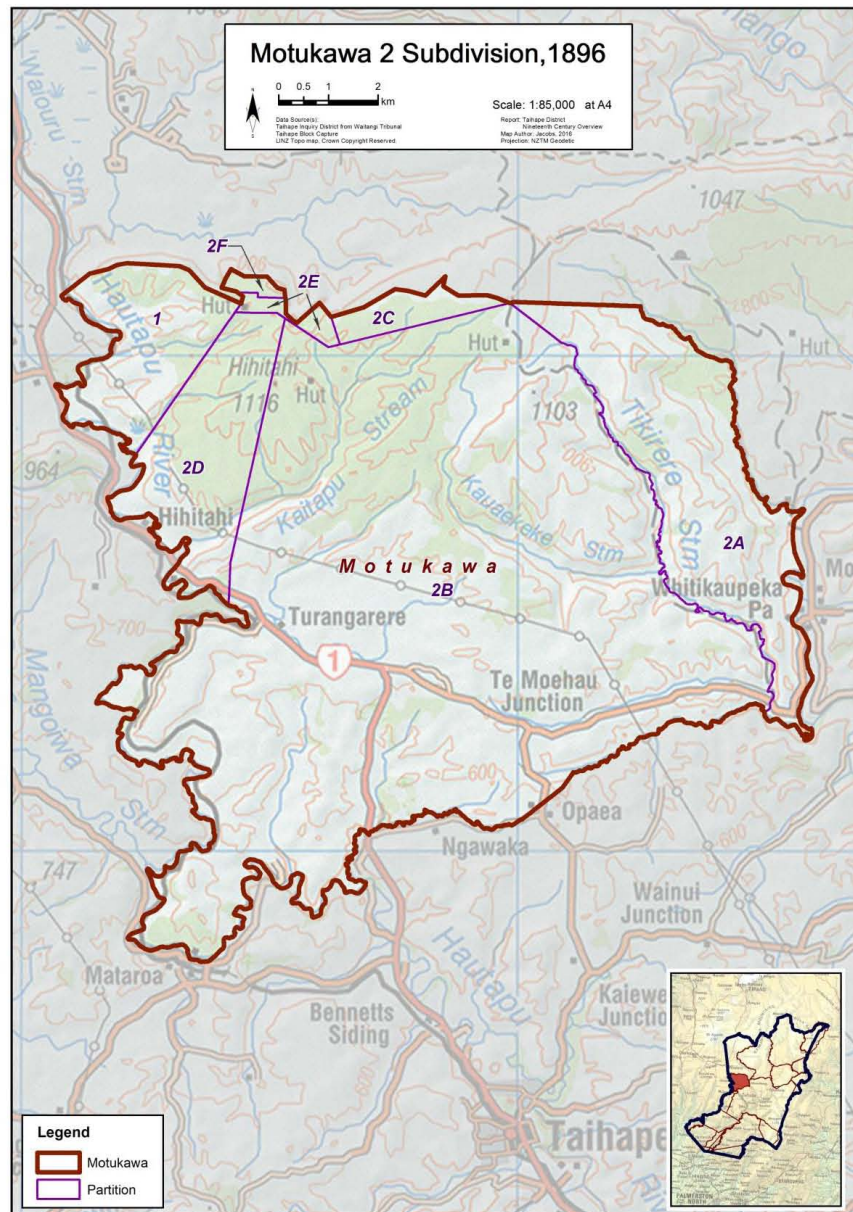
113. This decision was appealed, and revisited by the Native Appellate Court later the same year.

114. The decision of the appeal Court largely followed the original decision.

115. The layout of the partitions are shown below.¹¹⁵

¹¹⁴ Wai 2180, #A30(a)(6), Wanganui 28 MB 306, also at Wai 2180, A006(f), *Bundle of Documents for Cross Examination*: Decision of the Native Land Court on Motukawa 2, Whanganui Herald 21 February 1896.

¹¹⁵ Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 436.



Map 29: Motukawa 2 Subdivision, 1896

116. The Motukawa 2 block was partitioned in the following way;¹¹⁶

Title Award	Original Location	Original Area	Location on Appeal	Final Area
Motukawa 2A	Beside Moawhango	4,500	Unchanged	4,500
Motukawa 2B	West of 2A in middle of block	15,225	West of 2A in middle of block, including former 2C	23,145
Motukawa 2C	West of 2B	7,810	North of 2B beside Rangipo Waiu; single owner	490
Motukawa 2D	Beside Motukawa 1	2,500	Unchanged	2,500
Motukawa 2E	Southeast, in Hokio bend of Hautapu river.	800	Between 2F and 2C, beside Rangipo Waiu	200
Motukawa 2F	Beside 2E	100	North of 2D beside Rangipo Waiu	100

117. The Court awarded the blocks of Motukawa 2 in the following way:

- a. Motukawa 2A; the land between the Tikirere and Moawhangoiti Streams,¹¹⁷ to the descendants of Whiti Kaupeka;
- b. Motukawa 2B, the land to from Tikirere to Hihitahi, to Ngāti Tuope and Ngāti Hinemihi including those “descendants of Hinemihi, ie the branches of Rongoiri, Koko, and certain of the descendants of Rurumai who have occupied this part”,¹¹⁸
- c. Motukawa 2C was set apart as the partition of Crown interests, but appears to also be the part of Rangipō Waiu mistakenly excluded, now brought into the block but still reserved to the Crown;
- d. Motukawa 2D to descendants of Tutakaroa;
- e. Motukawa 2E to descendants of Tuwhakapuru; and
- f. Motukawa 2F to the “Take Kore”.¹¹⁹

118. The Court records shows that the new and improved plan for Motukawa 2B was again agreed by those rangatira and so the Court recorded that Ngāti Hinemihi and Ngāti Tuope would share the block with the previous dividing line being done away with and the block instead being shared in equal parts between them.¹²⁰

119. For Ngāti Tuope and Ngāti Hinemihi and their interests in Motukawa 2B and 2C respectively, the Court recorded that the hapū had “agreed amongst themselves as to this portion of the block the Court has nothing further to do

¹¹⁶ Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 437.

¹¹⁷ Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 429.

¹¹⁸ Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 430.

¹¹⁹ Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 430.

¹²⁰ Wai 2180, A006(f), Decision of the Native Land Court on Motukawa 2, Whanganui Herald 21 February 1896, 4-5.

than to give effect to the arrangements.”¹²¹

120. The land was that area from Turangarere or Hihitahi in the west to the Tikirere Stream in the east, Tuope having the eastern section, Hinemihi having the western.¹²²
121. Again, the same minor section of the block; Motukawa 2F, just 100 acres, was set aside for the “Take Kore’s”.¹²³ This was an issue addressed by Mr Whakatihi whose evidence is that his grandfather; Whakatihi Tutunui, was a non-seller, and refused to participate in the Native Land Court process.¹²⁴
122. Despite this land being awarded to those not participating in the Native Land Court process, the Crown acquired interests in Motukawa 2F as well as Motukawa 2B and 2C. The Crown began acquiring these interests before the appeal was resolved in early 1896, as Stirling and Subasic note the signatures were acquired “between 1895 and 1897.”¹²⁵

Survey Costs

123. Before the establishment of the titles, there was the direct and unavoidable cost of attending the court hearings far from home, which were exorbitant. Following the court decisions, the owners were immediately burdened with survey costs.
124. The survey costs for Motukawa 2, which was placed on the owners, was £307 18s 4d. and was charged against the block as a mortgage on the 10th of September 1895 plus interest of five percent per annum for five years.¹²⁶
125. Partitioning of the land to give the Crown the interests it had acquired, resulted in further survey costs and Mr Stirling points out that Motukawa 2 were “also charge with further survey liens totalling over £400 in the period to 1909.”¹²⁷
126. The survey charges placed on Motukawa 2B are set out in a table produced by Subasic and Stirling.¹²⁸
127. These survey costs, borne in their entirety by the Māori owners, by Ngāti Tuope and Ngāti Tamakōpiri, were a significant asset utilised by the Crown

¹²¹ Wai 2180, #A30(a)(7) 133, Wanganui Appeal Court 5 MB 226. Hearing took place from 12 – 30 November 1896.

¹²² Wai 2180, #A30(a)(6), Wanganui 28 MB 307.

¹²³ Wai 2180, A006(f), *Bundle of Documents for Cross Examination*: Decision of the Native Land Court on Motukawa 2, Whanganui Herald 21 February 1896.

¹²⁴ Wai 2180, A006(f), *Bundle of Documents for Cross Examination*: Decision of the Native Land Court on Motukawa 2, Whanganui Herald 21 February 1896.

¹²⁵ Wai 2180, #A8, Evald Subasic and Bruce Stirling, *Central Block History*, 44.

¹²⁶ Wai 2180, #A8, Evald Subasic and Bruce Stirling, *Central Block History*, 44.

¹²⁷ Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 426.

¹²⁸ Wai 2180, #A8, Evald Subasic and Bruce Stirling, *Central Block History*, 65.

during the ongoing settlement of the rohe, and in particular in relation to the construction of the North Island Main Trunk Railway (NIMT).

128. The evidence of Innes suggests that these costs were a significant subsidy for the Crown's future work, having saved them from drafting new surveys to use in the formation of the NIMT.¹²⁹
129. With Motukawa being one of those blocks that the railway ran through, passing through or along the entirety of the western border of the block.
130. Craig Innes stated that "the railway survey would've been much more expensive if it had been done without Māori Land Court title orders being issued or the Māori Land Court process occurring first."¹³⁰
131. The railway surveys relied on the earlier surveys done for the Native Land Court, Innes said that "what you find is that the bulk of the land is already determined by Native Land Court order and those initial surveys are paid for by Māori."¹³¹

Motukawa 2: Crown Purchases and Partitions

132. The Crown's purchases, and definition of those by partitions, were soon to follow in 1899.
133. As Stirling and Subasic's report shows, defining the Crown's interest was what triggered the wider partitioning of the block, as in order to remove a section for the Crown the burden of the removal of those interests, had to be shared across the remaining individualised owners.¹³² The Motukawa 2B block, considered to be a hapū area of interest, for the descendants of Tuope and Hinemihi in 1896, was in 1899, following the Crown's application for partition, split into 27 different blocks.¹³³
134. Mr Stirling produced the table below:¹³⁴

¹²⁹ Wai 2180, #4.1.14, *Hearing Week Six Transcript*, 436 – 437.

¹³⁰ Wai 2180, #4.1.14, *Hearing Week Six Transcript*, 436.

¹³¹ Wai 2180, #4.1.14, *Hearing Week Six Transcript*, 436.

¹³² Wai 2180, #A8, Evald Subasic and Bruce Stirling, *Central Block History*, 44.

¹³³ Wai 2180, #A8, Evald Subasic and Bruce Stirling, *Central Block History*, p45–46.

¹³⁴ Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 522.

Maori Title 1896	Area (acres)	Crown Awards 1899	Area (acres)	Maori Title 1899	Area (acres)
Motukawa 1	2,000	Motukawa 1A	1,633	Motukawa 1B	367
Motukawa 2A	4,500	Motukawa 2A1	850	Motukawa 2A2 to 6	3,650
Motukawa 2B	23,145	Motukawa 2B1	4,284	Motukawa 2B3 to 27	17,961
		Motukawa 2B2	900		
Motukawa 2C	490	Motukawa 2C	490	-	-
Motukawa 2D	2,500	Motukawa 2D1	1,945	Motukawa 2DA & B	555
Motukawa 2E	200	Motukawa 2E1	164	Motukawa 2E2	36
Motukawa 2F	100	Motukawa 2F1	12	Motukawa 2F2	88
Total	32,935		10,278		22,657

135. The Crown acquired all of Motukawa 2C, and interests in all of the Motukawa 2 subdivisions A-F, which along with interests in Motukawa 1A amounted to 10,278 acres, approximately a third of the original Motukawa block.¹³⁵
136. Of the Motukawa 2 blocks established the Crown acquired;
- Motukawa 2A1, 850 of the 4,500 acre Motukawa 2A block;
 - Motukawa 2B1, 5,184 of the 23,145 acre Motukawa 2B block;
 - Motukawa 2C, 490 acres;¹³⁶
 - Motukawa 2D1, 1,945 of the 2,500 acre Motukawa 2D block.
 - Motukawa 2E1 164 of the 200 acre Motukawa 2E block; and
 - Motukawa 2F1, 12 of the 100 acre Motukawa 2F block.¹³⁷
137. During cross examination of Subasic and Stirling on their report¹³⁸ hearing they confirmed that the land which was available for sale was not that land indicated during the 1892 engagement with the Crown, but rather, through purchasing from individuals the authors were asked:

Q. Did you see any evidence when it came to the selling of land that hapū were able to make decisions on that?

A. I think the only comment we make in relation to that with respect to Motukawa is that there is a portion of Motukawa, especially Motukawa 2 that forms part of the offer from September 1892 that we discussed.

¹³⁵ Wai 2180, #A8, Evald Subasic and Bruce Stirling, *Central Block History*, 46-47.

¹³⁶ Wai 2180, #A8, Evald Subasic and Bruce Stirling, *Sub-district Block Study – Central Aspect*, 44, this appears to be part of the previous 2B and 2C partition.

¹³⁷ Wai 2180, #A8, Evald Subasic and Bruce Stirling, *Sub-district Block Study – Central Aspect*, 45-46.

¹³⁸ Wai 2180, #A008, E Subasic and B Stirling, *The Sub-district Block Study – Central Aspect*;

Wai 2180, #A008(b), E Subasic and B Stirling, *Summary of "Subdistrict Block Study - Central Aspect"*;

Wai 2180, #A008(c), E Subasic and B Stirling, *Responses to questions of clarification*.

So, that gives an appearance of an attempt to control the degree of alienation, Motukawa along the same lines as Awarua. Yes, I think that's probably as far as we can take it."

Q. *"so the process the Crown undertook when it was purchasing land was through individuals and not to respect that hapū decision making?*

A. Yes." ¹³⁹

The Native Land Court's assessments and Hiha Akatarewa

138. As noted above, the Court appeared to take issue with recent occupation that was not continuous to historical occupation.

139. During questions Messrs Subasic and Stirling confirmed that Ngāti Rangituhia conceded that there was no current occupation and only claimed through very recent occupation but that did not prevent recognition of the Ngāti Rangituhia interests in Motukawa 1.¹⁴⁰

140. Specifically they agreed that for "Ngāti Rangitūhia, lack of occupation wasn't an issue and certainly not being able to show long occupation wasn't an issue."¹⁴¹

141. Mr Subasic was asked about Hiha Akatarewa's use of the land to run sheep and what this said about his rights in the area, and when asked, confirmed that the disregard for those interests shows that there were "customary rights demonstrated by utilisation not being recognised by the Court."¹⁴²

Summary of Crown breaches – Impact of the 19th Century

142. The course of events of the late 19th century show that the Crown paid little to no attention to the opposition of Mōkai Pātea Rangatira to the Native Land Court, and to the proposals which they put together to address that opposition.

143. Those appeals and suggestions came early, before Native Land Court activity had begun in this rohe.

144. Those proposals provided an opportunity for the Crown to acknowledge the rangatiratanga in this rohe, address their concerns and provide an evolved

¹³⁹ Wai 2180, #4.1.12, *Hearing Week Five Transcript*, 284.

¹⁴⁰ Wai 2180, #4.1.12, *Hearing Week Five Transcript*, 280.

¹⁴¹ Wai 2180, #4.1.12, *Hearing Week Five Transcript*, 281.

¹⁴² Wai 2180, #4.1.12, *Hearing Week Five Transcript*, 282.

title that suited them.

145. All those proposals were set aside, this was a breach of Te Tiriti.
146. Almost all of what we know now to be the systemic and entrenched issues with the Native Land Court could have been avoided.
147. Those costs, which are the prejudice which accrued to Ngāti Tuope and Mōkai Pātea hapū and iwi, include;
 - a. the costs of the hearings and appeals, held outside of the rohe and far from the land;
 - b. the fractured relationships of the adversarial process;
 - c. the costs of each round of partition;
 - d. the costs of carving out the Crown's undivided interests not fixed to any part of the land;
 - e. the cost of not knowing which parts of their land would be retained and available to be utilised by the members of the hapū; and
 - f. the costs of attempts to re-structure and arrange land interests in order to optimise them for retention and utilisation.
148. Survey costs should not have been borne solely by the owners, but distributed across any Crown interests and settler interests gained. At the very least the survey costs should not have burdened the owners as a mortgage or debt on the land that would lead to alienation, as it did.
149. These costs are immense, and only begin to suggest the next layers of costs which would follow in the 20th century, as the land was partitioned and further split and divided, making the dream of joint management and ownership of those rangatira slip further into the distance and into impossibility.
150. The Crown had a clear and fully articulated alternative, one that was put forward by Mōkai Pātea rangatira, and showed incredible foresight of the hazards that lay before them as rangatira, hapū and whanau. The rejection of that option out of hand by the Crown is one of the most significant events in the post Tiriti life of these hapū and iwi, a breach of Tiriti and brought on the first of multiple waves of prejudice as a result of Crown actions and omissions.

Eruini Akatarewa and the Taking of land for Police Station and Cricket pitch¹⁴³

¹⁴³ Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 481.

151. The taking of Maori land at Moawhango for a Police Station and cricket pitch had a significant impact on the Akatarewa whānau, resulting in Eruini Akatarewa, Hiha Akatarewa's brother, charged with a criminal offence, convicted, fined and spending time in jail in Napier.
152. The term taking is used here *despite* the sequence of events beginning as some kind of agreement between some of the rangatira of the area because rather than formulating the arrangement directly between the parties, the Crown instead utilised the Public Works takings system, as it would in almost any circumstance for the acquisition of Māori land other than for sale to settlers.
153. The offer made by Ihakara Te Rango, Hiraka Te Rango and Erueti Arani at a meeting with Minister of Lands McKenzie in February 1894, the land offered was part of Motukawa 2, ultimately a part of Motukawa 2A. Mr Cleaver suggests that at the time the land was Māori customary land, although the initial hearing of Motukawa had been completed, and the investigation and partitioning of Motukawa 2 taking place in 1896.¹⁴⁴
154. Most of the community was at a tangi in Karioi for Te Aro, this was the tangi which had adjourned the Ōruamatua Kaimanawa hearing at Moawhango.
155. The site, an area of 5 acres, 2 roods and 20 perches, was not taken until 1896, but the surveying began in November 1894.¹⁴⁵
156. Mr Stirling points out that while Mr Cleaver focussed on the police station aspect of the land offered, the majority of the land was in fact set aside and used as a cricket field by police staff.¹⁴⁶
157. It is not clear how the area allocated and to be taken was agreed or designated. When the surveying began Eruini Akatarewa,¹⁴⁷ brother of Hiha Akatarewa, and an owner of the land, objected to the surveying and ultimately removed the survey pegs.¹⁴⁸
158. This resulted in his arrest and him being brought to trial in Napier in March 1895, where he was convicted and sentenced to a fine of £50 and costs of £22 6d and was also bound over to keep the peace for 12 months on a surety

¹⁴⁴ Wai 2180, #TBC, *Generic Closing Submissions on Issue 13, Public Works Takings*, 30-32, referencing Wai 2180, #A9, Phillip Cleaver, 220-223.

¹⁴⁵ Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 481-483.

¹⁴⁶ Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 484.

¹⁴⁷ Also spelled Erewini Akatarewa in some places.

¹⁴⁸ Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 483.

of a further £50.¹⁴⁹

159. There was an appeal on the basis that the area was a cultivation and could not be taken under the Public Works Act. That appeal found that there was an error in the sentencing but that there was not sufficient to justify overturning the conviction. Ultimately, Eruini would spend a month in prison in Napier for failure to pay the fine.¹⁵⁰
160. Stirling notes that by this time cultivation lands could not be taken for roads, but there was no protection where the taking was for other purposes nor was there any requirement for notice to be given of the proposed taking.¹⁵¹
161. The police station was built in 1897. The remainder of the land, referred to as the “police paddock” was identified by the Moawhango Cricket Club (the “MCC”) as the best location for a community cricket pitch. The Club secretary outlined that under Crown pre-emption there was no way for them to acquire land directly from Māori, and the area Constable Tuohy indicated initial support for the proposal, only concerned about how far the pitch would be from the police building.
162. The Constable assured the New Plymouth Inspector for Police that the pitch “would ‘four chains distance’ (80 metres) from the police station; well within striking distance of a W.G. Grace six but a safe enough distance from the rather more agricultural batsmen of Moawhango.”¹⁵²
163. The MCC as a result was permitted to use the “Police paddock” for a cricket pitch, “on the understanding they give it up whenever it was required for police purposes, did not seek compensation for any improvements, and paid for any damage to the police station.”¹⁵³
164. The Club ran afoul of the Police Commissioners opposition to use of the cricket field on Sunday on religious grounds, and that agreement was withdrawn in 1898.¹⁵⁴
165. Despite a petition from the community, including Moawhango Māori, pointing out that the community worked the other six days and only the Sunday was available, plus that the custom was having the effect of preventing alcohol abuse (one of the reasons the Police Station was requested in the first place),

¹⁴⁹ Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 483.

¹⁵⁰ Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 483.

¹⁵¹ Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 483.

¹⁵² Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 484.

¹⁵³ Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 484.

¹⁵⁴ Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 485.

the Police Commissioner refused to allow the MCC to continue to use the Police property.¹⁵⁵

166. The compensation for the land was £50 and was not paid until 1901.¹⁵⁶
167. However, this event needs to be seen not against the standards of the Public Works legislation, but for compliance by the Treaty partner with their obligations to respect the autonomy and taonga held Eruini and others.
168. This was not, at its heart, a public works taking, this was Taihape Māori offering land for a certain purpose, and then Crown officials failing to engage with those that offered the land, and those on the land to ensure the objectives of the original agreement were met.

Ngāti Tuope - Surviving the 20th Century

169. As noted above, the standing of Ngāti Tuope in this rohe, both historically and contemporarily, was questioned by this Tribunal during the early stages of this Inquiry.
170. The status and standing of Ngāti Tuope, as a living and core hapū of Ngāti Tamakōpiri in the late 19th century was agreed amongst the rangatira of Ngāti Tamakōpiri and Mōkai Pātea and resulted in recognition in the form of the Native Land Court decision over Motukawa and Motukawa 2B.
171. The following section addresses the challenges which Ngāti Tuope faced during the 20th century as key whānau looked to retain their whenua, while also utilising, managing and developing that whenua.
172. The challenges which they faced were numerous, starting with the debt burden which emerged from the recognition of their customary interests in the form of survey costs, court costs and then rating and the costs of development which they faced without the support that most if not all settlers benefited from in this same rohe.
173. At the very least, these challenges, which are the prejudice resulting from breaches of Te Tiriti by the Crown, resulted in the lowering of the profile of Ngāti Tuope as a hapū of Ngāti Tamakōpiri. The same impact was experienced by the other hapū, and by Ngāti Tamakōpiri as a whole, due to the lack of recognition of an over-arching Mōkai Pātea structure which those rangatira had repeatedly requested, and to which they were entitled as an

¹⁵⁵ Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 485.

¹⁵⁶ Wai 2180, #A043, B Stirling, *Nineteenth Century Overview*, 485-486. The police station was closed in the 1930s, but not returned to Māori until 1996, even then only part of it was returned.

expression of their tino rangatiratanga.

174. At the more extreme end, the lowering of this profile, the lack of recognition and absence of a hapū and iwi structure, resulted in what could be described as a Crown-induced coma for Ngāti Tuope, as the rangatira, whānau and individuals of Ngāti Tuope, continued their presence in this rohe, but operating at a lower level, determined to survive, but without the means or structure to continue to enhance the status of their hapū, Marae and iwi.
175. Again, the same impression can be taken of the experience of many of the hapū of Ngāti Tamakōpiri; Ngāti Hinemihi, Ngāti Tama tuturu and others.
176. Innes summed up the Crown's commitment to partnership by of the Crown in the form of economic support for development:

Q. The question here is, to what extent did the Crown facilitate the economic development of Taihape Māori through the legislation policies and practices? How would you respond to that proposition?

A. Well, again, this district is unusual in how stark the lack of support has been. You are talking about the great majority of land remaining to Māori is poor in terms of economic capability and without legal access, so the amount of facilitation for Māori land within this area looks fairly marginal.¹⁵⁷

177. The Crown's Te Tiriti duties in relation to Taihape Māori economic development and capability include facilitating or assisting Taihape Māori to participate in those opportunities and to overcome barriers that the Crown had created; and providing Taihape Māori with active assistance to development opportunities to deliver on the Te Tiriti bargain of mutual prosperity from settlement.¹⁵⁸
178. The Tribunal in the CNI Report found that the right of development is inherent in the property rights guaranteed to Māori under Article 2 of Te Tiriti. This is a right to:
- (a) *Develop their properties and taonga which were guaranteed to them by Te Tiriti should they choose to do so and under their tino rangatiratanga;*
 - (b) *Retain a sufficient land and resource base to develop in the western economy, in accordance with their preferences, and to*

¹⁵⁷ Wai 2180, #4.1.14, *Hearing Week Six Transcript*, 437.

¹⁵⁸ Waitangi Tribunal *He Maunga Rongo: Report on Central North Island Claims Vol 3* (2008), 894 and 914.

be actively protected in the retention of such a base;

- (c) *Share in the mutual benefits envisaged by Te Tiriti;*
- (d) *Develop as a people in terms of their culture, language, and socio-economic advancement;*
- (e) *Equal access to development opportunities on a level playing field with other citizens;*
- (f) *Positive assistance from the Crown where appropriate in the circumstances, which may include assistance to overcome unfair barriers to development, some of them of the Crown's making;*
- (g) *The opportunity for Māori to participate in the development of Crown-owned (formerly Māori) or Crown-controlled property, resources, or industries in their rohe, and to participate at all levels; and*
- (h) *Utilise land for development opportunities and retain reasonable control over the use of the land and the objectives of that use.*¹⁵⁹

179. With respect to the right of development, the Crown has a positive duty to assist Māori in the development of their lands.¹⁶⁰ The Crown is required to take all reasonable steps to implement policies and processes which encourage development and simultaneously protect the development rights of owners and their communities.¹⁶¹

180. The Tribunal in *He Maunga Rongo: Report on Central North Island Claims* has stated that the right of development includes:¹⁶²

"[T]he right to positive assistance, where appropriate to the circumstances, including assistance to overcome unfair barriers to participation in development (especially barriers created by the Crown)"

181. It was part of the Crown's obligation to protect Māori from the potential devastation of colonisation by assisting Māori to acquire new assets to help them succeed in a fast-changing world. For example, new knowledge, technologies, skills, and ways of organising themselves and their properties.¹⁶³

¹⁵⁹ Waitangi Tribunal *He Maunga Rongo: Report on Central North Island Claims Vol 3* (2008), 1010.

¹⁶⁰ Waitangi Tribunal *Tauranga Moana 1886-2006: Report on the Post-Raupatu Claims* (2010), 217.

¹⁶¹ Waitangi Tribunal *He Maunga Rongo: Report on Central North Island Claims Vol 3* (2008), 1012.

¹⁶² Waitangi Tribunal *He Maunga Rongo: Report on Central North Island Claims Vol 3* (2008), 894.

¹⁶³ Waitangi Tribunal *He Maunga Rongo: Report on Central North Island Claims Vol 3* (2008), 993 and 1185.

182. In discussing whether the Crown has been obliged to provide positive assistance to Māori to ensure equal access to these opportunities, the Tribunal in Central North Island Claims Report, *He Maunga Rongo*, stated that:

*...the ability to participate fully in economic development opportunities requires more than just the possession of properties and taonga. In particular, appropriate experience, skills, and knowledge, the ability to accumulate funds or access loan finance, and suitable recognised forms of management and title for property have been identified as important factors. Historians have noted that on occasions Māori, like other indigenous peoples, faced considerable challenges in participating equally in development opportunities. This meant that the Crown's duty of active protection extended not just to ensuring that Māori retained sufficient properties and taonga to participate in opportunities, but also to ensuring that Māori were facilitated or assisted to do so.*¹⁶⁴

Motukawa 1900-1930

183. Mr Walzl broke down the Motukawa block interests to show the various whanau landholdings across those blocks, one of those being the Akatarewa whānau.¹⁶⁵
184. The evidence by Mr Walzl shows that almost all of the Motukawa 2A and 2B blocks were leased between 1905 and 1930, there were 41 leases in total.¹⁶⁶
185. Most of those leases were for 21 or 42 years.¹⁶⁷
186. Despite those leases, 22 of the Motukawa land blocks leased were sold during that same period, and 12 of those blocks sold had been leased prior to the sale.¹⁶⁸
187. All of that took place prior to 1930. After 1930, and up until the mid 1970s, a further 13 blocks were sold privately.¹⁶⁹

¹⁶⁴ Waitangi Tribunal *He Maunga Rongo: Report on Central North Island Claims Vol 3* (2008), 894.

¹⁶⁵ Wai 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 111-112

¹⁶⁶ Wai 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 113.

¹⁶⁷ Wai 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 113-114. Only five of the blocks were for a shorter period, one for 10 years, three are unknown, one is for 5 years.

¹⁶⁸ Wai 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 116.

¹⁶⁹ Wai 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 118.

188. Subasic and Stirling put the extensive private leasing and purchasing in this block down to the work of Aotea Māori Land Board which “rapidly broke up the residue of Motukawa 2 in the early to mid-twentieth century.”¹⁷⁰
189. Twelve further blocks were Europeanised after 1967, most likely as a result of the notorious Māori Land Amendment Act 1967.¹⁷¹
190. Walzl noted the significance of these decisions able to be made by the registrars of the Court as resulting in the onus on the owners to correct the change, along with the time and costs that came with that process.¹⁷²
191. There remain 26 blocks of Māori land from the Motukawa block, which Mr Walzl records as 7,507 acres.¹⁷³

Akatarewa Whānau and Whenua in the 20th Century: Farming, Development, Utilisation and Loss

192. Tony Walzl presented comprehensive and convincing evidence of the experience of prominent Ngāti Tuope rangatira Hiha Akatarewa and his whānau throughout the 20th century in his 20th century report.¹⁷⁴
193. The extent and detail of the report can be seen in the way that Mr Walzl detailed;
 - a. The whānau landholdings within the Motukawa 2B block;¹⁷⁵
 - b. The extent of leases arranged by the owners and the initial productivity of these blocks of Motukawa 2B;¹⁷⁶
 - c. Early alienations of Motukawa 2B lands 1900-1930;¹⁷⁷
 - d. Sheep returns across the Taihape rohe between 1900-1916;¹⁷⁸
 - e. Whānau narratives for Whakatihi Rora¹⁷⁹ and Tutunui Rora;¹⁸⁰ and

¹⁷⁰ Wai 2180, #A8, Evald Subasic and Bruce Stirling, *Central Block History*, 67.

¹⁷¹ Wai 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 118.

¹⁷² Wai 2180, #4.1.15, *Hearing Week Seven Transcript*, 273.

¹⁷³ Wai 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 119. In Wai 2180, #A8, Evald Subasic and Bruce Stirling, *Central Block History*, 68, the authors suggest 18,157 acres remain across 31 blocks, but that report does not show the blocks and numbers that lead to this. Those authors “Note that when the area of remaining Māori land is included, the total area of Motukawa (35,000 acres) is larger than the area given at investigation. They also suggest there are some blocks of over 2000 acres, which doesn’t appear to be accurate.

¹⁷⁴ Wai 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*.

¹⁷⁵ Wai 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 111-112

¹⁷⁶ Wai 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 113-114.

¹⁷⁷ Wai 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 116-117.

¹⁷⁸ Wai 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 247-251.

¹⁷⁹ Wai 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 448-460.

¹⁸⁰ Wai 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 491-503.

finally

- f. A full case-study of the Akatarewa whānau landholdings;¹⁸¹ with thematic analysis of those lands¹⁸² and the leasing income.¹⁸³

194. This report also shows the Pikirangi whānau interests.¹⁸⁴

Akatarewa Whānau and Whenua as at 1900

195. The summary of the Akatarewa whānau landholdings as at 1900 shows interests across Motukawa, Awarua, Mangaohane, Ōwhāoko and Ōruamatua Kaimanawa.¹⁸⁵

196. In 1900 the Akatarewa whānau were the 18 children and grandchildren of Hiha Akatarewa.¹⁸⁶

197. The interests were mapped to show the disparate placement of the interests.¹⁸⁷ The other whānau studies in this report all demonstrate a similar predicament and challenge;

- a. how to maintain interests in Māori land,
- b. make those lands productive and financially viable (if that is desired), and
- c. how to manage multiple land blocks and/or interests in multiple land blocks that are spread across such a wide area as a whānau, albeit a significant and large whānau.

198. As the evidence of Mr Walzl shows, this was a considerable challenge, one that the Akatarewa whānau were to approach with relatively few tools, and little Crown assistance, that might enable those varied purposes to be achieved while retaining the whenua tupuna in their possession.

199. Those blocks in whole totalled 28,875 acres.¹⁸⁸ The interests the whānau held comprise approximately 18, 497 acres.¹⁸⁹

¹⁸¹ Wai 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 348-355.

¹⁸² Wai 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 560-562.

¹⁸³ Wai 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 575-576, and 587-599.

¹⁸⁴ Wai 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 427.

¹⁸⁵ 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 348-355, 1057, Appendix VI. Walzl acknowledges, as these submissions do, that some of these interests likely came through Whitikaupeka connections, namely Awarua 2C, Mangaohane 1 and Oruamatua Kaimanawa 1.

¹⁸⁶ At least 18 children and grandchildren, some of those being minors at this time and at the time when they inherited their interests.

¹⁸⁷ 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, Map 43 349, Map 43a 350, Map 44 353, Map 44 354.

¹⁸⁸ 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 1057, Appendix VI.

¹⁸⁹ 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 1058, Appendix VI.

		Total Block Size	Total Whanau Interest in Blocks	Held by a Sole Whanau Owner	Held only by Whanau members	Whanau members held significant interests	Whanau members have minority interests
Awarua	2C9	945	945		945		
Awarua	2C10	3587	3587		3587		
Awarua	3A2I	265	265		265		
Awarua	3D3 16	176	176		176		
Awarua	3D3 17A	30	30	30			
Awarua	3D3 17B	4	4		4		
Awarua	3D3 17C	601	601		601		
Awarua	3D3 18	159	159		159		
Awarua	3D3 19	226	226		226		
Awarua	4A3C8	474	474		474		
Mangaohane	1K	300	240			240	
Motukawa	2B7	2935	2935		2935		
Motukawa	2B16	1266	673			673	
Motukawa	2B17	1670	1670		1670		
Oruamatua	1T	3583	50				50
Oruamatua	3E	4402	4402		4402		
Oruamatua	3F	1467	1467	1467			
Owhaoko	B East	5851	532				532
Owhaoko	B1B	934	61				61
		28875	18497	1497	15444	913	643
Whanau Interest: All Blocks: 18497²³³⁶ Core blocks: 11985							

200. The whānau also had interests in Rangipō Waiu 2B,¹⁹⁰ which would later be partitioned into Rangipō Waiu 2B1B, 332 acres held solely by members of the Whakatīhi whānau.¹⁹¹

201. The various members of the whānau which held these interests as at 1900 are detailed in full, and show how these large and varied interests sat in whānau ownership and amongst the various members.¹⁹²

202. The leasing of Akatarewa whānau land began in 1905 with the passing of legislation that allowed direct leasing to take place.¹⁹³

203. That report covers the evolution of the land-holdings, successions, leases, partitions and sales of those interests for the Akatarewa whānau across all these blocks.¹⁹⁴

204. While there were 18 whānau owners who held land in 1900, by 1909, ten of

¹⁹⁰ Wai 2180, #J11(a) Support documents to the evidence of Whakateri Whakatīhi and Hemi Biddle, 53-56 showing Schedule of Owners of Rangipō Waiu 2B.

¹⁹¹ Wai 2180, #J11(a) Support documents to the evidence of Whakateri Whakatīhi and Hemi Biddle, 32 showing Schedule of Owners of Rangipō Waiu 2B1B.

¹⁹² 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 1071-1073, Appendix VI. Map 86, 1060.

¹⁹³ 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 1082.

¹⁹⁴ 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 1057-1102, Appendix VI.

those adult whānau members had passed away.¹⁹⁵ This meant that in 1909 there were 11 owners, seven of which were minors, and the largest landholder was 12 years old.¹⁹⁶

205. Having the ownership sitting with minors in this way, even under trusteeship, presents problems which a hapū ownership structure or committee of management would not be exposed to.

Sheep returns

206. In the late 19th century, sheep numbers across the rohe were up to 107,000 across 26 flocks.¹⁹⁷
207. Mr Walzl records the sheep returns for the rohe between 1900 and 1916.¹⁹⁸ In this short 16 year period the number of sheep held by the rangatira and whānau listed dropped from 81,405 down to 1009.¹⁹⁹ Te Hau Paimarire is listed as a sheep holder in Motukawa from 1900-1905.²⁰⁰

*Whakatihi Rora*²⁰¹

208. The 20th Century Overview report sets out in detail an experience which Whakatihi Rora, the youngest son of Pura Rora and Tutunui Matene (and great-grandson of Te Akatarewa), had in relation to Awarua 2C9, which he had become the sole owner of.²⁰²
209. The records of Whakatihi show that he was resident in both Tokaanu and Moawhango, moving between the two areas.²⁰³
210. Mr Walzl describes Whakatihi as conducting a series of complex exchanges and consolidations in order to go from 1072 across seven blocks of land, to 1,344 acres across six blocks of land, making him the sole owners of Awarua 2C9 and 3A2I.²⁰⁴
211. The narrative shows a competing account of events relating to a leasehold over Awarua 3A2I.²⁰⁵
212. A lease had been agreed between Whakatihi and settler John Collins.²⁰⁶

¹⁹⁵ 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 1075.

¹⁹⁶ 180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 1056, 1078-1079.

¹⁹⁷ Wai 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 190, 248.

¹⁹⁸ Wai 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 250-251.

¹⁹⁹ 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 250-251.

²⁰⁰ Wai 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 250-251.

²⁰¹ Wai 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 448-460.

²⁰² Wai 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 448.

²⁰³ Wai 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 567.

²⁰⁴ Wai 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 448.

²⁰⁵ Wai 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 448-460.

²⁰⁶ Wai 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 449.

213. After that lease was signed Native Land Agent J.M. Fraser found out at a hearing Marton, Fraser arguing that Whakatihi had an obligation to agree to a lease with Robert Batley who had previously been leasing the land, and that agreeing to this would mean Fraser would pay him £16 as a deposit and also remove a debt Whakatihi owed to Fraser himself. Fraser had appeared and “produced a deed of lease already prepared.”²⁰⁷
214. Whakatihi claimed that the deed he signed was in fact a lease to another settler called John Allan Oliver and that the lease terms were also less favourable as the lease signed with Collins.²⁰⁸
215. Whakatihi had not learned that the lease was not to Mr Batley but to this other individual when it was taken to a Mr Bartosh.
216. The events lead to a complaint to the Premier by Mr Remington of Hunterville enclosing a sworn affidavit of Whakatihi, and lead to a Magisterial inquiry.²⁰⁹
217. The hearing took place over a year later and the Magistrate found that the complaint failed entirely and that “none of the allegations are proved.”²¹⁰
218. The circumstances became more convoluted and complex and involved other lawyers, Borlase and Arrowsmith, working with or for Fraser.
219. Walzl confirmed that the case was really about “relationship and not understanding a legal document”²¹¹ and “Whakatihi’s attempts to you know maintain an old tikanga of relational business dealing.”²¹²
220. Whakatihi was “only prepared to break it because a prior relationship because he believes it’s with Batley who has such a close relationship with his family and you know all the words that Fraser uses, ‘Well he’s been a parent to you.’”²¹³
221. The situation boiled down to a form or coercion and strong-arming of the young Whakatihi Rora by the land agent and others in order to secure a lease to Oliver.
222. Mr Walzl makes the point that the Magisterial report makes no suggestion that either party was lying, the report in fact acknowledged that Whakatihi’s version

²⁰⁷ Wai 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 449.

²⁰⁸ Wai 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 449.

²⁰⁹ Wai 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 448-449.

²¹⁰ Wai 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 450.

²¹¹ Wai 2180, #4.1.15, *Hearing Week Seven Transcript*, 276.

²¹² Wai 2180, #4.1.15, *Hearing Week Seven Transcript*, 277.

²¹³ Wai 2180, #4.1.15, *Hearing Week Seven Transcript*, 277.

of events probably had a basis.²¹⁴

223. The Court thinks that Fraser did bring up the £50 that Whakatihi owed to him and this “was interpreted by Whakatihi as a threat that he’s going to call that debt in if he didn’t find the lease.”²¹⁵
224. In those circumstances, if Whakatihi was not lying, and even allowing that Fraser or Borlase had not acted illegally or improperly, then at the very least a misunderstanding had occurred and the first lease should have stood, and those agents and lawyers should have been advised that better practices were needed when formalising legal agreements.²¹⁶
225. Walzl pointed out that “there’s a number of those things where the Court actually doesn’t find against it (the complaint), it actually finds in favour of it. When there’s contrary evidence the Court just effectively says that Whakatihi is wrong and hence confused whereas all the Pākehā witnesses are fine.”²¹⁷
226. During cross-examination Walzl pointed out that the case studies he refers to, he suggested:

“You can’t take them too far and I don’t take them too far in the report. But the thing is that if they are reflective of a systemic aspect – and I don’t take it too far because you can’t because they’re case studies – but if they are reflective of what’s normal and what’s systemic²¹⁸ then it goes from just a situation where owners are making decisions about their land and when to lease and you know what debts they incur and how they deal with it. It goes from that to being in a completely different environment, one that is really corrupt, one that is really nepotistic, one that has sharp practises.”²¹⁹

227. Whakatihi Rora also faced challenges from the local Rabbit Board. Due to the presence of rabbits on his land, he was fined £50 which in that time amounted to approximately \$5,000 in today’s currency.²²⁰ This was recorded by David Armstrong in his environmental report as one of the few cases where these

²¹⁴ Wai 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 448.

²¹⁵ Wai 2180, #4.1.15, *Hearing Week Seven Transcript*, 275.

²¹⁶ Wai 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 460.

²¹⁷ Wai 2180, #4.1.15, *Hearing Week Seven Transcript*, 275.

²¹⁸ Wai 2180, #4.1.15, *Hearing Week Seven Transcript*, 275.

²¹⁹ Wai 2180, #4.1.15, *Hearing Week Seven Transcript*, 275-276.

²²⁰ Wai 2180, #A045, D Armstrong, *The Impact of Environmental Change in the Taihape District 1840-C1970*, 223.

penalties were enforced.²²¹

*Tutunui Rora*²²²

228. Tutunui Rora, Whakatihi's sibling, had her own version of events and experiences showing "that money raised from land sales went little towards guaranteeing economic security either in meeting domestic costs of a young whānau or in providing additional funding to get a farming business off the ground."²²³
229. While potentially a recipient of significant leases and land sales, Tutunui struggled to make ends meet continually due to the control that the Māori Land Board had on the leasing income and sale of lands under their control.²²⁴
230. Mr Walzl confirmed that this held and controlled by the Māori Land Boards, invested and only drip-fed to the people that should have received it.²²⁵
231. Mr Walzl recorded that he "got the impression that the owners didn't necessarily benefit from the investments" which those Māori Land Boards made.²²⁶
232. When asked, considering the correspondence between Tutunui and the Boards if it "shows an incredibly paternalistic attitude. You would agree with that in terms of the management of the funds and Tutunui being able to access that?"²²⁷
233. Mr Walzl answered "Yes, yes in the 1920s, early 1920s yes."²²⁸
234. Walzl agreed that the correspondence showing Tutunui Rora had to request in detail money to pay for her daughters education, health care for her son, a process that carried huge whakamā for her, and that in the end a small amount, the minimum amount would be provided.²²⁹
235. Tutunui even had to resort to letters of support from Father Reardon, a resident Priest, and writing to Tā Apirana Ngāti spelling out her dire need to access the funds related to the land which she owned.²³⁰
236. The circumstances which Mr Walzl sets out show that while Tutunui was able

²²¹ Wai 2180, #4.1.16, *Hearing Week Eight Transcript*, 244.

²²² Wai 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 491-503.

²²³ Wai 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 491.

²²⁴ Wai 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 575-576, and 587-599.

²²⁵ Wai 2180, #4.1.15, *Hearing Week Seven Transcript*, 271.

²²⁶ Wai 2180, #4.1.15, *Hearing Week Seven Transcript*, 271.

²²⁷ Wai 2180, #4.1.15, *Hearing Week Seven Transcript*, 278.

²²⁸ Wai 2180, #4.1.15, *Hearing Week Seven Transcript*, 278.

²²⁹ Wai 2180, #4.1.15, *Hearing Week Seven Transcript*, 278.

²³⁰ Wai 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 530.

to access £400 per year²³¹ which he agreed was not the kind of capital start needed to develop the land,²³² if it was even enough to live off at the time.

237. The failure of the Board to provide Tutunui the funds, which were rightfully hers, prevented any kind of attempt to own and manage the land and a form of bureaucratic impoverishment that resulted in the sale of further Māori
238. Mr Walzl was asked if the Māori Land Board would act on behalf of the clients, the land owners, in such a way as to facilitate cheaper access to stock or to farm utilities, to which he replied "There isn't any activity like that."²³³
239. Mr Christoffel also fielded some questions about the Māori Land Boards and the Advances to Settlers Act.
240. Like Mr Walzl, Mr Christoffel saw no examples of Māori getting access to farming finance through that system.²³⁴
241. Mr Christoffel was also asked about the Rural Housing program which provided funding for houses for landowners in rural area.
242. Mr Christoffel could only confirm that he had seen no evidence of the use of this scheme in this area or of the Māori Land Boards encouraging owners to use it.²³⁵

Tutunui Rora and Ōwhāoko D6 section 1

243. The need of Taihape Māori to access funds for living expenses by selling their land blocks is demonstrated through the attempted sale of Ōwhāoko D61.
244. The owners were in dire need of the purchase money as the Aotea Māori Land Board was restricting their access to the purchase price paid for other lands they had sold; money that was needed to pay for improvements to their farm at Te Reureu and to cover Tutunui Rora's medical bills.²³⁶
245. This block was offered for sale in February 1926.²³⁷
246. Clearly Taihape Māori should not have had to sell their remaining land to cover medical bills in this way.
247. The evidence of Mr Walzl further details the financial situation that Mrs Rora

²³¹ Wai 2180, #4.1.15, *Hearing Week Seven Transcript*, 278, \$67,000 in today

²³² Wai 2180, #4.1.15, *Hearing Week Seven Transcript*, 278.

²³³ Wai 2180, #4.1.15, *Hearing Week Seven*, 272.

²³⁴ Wai 2180, #4.1.15, *Hearing Week Seven Transcript*, 274.

²³⁵ Wai 2180, #4.1.15, *Hearing Week Seven Transcript*, 454.

²³⁶ Wai 2180, #A006, M Fisher/B Stirling, *The Sub-district Block Study - Northern Aspect*, 98.

²³⁷ Wai 2180, #A006, M Fisher/B Stirling, *The Sub-district Block Study - Northern Aspect*, 98.

was in, and the lack of access to the funds that her land yielded due to the control maintained by the Māori Land Boards.

248. The Crown did not purchase this block as they were no longer interested in the land. Two further offers for purchase were made in 1927 and 1936 but were rejected by the Crown.²³⁸
249. The issue articulated here is not the failure of the Crown to purchase the land as requested, but the financial state that Mrs Rora was in, such that it would force the sale of land to cover improvements and medical bills.

Walzl's Alternate Universe

The Need for Consolidation and Better Land Management Tools

250. Mr Walzl 20th century report went beyond the scope of most research reports which a Tribunal has seen.
251. While it cannot be argued that some of the commentary Mr Walzl provides are statement of fact, the statements and assessments he makes are still of great assistance.
252. Across the Akatarewa whānau, along with those other whānau that were considered for the evolution of their landholdings and financial circumstances, the themes are demonstrably strong.
253. Each whānau held land across multiple blocks, some as sole owners, some as whānau owners, others as minor interests in large blocks or large groups of owners.
254. The management that could have been carried out by even the most active, inspired and financially backed whānau would still have faced numerous difficulties.
255. Some of these relate to the issue of gaining finance, the inability to access the support that settler farmers could gain, the lack of meaningful support from the Aotea Māori Land Board and Māori Trustee, who for the most part maintained a rudimentary standard of ensuring land was leased and rates were paid, and in numerous accounts, mortgages were paid by the sale of Māori land.
256. Some of those issues fall squarely on the logistical challenge of operating across multiple disparate blocks of Māori land, each of them varied and with

²³⁸ Wai 2180, #A006, M Fisher/B Stirling, *The Sub-district Block Study - Northern Aspect*, 99.

their own unique aspects as to location, soil quality and suitability for various purposes.

257. Taihape Māori and Ngāti Tuohe, the Akatarewa whānau, all needed better tools for consolidation to enable better land utilisation, ownership and use, retention.
258. Mr Walzl summarises the situation for the Akatarewa whānau across mainly the first 30 years of the 20th century and how the evolution was one of deteriorating utility and increasing struggle.²³⁹
259. What they needed was secure title, consolidated titles, a land management entity or committee of owners, and access to finance.²⁴⁰
260. That is what was proposed and requested in the 1890s by those rangatira, the evidence suggests that they never fully received any one of those, let alone a combination of the four, which may have enabled the kind of development, with retention, of land that they aspired to.²⁴¹

Local Government Issues

261. Suzanne Woodley detailed the impact on members of Ngāti Tuohe of the rating system.
262. The generic submissions on local government and rating are adopted.
263. The evidence of Ms Woodley shows that there was an awareness amongst officials that there was a need for relief from rating for Māori, such that papakainga would not be rated, as was suggested and recognised by officials in the rohe relating to Motukawa.²⁴²
264. That evidence also showed the impact of rating and local government policies on the Motukawa Māori land.²⁴³

Motukawa 2B3D Alienation

265. The generic claimant closing submissions on twentieth century land use, management and alienation are adopted.
266. The evidence of Mr Biddle detailed the loss of this block through sale and the grievously weak protections of Māori land in place at the time when this took

²³⁹ Wai 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 603.

²⁴⁰ Wai 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 611.

²⁴¹ Wai 2180, #A46, Tony Walzl, *Twentieth Century Overview Report*, 623-625

²⁴² Wai 2180, #A037, S Woodley, *Maori land rating and landlocked block report, 1870-2015*, 130

²⁴³ Wai 2180, #A037, S Woodley, *Maori land rating and landlocked block report, 1870-2015*. 106. 532, Appendix 1 and 539 Appendix 4 show the rates owed on Māori land across the district and the charging orders placed on land as a result.

place.²⁴⁴

267. Motukawa 2B3D was a block of 170 acres of Māori land created in 1905.²⁴⁵
268. The block was not partitioned with access, and immediately this created issues.²⁴⁶
269. The evidence of Ms Woodley confirms this situation as going unresolved for half a century.²⁴⁷
270. As already noted in closing submissions on landlocked, but repeated here for completeness, the landlocked status of two neighbouring blocks fundamentally lead to their sale soon after that partitioning.²⁴⁸
271. The Māori Trustee became involved in the management of the block due to rates and charging orders on the land in the 1920s.²⁴⁹
272. In the 1970s, Mr Biddle's grandmother Te Raita Whakatihi (aka Towhare Whakatihi) was an owner in the land.²⁵⁰ Mr Biddle records that she was never aware of the notice, the meeting or the sale of the land.²⁵¹ Mr Biddle reports that she would have opposed any kind of sale of Māori land in line with her approach to all of the interests in Māori land she inherited.²⁵²
273. The Māori Trustee appears to have initiated or been open to the suggestion that the land be sold, that suggestion was not made by the owners.
274. The land was alienated by sale following a meeting of owners in 1973 where the proposed purchaser was the proxy for 23 of the owners, and only four other owners attended in person.²⁵³
275. At this time there were 85 owners, and only 58% of the owners were represented in any capacity, most of those by the proposed purchaser as noted above.²⁵⁴
276. The sale was processed in 1975, and as it was solely owned, converted to general land in 1995.²⁵⁵

²⁴⁴ Wai 2180, #N8, *Second Signed Brief of Evidence of Hemi Biddle*, accompanied by #N8(a) *Support documents to the evidence of Hemi Biddle*.

²⁴⁵ Wai 2180, #N8, *Second Signed Brief of Evidence of Hemi Biddle*,

²⁴⁶ Wai 2180, #N8, *Second Signed Brief of Evidence of Hemi Biddle*, 1.

²⁴⁷ Wai 2180, #A037, S Woodley, *Maori land rating and landlocked block report, 1870-2015*, 272-275.

²⁴⁸ Wai 2180, #N8, *Second Signed Brief of Evidence of Hemi Biddle*, 1-2.

²⁴⁹ Wai 2180, #N8, *Second Signed Brief of Evidence of Hemi Biddle*, 2.

²⁵⁰ Wai 2180, #N8, *Second Signed Brief of Evidence of Hemi Biddle*, 2.

²⁵¹ Wai 2180, #N8, *Second Signed Brief of Evidence of Hemi Biddle*, 2.

²⁵² Wai 2180, #N8, *Second Signed Brief of Evidence of Hemi Biddle*, 2.

²⁵³ Wai 2180, #N8, *Second Signed Brief of Evidence of Hemi Biddle*, 4.

²⁵⁴ Wai 2180, #N8, *Second Signed Brief of Evidence of Hemi Biddle*, 4.

²⁵⁵ Wai 2180, #N8, *Second Signed Brief of Evidence of Hemi Biddle*, 5.

277. The legislation failed to protect Māori land from preventable and undesirable alienation, setting the bar too low and enabling sales when alternatives existed.

Rangipō Waiu B6B2

278. The landlocked land issues of this land has already been dealt with in earlier submissions.

279. To the extent that the issue can be separated, the desire of these landowners to protect Te Rei, the ngāhere located on their whenua, remains thwarted.

280. It also appears that until recently and possibly even to this day, the Defence force accesses and uses some or all of Te Rei for their own purposes, allowing hunting by civilians or soldiers.²⁵⁶

281. The situation prevents them from providing protection and kaitiakitanga to this significant area for the owners but also for the wider Ngāti Tamakōpiri and Ngāti Whitikaupeka community, especially those at Moawhango.²⁵⁷

Defence Takings: Rangipō Waiu Blocks

282. The generic submissions relating to the Defence takings are adopted, specifically in relation to the taking of Rangipō Waiu 2B blocks.

283. Mr Whakatere details evidence of the taking of all of Rangipō Waiu 2B block, and specifically of Rangipō 2B1B which was essentially a whānau estate, leaving only a single landlocked block Rangipō Waiu B1. As noted above, these blocks were landlocked by initial partitioning, and never had reasonable access.

284. The Rangipō Waiu 2B blocks were held by members of Ngāti Tuoape and Ngāti Tamakōpiri in 1900.

285. The blocks that it was partitioned into were essentially an extended whānau estate, with the land being divided into Rangipō Waiu 2B1 A-E and 2B2, 2B3 and 2B4.²⁵⁸

286. Rangipō Waiu 2B1B was inherited from Pura Rora by Whakatihi Rora in 1905 and then passed to his children in 1957 before it was taken as part of the defence takings.²⁵⁹

²⁵⁶ Wai 2180, #N8, Second Signed Brief of Evidence of Hemi Biddle, 5.

²⁵⁷ Wai 2180, #N8, Second Signed Brief of Evidence of Hemi Biddle, 5.

²⁵⁸ Wai 2180, #J11(a) support documents to the evidence of Whakatere Whakatihi and Hemi Biddle, 70.

²⁵⁹ Wai 2180, #J11, Signed Brief of Evidence of Whakatere Whakatihi, 6 and #J11(a) support documents to the evidence of Whakatere Whakatihi and Hemi Biddle, 57-58.

287. Woodley confirmed the nature of the taking, and how the compensation was dealt with, with much of that being taken to pay rates.
288. Despite the compensation being issued for the taking of the land Ms Woodley confirms that a significant amount of it goes to the local government for charging orders for rates and also to the Crown to pay overdue survey liens.²⁶⁰
289. In the course of this taking, Ms Woodley confirmed that the Native Land Court made no particular orders or mention of wahi tapu or significant sites that needed to be protected.²⁶¹

Compensation paid to the Māori Landowners

290. Compensation for the 37,195 acres of Māori land taken was awarded at just £9,195.²⁶²
291. This compensation was awarded to all of the Māori land blocks in accordance with the evidence of the District Valuer, providing a special government valuation of 2s 6d per acre, with slightly more for those lands that had previously been grazed.²⁶³
292. As noted above, this is far below the valuation received in 1953.²⁶⁴
293. The European-owned land was one-fifth of the area taken from Māori, but the compensation paid for that land was equivalent to half the sum Māori landowners received.²⁶⁵ The disparity between the government valuations of Māori owned land as opposed to general land is stark, and given the underlying circumstances is not justified. In the circumstances of a taking like this, the different legal status of the land (and the Māori ownership) has an excessive suppressive force on the valuations, despite the reality of the taking being a forced alienation in which the underlying title status should have no bearing.
294. Compensation was paid for the general land blocks of Ōruamatua Kaimanawa 2P and 3B (1,695 acres and 6,334 acres respectively) of £3,800 plus interest from the date of Proclamation. This compensation was in accordance with a special Government valuation which valued the land at close to 10 shillings per acre, rather than the 2 shilling 6 pence rate for Māori land.²⁶⁶

²⁶⁰ Wai 2180, #4.1.11, *Hearing Week Four Transcript*, 401.

²⁶¹ Wai 2180, #4.1.11, *Hearing Week Four Transcript*, 402.

²⁶² Wai 2180, #A9, Phillip Cleaver, 58, 81-82.

²⁶³ Wai 2180, #A9, Phillip Cleaver, 81.

²⁶⁴ Wai 2180, #A9, Phillip Cleaver, 69.

²⁶⁵ Wai 2180, #A9, Phillip Cleaver, 58.

²⁶⁶ Wai 2180, #A9, Phillip Cleaver, 84.

295. Three owners of land were present for the hearing into the valuations, Te Harawira Downs, Hukutioterangi Whakatihi and Henry Hartley. Hukutioterangi being one of the daughters of Whakatihi Tutunui & Heeni Jane Chase, and holding interests in the Ōruamatua Kaimanawa 3E and 3F lands that had been taken.
296. But as they had no evidence of land value and acknowledged much of the land was unleased and had little experience with the land, had no impact on the decision of the Court.²⁶⁷

Defence Takings - Ōruamatua Kaimanawa 3E and 3F

297. Ōruamatua Kaimanawa 3E was sole owned by Whakatihi whānau, one of few held in this way. The Akatarewa whānau also had interests in the Ōruamatua Kaimanawa 3F.
298. Both of these blocks were taken in total during the controversial second round of takings for the Defence lands.
299. The generic submissions on these takings are adopted in full.

Maungakaretu Scenic Reserve

300. The issue of the taking of Maungakaretu is significant for the focus on taking Māori land, and for these claimants for the actions of one of their tipuna, Ngahuia Harawira attempting to resist the taking of the Motukawa 2B7A block, but to no avail.
301. The generic submissions on the Public Works takings on this issue are adopted in full.

Moawhango School

302. Christoffel's report deals with the failure to provide a school at Moawhango despite repeated requests and offers from local Māori to enable that.²⁶⁸
303. The generic submissions on this issue are adopted.
304. The petitions for a school began in 1886, and the offer of 10 acres but ongoing delays due to bureaucratic fussing.
305. After considerable delay of ten years and postponement, there was still no commitment to a school until a local (prominent) Pākehā stepped in and offered a shed and to fund the cost of a teacher and schooling was arranged

²⁶⁷ Wai 2180, #A9, Phillip Cleaver, 81.

²⁶⁸ Wai 2180, #A041, P Christoffel, *Education, Health and Housing in the Taihape Inquiry District, 1880-2013*.

shortly after.²⁶⁹

306. In the interim the local resident Māori community had no school for their children other than to send them out of the district.²⁷⁰
307. Mr Christoffel put this down to the different standards that were applied when establishing a general school as opposed to a Native school.²⁷¹ The offer of Mr Batley was acceptable because it was general land for a general school supposedly.
308. However, that double standard is fundamentally unacceptable and a breach of Te Tiriti.²⁷²
309. On top of that is the failure of the Crown to respect its Treaty partner in response to clear and direct proposals, and then in the next breath to move immediately when a Pākehā settler makes a slightly different proposal.

The Tutunui Taonga

310. Mr Whakaterere gave evidence of a taonga, a pounamu named after his tipuna Tutunui, being held at the Whanganui museum.²⁷³
311. This taonga which is a pounamu that recognised the work of Mr Whakaterere's great-grandfather with Tawhiao is no longer in the possession of those descendants but is held by the museum.
312. The named "kaitiaki" of the taonga, according to the Museum's records, is simply the person who deposited it, but again, those records suggest that person was not a descendant either.²⁷⁴
313. The connection of the taonga to Te Kuiti to those that made the gifting is needed according to the tikanga and story that surrounds this taonga. This is still not able to be done due to the Museum's restrictions.²⁷⁵

CONCLUDING STATEMENTS

Prejudice

²⁶⁹ Wai 2180, #A041, P Christoffel, *Education, Health and Housing in the Taihape Inquiry District, 1880-2013*, 62.

²⁷⁰ Wai 2180, #4.1.15, *Hearing Week Seven* Transcript, 445.

²⁷¹ Wai 2180, #4.1.15, *Hearing Week Seven* Transcript, 440-441.

²⁷² Wai 2180, #4.1.15, *Hearing Week Seven* Transcript, 440.

²⁷³ Wai 2180, #J11, *Evidence of Whakaterere Whakatihi*, 4-5, and Wai 2180, #J11(a) Support documents to the evidence of Whakaterere Whakatihi and Hemi Biddle, 34-35, letter from Whanganui Museum regarding the taonga held at the Museum.

²⁷⁴ Wai 2180, #J11(a) Support documents to the evidence of Whakaterere Whakatihi and Hemi Biddle, 34-35, letter from Whanganui Museum regarding the taonga held at the Museum.

²⁷⁵ Wai 2180, #J11(a) Support documents to the evidence of Whakaterere Whakatihi and Hemi Biddle, 34-35, letter from Whanganui Museum regarding the taonga held at the Museum.

314. Ngāti Tuope are a hapū of Ngāti Tamakōpiri that emerged from a tatau pounamu with Ngāti Tuwharetoa and have retained that connection through inter-marriage.
315. Here in this rohe their interests, historical and contemporary, place them in Motukawa and Awarua, at Opaea Marae, at Rangipō Waiu and Te Rei, at Ōruamatua Kaimanawa and even into Ōwhāoko.
316. Those interests have diminished since they were first explained to the Crown in the middle of the 19th century, because of all that the Crown brought into this rohe.
317. The Crown brought its Court and its title system, it brought its purchasing and partitioning system.
318. Ngāti Tuope, with all of Ngāti Tamakōpiri and Mokai Patea, not only did not ask for this, they refused it and proposed a solution that would allow some Crown purchase, and some settlement.
319. Despite that, the Crown brought in the Māori Land Boards, local government and the Māori Trustee.
320. Ngāti Tuope, the Akatarewa whānau, worked hard to retain what they had, to enjoy the financial advantages that should have come with being the landholders in this rohe with all of their neighbour hapū and iwi, but those advantages dwindled.
321. Ngāti Tuope land was taken for every purpose the Crown identified as a need for them or their settler citizens;
- a. Roads;
 - b. Defence Force lands;
 - c. Scenery;
 - d. Forestry and Conservation lands;
 - e. Rates payments;
 - f. Schools;
 - g. Public facilities; and
 - h. Cricket pitches, amongst other things.

322. What Ngāti Tuohe lacked was a commitment by the Crown to their survival, success and development comparable to the support and funding provided to those settlers which moved here.
323. With the loss of land, and the loss of the most valuable land, the standing of Ngāti Tuohe grew more precarious. The maintenance of their whare, marae, hāhi and urupa, some of their most precious taonga, was starting to be outside of their means.
324. There has been a re-emergence, a re-strengthening of this hapū and others in the rohe, but this is not the result of any kind of Crown action, it is despite it.

CONCLUDING STATEMENTS

Findings Sought

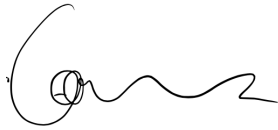
325. That this claim by Ngāti Tuohe is well-founded.
326. That the Crown failed to ensure that Ngāti Tuohe retained a hapū land base to be owned and managed them.
327. That as a result of the Crown's actions through the imposition of laws that breach Te Tiriti and by their omissions, members of Ngāti Tuohe have been fined, incarcerated, penalised and treated without dignity and respect by Crown officials and agents on matters that relate to their taonga, their whenua and their people.
328. That the Crown failed to ensure that members of Ngāti Tuohe, were equally and equitably treated in order to thrive and develop their interests in their rohe.

Relief Sought

329. Compensation proportional to the current value of the land that was taken, and/or the return of land taken from Ngāti Tuohe and its members.
330. The provision of funds to re-acquire any significant lands that may now be in private ownership lost as a result of Crown actions or omissions, should those lands become available.
331. Full recognition of the contribution of Ngāti Tuohe to the Taihape Rohe as a result of Crown actions which removed their land without consultation, just compensation or commitment to return land when it becomes available.
332. Meaningful access to those Ngāti Tuohe lands currently held by the Defence Force as a partner in Te Tiriti, not a third party, and a commitment to a form or return and recognition of the underlying title as whenua tupuna of Ngāti Tuohe.

333. Representation in the local government structure to ensure the voice of Ngāti Tuope is present and carries decision making power on issues that relate to its land, people or future.

Dated at Tāmaki Makaurau this Tuesday the 20th day of October 2020

A handwritten signature in black ink, appearing to be 'C. Hockly', with a large initial 'C' and a stylized 'H'.

**Cameron Hockly
Counsel for Ngāti Tuope**