



**SUBMISSION** to Māori Affairs Select Committee

# **TE AWA TUPUA (WHANGANUI RIVER CLAIMS SETTLEMENT) BILL**

**Contact:**

**Ngā Tāngata Tiaki o Whanganui  
PO Box 544  
WHANGANUI 4540**

**Phone: 06 281 3375**

**Gerrard Albert, Chairperson**

**Email: [gerrard@ngatangatatiaki.co.nz](mailto:gerrard@ngatangatatiaki.co.nz)**

**Sheena Maru, Project Lead, Te Awa Tupua**

**Email: [sheena@ngatangatatiaki.co.nz](mailto:sheena@ngatangatatiaki.co.nz)**

***Ngā wai inuину o Ruatipua ēnā  
Ngā manga iti, ngā manga nui e honohono kau ana  
Ka hono, ka tupu, hei awa  
Hei Awa Tupua***

*Those are the drinking fonts of Ruatipua  
The small and large streams which flow into one another  
And continue to link, and swell, until a river is formed  
Te Awa Tupua*

***E rere kau mai te Awa nui  
Mai i te Kāhui Maunga ki Tangaroa  
Ko au te Awa, ko te Awa ko au***

*The Great River flows  
From the Mountains to the Sea  
I am the River and the River is me*

## INTRODUCTION

1. Ngā Tāngata Tiaki o Whanganui (**Ngā Tāngata Tiaki**) is the post-settlement governance entity for Whanganui Iwi<sup>1</sup> for the purposes of the Whanganui River Settlement. The Trustees of Ngā Tāngata Tiaki are Gerrard Albert (Chairperson), Rawiri Tinirau (Deputy Chairperson), Susan Osborne, Chris Kumeroa, Keria Ponga, Ned Tapa and Miriama Cribb.
2. The Deed of Settlement in relation to the Whanganui River Settlement, *Ruruku Whakatupua*, was signed by the Crown and Whanganui Iwi on 5 August 2014. This signing followed a ratification process within Whanganui Iwi in which the proposed Deed of Settlement was approved by a majority of 95.9%.
3. The Te Awa Tupua (Whanganui River Claims Settlement) Bill gives legal effect to the twin elements of *Ruruku Whakatupua*, namely:
  - (a) the establishment of *Te Pā Auroa nā Te Awa Tupua*, a new legal framework for the Whanganui River and its catchment centred on the recognition of Te Awa Tupua (being those matters set out in *Ruruku Whakatupua – Te Mana o Te Awa Tupua*); and
  - (b) the settlement of, and provision of redress for, the historical Treaty of Waitangi claims of Whanganui Iwi relating to the Whanganui River (being those matters set out in *Ruruku Whakatupua – Te Mana o Te Iwi o Whanganui*).
4. Ngā Tāngata Tiaki supports the enactment of the Te Awa Tupua (Whanganui River Claims Settlement) Bill.
5. Given that *Ruruku Whakatupua* was signed in August 2014, this Bill has been long in the making. Like the Whanganui River Settlement itself, the introduction of this Bill was well overdue. Ngā Tāngata Tiaki therefore respectfully asks that the Select Committee considers and reports to the House of Representatives on this Bill as a matter of priority in order that the important elements of the Settlement are able to be implemented without undue delay.
6. Ngā Tāngata Tiaki wishes to be heard in support of this submission.

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<sup>1</sup> “Whanganui Iwi” for the purpose of the Whanganui River Settlement is defined in clause 8 of the Bill. In simple terms, Whanganui Iwi comprises every individual who is descended from a person who, at any time after 6 February 1840, exercised customary rights and responsibilities in respect of the Whanganui River by virtue of being descended from Ruatipua, Paerangi and Haunui-ā-Pāpārangi, including but not limited to the hapū and tūpuna rohe groups listed in Schedule 1 of the Bill.

7. Ngā Tāngata Tiaki would also be pleased to answer any questions or provide additional information in relation to any issues that may arise from other submissions or from the Select Committee's own deliberations.

## **HISTORICAL BACKGROUND**

8. The formal acknowledgements and apology of the Crown are set out in clauses 69 and 70 of the Bill. However, the historical account, which details the history of the Crown's acts and omissions with respect to both the Whanganui River and the relationship between Whanganui Iwi and the River, is not included in the Bill.
9. The agreed historical account, together with an iwi statement of the history and association of Whanganui Iwi with the Whanganui River, is contained in Part 2 of *Ruruku Whakatupua – Te Mana o Te Iwi o Whanganui*, entitled "He Pūkenga Wai, He Nohoanga Tāngata, He Nohoanga Tāngata, He Putanga Kōrero; Iwi Statement and Historical Account". The background and context of the settlement negotiations themselves are outlined in Part 1 of *Ruruku Whakatupua – Te Mana o Te Iwi o Whanganui*, , entitled "Matua Te Pō, Matua Te Ao; From Darkness to Light - the Journey to Settlement". Parts 1 and 2 of *Ruruku Whakatupua – Te Mana o Te Iwi o Whanganui* are attached as an Appendix to this submission for ease of reference and Ngā Tāngata Tiaki recommends that the Select Committee takes the opportunity to read those parts of the Deed of Settlement.
10. In addition, the principal Whanganui River claim (Wai 167), which was filed by Hikaia Amohia and the members of the Whanganui River Māori Trust Board on behalf of Whanganui Iwi on 14 October 1990, was the subject of the inquiry by the Waitangi Tribunal in 1994. The Tribunal's comprehensive Whanganui River Report 1999 traverses in significant detail the history of the Crown's interactions with the Whanganui River and Whanganui Iwi and makes substantive findings of Treaty breach.
11. In view of this history and the related findings of the Waitangi Tribunal in 1999, including the significant past and continuing benefit that the nation had obtained from both gravel extraction and the diversion of the headwaters of the Whanganui River by the Tongariro Power Scheme for electricity generation, the Settlement encapsulated within *Ruruku Whakatupua* and the Bill represents considerable forbearance, compromise and generosity on the part of Whanganui Iwi.
12. While Ngā Tāngata Tiaki is charged with the responsibility of implementing *Ruruku Whakatupua* for the benefit of both Whanganui Iwi and Te Awa Tupua, the Settlement reflects and honours the efforts of the generations of Whanganui iwi, hapū and whānau members who have advocated - and expended time and resources beyond their

reasonable means - for more than 150 years to both protect the Whanganui River, and provide for the special relationship of Whanganui Iwi with the River.

13. It is not appropriate or practical to name individuals within this submission, but many were mentioned in the course of the First Reading speeches in the House. However, they must be collectively acknowledged and thanked for their unquestionable contribution to where we stand today.

## **RURUKU WHAKATUPUA – WHANGANUI RIVER SETTLEMENT**

14. The Te Awa Tupua (Whanganui River Claims Settlement) Bill only addresses those aspects of *Ruruku Whakatupua* for which legislative provision is required. Necessarily, given the strictures and conventions of legislative drafting, the Bill does not replicate the completeness (in terms of both form and content) nor convey the wairua of *Ruruku Whakatupua*. That it not a criticism of the legislative drafters and, in fact, the Parliamentary Counsel Office has done well to record in statutory form the key aspects of what is a unique and multi-layered settlement. However, Ngā Tāngata Tiaki commends the members of the Select Committee to take the time to review *Ruruku Whakatupua* in addition to the Bill in order to view the Whanganui River Settlement in the form and manner in which it was formulated and personified by Whanganui Iwi and agreed by the Crown
15. By way of context in relation to both the Whanganui River Settlement and the Bill, the vision of Whanganui Iwi for the settlement of its Whanganui River claims was founded on two fundamental principles:
  - (a) **Te Awa Tupua mai i te Kāhui Maunga ki Tangaroa** — an integrated, indivisible view of Te Awa Tupua in both biophysical and metaphysical terms from the mountains to the sea; and
  - (b) **Ko au te awa, ko te awa ko au** — the health and wellbeing of the Whanganui River is intrinsically interconnected with the health and wellbeing of the people.
16. Consistent with these principles, the Whanganui River Deed of Settlement, *Ruruku Whakatupua*, has two primary elements:
  - (a) **Te Mana o Te Awa** — recognising, promoting and protecting the health and wellbeing of the River and its status as Te Awa Tupua; and
  - (b) **Te Mana o Te Iwi** — recognising and providing for the mana and relationship of the Whanganui Iwi in respect of the River.

17. These two elements are, in turn, reflected in the two separate documents that make up the Deed of Settlement, *Ruruku Whakatupua*, namely:
- (a) *Ruruku Whakatupua - Te Mana o Te Awa Tupua*; and
  - (b) *Ruruku Whakatupua - Te Mana o Te Iwi o Whanganui*.
18. These two documents were supplemented in April 2016 by *Ruruku Whakatupua - Te Tānekaha*, a supplementary deed that confirmed certain refinements, amendments and additions to some of the elements in *Ruruku Whakatupua - Te Mana o Te Awa Tupua* and *Ruruku Whakatupua - Te Mana o Te Iwi o Whanganui* which the parties agreed were required during the legislative drafting process to give full effect to the underlying intention of the Settlement.<sup>2</sup>

### ***Ruruku Whakatupua - Te Mana o Te Awa Tupua***

19. *Ruruku Whakatupua - Te Mana o Te Awa Tupua* is directed to the establishment of *Te Pā Auroa nā Te Awa Tupua* (“**Te Pā Auroa**”), the new legal framework for Te Awa Tupua. These arrangements are addressed in Part 2 (clause 10-68) of the Bill.
20. *Te Pā Auroa* represents a bold and innovative approach to both the status of the Whanganui River and its future governance and management, and comprises:
- (a) the legal recognition of Te Awa Tupua — “an indivisible and living whole, comprising the Whanganui River and its tributaries from the mountains to the sea, incorporating all its physical and metaphysical elements” — as a legal person with its own values, rights and voice (which is of significance, not only nationally, but internationally),<sup>3</sup>
  - (b) the legal recognition of *Tupua te Kawa*, a set of intrinsic values for the Whanganui River, which must be given legal weighting by relevant statutory decision-makers;<sup>4</sup>

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<sup>2</sup> The title of the supplementary deed, *Ruruku Whakatupua - Te Tānekaha*, draws on the term “tānekaha” (a Whanganui Iwi term - recorded by Elsdon Best - that was used as a noun referring to an implement used to tighten lashings on a waka, and also as a verb referring to the action of tightening a lashing), and the metaphor of a waka used in *Ruruku Whakatupua*. The title *Ruruku Whakatupua - Te Tānekaha* thus signifies that having begun the maiden voyage of *Ruruku Whakatupua* after construction, we are now tightening the lashings before embarking on the next journey through Parliament.

<sup>3</sup> See Part 2 of *Ruruku Whakatupua - Te Mana o Te Awa Tupua* and clauses 12 and 14 of the Bill.

<sup>4</sup> See Part 2 of *Ruruku Whakatupua - Te Mana o Te Awa Tupu*, clauses 2.2 – 2.3 of *Ruruku Whakatupua - Te Tānekaha*, and clauses 13 and 15 and Schedule 2 of the Bill.

- (c) the establishment of the position of *Te Pou Tupua* as the human face of Te Awa Tupua — its joint Crown/River Iwi appointed membership reflecting the partnership under the Treaty of Waitangi/Te Tiriti o Waitangi — supported by an advisory committee, *Te Karewao*, and a payment of \$200,000 per annum for 20 years to contribute to the costs of *Te Pou Tupua*;<sup>5</sup>
- (d) the establishment of *Te Kōpuka nā Te Awa Tupua* (“**Te Kōpuka**”), a collaborative strategy group comprising representatives of iwi, local government and other stakeholders, charged with advancing the health and wellbeing of Te Awa Tupua, with a payment of \$430,000 to the Manawatu-Whanganui Regional Council (“**Horizons**”) to contribute to the costs of establishing *Te Kōpuka* and developing *Te Heke Ngahuru ki Te Awa Tupua*;<sup>6</sup>
- (e) the development of *Te Heke Ngahuru ki Te Awa Tupua* (“**Te Heke Ngahuru**”), a long-term ‘whole of River’ strategy document to be developed by *Te Kōpuka* and directed to the future health and wellbeing of Te Awa Tupua;<sup>7</sup>
- (f) the vesting of the Crown-owned parts of the bed of the Whanganui River in Te Awa Tupua (thus realising the longstanding efforts of Whanganui Iwi to bring the Crown-asserted ownership of the bed of the Whanganui River to an end), with *Te Pou Tupua* carrying out the role of landowner and special provisions precluding the alienation or taking under the Public Works Act of a freehold estate in the vested riverbed land;<sup>8</sup> and
- (g) the establishment of *Te Koretete o Te Awa Tupua* (“**Te Korotete**”), a \$30m fund to be managed by *Te Pou Tupua* and used to support initiatives directed to the health and wellbeing of Te Awa Tupua.<sup>9</sup>

21. *Ruruku Whakatupua - Te Mana o Te Awa Tupua* also provides other arrangements relating to Te Awa Tupua, which are also addressed in the Bill, including:

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<sup>5</sup> See Part 3 of *Ruruku Whakatupua - Te Mana o Te Awa Tupua*, clauses 2.4 - 2.5 of *Ruruku Whakatupua - Te Tānekaha* and clauses 18 – 28 and Schedule 3 of the Bill.

<sup>6</sup> See Part 5 of *Ruruku Whakatupua - Te Mana o Te Awa Tupua* and clauses 29 – 34 and Schedule 4 of the Bill.

<sup>7</sup> See Part 4 of *Ruruku Whakatupua - Te Mana o Te Awa Tupua* and clauses 34 – 38 of the Bill.

<sup>8</sup> See Part 6 of *Ruruku Whakatupua - Te Mana o Te Awa Tupua*, clauses 2.6 – 2.7 of *Ruruku Whakatupua - Te Tānekaha*, and clauses 39 – 56 and Schedule 5 of the Bill. Whanganui Iwi pursued legal proceedings regarding the ownership of the bed of the Whanganui River through a succession of courts and a Royal Commission of Inquiry between 1938 and 1962, which is undoubtedly the longest-running legal proceedings in New Zealand. *Ruruku Whakatupua* and the Bill provide for the Crown-owned parts of the riverbed to be vested in Te Awa Tupua so in essence, the Whanganui River itself will own those parts of the bed in the form of its new status as a legal person. The vesting does not, however, affect any existing aboriginal or customary rights nor preclude applications for the recognition of aboriginal or customary rights in relation to the Whanganui River.

<sup>9</sup> See Part 7 of *Ruruku Whakatupua - Te Mana o Te Awa Tupua* and clauses 57 – 59 of the Bill.

- (a) the protection of the name 'Te Awa Tupua' from unauthorised commercial use, with provision for *Te Pou Tupua* to grant such authorisations;<sup>10</sup>
- (b) the establishment of a register of suitably qualified and experienced Te Awa Tupua hearing commissioners, which may be drawn from by consent authorities for consents relating to the Whanganui River or activities within its catchment that affect the River;<sup>11</sup>
- (c) a collaborative process (involving iwi with interests in the Whanganui River, Maritime New Zealand, and central and local government) to review the activities carried out on the surface of the water of the Whanganui River and consider how to improve the management of those activities, with an empowering provision for regulations to be made if required regarding the management of such activities;<sup>12</sup>
- (d) the establishment of a collaborative group (involving iwi with interests in the Whanganui River, the New Zealand Fish and Game Council, and central and local government) to co-ordinate the planning and management of fisheries and fish habitats within the Whanganui River catchment;<sup>13</sup>
- (e) a collaborative process (involving iwi with interests in the Whanganui River and the Ministry for Primary Industries) for the development of regulations under the Fisheries Act 1996 for managing customary food gathering by iwi with interests in the River, including provision for such regulations to be made if requested;<sup>14</sup> and
- (f) arrangements for taonga tūturu that are found within the Whanganui River, including provision for the granting of interim custody of such taonga to Te Awa Tupua.<sup>15</sup>

22. For the first time, through the *Te Pā Auroa* arrangements above, a frame of reference that stems from the intrinsic tikanga and values of Whanganui Iwi's own indigenous belief system — centred on Te Awa Tupua and *Tupua te Kawa* — will form the foundation at law for the definition and integrated management of a river system.

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<sup>10</sup> See Part 8 of *Ruruku Whakatupua - Te Mana o Te Awa Tupua*, clauses 2.8 – 2.9 of *Ruruku Whakatupua - Te Tānekaha*, and clause 60 of the Bill.

<sup>11</sup> See Part 8 of *Ruruku Whakatupua - Te Mana o Te Awa Tupua* and clauses 61 – 62 and Schedule 6 of the Bill.

<sup>12</sup> See Part 8 of *Ruruku Whakatupua - Te Mana o Te Awa Tupua* and clauses 64 – 65 of the Bill.

<sup>13</sup> See Part 8 of *Ruruku Whakatupua - Te Mana o Te Awa Tupua* and clause 66 of the Bill.

<sup>14</sup> See Part 8 of *Ruruku Whakatupua - Te Mana o Te Awa Tupua* and clause 67 of the Bill.

<sup>15</sup> See Part 8 of *Ruruku Whakatupua - Te Mana o Te Awa Tupua* and clause 68 of the Bill.

23. The inalienable relationship and responsibility of all the iwi and hapū of the Whanganui River with the many tributaries and reaches of the Whanganui River will also be recognised for the first time through the collaborative framework of *Te Pā Auroa*, which encompasses all persons and groups with interests in the Whanganui River and its future health and wellbeing.

***Ruruku Whakatupua - Te Mana o Te Iwi o Whanganui***

24. *Ruruku Whakatupua - Te Mana o Te Iwi o Whanganui* contains settlement redress that is specifically focused on Whanganui Iwi. This redress reflects the commitment of the Crown to address the grievances of Whanganui Iwi in relation to the Whanganui River and, in so doing, to uphold the mana of Whanganui Iwi and their relationship with Te Awa Tupua. The arrangements in *Ruruku Whakatupua - Te Mana o Te Iwi o Whanganui* that require legislative provision are addressed in Parts 3 to 5 (clauses 69-126) of the Bill.
25. *Ruruku Whakatupua - Te Mana o Te Iwi o Whanganui* includes:
- (a) the Crown's acknowledgements and apology to Whanganui Iwi;<sup>16</sup>
  - (b) the development of an overarching relationship agreement, *Te Pākurukuru*, between Whanganui Iwi and the Crown;<sup>17</sup>
  - (c) legal recognition of the standing of Whanganui Iwi in relation to statutory processes affecting Te Awa Tupua;<sup>18</sup>
  - (d) provision for various authorised customary activities to be carried out by Whanganui Iwi;<sup>19</sup>
  - (e) Crown recognition of the importance of Ngā Ripo o Whanganui (the rapids of the Whanganui River) to Whanganui Iwi;<sup>20</sup>
  - (f) provision for geographic name changes;<sup>21</sup>

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<sup>16</sup> See Part 3 of *Ruruku Whakatupua - Te Mana o Te Iwi o Whanganui* and clauses 69 - 70 of the Bill.

<sup>17</sup> See Part 4 of *Ruruku Whakatupua - Te Mana o Te Iwi o Whanganui*. This arrangement does not require statutory provision in the Bill.

<sup>18</sup> See Part 6 of *Ruruku Whakatupua - Te Mana o Te Iwi o Whanganui* and clauses 71 – 74 of the Bill.

<sup>19</sup> See Part 7 of *Ruruku Whakatupua - Te Mana o Te Iwi o Whanganui* and clauses 75 – 81 and Schedule 7 of the Bill.

<sup>20</sup> See Part 8 of *Ruruku Whakatupua - Te Mana o Te Iwi o Whanganui* and clause 82 and Schedule 8 of the Bill.

<sup>21</sup> See Part 8 of *Ruruku Whakatupua - Te Mana o Te Iwi o Whanganui* and clauses 83 - 86 of the Bill.

- (g) a collaborative process (involving Whanganui Iwi together with relevant agencies including the Ministry of Social Development, the Ministry of Education, Te Puni Kōkiri, New Zealand Police and the Department of Corrections) to explore the development of a whole of government programme that facilitates improved collaboration across, and delivery by, agencies in respect of health and related social services (including health, education, social development, child, youth and family, corrections and justice) within the Whanganui region;<sup>22</sup>
- (h) a financial redress payment to Whanganui Iwi of \$80m;<sup>23</sup>
- (i) an additional payment to Whanganui Iwi of \$1m to support transitional and implementation matters relating to *Te Pā Auroa*;<sup>24</sup> and
- (j) governance reorganisation arrangements involving the dissolution of three existing Whanganui Iwi entities (namely, the Whanganui River Māori Trust Board, Pakaitore Trust and Te Whiringa Muka Trust) and the transfer of their assets and liabilities to Ngā Tāngata Tiaki.<sup>25</sup>

## **TE AWA TUPUA (WHANGANUI RIVER CLAIMS SETTLEMENT) BILL**

26. In addition to the summary of the arrangements in *Ruruku Whakatupua* set out above, the Explanatory Note to the Bill provides a detailed explanation of the various provisions in the Bill that cumulatively give legislative effect to *Ruruku Whakatupua*. Accordingly, it is not proposed to repeat or provide any extended explanation of the operation or effect of the particular provisions of the Bill in this submission.
27. In short, Ngā Tāngata Tiaki supports the Te Awa Tupua (Whanganui River Claims Settlement) Bill in its entirety. It considers that the Bill appropriately reflects the arrangements agreed in *Ruruku Whakatupua* that require legislative provision.
28. However, Ngā Tāngata Tiaki does wish to highlight for the Select Committee certain aspects of the nature and scope of the settlement that is enshrined in the Bill and the negotiation process that lead to that settlement.

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<sup>22</sup> See Part 8 of *Ruruku Whakatupua - Te Mana o Te Iwi o Whanganui*. This arrangement does not require statutory provision in the Bill.

<sup>23</sup> See Part 9 of *Ruruku Whakatupua - Te Mana o Te Iwi o Whanganui*. This payment does not require statutory provision in the Bill.

<sup>24</sup> See Part 9 of *Ruruku Whakatupua - Te Mana o Te Iwi o Whanganui*. This payment does not require statutory provision in the Bill.

<sup>25</sup> See Part 10 of *Ruruku Whakatupua - Te Mana o Te Iwi o Whanganui*, clauses 3.2 – 3.3 of *Ruruku Whakatupua - Te Tānekaha* and clauses 92 - 126 of the Bill.

## Process of Negotiation

29. Unlike the orthodox approach of bilateral negotiation between an iwi and the Office of Treaty Settlements on behalf of the Crown (with engagement with the wider Crown and other parties taking place once the main elements of the settlement have been substantially developed), Whanganui Iwi insisted on a unique collaborative and inclusive approach from the outset in which:
- (a) the fundamental elements of the Settlement were developed and refined through round-table workshops involving the Whanganui Iwi negotiation team and representatives of a large number of Crown agencies, including the Ministry for the Environment, the Department of Conservation, the Commissioner of Crown Lands, the Ministry for Primary Industries, Te Puni Kōkiri, the Department of Internal Affairs and Treasury;
  - (b) the first formal document between the Crown and Whanganui Iwi – the Record of Understanding dated 13 October 2011 – which established the framework for the Settlement, was signed following this multi-agency process; and
  - (c) there was pro-active engagement between Whanganui Iwi and other non-Crown groups (including local government, other River Iwi and other bodies with interests in the Whanganui River) from a very early stage of the negotiation process so that relevant views could be taken into account as the terms of settlement were further refined through the development and signing of the agreement-in-principle equivalent, *Tūtohu Whakatupua*, on 30 August 2012 and, ultimately, *Ruruku Whakatupua* on 5 August 2014.
30. In the view of Ngā Tāngata Tiaki, this inclusive and collaborative approach was consistent with Whanganui Iwi's view of Te Awa Tupua as an integrated and indivisible whole where all have responsibilities and involvement its future health and wellbeing on a catchment-wide basis.

## Engagement with Local Government

31. Consistent with the approach noted above, Whanganui Iwi did not want a situation in which relevant local authorities were put in a position of reacting at the end of the process to new arrangements for the Whanganui Iwi that have been substantially agreed with the Crown. Instead, Whanganui Iwi knew that the support of local government would be an importance aspect of the future implementation and success of the settlement arrangements and its wished the relationship with relevant local authorities to be in place from the outset.

32. To this end, at an early stage, Whanganui Iwi established a joint technical working group with officers from the relevant local authorities (namely, Horizons Regional Council, Whanganui District Council, Ruapehu District Council and Stratford District<sup>26</sup>) and officials from the Office of Treaty Settlements as well as representatives of the Department of Conservation and Ministry for the Environment.
33. In addition, meetings and briefings were held between the Whanganui Iwi negotiation team and local authority Mayors, Chairs and councillors from time to time during the settlement negotiation process.
34. Through this engagement with local government, the relevant local authorities have not only been well informed on relevant aspects of the settlement framework as it developed, they were also provided with an opportunity to have input at a technical level into the development and refinement of those elements of the framework of particular relevance to local government. This approach made it significantly easier for the local authorities involved to maintain and express their support for the Settlement and now the Bill, as was evident from their attendance at both the signing of *Ruruku Whakatupua* and at the First Reading of the Bill.
35. This forward-looking and collaborative philosophy in respect of local government is also reflected in the key elements of the Settlement in which relevant local authorities (particularly, Horizons Regional Council) are to be involved as noted earlier in this submission, including:
  - (a) representation on *Te Karewao* and *Te Kōpuka*;
  - (b) participation, through *Te Kōpuka*, in the development of *Te Heke Ngahuru*;
  - (c) involvement in the collaborative process to review the activities carried out on the surface of the water of the Whanganui River and consider how to improve the management of those activities;
  - (d) involvement in the collaborative group to co-ordinate the planning and management of fisheries and fish habitats within the Whanganui River catchment; and
  - (e) the development, with Whanganui Iwi, of criteria and conditions for the exercise of authorised customary activities.

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<sup>26</sup> Being the regional council and territorial authorities with responsibilities within the Whanganui River catchment.

36. In addition to the post-enactment involvement of local government in the above arrangements, express provision was also made in *Ruruku Whakatupua* for Whanganui Iwi (and, where appropriate, also the Crown) to also engage with relevant local authorities in relation to the pre-enactment development and implementation of various matters, including:<sup>27</sup>
- (a) preparatory work for the establishment and appointment of *Te Karewao*;<sup>28</sup>
  - (b) commissioning the scoping study in respect of the Whanganui River;<sup>29</sup>
  - (c) preparatory work for the relationships between *Te Pou Tupua* and relevant local authorities;<sup>30</sup>
  - (d) preparatory work for the process between Ngā Tāngata Tiaki and relevant local authorities in relation to authorised customary activities;<sup>31</sup>
  - (e) preparatory work for the establishment and appointment of *Te Kōpuka*;<sup>32</sup> and
  - (f) the development of procedures for *Te Kōpuka*.<sup>33</sup>

#### **Other River Iwi**

37. Fundamental to the new legal arrangements for Te Awa Tupua, the *Te Pā Auroa* framework is catchment-wide, applying to the Whanganui River and all its tributaries. While Whanganui Iwi views the Whanganui River and all its tributaries as an indivisible whole, it is acknowledged that certain other iwi also have interests within the Whanganui River catchment.
38. These interests of other iwi – namely, Ngāti Tuwharetoa, Ngāti Maniapoto, Ngāti Rereahu, Ngāti Maru, Ngāti Ruanui, Ngā Rauru Kītahi and Ngāti Apa - are expressly recognised in *Ruruku Whakatupua* and in the *Te Pā Auroa* framework in the Bill. Accordingly, there is express provision for the recognition and involvement of those iwi, either individually or collectively, in the following key elements of the framework:
- (a) the appointment process for *Te Pou Tupua*;

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<sup>27</sup> See clause 11.5 of *Ruruku Whakatupua - Te Mana o Te Iwi o Whanganui*.

<sup>28</sup> Clause 3.20 - 3.23 of *Ruruku Whakatupua - Te Mana o Te Awa Tupua*.

<sup>29</sup> Clause 3.35 of *Ruruku Whakatupua - Te Mana o Te Awa Tupua*.

<sup>30</sup> Clauses 3.41 and 3.42 of *Ruruku Whakatupua - Te Mana o Te Awa Tupua*.

<sup>31</sup> Clause 7.23 of *Ruruku Whakatupua - Te Mana o Te Iwi o Whanganui*.

<sup>32</sup> Clauses 5.18 – 5.23 of *Ruruku Whakatupua - Te Mana o Te Awa Tupua*.

<sup>33</sup> Clauses 5.28 to 5.32 of *Ruruku Whakatupua - Te Mana o Te Awa Tupua*.

- (b) the recognition, in the values that comprise *Tupua te Kawa*, that the iwi and hapū of the Whanganui River have an inalienable interconnection with, and responsibility to, Te Awa Tupua and its health and wellbeing;
  - (c) participation in *Te Karewao*, the advisory committee for *Te Pou Tupua*;
  - (d) participation in *Te Kōpuka* and, through *Te Kōpuka*, in the development of *Te Heke Ngahuru*;
  - (e) participation in the collaborative process to review the activities carried out on the surface of the water of the Whanganui River and consider how to improve the management of those activities;
  - (f) participation in the collaborative group to co-ordinate the planning and management of fisheries and fish habitats within the Whanganui River catchment; and
  - (g) participation in the collaborative process for the development of regulations for managing customary food gathering by iwi with interests in the Whanganui River.
39. Consistent with this collaborative and inclusive approach, Whanganui Iwi engaged with the other iwi with interests in the Whanganui River from an early stage of the negotiation process and discussed with them the proposed legal framework, the provision for their participation in that framework, and the express protections in place in respect of their particular interests.
40. Importantly, notwithstanding the express provision for other iwi with interests in the Whanganui River within the *Te Pā Auroa* framework, only the historical Treaty claims of Whanganui Iwi in relation to the Whanganui River are settled by the Bill.<sup>34</sup> In addition, it is expressly recorded in *Ruruku Whakatupua* that nothing in the Settlement:<sup>35</sup>
- (a) limits any existing private property rights in the Whanganui River;
  - (b) creates, limits, transfers, extinguishes, or otherwise affects any rights to, or interests in, water;
  - (c) affects the ability for any group to:

<sup>34</sup> Clauses 8 – 9, 16 and 87 - 88 of the Bill.

<sup>35</sup> Clause 9.9 of *Ruruku Whakatupua - Te Mana o Te Awa Tupua*.

- (i) apply for or be granted customary marine title or protected customary rights under the Marine and Coastal Area (Takutai Moana) Act 2011; or
  - (ii) apply for or be granted aboriginal title or customary rights in relation to the Whanganui River;
- (d) settles the historical Treaty of Waitangi claims of any other iwi in relation to the Whanganui River or otherwise;
- (e) extinguishes or limits any extant aboriginal title or customary rights of any iwi; or
- (f) usurps the mana of, or the exercise of customary rights and responsibilities by, any iwi or hapū with interests in the Whanganui River.
41. Ngā Tāngata Tiaki wishes to acknowledge the support that has been expressed, and and the assistance provided, by those other iwi in relation to the *Te Pā Auroa* framework and the settlement that is enshrined in the Bill.

### **Genesis Energy and the Tongariro Power Scheme**

42. The diversion of the headwaters of the Whanganui River by the Tongariro Power Scheme (“**TPS**”) has been a longstanding point of grievance to Whanganui Iwi as recognised in the Crown acknowledgements which are recorded in the Bill.<sup>36</sup>
43. The opposition of Whanganui Iwi was exemplified by litigation in the Planning Tribunal and High Court between 1990 and 1992, and in the Environment Court, High Court and Court of Appeal between 2001 and 2010, concerning the grant of consents for the TPS.
44. However, in 2010, following a lengthy period of engagement including numerous hui and wānanga, Whanganui Iwi and Genesis Energy entered into a ground-breaking agreement - *Hei Whakaaro Tahī ki Te Mana o Te Awa* – in order to facilitate an end to the continuing litigation process and foster the building of a positive, interactive and enduring relationship between Genesis Energy and Whanganui Iwi.
45. The express purpose of *Hei Whakaaro Tahī ki Te Mana o Te Awa* is to:
- (a) reflect the commitment of Whanganui Iwi and Genesis Energy to enter an enduring relationship acknowledging and reflecting their respective interests in the health and wellbeing of the Whanganui River and its catchment;

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<sup>36</sup> Clause 69(5), (15) and (16) of the Bill.

- (b) reflect the commitment of Whanganui Iwi and Genesis Energy to progress their relationship and address any ongoing issues between them in a non-adversarial environment;
  - (c) set out how Whanganui Iwi and Genesis Energy will establish and maintain a positive, co-operative and enduring relationship, based on mutual trust and respect, in relation to the Whanganui River and other matters of mutual interest; and
  - (d) provide a framework and mechanisms to enable Whanganui Iwi and Genesis Energy to work together on initiatives and other issues relating to the health and wellbeing of the Whanganui River.
46. The principles that underpin *Hei Whakaaro Tahī ki Te Mana o Te Awa* include, among other things:
- (a) acknowledgement of the significance of the Whanganui River to Whanganui Iwi and the view of Whanganui Iwi that:
    - (i) there is an intrinsic connection between the health and wellbeing of the Whanganui River and the health and wellbeing of Whanganui Iwi; and
    - (ii) the Whanganui River is a unified entity and an holistic integrated whole stretching from the mountains to the sea (*mai i te Kahui Maunga ki Tangaroa*);
  - (b) acknowledgement that the ongoing operation of the TPS, and in particular, the diversion of waters has effects on the environment, including effects on the Whanganui River, which in turn affect Whanganui Iwi and their cultural and spiritual values;
  - (c) acknowledgement that Whanganui Iwi object to the TPS due to the diversion of waters from the headwaters of the Whanganui River and certain of its tributaries, which they consider is contrary to maintenance of the mana of the River and contrary to the fundamental principles of Whanganui Iwi in relation to the care, use, protection and development of the River;
  - (d) acknowledgement that Genesis Energy wishes to continue its TPS operations and is committed to a positive and enduring relationship with Whanganui Iwi that will enable the constructive discussion of relevant matters affecting the

Whanganui River, including the exploration of possible measures to begin to address the adverse effects of the TPS on the Whanganui River; and

- (e) acknowledgement that there is value in a positive and enduring relationship that promotes good faith engagement and the opportunity to collaborate on matters of mutual interest in relation to the Whanganui River.
47. Consistent with the commitments in *Hei Whakaaro Tahī ki Te Mana o Te Awa*, Whanganui Iwi has maintained a close relationship with Genesis Energy throughout the course of the settlement negotiations with the Crown. Genesis Energy has been well-informed and supportive of the primary elements of the Te Pā Auroa framework, particularly as it relates to Te Awa Tupua (noting that the Bill includes express provision for Genesis Energy to be a member of *Te Kōpuka*<sup>37</sup>).
48. In this regard, since *Ruruku Whakatupua* was signed in 2014, Genesis Energy has already been working alongside Whanganui Iwi, local government and Crown agencies in relation to the commissioning of a scoping study on the current state and use of the Whanganui River.
49. While the Settlement does not directly affect the diversion of waters from the Whanganui River by the TPS<sup>38</sup>, nor resolve issues relating to rights and interests in water, the *Te Pā Auroa* framework when coupled with the commitments recognised in *Hei Whakaaro Tahī ki Te Mana o Te Awa*, provides a suite of mechanisms that will cumulatively advance the future health and wellbeing of the Whanganui River.
50. Whanganui Iwi looks forward to working closely and constructively with both Genesis Energy and other entities and groups with interests in the Whanganui River on these matters.

### **Inclusive Nature of *Te Pā Auroa***

51. As noted above, Whanganui Iwi has been clear in its desire for a collaborative and inclusive framework in which Whanganui Iwi's relationship with the Whanganui working alongside local government, Crown agencies, other iwi and the communities of and other persons with interests in the River, which both recognises the status and values of the Whanganui River and looks strategically to its long term future.

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<sup>37</sup> Clause 32(1)(f) of the Bill.

<sup>38</sup> In addition to the general non-derogation provisions in clause 9.9 of *Ruruku Whakatupua - Te Mana o Te Awa Tupua*, clause 46 of the Bill confirms that the vesting of the Crown-owned bed of the River does not create or transfer any proprietary interest in water nor affect any existing resource consents or statutory authorisations.

52. To this end, *Te Pā Auroa* recognises and provides for the mana and tikanga of the iwi and hapū of the Whanganui River while also providing a collective and inclusive framework for the integrated, catchment-wide management of the Whanganui River and its future health and wellbeing.
53. The recognition of Te Awa Tupua (comprising the Whanganui River and its tributaries and incorporating all its physical and metaphysical elements) places the status of the Whanganui River and its health and wellbeing at the centre of the Settlement and is intended to ensure that the Whanganui River is viewed as an integrated whole when any matters relating to or affecting the River are being considered. The integrated and inclusive nature of Te Awa Tupua, and the values recognised in *Tupua te Kawa*, also innately recognise the intrinsic interconnection between the Whanganui River and the people of the River (which encompasses both Whanganui Iwi and other iwi with interests in the River and the River community generally).
54. As such, while settling the historical Treaty claims of Whanganui Iwi in relation to the Whanganui River and providing redress to Whanganui Iwi for those grievances, *Ruruku Whakatupua* seeks to improve the governance and management, and advance the health and wellbeing, of the Whanganui River for not only the benefit of Whanganui Iwi, but also the benefit of the Whanganui region and the nation as a whole.

#### **Limits of the Settlement**

55. As noted in paragraph 40 above, *Ruruku Whakatupua* and the Bill includes a number of non-derogation provisions that define the limits of the settlement and ensure that particular rights and interests are recognised and not adversely affected.
56. Importantly, *Ruruku Whakatupua* and the Bill only settle the historical Treaty claims of Whanganui Iwi relating to the Whanganui River. The historical Treaty claims of Whanganui Iwi relating to lands and other resources remain to be negotiated and settled with the Crown, and the Crown is currently engaging with several groupings within Whanganui Iwi in relation to that separate process. Ngā Tāngata Tiaki is not directly involved in the negotiation of those claims; rather, its primary focus and current mandate relates to matters affecting the Whanganui River and the implementation of *Ruruku Whakatupua*.
57. As such, the redress and benefits provided to Whanganui Iwi through *Ruruku Whakatupua* represent only part of the redress and benefits that will ultimately be available to the groups that comprise Whanganui Iwi once all the historical Treaty claims of Whanganui Iwi are settled. The nature and extent of the redress, and the post-settlement governance arrangements, for those other historical Treaty claims

remain to be determined through negotiation and agreement between with the Crown and the groups with whom it is engaged.

58. The Crown did, however, provide assurances to Whanganui Iwi during the course of the negotiation of *Ruruku Whakatupua* that the redress, including financial redress, provided in relation the Whanganui River would have no effect on the future settlement of the land claims of Whanganui Iwi or the financial redress available for those settlements.

### **Governance Arrangements for Whanganui Iwi**

59. Finally, as mentioned earlier in this submission, Part 5 of the Bill comprises a series of provisions that facilitate a governance reorganisation within Whanganui Iwi that sees the dissolution of three existing Whanganui Iwi entities (namely, the Whanganui River Māori Trust Board, Pakaitore Trust and Te Whiringa Muka Trust) and the transfer of their assets and liabilities to Ngā Tāngata Tiaki.
60. The Whanganui River Māori Trust Board was established by the Whanganui River Trust Board Act 1988 with the particular purpose of negotiating for “...*the settlement of all outstanding claims relating to the customary rights and usages of te iwi o Whanganui, or any particular hapu, whanau, or group, in respect of the Whanganui River, including the bed of the river, its minerals, its water, and its fish*”. It is accepted that the Trust Board’s primary role in this regard will be concluded when the Whanganui River Settlement takes full legal effect upon the enactment of the Bill.
61. Te Whiringa Muka Trust was established by deed of trust dated 1 October 2006 as the mandated iwi organisation and iwi aquaculture organisation for Whanganui Iwi under the Māori Fisheries Act 2004 and Māori Commercial Aquaculture Claims Settlement Act 2004 respectively. Upon the enactment of the Bill, Ngā Tāngata Tiaki will become the mandated iwi organisation and iwi aquaculture organisation for Whanganui Iwi as a consequence of the reorganisation provisions in the Bill.
62. The Pakaitore Trust was established on 28 February 2007 as a whenua topu trust, by order of the Maori Land Court under section 216 of the Te Ture Whenua Maori Act 1993. The Pakaitore Trust was established to receive lands (namely, that part of the lands formerly known as Pakaitore presently occupied by the Whanganui Courthouse) pursuant to a Deed of On-account Settlement between the Crown and Whanganui Iwi dated 28 February 2007.
63. The Trust Order for the Pakaitore Trust expressly contemplated that it would be wound up upon the establishment by Whanganui Iwi of a new governance entity to represent Whanganui Iwi and hold and administer property, including the Pakaitore land, on

behalf of Whanganui Iwi, and that this would be effected through settlement legislation.<sup>39</sup>

64. All three entities (ie, the Whanganui River Māori Trust Board, Pakaitore Trust and Te Whiringa Muka Trust) were established for the benefit of all Whanganui Iwi and it is accepted that:
- (a) the beneficiaries/members of the three existing entities are the same as the beneficiaries of Ngā Tāngata Tiaki; and
  - (b) it is appropriate (on the grounds that it will maximise efficiencies and reduce the duplication of costs and resources) that they be consolidated into Ngā Tāngata Tiaki as the new post-settlement governance entity for Whanganui Iwi.
65. Importantly, in addition to the ratification of *Ruruku Whakatupua* by Whanganui Iwi, both the establishment of Ngā Tāngata Tiaki and the dissolution of each three existing entities and the transfer of their assets and liabilities to Ngā Tāngata Tiaki were the subject of separate resolutions during the ratification process. Those resolutions were each approved by a majority in excess of 95% as follows:
- (a) the establishment of Ngā Tāngata Tiaki as the post-settlement governance entity to receive and manage settlement redress on behalf of Whanganui Iwi under the Whanganui River Deed of Settlement: **97.8% in support**;
  - (b) the ratification of the Trust Deed of Ngā Tāngata Tiaki for the purposes of the Māori Fisheries Act and the Māori Commercial Aquaculture Claims Settlement Act and agreement that Ngā Tāngata Tiaki should replace Te Whiringa Muka Trust as the Mandated Iwi Organisation and Iwi Aquaculture Organisation for Whanganui Iwi under those Acts: **96.9% in support**
  - (c) the winding up of the Whanganui River Māori Trust Board and the transfer of its assets to Ngā Tāngata Tiaki: **95.9% in support**;
  - (d) the winding up of the Te Whiringa Muka Trust and the transfer of its assets to Ngā Tāngata Tiaki: **96.8% in support**; and

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<sup>39</sup> It was originally provided that this wind up would be following a Deed of Settlement comprising a comprehensive settlement of the historical Treaty of Waitangi claims of Whanganui Iwi. However, while *Ruruku Whakatupua* is not a comprehensive settlement of the historical Treaty of Waitangi claims of Whanganui Iwi (as it relates only to those historical claims of Whanganui Iwi relating to the Whanganui River), it was acknowledged and agreed by the Crown during the settlement negotiations that it was highly likely — given the approach being taken with the settlement negotiations for the Whanganui lands claims where there are separate negotiations proceeding with different groups within Whanganui Iwi — that *Ruruku Whakatupua* would be the only Whanganui Iwi-wide settlement and that Ngā Tāngata Tiaki would therefore be the only post-settlement governance entity that exists for Whanganui Iwi as a whole.

- (e) the winding up of the Pakaitore Trust and the transfer of its assets to Ngā Tāngata Tiaki: **96.2% in support.**

## **BENEFITS OF THE SETTLEMENT**

66. The Crown's formal apology includes the following statements:<sup>40</sup>

“The Crown unreservedly apologises for its actions and omissions that have breached the Treaty of Waitangi and its principles and damaged the special relationship between the iwi and hapū of Whanganui and the Whanganui River.

The Crown deeply regrets that it undermined the ability of Whanganui Iwi to exercise their customary rights and responsibilities in respect of the Whanganui River, and consequently the expression of their mana. The Crown further regrets that this compromised the physical, cultural and spiritual wellbeing of the iwi and hapū of Whanganui Iwi.

The Crown recognises that for generations the iwi and hapū of Whanganui have tirelessly pursued justice in respect of the Whanganui River. The Crown recognises and sincerely regrets the opportunities it has missed, until now, to adequately address those grievances. Redress, through this settlement (*Ruruku Whakatupua*) and the Te Awa Tupua framework (*Te Pā Auroa nā Te Awa Tupua*), is long overdue.”

67. The Crown's formal acknowledgements also include:<sup>41</sup>

- (a) an acknowledgement that through this settlement Whanganui Iwi have sought to bring all the iwi, hapū and other communities of the Whanganui River together for the common purpose of upholding and protecting the mana of the Whanganui River and its health and wellbeing for the benefit of future generations and, ultimately, all of New Zealand.
- (b) an acknowledgement that the approach taken by Whanganui Iwi in respect of this settlement represents significant compromise and generosity of spirit by Whanganui Iwi and promotes a collaborative, inclusive approach to the Whanganui River and its future governance and management with the recognition and protection of Te Awa Tupua at its heart.

68. The settlement contained in *Ruruku Whakatupua* does not fully compensate or remove the effects of the loss and prejudice caused by the Crown's actions and omissions in breach of the Treaty in relation to the Whanganui River. However, Ngā Tāngata Tiaki believes that *Ruruku Whakatupua* provides a pathway to fulfil the claims of those that

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<sup>40</sup> Clause 70(c), (d) and (e) of the Bill.

<sup>41</sup> Clause 69(18) and (19) of the Bill.

came before, but in today's times, and represents a reasonable basis for settlement, having regard to the twin objectives of:

- (a) recognising, promoting and protecting the health and wellbeing of the River and its status as Te Awa Tupua (**Te Mana o Te Awa**); and
- (b) recognising and providing for the mana and relationship of the Whanganui Iwi in respect of the River (**Te Mana o Te Iwi**).

69. In relation to the non-financial aspects of the Settlement, Ngā Tāngata Tiaki considers that the arrangements in *Ruruku Whakatupua* and the Bill will:

- (a) appropriately place Te Awa Tupua at the centre of a new legal framework for the Whanganui River in which Te Awa Tupua is recognised as having its own legal personality and rights, and is given its own voice and intrinsic values, *Tupua te Kawa*;
- (b) facilitate the collaborative and integrated management of the waterways and related resources within the Whanganui River catchment informed by the legal status of Te Awa Tupua and *Tupua te Kawa*;
- (c) improve the relationship between Whanganui Iwi (and other River iwi) and Crown agencies, local government and other entities and groups with interests in the Whanganui River; and
- (d) provide benefit not only in relation to the future health and wellbeing of the Whanganui River and Whanganui Iwi, but also to the wider Whanganui region as a whole (which will be further supported by the \$30m contestable fund, *Te Korotete*).

70. In relation to the financial aspects of the Settlement, in addition to providing a base for the economic, cultural and social benefit of Whanganui Iwi (noting that the settlement of Whanganui Iwi's lands claims is still to occur), the payment of financial redress to Whanganui Iwi is also important to support, and enable the effective participation of Whanganui Iwi in, the new *Te Pā Auroa* framework.

71. In this regard, Ngā Tāngata Tiaki wishes to move from an environment of transaction-based engagement reliant on the resources of others, to one where Whanganui Iwi can itself contribute in real terms to the future health and wellbeing of both the Whanganui River and its people.

72. Notwithstanding the detailed nature of the arrangements and related commitments provided in Ruruku Whakatupua, the durability of the Settlement is also dependant on the Crown fulfilling its commitment that this settlement marks the beginning of a renewed and enduring relationship between Whanganui Iwi and the Crown that has Te Awa Tupua at its centre and is based on mutual trust and cooperation, good faith, and respect for the Treaty of Waitangi and its principles.<sup>42</sup>
73. To this end, in Ngā Tāngata Tiaki's view, it is important that:
- (a) the Crown, both through relevant agencies and collectively, maintains active participation in, and support for, the implementation of the Settlement;
  - (b) the Crown, given the uniqueness and importance of the arrangements that are being established through the Settlement, continues to review the level of funding provided to support those arrangements, and ensures that both individual Crown agencies and local government have access to sufficient funding to enable meaningful participation in the arrangements; and
  - (c) the new legal framework for Te Awa Tupua maintains relativity in terms of both its status and legal effect, and is not undermined by future legislative change to one or more of the relevant statutory regimes affecting the Whanganui River (which statutes are listed in Schedule 2 of the Bill).
74. In this latter regard, it is fundamental that the legal effect and effectiveness of *Te Pā Auroa* is maintained in the face of any future legislative change within existing statutes that affect, or the enactment of new statutes that may affect, the Whanganui River. One example within the Bill that anticipates such possible change relates to *Te Kōpuka* where the Bill provides in clause 34 that:<sup>43</sup>

“If at any time the Manawatu–Wanganui Regional Council adopts, under any legislation, a collaborative planning process to develop a policy statement or plan relating to freshwater management in the Whanganui River catchment, Te Kōpuka is to be the group appointed by the Council for that process.”

Such collaborative planning processes, and other substantive and procedural amendments to the Resource Management Act 1991, are proposed in the Resource Legislation Amendment Bill that is presently before the Local Government and Environment Select Committee. Clause 34 seeks to anticipate and provide for one aspect of those proposed reforms to ensure that *Te Kōpuka* maintains its intended role and effectiveness despite more general legislative change.

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<sup>42</sup> Crown apology – clause 70(f) of the Bill.

<sup>43</sup> Clause 34 of the Bill.

75. Accordingly, given the Crown's current and anticipated review and reform processes concerning, among other things, the Resource Management Act, freshwater management and local government, it is important that those review and reform processes appropriately provide for the legal recognition of Te Awa Tupua and *Te Pā Auroa*, and ensure that the intent and effectiveness of the arrangements that are currently provided for in *Ruruku Whakatupua* and the Bill are upheld into the future.

## CONCLUSION

76. The Crown has accepted that since 1840 it assumed control and authority over the Whanganui River.<sup>44</sup>

77. Since then, for more than 150 years, successive generations of Whanganui Iwi have maintained the position that they never willingly or knowingly relinquished their rights and interests in the Whanganui River and have sought to protect, and provide for their special relationship with, the Whanganui River in many ways, including:

- (a) raising grievances directly with the Crown, including numerous petitions to Parliament beginning in the nineteenth century;
- (b) pursuing legal proceedings regarding the ownership of the bed of the Whanganui River through a succession of courts and a Royal Commission of Inquiry between 1938 and 1962; and
- (c) opposing the establishment and operation of the Tongariro Power Scheme, including litigation relating to the effect of the scheme on the Whanganui River; and
- (d) filing claims regarding the Whanganui River in the Waitangi Tribunal.

78. The Waitangi Tribunal issued its Wai 167 Report in relation to the Whanganui River 17 years ago in 1999.

79. The Crown has acknowledged that it has not adequately dealt with the longstanding grievances of the iwi and hapū of Whanganui in relation to the Whanganui River.<sup>45</sup>

80. In these circumstances, the settlement of the claims of Whanganui Iwi in relation to the Whanganui River is long overdue. Ngā Tāngata Tiaki respectfully asks that the Select Committee reports to the House of Representatives on this Bill as a matter of priority in

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<sup>44</sup> Crown acknowledgement – clause 69(7) of the Bill.

<sup>45</sup> Crown acknowledgement – clause 69(6) of the Bill.

order that the important elements of *Ruruku Whakatupua* are able to be implemented without undue delay.

81. Ngā Tāngata Tiaki confirms that it:

- (a) supports the Te Awa Tupua (Whanganui River Claims Settlement) Bill;
- (b) wishes to be heard by the Select Committee in support of this submission; and
- (c) would be pleased to provide additional information or clarification to the Select Committee in relation to any aspect of this submission or any other matter.

***E ngā manga iti, e ngā manga nui  
e honohono kau ana hei Awa Tupua,  
pūpūngia tātou kia whakaoti ai!***

***Let us – the many small streams and large streams  
that are intrinsically united as Te Awa Tupua –  
join and flow together towards a conclusion!***

**APPENDIX: Extracts from *Ruruku Whakatupua – Te Mana o Te Iwi o Whanganui***

Part 1: MATUA TE PŌ, MATUA TE AO  
From Darkness to Light - the Journey to Settlement

Part 2: HE PŪKENGA WAI, HE NOHOANGA TĀNGATA, HE NOHOANGA  
TĀNGATA, HE PUTANGA KŌRERO  
Iwi Statement and Historical Account

# 1 MATUA TE PŌ, MATUA TE AO

## From Darkness to Light - the Journey to Settlement

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### WHANGANUI IWI AND THE WHANGANUI RIVER

- 1.1 Whanganui Iwi have common links in two principal ancestors, Paerangi and Ruatipua. Ruatipua draws life force from the headwaters of the Whanganui River on Mount Tongariro and its tributaries which stretch down to the sea. The connection of the tributaries to form the Whanganui River is mirrored by the interconnection through whakapapa of the descendants of Ruatipua and Paerangi.

*Ngā wai inuina o Ruatipua ēnā*

*Ngā manga iti, ngā manga nui e honohono kau ana*

*Ka hono, ka tupu, hei awa*

*Hei Awa Tupua*

*Those are the drinking fonts of Ruatipua*

*The small and large streams which flow into one another*

*And continue to link, and swell until a river is formed*

*Te Awa Tupua*

- 1.2 Whanganui Iwi view the Whanganui River as a living being, Te Awa Tupua; an indivisible whole incorporating its tributaries and all its physical and metaphysical elements from the mountains to the sea.

*E rere kau mai te Awa nui*

*Mai i te Kāhui Maunga ki Tangaroa*

*Ko au te Awa, ko te Awa ko au*

*The Great River flows*

*From the Mountains to the Sea*

*I am the River and the River is me*

- 1.3 The enduring concept of Te Awa Tupua - the inseparability of the people and River - underpins the desire of Whanganui Iwi to care, protect, manage and use the Whanganui River through the kawa and tikanga maintained by the descendants of Ruatipua and Paerangi.

## IMPORTANCE OF THE WHANGANUI RIVER

- 1.4 The Whanganui River is central to the existence of Whanganui Iwi and their health and wellbeing. The River has provided both physical and spiritual sustenance to Whanganui Iwi from time immemorial.
- 1.5 From the earliest times the Whanganui River has acted as an artery for Māori inhabiting its forests and fertile river terraces and travelling to and from the central North Island. There are numerous kāinga and pā sites, urupā and other wāhi tapu throughout the length of the River and there remain 15 active marae on the River today.
- 1.6 The Whanganui River is also of significant national importance. It is New Zealand's longest navigable river, stretching for 290km from the northern slopes of Mount Tongariro to the Tasman Sea. Bounded for much of its middle reaches by the Whanganui National Park, the Whanganui River has significant natural, scenic, and recreational values and is an important habitat for indigenous fish and wīho.
- 1.7 The Whanganui River is also important in the terms of power generation, with waters diverted by the Tongariro Power Scheme from the River's headwaters into Lake Taupō and on into the Waikato River contributing to the generation of approximately 5% of New Zealand's electricity.

## WHANGANUI RIVER CLAIMS

- 1.8 Whanganui Iwi have maintained consistently that they possessed, and exercised rights and responsibilities in relation to, the Whanganui River in accordance with their tikanga and that their rights and interests have never been relinquished willingly.
- 1.9 The Whanganui Iwi claim has been persistently maintained since the first petitions on behalf of Whanganui Iwi to Parliament in the 19<sup>th</sup> Century in relation to the destruction of pā tuna to enable the activities of steamers on the River. Numerous further petitions and other submissions followed over the next 100 years.
- 1.10 Legal proceedings seeking an investigation of the title to the bed of the River were commenced on behalf of Whanganui Iwi in the Māori Land Court in 1938 and those proceedings were pursued through the Māori Land Court, the Māori Appellate Court in 1944, the Māori Land Court again in 1945 and to the Supreme Court in 1949. A further petition and the appointment of a Royal Commission followed in 1950, with matters referred subsequently to the Court of Appeal in 1953, back to the Māori Appellate Court in 1958 and then again to the Court of Appeal who issued a final decision in 1962.
- 1.11 Legal proceedings were also pursued by Whanganui Iwi in connection with the operation of the Tongariro Power Scheme, which was established in the late 1960s/early 1970s without reference to Whanganui Iwi. Whanganui Iwi advanced their position at the minimum flows hearing before the Rangitikei-Wanganui Catchment Board in 1988 and in subsequent appeals to the Planning Tribunal in 1990 and the High Court in 1992 and then again in 2000 when applications for resource consents by Genesis Power Limited were heard by the Waikato and Manawatu-Wanganui Regional Councils. That litigation continued on appeal to the Environment Court, High Court, Court of Appeal and Supreme Court between 2001 and 2010.
- 1.12 While Whanganui Iwi maintains firmly its objection to the continued operation of the Tongariro Power Scheme, in March 2011 Whanganui Iwi and Genesis Energy entered into a relationship agreement, *Hei Whakaaro Tahī ki Te Mana o Te Awa*, in which the parties agreed bring an end to the litigation between them and to progress the

resolution of any outstanding issues in a non-adversarial environment outside of the Courts. That relationship agreement reflects the commitment of Whanganui Iwi and Genesis Energy to an enduring relationship that acknowledges and reflects their respective interests in the health and wellbeing of the Whanganui River.

## **WAITANGI TRIBUNAL**

- 1.13 The Wai 167 claim to the Waitangi Tribunal was filed by Hikaia Amohia and the members of the Whanganui River Māori Trust Board on behalf of Whanganui Iwi on 14 October 1990. The Wai 167 claim included, among other things, claims in respect of the Whanganui River and was pursued for the benefit of all who affiliate to Whanganui Iwi. Other River-related claims have also been made by groups within Whanganui Iwi.
- 1.14 Those parts of the Wai 167 claim relating to the Whanganui River were heard by the Waitangi Tribunal in 1994 and the Tribunal issued its Whanganui River Report in 1999.
- 1.15 Among other things, the Waitangi Tribunal found that:
  - 1.15.1 to Whanganui Iwi the Whanganui River was a single and indivisible entity, inclusive of the water and all those things that gave the River its essential life;
  - 1.15.2 Whanganui Iwi possessed, and held rangatiratanga over, the Whanganui River and never sold those interests;
  - 1.15.3 expropriation of the bed of the Whanganui River was effected by the Coal-mines Act Amendment Act 1903, which effectively vested the bed of all navigable rivers, including the Whanganui River, in the Crown without consultation or compensation;
  - 1.15.4 the Crown vested authority and control of the Whanganui River in local authorities through the Resource Management Act 1991;
  - 1.15.5 the acts of the Crown in removing Whanganui Iwi's possession and control of the Whanganui River and its tributaries, and its omission to protect the rangatiratanga of Whanganui Iwi in and over the River were and are contrary to the principles of the Treaty of Waitangi; and
  - 1.15.6 Whanganui Iwi continue to be prejudiced as a result of the Crown's actions.

## **NEGOTIATIONS**

- 1.16 Under the Whanganui River Trust Board Act 1988 the Whanganui River Māori Trust Board has the statutory mandate to negotiate with the Crown for the settlement of the claims of Whanganui Iwi in respect of the Whanganui River.
- 1.17 The negotiations with the Crown in relation to the claims of Whanganui Iwi in respect of the Whanganui River proceeded on the same inclusive basis as the Wai 167 claim to the Waitangi Tribunal with accountability to all Whanganui Iwi through Te Runanga o Te Awa Tupua.
- 1.18 Negotiations between Whanganui Iwi and the Crown in relation to the Whanganui River took place between 2002 and 2004 following the issue of the Tribunal's Report. However, those negotiations ended without agreement being reached.

- 1.19 Discussions between Whanganui Iwi and the Crown recommenced in 2009. In the context of those discussions, the vision of Whanganui Iwi for the settlement of the Whanganui River claim has been founded on two fundamental principles:
- 1.19.1 **Te Awa Tupua mai i te Kāhui Maunga ki Tangaroa** - an integrated, indivisible view of Te Awa Tupua in both biophysical and metaphysical terms from the mountains to the sea; and
  - 1.19.2 **Ko au te awa, ko te awa ko au** - the health and wellbeing of the Whanganui River is intrinsically interconnected with the health and wellbeing of the people.
- 1.20 Through their subsequent negotiations, Whanganui Iwi and the Crown:
- 1.20.1 by a Record of Understanding dated 13 October 2011 agreed to:
    - (a) enter formal negotiations to settle the historical Treaty of Waitangi claims of Whanganui Iwi in relation to the Whanganui River; and
    - (b) a framework to form the basis of those negotiations;
  - 1.20.2 by an agreement entitled Tūtohu Whakatupua dated 30 August 2012 agreed the key elements of the Te Awa Tupua framework; and
  - 1.20.3 since the Record of Understanding and Tūtohu Whakatupua, have:
    - (a) had extensive negotiations conducted in good faith; and
    - (b) negotiated and initialled a deed of settlement.
- 1.21 Consistent with the principles that have underpinned Whanganui Iwi's approach to the settlement, the framework for the settlement has two primary elements:
- 1.21.1 **Te Mana o Te Awa** - recognising, promoting and protecting the health and wellbeing of the River and its status as Te Awa Tupua; and
  - 1.21.2 **Te Mana o Te Iwi** - recognising and providing for the mana and relationship of the Whanganui Iwi in respect of the River.
- 1.22 These two elements are reflected in this deed of settlement, Ruruku Whakatupua, which comprises two documents:
- 1.22.1 Ruruku Whakatupua - Te Mana o Te Awa Tupua; and
  - 1.22.2 Ruruku Whakatupua - Te Mana o Te Iwi o Whanganui.

## **RATIFICATION AND APPROVAL**

- 1.23 Whanganui Iwi have, since the initialling of the deed of settlement, by a majority of:
- 1.23.1 95.9%, ratified this deed and approved its signing on their behalf; and
  - 1.23.2 97.8%, approved Ngā Tāngata Tiaki o Whanganui as the governance entity receiving the redress.

- 1.24 Ngā Tāngata Tiaki o Whanganui approved entering into, and complying with, this deed by resolution of trustees on 4 August 2014.
- 1.25 Each majority referred to in clause 1.23 is of valid votes cast in a ballot by eligible members of Whanganui Iwi.
- 1.26 The Crown is satisfied:
- 1.26.1 with the ratification and approvals of Whanganui Iwi referred to in clause 1.23;
  - 1.26.2 with Ngā Tāngata Tiaki o Whanganui's approval in clause 1.24; and
  - 1.26.3 that Ngā Tāngata Tiaki o Whanganui is appropriate to receive the redress.

## **AGREEMENT**

- 1.27 Therefore, the parties:
- 1.27.1 in a spirit of co-operation and compromise wish to enter, in good faith, into this deed, Ruruku Whakatupua, in settlement of the historical claims of Whanganui Iwi in relation to the Whanganui River; and
  - 1.27.2 agree and acknowledge as provided in this deed.

## 2 HE PŪKENGĀ WAI, HE NOHOANGA TĀNGATA, HE NOHOANGA TĀNGATA, HE PUTANGA KŌRERO

### Iwi Statement and Historical Account

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*He pūkenga wai, he nohoanga tāngata,  
he nohoanga tāngata, he putanga kōrero*

*Where there is a body of water, people settle,  
and where people settle, histories unfold*

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#### IWI STATEMENT

- 2.1 Clauses 2.2 to 2.25 contain a narrative by Whanganui Iwi regarding the origins of Whanganui Iwi and the significance of the Whanganui River to Whanganui Iwi.

#### HE RIPO, HE TIPUA, HE KĀINGA

*AT EACH RAPID, KAITIAKI AND PEOPLE DWELL*

- 2.2 Mā te tuinga kōrero nei e ea ai te uiui a te rāwaho - “Whanganui iwi, Whanganui awa - ko wai koe?” Koianeī ngā mānga o te kupu i rewa mai i ngā ngutu kōwetewete o Te Kāhui Rongo, ko rātau Te Ranga Tairunga nō roto whare wānanga, rātau hoki, ngā kōkō nō runga i ngā marae maha o te Awa, mai i Te Puru-ki-Tuhua ki Te Matapihi.

*The purpose of this korero is to confirm the origins of Whanganui Iwi and the Whanganui River. This narrative is drawn from the knowledge passed from Te Kāhui Rongo, whare wānanga and speakers of the marae of the River, from Te Puru-ki-Tuhua to Te Matapihi.*

- 2.3 Ko tā ngā matauraura o te Iwi, ko te tuku whakapapa, ko te pakimaero, ko te whakataukī, ko te whakatauākī, ko te ngeri, ko te waiata me te kīrehe ngā whakaaritanga o te mātauranga Māori. Nā tēnā, kua āta rarangahia tēnei taurawhiri kōrero i runga i te ia o hēnei kātū kōrero tuku iho.

*The learned tribal elders have always maintained that the recitation of genealogy, stories, proverbs, sayings, songs and tribal expressions are the true manifestations of mātauranga Māori. This kōrero has been carefully compiled from those tribal oral traditions.*

#### TE ŌROKOTĪMATANGA O TE AWA O WHANGANUI

*THE ORIGINS OF THE WHANGANUI RIVER*

- 2.4 Ko Tahuārangī te waka o Maui-mua  
Ko Rangitukutuku te aho  
Ko Pikimairawea te matau  
Ko Hāhā-te-whenua te ika kei rō wai.

*Tahuāangi is the waka  
Rangitukutuku is the fishing line  
Pikimairawea is the hook  
Hāhā-te-whenua was the name of the fish while it was still in the water.*

- 2.5 Ko te ia o te pakimaero nei e pā ana ki te hīrautanga ake o Te Ika-a-Māui, ka ea ai te urupounamu me te kī atu “i konei hōku tūpuna mai te whānautanga ake o te motu nei i te moana”.

*This korero relates the hauling up of the Great Fish of Maui. It is used to show that the speaker's ancestors have been here since the hauling up of the North Island from the ocean. The Whanganui River can trace its origins to this story.*

- 2.6 E ai ki ngā kōrero, haruru ana te whenua, haruru ana te moana i te hirautanga mai o Te Ika a Maui. Ina, ka pātuki atu ngā tuākana o Maui-tikitiki ki a Ranginui e tū iho nei, kia tuku mai he mana ake ki tēnā o te Ika nunui, o te ika roroa. Tahī rā, ka whānau mai te mātāmua o Te Kāhui Maunga, ko Matua te Mana, arā, ko Ruapehu maunga. I kite atu i a Ranginui te mokemoketanga i roto i te ngākau a Matua te Mana. Ka māturuturu mai ngā roimata e rua i a ia ki ngā rekereke o Matua te Mana. Inā te ōrokotīmatanga o te awa o Whanganui.

*According to mythology, land and the water resounded when the fish broke the surface of the sea. So the elder brothers of Maui-tikitiki invoked Ranginui to dispatch a power greater than that of the broad and extensive fish of Maui.” Thus, the first of the Kāhui Maunga came into being, Matua te Mana - now known as Mount Ruapehu. Ranginui saw that Matua te Mana's heart was filled with loneliness. Two teardrops from Ranginui fell at the feet of Matua-te-Mana. One of these teardrops became the Whanganui River.*

- 2.7 Tū mokemoke roa ko Matua te Mana, kātahi ka pātuki a ia ki a Ranginui kia tuku mai he hoa mōna. Ka whānau mai ai: Ko Matua te Toa; ko Matua te Tapu; ko Matua te Pononga; ko Matua te Hine rātau ko Matua te Takakau. Tēnei te ōrokohanga mai o Te Kāhui Maunga.

*"Matua te Mana stood alone for years. In time, he asked Ranginui to provide him with a companion. Thus, over time came into being: Matua te Tapu (Taranaki); Matua te Toa (Tongariro); Matua te Pononga (Ngauruhoe); Matua te Hine (Pihanga) and Matua te Takakau (Rauhoto). This is Te Kāhui Maunga."*

- 2.8 Nō mua i te taenga mai o ngā waka tūpuna i Hawaiki Rangiātea, ko ‘Kāhui’ te karangatanga matua mō ngā iwi taketake o Aotearoa. Noho tahi te kāhui tāngata me te kāhui tipua i roto i te aiotanganui o te kawa tapu, mai uta ki tai. Koia, Te Kāhui Maunga Te Kāhui Rere, Te Kāhui Kapua, Te Kāhui Tara, anānaka, anānaka.

*Before the arrival of the ancestral canoes from Hawaiki Rangiātea, ‘Kāhui’ was the common term of reference for the ancient people already resident in Aotearoa. The ancient ones, together with the ancient guardians dwelt as one in harmony, from the interior to the coast. And so we have Te Kāhui Maunga Te Kāhui Rere, Te Kāhui Kapua, Te Kāhui Tara, and many others.*

## TE ŌROKOTĪMATANGA O TE IWI O WHANGANUI THE ORIGINS OF WHANGANUI IWI

### Ruatipua and Paerangi

- 2.9 Ki te mārama te tangata nō wai te mana o te awa o Whanganui, me hoki ia ki tōna mātāpuna kia kite ai ōna taringa i te pao tawhito:

*“Pūhaina Tongariro  
E rere nei Whanganui  
Ko te wai inu tēnā,  
O Ruatipua i mua e”.*

*To understand who maintains the mana of the Whanganui River, one must return to its source to hear the ancient verse:*

*Welling out of Tongariro  
The Whanganui flows  
As a font of life  
For Ruatipua in former times*

- 2.10 Tokorua ngā pūtake o Whanganui iwi, ko Ruatipua rāua ko Paerangi-i-te-wharetoka. I konei ēnei tūpuna nō mua i te taenga mai o ngā waka tūpuna i Hawaiki Rangiātea.

*There are two primary ancestors of Whanganui Iwi, Ruatipua and Paerangi-i-te-wharetoka. These ancestors were here prior to the arrival of the Great Migration Fleet from Hawaiki Rangiātea.*

- 2.11 Kei te tonga o Ruapehu maunga te takiwā i noho ai a Paerangi. Ko Ruapehu te wharetoka. He nui ngā ingoa nā Paerangi i tapaina ki runga i te whenua nei. Ina, he tika rawa te kōrero ko Paerangi he pūtake o tēnei matua iwi o Whanganui.

*Paerangi lived at the southern slopes of Mount Ruapehu, the House of Stone. Paerangi named many places and landmarks in the [Whanganui] region. This confirms Paerangi as a founding ancestor of the Whanganui tribe.*

- 2.12 Ā, ko te mana o Ruatipua me ana uri e ū tonu ana pērā ki a Paerangi. Ko te tauira matua ko ngā ingoa taketake o te awa o Whanganui, inā ko Te Awanui-a-Rua, ko Te Wainui-a-Rua, ko rāua anō rāua. Ko hētehi atu o ngā awa, tēnā ko Te Waitahupārae me Te Awa-o-Tarawera, he uri tōtika hēnei nā Ruatipua.

*The mana of Ruatipua and his descendants, like that of Paerangi, is also etched in our tribal memory and continues to this day. The primary example of this is the original name of the Whanganui River - The Great Waters of Ruatipua. Some other rivers, such as Te Waitahuparae and Te Awa-o-Tarawera, are direct descendants of Ruatipua.*

### Kupe and Kuramarotini

- 2.13 Ko Matahourua te waka  
Ko Kupe te tangata.

*Matahourua is the waka  
Kupe is the leader*

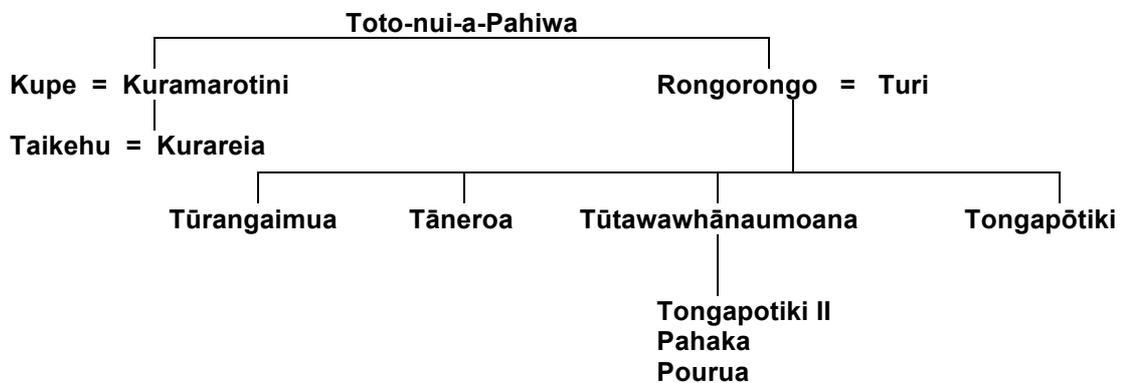
- 2.14 Pūrea ngā hau o te ngutu awa kei runga i te tauihu o Matahourua waka, ka huaina te ingoa ki te wāhi rā, ko Te Kaihau a Kupe. Ka tere whakaputa a Kupe i te pūwaha o Whanganui ki Kākata, ka tukuna atu e ia hōna kaitiaki ki uta, kimi atu ai he whenua mōna. Ko Arai-te-uru rāua ko Niwa ngā ingoa o ngā kaitiaki nei. I huri rāua hei mokomoko nui. Nā te taenga atu ki runga i te hiwi o Mairehau, i kite atu rāua i te auahi e puta ana i ngā ahi kā o te iwi o Paerangi. Nā rāua te whakatauākī kōrero ki a Kupe: "Kua kā kē ngā ahi". Nā tēnā, ka huaina te kīrehe - "Te Ahikā roa o Paerangi-i-te-wharetoka".

*The famous navigator, Kupe, entered the mouth of the Whanganui River on his waka, Matahourua. This visit is remembered with the naming of that area as Te Kaihau a Kupe. As Kupe voyaged up river to Kākata, he sent his guardians inland, to seek suitable lands for occupation. The names of these guardians are Arai te uru and Niwa. They transformed themselves into giant reptiles. When they arrived upon the ridge Mairehau, they observed smoke from the ancient fires of the descendants of Paerangi. They returned informing Kupe of what they saw, resulting in the tribal expression "the long burning occupation fires of Paerangi-i-te-wharetoka."*

### **Te Taenga mai o Aotea Waka** *The Arrival of Aotea Canoe*

- 2.15 Ko Aotea te waka  
Ko Turi te tangata.

*Aotea is the canoe  
Turi is the leader.*



- 2.16 Ko hēnei ngā tamariki a Turi rāua ko Rongorongo i noho ki te takiwā o Whenuakura me Pātea. Nā konei ka puta te tūhonotanga i waenga i ngā uri taketake o Whanganui Iwi me te iwi nō runga i a Aotea waka. Heoi anō, ānei kē ngā tuākana, arā, ko Tūrangaimua ka noho ki a Rātiti, te tamāhine a te tohunga ko Kauika. Ka puta mai ngā kāwai o ngā uri o Ngā Rauru Kītahi. Ko Tāneroa, te tamahine a Turi raua ko Rongorongo, ka noho ki Uhengapuanake, ka puta mai ko Ngāti Ruanui. Tēnā, ko ngā uri o Tūtawawhānaumoana rāua ko Tongapōtiki, koia ko ngā kāwai heke o roto o Whanganui Iwi.

*The genealogical chart above outlines the children of Turi and Rongorongo that lived in the vicinity of Whenuakura and Patea. This outlines the connection between the original inhabitants of Whanganui and the descendants of those on Aotea waka. Tūrangaimua married Rātiti, the daughter of the tohunga of Aotea, Kauika. From this*

*union comes Ngā Rauru Kīahi. Tāneroa, the daughter of Turi and Rongorongo, married Uhengapuanake, resulting in the people of Ngāti Ruanui. Finally, the descendants of Tūtawawhānaumoana and Tongapōtiki are Whanganui Iwi.*

## **Pourua and Paerangi II**

2.17 I te wā i a Pourua i hui tahi rāua ko Paerangi II ki te hiwiroa kei te taha hauāuru o Whanganui awa. Nā rāua te whenua i whakarohe i waenga i a rāua anō, i te mea, i a rāua te mana o te kupu. Ko te taha uru o te hiwinui mō ngā uri o Pourua, arā, ko Tahau rāua ko Tūtamaki. Ko te taha rāwhiti o te hiwinui mō ngā uri o Paerangi II. Na konei, ka kite te rereketanga o te Iwi o Whanganui me ona whanaunga.

*Pourua met with Paerangi II on the main ridge to the west of the Whanganui River. They divided the lands between them as was their right. The western side of the main ridge was given to the descendants of Pourua, namely, Tahau and Tūtamaki. The eastern side of the main ridge was for the descendants of Paerangi II. This decision affirmed the distinction between Whanganui Iwi and its neighbouring relatives.*

## **Tamakehu and Ruaka**

2.18 Nā Pourua o runga ka heke tonu iho, arā, nā Tahau ka puta ko Rongomaitahaenui. Nā Rongomaitahaenui ka puta ko Urutamia. Nā Urutamia ka puta ko Kahupane. Ka noho a Kahupane ki a Te Aotoruiti, ka puta ko Tamakehu. Ka noho a Tamakehu ki a Ruaka ka puta mai ko Tamaūpoko, ko Hinengākau rātau ko Tūpoho. I te reanga o Hekenui Whakarake mā, nā rātau anō te awa i whakarohe i runga anō i te oati tawhito i whiria i Tieke, he rohe tūpuna, arā, ko Hinengākau kei runga, ko Tamaūpoko kei waenga, ko Tūpoho kei raro. Ka whakahoutia te pepehā rongonui mō te awa: “He muka nā te taurawhiri a Hinengākau”. Ko te taurawhiri ā Hinengākau ki hōna tungāne, ko Tamaūpoko rāua ko Tūpoho. Ahakoa ngā karangatanga maha o ngā hapū kei ngā tahataha o Te Awanui-a-Rua, ko te awa te taura i hereherea ai ngā muka tāngata ki roto i te kotahitanga. Ko ngā whakapapa o Tamakehu ki ngā waka e waru, neke atu, he taonga hunahuna nō roto o te whare wānanga o Ūpokotauaki, kei Patiarero. Toitū ana tēnei poipoi kei waenga i te Kāhui Rongo o nāiane rangi.

*From Tahau came Rongomaitahaenui. From Rongomaitahaenui came Urutamia. From Urutamia came Kahupane. Kahupane married Te Aotoruiti, giving forth Tamakehu. Tamakehu married Ruaka, giving forth Tamaupoko, Hinengakau and Tupoho. In Hekenui Whakarake’s time this whakapapa, confirmed generations before at Tieke, was revived and hence, Hinengākau in the north, Tamaūpoko in the centre and Tūpoho in the south. This gave rise to the famous tribal expression: “I am a thread of the interwoven rope of Hinengākau”.*

*The interwoven rope of Hinengākau and her brothers Tamaupoko and Tupoho is a metaphor for the Whanganui River. Despite the many references to the hapū residing on the banks of the Great Waterway of Rua, the river is the thread that binds the people in a united collective. The knowledge of the genealogical links of Tamakehu to the many waka, is a guarded treasure from the whare wānanga, Ūpokotauaki at Patiarero. This sacred recital survives amidst the Kāhui Rongo of today.*

## KO NGĀ TIPUA KEI RŌ WAI, HE TŪPUNA

### THE KAITIAKI WITHIN THE WATERWAYS ARE OUR ANCESTORS

- 2.19 E ai ki Te Kāhui Rongo, ‘*he ripo, he tipua, he kāinga*’. Kua akona mātau ngā uri ko ngā tipua kei rō wai, kei runga maunga, kei whea rānei o te rohe, - he tūpuna. Nā tēnei whakapono, ka mārāma ngā uri o te awa ki te whakataukī - Kauaka e kōrero mō te Awa, kōrero ki te Awa.

*According to the Kāhui Rongo: “At each rapid, kaitiaki and people dwell.” We have been taught that the kaitiaki within the waterways, upon the mountains - wherever in the tribal domain they reside - are our ancestors. Therefore, we do not speak about the Awa, instead we commune directly with the Awa.*

- 2.20 Mai i Te Wharetoka o Paerangi ki Te Toka Tū-moana o Tūtaramoana, he tokopae hoki ngā tipua kei tēnā, kei tēnā ripo o te awa. He tipua, he kaitiaki, he tipuna. I te wā i tae mai a Turi me hōna iwi ki Te Wainui a Taiehu i runga i ngā kupu tohutohu a Kupe, i tae mai hoki ngā atua, ngā kaitiaki me ngā tipua nō Hawaiki Rangiaātea. I haere whakautā a Tūtangatakino rāua ko Mokohikuwaru, noho ai hei kaitiaki mō te tai whakarunga o te awa nui. Ko Tuhaepō, he uri nā Kewa, te tohunga i ārahi i ngā tipua nei. Kei ngā tahataha o te awa he tūāhu, ka puta mai ai te ia kōrero “he ripo, he tipua.” Ko te tikanga o te uruuru whenua kei Tokapihepihe, he whakaaritanga o te mana o ngā kaitiaki nei, taea tonutia i roto i hēnei rangi te kite atu, te rongo atu.

*From Ruapehu to the ocean rock of Tūtaramoana, there are guardians at each rapid of the river. They are of the supernatural realm, they are guardians, they are our ancestors. When Turi and his people arrived at Te Wainui a Taiehu, after following the instructions of his brother-in-law Kupe, they also brought their deities, guardians and supernatural beings from Hawaiki Rangiaātea. Tūtangatakino and Mokohikuwaru, deities that were brought on Aotea, journeyed inland, to reside as guardians for the upper river reaches. Tuhaepō, descendant of Kewa, was the tohunga that assisted these guardians. On the banks of the river are located sacred altars, physical manifestations of the tribal statement, “At each rapid, a guardian.” Uruuru whenua is the ritual acknowledgement of the mana of these guardians and is still observed today. An example of this can be seen at Tokapihepihe.*

- 2.21 Nō mua mai anō i te taenga mai o te Pākehā i noho tuturu ai ngā uri o ngā kāwai tipua me ngā kawai tūpuna nei ki tēnā pito, ki tēnā pito o te awa matua mai i tōna take heke noa ai ki tōna kopaunga. Neke atu i te rua rau ngā kainga me ngā nohoanga a ngā mātua ki te rerenga matua, he maha noa atu ngā kāinga e piri ana ki ngā pari me ngā tahataha o ngā awa iti e honohono kau ana ki a ia. Ko te taketake tērā o te rerenga kupu e kōrero ana mō te whakakotahitanga o te awa me ōna iwi, inā: Ngā manga iti me ngā manga nui e honohono kau ana, ka hono, ka tupu, hei awa - hei Awa Tupua.” Ara anō ētehi kupu e whakaatu ana i te maha o ngā hapū me ngā iwi i piri ai ki ngā tahataha o te awa nei, inā te pepehā o te iwi “Ngā kawau o uta, ngā torea o tai.” Ko ēnei manu e rua e kitea whanuitia ki uta nei, ki tai ra. Ko ngā kawau nei ko ngā hapū maha o te tai whakarunga, ko ngā torea rai ko ngā hapū maha o te tai whakararo.

*Since before the arrival of the Pākehā, the descendants of the tipua and tūpuna referred to in this account lived along the length of the River, from the headwaters to the mouth. There were close to 200 kainga on the banks and cliffs along the length of main stem of the Whanganui River. There were many more other kainga along the tributaries. That is the origin of the saying: “The small streams and the big streams which run into one another and continue to link and swell, until a river is formed - Te Awa Tupua”. Another saying that demonstrates the number of hapū and iwi who live on the banks of the River is “The shags of the interior, the pied stilts of the coast”.*

*These two birds are common species in the respective inland and coastal regions of the River. The shags represent the many hapū of the upper reaches, the pied stilts represent the many hapū of the lower reaches.*

- 2.22 He mouri tō tēnā pito, tō tēnā pito o te awa. Ko ia mouri e pupuru ana i te mana o te hapū o taua pito, ā, ko taua mouri anō he kaitiaki. He mana tō te hapū ki te hī ika ki tōna pito. Ko ngā pā tuna, ko ngā utu piharau, he mea tapu nō tēnā hapū, nō tēnā whānau. He ingoa, he kōrero, he pāwerawera tō ia pā, tō ia utu. Ko hētehi i mahi ai e ngā hapū e rua, e toru neke atu e pērā ana te nui o tōna hanganga me ngā ika i hua ai i a ia.

*Each part of the River has a mouri. Those mouri maintain the mana of the hapū for that particular place and are kaitiaki. Each hapū has the right to fish and construct pā tuna and utu piharau in their section of River. Each pā has a name, kōrero and human association through use and maintenance over time. Some were maintained by two or three hapū, sometimes more, such was their size and ability to provide a catch of sufficient quantity.*

- 2.23 Kei te ngutu awa hētehi nohoanga e karamuia ana e ngā hapū o uta i te wā e tika ana ki te tango i ngā ika o tai. I heke mai hēnei hapū i runga i te ara whanaungatanga. Ko te wā e tika ana ki te hāhā manu ki uta e pērā anō te pikinga o ngā hapū o tai ki te tango i ngā kai o te Wao-Tū-Nui. Ahakoa te raupatu haere o ngā iwi o waho i roto i ngā tau maha, kīhei ngā hapū o Whanganui i tūturi ki te mana o iwi kē. Ko te mana nei nō tuawhakarere, nō tawhitorangi. Engari nā te taenga mai o tauwiwi me wāna ture, kua honotia te peka rāwaho ki te rākau Māori, he rerekē tōna hua me te rongo o tōna kiko, he kawa.

*At the river mouth there were seasonal kainga which were utilised by hapū from the upper reaches when it was the appropriate season to fish. This is a reciprocal relationship because when it was the appropriate time to harvest birds inland, the hapū from the lower reaches migrated up the River. Despite the repeated attempts by foreign tribes, the hapū of Whanganui were never overcome. This mana came from ancient celestial origins and was maintained until the arrival of Europeans, which resulted in drastic and devastating changes for the Māori way of life.*

## **TE TIRITI O WAITANGI** *THE TREATY OF WAITANGI*

- 2.24 Tae atu ki te wā i tae mai te Tiriti o Waitangi, ka noho kau ngā hapū maha kei roto i ngā pā tūwatawata kei nga tahataha o te awa, matāra ana ki te taenga mai o te ito. Ko Hori Kingi raua ko Te Mawae nga rangatira nui o te tai whakararo, ko Te Pēhi Tūroa te ariki o te tai whakarunga.

*Extending to the period of the signing of the Treaty of Waitangi, the hapū remained steadfast in their fortified pā on the respective sides of the river, always vigilant to the arrival of foreign enemies. Hōri Kingi and Te Mawae were the major chiefs of the lower reaches; Te Pēhi Tūroa was the ariki of the upper reaches.*

- 2.25 Tekau ma whā ngā rangatira i tohua te Tiriti o Waitangi:

Mei 23, 1840: Hōri Kingi Te Anaua; Tawhito; Te Mawae; Rere o Maki; Wiremu Te Tauri; Rore; Tūroa; Taka; Kurawatia; ratou ko Te Rangiwhakarurua

Mei 31, 1840: Te Hiko, Uripo; Takarangi rātou ko Pakoro

*Fourteen chiefs signed the Treaty of Waitangi:*

*May 23, 1840: Hōri Kingi Te Anaua; Tawhito; Te Mawae; Rere o Maki; Wiremu Te Tauri; Rore; Turoa; Taka; Kurawatia and Te Rangiwhakarurua*

*May 31, 1840: Te Hiko, Uripo; Takarangi and Pakoro*

**Maru a ka hura, Tangaroa unuhia!**

**Unuhia ki mua waka, ki roto waka i a Tāne Mahuta**

**Ka puta ki waho, ki te whai ao, ki te ao mārama!**

**E Rongo e whakairihia ki runga, ki runga, hai!**

***Let Maru reveal the encumbrances, let Tangaroa remove them!***

***Remove them from the front and within the vessel that  
was sourced from Tāne Mahuta***

***And emerge into the world of light and understanding!***

***Let Rongo uphold enlightenment, let it be so!***

## HISTORICAL ACCOUNT

- 2.26 Clauses 2.27 to 2.97 contain an account of the historical events upon which the Crown's acknowledgements and apology in Part 3 are based.

### **TŌU PIKI AMOKURA NŌU, TŌKU PIKI AMOKURA NŌKU** *HISTORY MUST BE VIEWED THROUGH EACH LENS*

#### **Whanganui Iwi and Te Tiriti o Waitangi**

- 2.27 As at 1840 the iwi and hapū of Whanganui (Whanganui Iwi) possessed, and exercised rights and responsibilities in relation to, the Whanganui River in accordance with their tikanga. Other iwi and hapū also exercised rights and responsibilities in relation to parts of the Whanganui River and its catchment. In the 1840s there was a substantial Māori population dispersed along the length of the Whanganui River and its major tributaries. This population expanded and contracted at different sites according to the seasonal rhythms of resource gathering.
- 2.28 In May 1840, fourteen Whanganui River rangatira signed the Treaty of Waitangi at Pūtiki. The Māori text of the Treaty guaranteed Māori “te tino rangatiratanga o o ratou wenua o ratou kainga me o ratou taonga katoa” and, in the English text, “the full exclusive and undisturbed possession of their Lands and Estates Forests Fisheries and other properties which they may collectively or individually possess so long as it is their wish and desire to retain the same in their possession”.

*“...The river is the beginning...for our people from the mountain to the sea.  
It ties us together like the umbilical cord of the unborn child...Without that strand  
of life it has no meaning...Without the river we really would be nothing”*

*Matiu Mareikura, a Ngāti Rangī/Whanganui tohunga who passed away in 1998,  
speaking of the significance of the River to his people.*

#### **The Whanganui purchase**

- 2.29 In 1839 and 1840 the New Zealand Company entered into arrangements with some Whanganui Māori that purported to purchase land for European settlement in the Whanganui basin. Prominent Whanganui rangatira at the time were not present to sign or agree to the purported purchase. Early in 1841 the first settlers came to what would become the site of a town near the mouth of the River. In May 1841 the Company asked the Crown to grant it 89,600 acres in Whanganui. The lower reaches of the Whanganui River ran through the middle of the block claimed by the Company, from Tunuhaere and Kaiwhaiki to the sea.
- 2.30 In 1842 the Crown referred the New Zealand Company's claims to the Land Claims Commissioner for investigation. In 1844 Commissioner William Spain recommended that the Crown grant the Company 40,000 acres of coastal lands, and that Māori receive £1,000 compensation and one tenth of the purchase block in reserves. Whanganui Māori refused these terms and Spain told them this would not prevent the Europeans having the land. However, the Governor did not confirm Spain's recommended award.
- 2.31 In 1848 Donald McLean purchased for the Crown a block of 86,200 acres at Whanganui, and paid Māori the £1000 Spain had recommended as payment for

40,000 acres. The purchase deed included a clause stating on behalf of the signatories:

A ko te wenua katoa e takoto ana i roto i enei rohe haunga ano nga wahi i wakatapua i te tuinga i roto i tenei pukapuka mo matou kua oti nei i a matou te tangi te mihi te poroporoake te tuku tonu atu ma te Pakeha me nga awa me nga wai me nga rakau me nga aha noa iho o taua wenua.

An English version of the deed translated the clause:

Now all the land contained within these boundaries excepting the places mentioned in this paper as reserved for ourselves we have wept and sighed over bidden farewell to and delivered up for ever to the Europeans; together with the rivers streams trees and all and everything connected with the said land.

- 2.32 From this point on the Crown asserted authority over the River within the boundaries of the 1848 purchase. In 1849 Whanganui Māori complained to Donald McLean, who had completed the 1848 purchase for the Crown, that a gunboat crew had taken a log from the River marked as belonging to them. McLean told Māori they could only claim logs fronting their reserves, the rest being the property of Europeans.

### Control over the River

*“Ko te takutai taku nohoanga i te wa e nohinohi ana au, kaore e tukuna matau ki te taone, ki te tiriti, kei te takutai e noho ana, matau me o matau matua...kaore koe e tika ana ki te tuku kupenga ki tera wahi...i mutu mai to mana ki te piriti.*

*When I was a small child the River bank was where I was forced to remain together with my elders. We were not allowed to venture into town...or set nets in that place...our mana ceased at the bridge.”*

*Te Paea Arapata, a Ngāti Tuera/Ngā Paerangi kuia who was born around 1900, giving her perspective of how the loss of control of the river affected her people during her childhood.*

- 2.33 After 1840 and the purchase of the Whanganui block, Whanganui Iwi and other Māori continued to use the Whanganui River as a highway, both for traditional purposes and for trading with settlers. Whanganui Māori also continued to assert control of the River.
- 2.34 The outbreak of war in other districts between the Crown and Māori raised tensions in Whanganui. In 1864 two taua, which both included members of Whanganui Iwi, fought each other at Moutoa Island, located in the Whanganui River adjacent to Rānana. Prior to the battle Matene Rangitauira, the leader of a Pai Mārire taua who wanted to attack the township near the mouth of the River, met with the rangatira Te Pēhi Pakaro Tūroa at Pipiriki to seek permission to proceed down the River. Te Pēhi did not want the town attacked and reportedly told Matene that the Whanganui River from Peterehama down was sacred and that no war party should pass. Intensive negotiations followed, but the taua decided to descend the River anyway and a battle was arranged. On 13 May 1864, the day before the battle, two old men held a rope across the River to signify that the taua had not been granted passage. On 14 May the taua was defeated by a force of Māori from the lower reaches of the Whanganui River at Moutoa Island.

- 2.35 In the early 1880s Te Keepa Te Rangihwinui and other Whanganui rangatira asserted control over the Whanganui River by imposing an aukati (customary prohibitive measure) preventing the passage of Europeans up the River. Te Keepa erected a carved pole at Kauarapaua to mark the southern boundary of a land trust designed as a mechanism for Whanganui Iwi to retain tribal control of their remaining lands. Te Keepa announced that Pākehā could not travel on the River to access land up-stream of the pole without his authorisation. In 1884, Whanganui Māori escorted Government surveyors down the Whanganui River after they were stopped while surveying the main trunk railway. Other instances of Whanganui Iwi preventing passage of European travellers on the River were recorded from the 1860s onwards.

### **Statutory management of the River**

- 2.36 From the late 1850s national legislation allowed local and provincial authorities to erect and manage dams, wharves, bridges and other structures on the banks and bed of rivers and streams. It was not until the 1870s that legislation specific to Whanganui authorised local authorities to build a bridge and wharf, to collect tolls for their use, and to reclaim areas of the riverbed. The statutes did not provide for Whanganui Iwi involvement in the relevant regulatory bodies. This legislation included provision to compensate owners of riparian lands prejudicially affected by reclamation or other harbour works.

### **The Native Land Court and alienation of riparian lands**

- 2.37 At 1860 the vast majority of the lands bordering the Whanganui River remained under Māori customary ownership. The Native Land Acts of 1862 and 1865 established the Native Land Court. The Court was to determine the owners of Māori land “according to Native Custom” and convert customary title into title derived from the Crown. The Acts also waived the Crown’s pre-emptive right of land purchase and enabled Māori to lease and sell lands held under Crown-granted titles in the same manner as Pākehā.
- 2.38 Between 1866 and the early twentieth century, the Native Land Court investigated and awarded titles to Māori for riparian land blocks adjacent to the Whanganui River. Some riparian blocks were subsequently sold to the Crown. In 1871 Whanganui Iwi applied for title to the foreshore and riverbed adjacent to several Pūtiki riparian blocks, but the Native Land Court ruled that it could not investigate below the high water mark. At the turn of the twentieth century Whanganui Iwi still owned approximately 60% of the river frontage between the River’s tidal limit (Raorikia) and the confluence of the Whakapapa and Whanganui Rivers.

### **River management and clearance**

*“We have been taught to treasure the river for what it is, and what it has been given to us for. For we are its caretakers, we have been given the job of taking care of the river. And we care for it jealously.”*

*Matiu Mareikura, giving his perspective on the values of Whanganui Iwi that have been passed down in relation to the care of the river.*

- 2.39 Into the 1880s and beyond waka continued to be the main form of transport on the upper Whanganui River. Whanganui Māori provided virtually all River transport for Europeans until the early 1890s and derived income from these activities. Around this time there was increasing interest from the Crown and settlers in mineral prospecting at sites along the River and in the River’s potential as a transport route for steamboats and scenic attractions.

- 2.40 The River, particularly in its upper reaches, was difficult for steamboat navigation. Forty rapids punctuated the 51-mile section from the port to Pipiriki, with a further 103 in the 59-miles between Pipiriki and Maraekowhai. Whanganui Iwi know these rapids by name and consider each one the home of a tribal guardian. After Maraekowhai, there was still a considerable distance to go before Taumarunui, the proposed junction of the River and the main trunk railway, was reached.
- 2.41 In January 1885 Native Minister John Ballance met with Whanganui Māori at Rānana, Jerusalem/Kauaeroa and Pipiriki. Ballance told Māori the Government supported the “improvement” of rapids to assist the establishment of a steamer service by private interests. Ballance lauded the benefits of a steamer service for Māori and Pākehā alike: it would “make the Whanganui what it was intended to be - a great highway for the people into the interior”. There were expressions of support by Whanganui Māori to allow a steamer to be put on the Whanganui River and the Minister was told that this would be dealt with by Māori committees. This suggested Māori envisaged that their own committees would have some involvement over the extent of the river usage. However, the Minister in his address did not suggest a role for the Māori committees in regulating steamers.
- 2.42 Although the Native Minister indicated that rapids would have to be cleared to allow the steamers to pass, it appears Whanganui Iwi did not envisage the scale and effect of the clearance work that followed. In late 1885 the Crown began clearing snags and rapids from the River. By March 1886, 31 rapids had been cleared. Clearance work was completed to Pipiriki by early 1887. It is not clear under what legislative or other authority the Crown undertook the clearance work.
- 2.43 From the late 1880s Whanganui Māori complained of the impact of River clearances and steamer operations on the River, including their fisheries, pā tuna and utu piharau. Pā tuna (eel weirs) were wooden structures erected in the middle of the River while utu piharau (lamprey weirs) extended into the River from the bank. The tuna, piharau and other fisheries provided an important food source for Whanganui Iwi.
- 2.44 In early 1887, Whanganui Māori obstructed clearance works on the River. Newspapers reported that Māori were concerned about the effect of removing stones from the banks of the River. In 1887, Pauro Tutaawha and 66 others petitioned Parliament complaining that steamers were destroying their fisheries and eel weirs, and that steamers had come as far as Pipiriki despite Ballance having “promised” in 1885 that the steamer service would not extend beyond Rānana. The official minutes of Ballance’s meeting make no reference to that promise.
- 2.45 In 1888 Werahiko Aterea and 162 others requested that the deepening of the Whanganui River be stopped as they had never agreed to it. The Native Affairs Committee recommended that the 1887 petition be referred to the Government for consideration but dismissed the 1888 petition without recommendation. No further action was taken by the Government on the 1887 petition.
- 2.46 In 1889, a meeting of Whanganui Māori, chaired by the rangatira Tōpia Tūroa, was held at Koriniti to discuss the question of improvements up the River. While Whanganui Māori present did not object to improvements being made or to steamers travelling as far as Taumarunui, they asked that their weirs be protected. In 1891 the District Engineer reported that most weirs in the River had been destroyed by snagging crews, but noted that Māori had also re-erected weirs in

several rapids. It was also reported that Māori were likely to prevent the removal of these weirs in the future.

*“..E ngaro ana te mātauranga i o matau nei matua...Ka whakaoti katoa te ha i au, au te Māori, i te mea ko au te Māori he aroha toku hoa...:*

*Our mātauranga was in decline... and our essence as Māori was being extinguished on account of our inherently trusting nature.”*

*A perspective from Te Paea Arapata on the loss of customary knowledge as a result of Crown actions in relation to the River.*

## **Wanganui River Trust**

- 2.47 In 1891, Parliament passed the Wanganui River Trust Act 1891. The Act was intended to conserve the natural scenery and protect the navigability of the “Upper Wanganui River District,” defined as commencing at Raorikia and stretching to four miles from the River’s source. The Wanganui River Trust could erect jetties, establish landing places, and charge tolls on the River.
- 2.48 Section 11 of the Wanganui River Trust Act provided that “Nothing in this Act contained shall affect any rights conferred upon the Natives by the Treaty of Waitangi, or shall be deemed to confer upon the Trust any jurisdiction over private lands, or over any Native lands the title to which has not been investigated by the Native Land Court”. This section was added following a suggestion by James Carroll, the Member of Parliament for Eastern Māori, during the second reading of the Act. There was no provision for Māori membership on the Trust’s board, and there is no evidence that the Wanganui River Trust Bill was translated into Te Reo Māori.
- 2.49 Between 1891 and 1893 Whanganui Iwi continued to protest against public works on the River. Individuals obstructed the removal of snags, boulders and weirs by the Wanganui River Trust. In March 1892, the Trust reported that it had partially removed an eel weir at Matahiwi and removed a weir and boulders at Kauaeroa. Māori were said to have put “every obstacle possible in the way of the work”. In May 1893, Māori prevented the Trust from taking stones from the margin of the River at Kauaeroa in order to construct groynes, and refused an offer from the Trust to pay for the stones.
- 2.50 Partly in response to this obstruction, Parliament passed the Wanganui River Trust Act Amendment Act 1893. The Act empowered the Trust to remove earth, stone, boulders and sand from the River regardless of whether the Native Land Court had investigated title to the riparian lands. Māori Members of Parliament who spoke in the debate opposed the passage of the Bill and moved unsuccessfully that it be referred to the Native Affairs Committee.
- 2.51 Te Keepa and 59 others also petitioned Parliament protesting the passage of the Bill. The Act introduced a provision by which Māori affected by works could apply to the Native Land Court for compensation. While some compensation was paid to an individual outside of the Native Land Court process in 1901, it appears that two 1907 applications to the Court did not proceed to hearing.
- 2.52 Some Whanganui Iwi continued to obstruct clearance works undertaken by the Trust following the 1893 Amendment Act. In December 1893 a member of Whanganui Iwi was fined a nominal amount in the Whanganui Resident Magistrate’s Court for obstructing the Trust from removing stones. In March 1894,

Premier Richard Seddon and the Hon James Carroll visited Pipiriki to discuss a number of issues with Whanganui Iwi, including the River works. Seddon stressed that Whanganui Iwi should not take the law into their own hands in opposing the activities of the Whanganui River Trust.

- 2.53 The Whanganui Resident Magistrate's Court heard another case in March 1894 regarding obstruction at the Matahiwi rapid. The two defendants argued that they only sought to protect their fisheries from damage. The Magistrate found "that the evidence went to show that the works which were being constructed did interfere somewhat with these weirs, and the natives claimed that under section 11 of the Act of 1891 that the Board had no right to injure any right which they possessed in respect of fisheries under the Treaty of Waitangi". He also noted, however, that his Court could not decide such an important matter of legal interpretation. The defendants were convicted and fined £1 each. During another 1894 case the Resident Magistrate told three members of Whanganui Iwi on trial that they must go to Court and "submit to European law" to define their rights to their fisheries. The Supreme Court later dismissed an appeal of the latter case by the defendants. In 1895 Premier Seddon authorised police supervision for clearance work at the Haumoana rapid.
- 2.54 In 1895 Mereaina Rauangina and 151 other Whanganui women petitioned Parliament "to prevent the operation of the law of the Government to remove stones from out of the Whanganui River". The petitioners objected "so that the Government will not destroy our eel-weirs our lamprey-weirs our whitebait dams and the flood currents of the river and the banks of said river either on one side or the other". The petition restated the Whanganui Iwi understanding from Ballance that steamers would not go further than Rānana, and appealed to their rights under the Treaty of Waitangi. The petition stated that "no meeting of hapus or influential chiefs" had agreed that the steamers and the road should go up to Pipiriki.
- 2.55 A follow-up letter addressed to Premier Seddon complained that as a result of works in the River some pā tuna and utu piharau, ("constructions that have descended to us from our ancestors") had dried up, and that the "removal of... stones in the river front [had] caused our places of abode and our cultivations to break away". The letter stated that in 1885 Ballance had also assured Whanganui Iwi that only those weirs directly in the path of the steamer would be removed, although the official minutes of Ballance's meeting are also silent on this issue.
- 2.56 The Native Affairs Committee recommended that the Native Minister visit Whanganui Iwi to discuss the issues raised. In November 1895 Seddon and Carroll met again with Whanganui Iwi at Whanganui township and other River settlements and negotiated the removal of a weir at Kauaeroa. Following the visit the Premier received several further letters from Whanganui Iwi protesting interference with eel weirs.
- 2.57 At the turn of the century legal uncertainty arose over the use of rivers as highways and the ownership of minerals in riverbeds. In 1903 section 14 of the Coal-mines Act Amendment Act 1903 provided that the beds of all navigable rivers "shall remain and shall be deemed to have always been vested in the Crown". The Whanganui River was and remains the longest navigable river in New Zealand. The Act also declared that all minerals contained within those river beds belonged to the Crown. There was no consultation with Whanganui Iwi over the legislation.

- 2.58 Steamer services to Taumarunui commenced in 1903. Further amendments to the Wanganui River Trust Act in 1920 and 1922 continued to exclude any specific provisions for Māori representation on the Trust's board, nor was there consultation with Whanganui Iwi in relation to these amendments.
- 2.59 Steamer services declined during the early twentieth century as road-building increased, and the Wanganui River Trust was abolished in 1940. Section 28(1) of the Reserves and Other Lands Disposal Act 1940 vested all property owned by the Trust in the Crown. During the third reading of the Reserves and Other Lands Disposal Bill in the Legislative Council, the Honourable Rangi Mawhete sought an assurance from the Leader of the Council that Māori would not lose the protection of their Treaty rights previously set out in section 11 of the Wanganui River Trust Act 1891. Referring to the Crown's decision to appeal a recent decision of the Native Land Court in favour of the Whanganui Iwi claim to customary ownership of the River, Mawhete told the Legislative Council "All along the Crown has assumed that it owned the Wanganui River, but the Native Appeal Court will now be called upon to decide who is the rightful owner". In response the Leader of the Legislative Council gave an assurance that nothing in the Bill would affect any river rights that Māori had previously held.
- 2.60 The Crown funded all navigation maintenance works in the River up until 1975, after which it devolved responsibility to the Rangitikei-Wanganui Catchment Board.

### Gravel extraction

*"Ko te tangi a te kuia nei: Ka pewhea aku mokopuna? Ka ngaro nga kai, ka ngaro te mana me whakaae koe kia riro i a tauwi nga mana o o tūpuna i roto i te wai.*

*The old woman lamented: What will become of my grandchildren? The River stocks will suffer and its mana will suffer if you allow tauwi to take the mana of our tūpuna."*

*This statement by Whanganui Iwi kuia, Te Manawanui Pauro (Ngati Tuera/Nga Paerangi), who passed away in 2010 aged 102, recalls her grandmother's lament over gravel extraction from the Whanganui River.*

- 2.61 In the twentieth century railway and road construction created demand for River stones and gravel. However, gravel extraction from the Whanganui River prior to 1920 was limited and unsupervised. Section 5 of the Wanganui River Trust Amendment Act 1920 empowered the Wanganui River Trust to extract and sell gravel from the Whanganui River. Unlike the Wanganui River Trust Amendment Act 1893, there was no provision for Whanganui Iwi to pursue compensation. After Parliament abolished the Trust in 1940, it empowered the Ministry of Works to continue gravel extraction. From 1958 the Wanganui Harbour Board could license gravel and sand extraction from the River's tidal reaches. The Rangitikei-Wanganui Catchment Board and Regional Water Board could licence gravel extraction from 1977. In 1974 the Ministry of Works estimated that 945,000 cubic yards of gravel had been extracted from the Whanganui River in the Taumarunui area since 1965.
- 2.62 Whanganui Iwi observed that gravel extraction destroyed gravel beds that provided habitats for fish, and ultimately contributed to the depletion of traditional fisheries.

- 2.63 Compensation for the taking of stones and gravel from the River has also been a concern for Whanganui Iwi. During the 1893 disputes between Whanganui Iwi and the Wanganui River Trust, some compensation was paid by the Trust to Māori at Upokopoito, Whakaruawhaka, and Ruapirau for stones taken to construct groynes. At another location on the River, however, Māori refused compensation and prevented the Trust from taking stones. In 1927, a petition by Piki Kotuku and 125 others sought compensation for the loss of their “livelihood” through various River works, and sought royalties for the taking of gravel from the River.
- 2.64 During the 1980s the Rangitikei-Wanganui Catchment Board and Regional Water Board encouraged contractors to restrict gravel excavation to beach areas above the River’s normal summer level so as to reduce environmental impacts. Nonetheless the gravel required washing and discharges from gravel washing plants ultimately reached and discoloured the River. Although the Board attempted to mitigate the effects of gravel extraction and washing by setting water quality standards, it did not involve Whanganui Iwi in discussions.

### **Scenery preservation**

- 2.65 The Scenery Preservation Act 1903 enabled the Crown to compulsorily acquire land for scenic purposes pursuant to the provisions of the Public Works Act 1894. The Crown used this Act, and its successors, to acquire riparian lands along the Whanganui River that it considered contributed to the River’s natural and scenic value. In 1905 the Scenery Preservation Commission recommended 19,140 acres of Whanganui Iwi land adjacent to the Whanganui River be acquired for scenery preservation purposes. By 1912 the Crown had taken about 4,000 acres of riparian land for scenery preservation purposes under the Public Works Act 1908.
- 2.66 This process provoked considerable opposition from Whanganui Iwi. In 1913 and 1914 Whanganui Iwi petitioned Parliament on three separate occasions to request relief or compensation for Māori land taken for scenery preservation purposes. The third petition also asked for a commission to inquire into the takings, and in 1914 the Native Affairs Committee recommended that the government action this request.
- 2.67 The Wanganui River Reserves Commission sat in 1916 and heard evidence from 34 Māori witnesses. Members of Whanganui Iwi urged that only steep cliffs and inaccessible areas be taken as scenic reserves. They objected to the taking of riparian land that was suitable for farming, contained urupā, or was used to access the River, and requested that the Crown pay greater compensation to take into account the scenic value of the lands taken.
- 2.68 Although River rights were outside the Commission’s terms of reference, Whanganui Iwi members also used the opportunity to raise their grievances in relation to the River. Several witnesses urged the Crown to address the question of Whanganui Iwi rights in relation to the River. Hakiaha Tawhiao, who based his claims to compensation on the provisions of the Treaty of Waitangi, mentioned the destruction of eel weirs and suggested that Whanganui Iwi were due compensation for the benefits derived by businesses such as the local steamer operator from “our river waters”. Hakiaha stated that “those waters belong entirely to us. The Maoris own the river... I lay far more stress on our river rights than on these scenic lands”.
- 2.69 Following the release of the Commission’s report, most of its recommendations relating to Māori riparian lands, including the return of some land to its former

owners, were left to lapse. By 1919 the Crown had acquired at least 6,700 acres of Māori-owned riparian lands along the Whanganui River under the Public Works Act 1908 for scenery preservation purposes.

### **Maintenance of interests in the twentieth century**

*“Whanganui Iwi have sought to preserve their rights, protested, petitioned the Crown and pursued their claims....before numerous Courts, tribunals .... such litigation has often seen issues narrowed such that they are almost unrecognisable in Māori terms.”*

*The late Sir Archie Te Atawhai Tairaoa, (Ngāti Hauā/Ngāti Tū) describing the Whanganui Iwi perspective on their long running claims and litigation.*

- 2.70 During the twentieth century Whanganui Iwi continued to assert their interests in and rangatiratanga in relation to the Whanganui River.
- 2.71 In 1927 Parliament received two further petitions from Whanganui Iwi that reiterated a number of the grievances stated several times since the first petition in 1887, but now also sought compensation for the loss of Whanganui Iwi interests. The petition of Piki Kotuku and 125 others of Taumarunui requested £300,000 compensation in recognition of their rights in the Whanganui River and loss of livelihood. The petitioners sought compensation for the release of trout, which they claimed had killed off some native fish species, as well as for the taking of gravel, the taking of land for scenery preservation purposes, damage to pā tuna and utu piharau, and for the profits made by the steamer company.
- 2.72 In 1930 the Government responded by authorising the Native Land Court to inquire into the petition and report to Parliament. By 1937 this inquiry had not been completed so Whanganui Iwi, under Titi Tihu and others, applied to the Native Land Court to investigate what they considered to be their customary ownership of the Whanganui River.

### **The River and the Courts**

- 2.73 From 1938 Whanganui Iwi sought to maintain their interests in the Whanganui River through the courts. Between 1938 and 1962 seven courts considered questions of title to the riverbed and Māori customary interests. The courts could only consider rights according to English common law and New Zealand statutes. The Native Land Act 1931 did not allow for the investigation of title to a river as a whole. Whanganui Iwi accordingly framed their case within the terms of English law rather than their own tikanga. Their claim therefore focused on the bed of the River, rather than their own conception of the River as an indivisible whole.

*The following waiata, Tenei Ka Noho, was composed by Titi Tihu at the start of the riverbed claim in the Native Land Court. Tihu is symbolic of the continuous efforts by Whanganui Iwi to advance their claims in respect of the Whanganui River. Tihu's involvement with the River claim extended from his lodging of the claim to ownership of the Whanganui River in the Native Land Court in 1938 and continued unabated through to 1988 with objections to pollution and the diversion of water from the Whanganui River. Tihu died in May 1988 prior to the minimum flows hearing before the Rangitikei-Wanganui Catchment Board.*

### **Tenei Ka Noho**

<i>Tenei ka noho ki te whatitoka o tōku whare</i>	<i>As I sit at the doorway of my house</i>
<i>Pohaha mai i te whenua</i>	<i>Where the land is divided</i>
<i>Whakarongo ki te hau e pā mai i waho nei</i>	<i>I listen to the winds that are blowing out there</i>
<i>He hau tonga pea?</i>	<i>Is it the southerly wind?</i>
<i>Pokarekare ana ngā wai o Whanganui</i>	<i>The waters of Whanganui are rippling</i>
<i>Ko āku mana ra kei te huihui</i>	<i>Tis my strengths that are combining</i>
<i>Kia pai, kia tika, kia rangimarie</i>	<i>For good, for right, and for peace</i>
<i>Tērā aku rongo kua pai te tuku atu</i>	<i>I have heard that it has gone out</i>
<i>Kirunga ki ngā iwi ē</i>	<i>To all the people</i>
<i>Nāwai rawa ko koe, i noho ai koe i te nohoanga o Tanga</i>	<i>Even though you sit in a position belonging to Tanga</i>
<i>Mā Wharawhara rā e ui atu ki a Te Hekenui</i>	<i>Wharawhara will query to Te Hekenui</i>
<i>Kia korerotia mai, nāwai koe?</i>	<i>To say, who am I?</i>
<i>Māku rā hei kī atu, Nā Tamaupoko, Na Hinengākau, Na Tupoho na</i>	<i>I will answer, I am from Tamaupoko, Hinengakau and Tupoho</i>
<i>Ko te Hekenui ra hei pou korero, kirunga ki ngā iwi katoa</i>	<i>Te Hekenui will be the main orator to the people</i>
<i>Ko au ra hei pou mo runga i te karauna mo ngā iwi katoa</i>	<i>I will only be a main speaker to the Crown for all my people</i>
<i>Kia haria mai ra, kia takato ki te aio</i>	<i>So that it is all laid out, and spreads it in a serenity</i>
<i>Mō wai i rukiruki ē?</i>	<i>Who will intensify this?</i>
<i>Tūwharetoa, e Kui, e Mamae, maranga ra kirunga</i>	<i>Tūwharetoa, my elder Kui Mamae, awake, arise!</i>
<i>Kāti te moe</i>	<i>Enough of sleeping!</i>
<i>Maranga mai kirunga, rauhitia mai to iwi</i>	<i>Arise and shelter your people</i>
<i>Toia to waka kirunga te Paeroa</i>	<i>Steer your waka toward Paeroa</i>
<i>Tērā ngā tāngata, ngā tāngata o whea?</i>	<i>Look at those people, who are they?</i>
<i>Ngā tāngata o Whanganui</i>	<i>They are people from Whanganui</i>
<i>Whakataha rawa mai</i>	<i>Veer this way</i>
<i>Te Pitiana a tō tungāne a Te Piki</i>	<i>The petition of your relation, Te Piki</i>

<i>E tama ē, ka mate, ka mate atu he tetehura</i>	<i>Oh young man, a leader falls</i>
<i>Ora mai he tētēhura</i>	<i>Another rises, oh yes!</i>
<i>Ka mate, ka mate, ka ora, ka ora</i>	<i>Although in death there is life</i>
<i>Tēnei te tangata, puhuruhuru</i>	<i>Here stands a man covered in hair</i>
<i>Nāna i tiki mai, whakawhiti te rā</i>	<i>’Twas he who brought in the light</i>
<i>Upāne, upāne kaupāne, whiti te rā</i>	<i>In rank to forge ahead, to the rising sun.</i>

- 2.74 In 1938 and 1939 the Native Land Court heard from three Whanganui Iwi witnesses - Hekenui Whakarake, Wharawhara Topine and Pareta Wereta - in support of their case, as well as seven Crown witnesses. In September 1939 the Court ruled that Whanganui Iwi held the bed of the Whanganui River under their customs and usages at 1840. The Court also held that customary fisheries had been indiscriminately destroyed without remedies. In 1944 the Native Appellate Court unanimously upheld the 1939 ruling, following an appeal from the Crown.
- 2.75 After a further Crown appeal, the Supreme Court ruled in 1949 that Parliament had vested the bed of the Whanganui River in the Crown through the Coal-mines Act Amendment Act 1903. During the 1949 Supreme Court hearing and afterwards the focus of the River litigation turned to the status of Māori customary rights in the riverbed between 1840 and 1903. Whanganui Iwi maintained that the Native Land Court had never investigated title to the riverbed prior to 1938 and that the ancestral right to the River was distinct from ancestral rights to riparian lands because the River was held for the tribe as a whole.
- 2.76 Following the Supreme Court decision, the Crown appointed a Royal Commission of Inquiry in 1950 to inquire further into Māori customary interests in the Whanganui riverbed, and to advise whether compensation was due for loss of those interests. The Royal Commission endorsed the Native Land Court and Native Appellate Court rulings, and found that, but for the 1903 legislation, Whanganui Iwi would be the customary owners of the bed as they had been at 1840. The Commission recommended the Crown compensate Whanganui Iwi for gravel extraction, but not for the loss of customary fisheries. Attempts to negotiate compensation in 1951 were inconclusive, with proposals put forward by Whanganui Iwi characterised by a Crown official as “so exaggerated as to be ridiculous”.
- 2.77 In 1951 the Crown legislated to authorise the Court of Appeal to inquire into Māori customary ownership of the riverbed. A majority judgment held that Māori were the customary owners of the River at 1840. The Court proposed that the Government authorise the Māori Appellate Court to consider whether grants of title to riparian land issued by the Native Land Court prior to the Coal-mines Act Amendment Act 1903 resulted in rights to the centre of the riverbed under the English common law principle *ad medium filum aquae*.
- 2.78 In 1958, following statutory amendment, the Māori Appellate Court found no evidence from the previous proceedings to show that there had been, as Whanganui Iwi contended, a separate ancestral claim to the River prior to 1938 that was distinct from ancestral claims to riparian lands. In the Māori Appellate Court’s interpretation there was no overarching tribal title to the riverbed, and, by

implication, title to the riverbed was held by the owners of riparian lands. The Court did not hear evidence regarding Whanganui Iwi protests in relation to the River in the nineteenth century or the parliamentary petitions put forward by Whanganui Iwi prior to 1938.

- 2.79 The matter returned to the Court of Appeal and, in 1962, the Court found that the *ad medium filum aquae* principle had extinguished Māori customary ownership of the riverbed when the Native Land Court granted titles to riparian blocks.
- 2.80 Whanganui Iwi decided against appealing the Court of Appeal's decision to the Privy Council for reasons related to costs and the likelihood of success. The Crown, adopting the findings of the 1962 Court of Appeal, declined to provide remedy to Whanganui Iwi. In 1977 Whanganui Iwi petitioned Queen Elizabeth II to remove Crown title to the riverbed. The Māori Affairs Committee and a Cabinet Committee considered the petition before it was declined in 1983.

### **Tongariro Power Scheme**

*“Kua whakahokia mai e ia, e te Karauna, tāku reo ki au - engari he aha te painga o te reo ki te kore he tūrangawaewae, ki te kore he wai hei pipi i au me āku mokopuna?”*

*Now the Crown has seen fit to return my language to me - but what use is my language if I have no place to stand, or water to bless myself or my grandchildren?”*

*A statement by Te Paea Arapata, giving her perspective on the impact of the Tongariro Power Scheme on the Whanganui River.*

- 2.81 In 1955 the Crown initiated plans to draw water for hydro-electric power generation from the headwaters of the Whanganui River and other rivers and tributaries within the watershed of Tongariro and Ruapehu. The Crown designed the scheme to provide for the anticipated energy demands of New Zealanders. An Order in Council issued in 1958, under the Public Works Act 1928, *authorised* the diversion of water from the Whanganui River and other rivers into the proposed Tongariro Power Scheme and the altering of river levels. The Crown did not consult with or give notice to Whanganui Iwi about the Order in Council. This was despite the ongoing litigation over the bed of the Whanganui River.
- 2.82 In 1964 Cabinet approved the first two stages of the Tongariro Power Scheme in principle “so that preliminary discussions, negotiations, and further studies may proceed on a firm basis, on the understanding that further approval will be sought before commencement of construction.” Stage one, the “Western Diversion”, would divert water from the Whanganui River.
- 2.83 The Crown did not specifically consult Whanganui Iwi about the scheme before diversion commenced in 1971, despite consulting and sometimes compensating non-Whanganui Iwi River users (such as the Taumarunui Borough Council and Wanganui Harbour Board) and engaging with and paying compensation to another iwi in relation to the development of the scheme. In 1968 the Chairman of a public meeting arranged by the Taumarunui Borough Council ruled Whanganui Iwi kaumātua Hikaia Amohia out of order when he asked the Minister of Electricity why the Crown was not consulting with Whanganui Iwi over the proposed diversion. Mr Amohia's questions were left unanswered.

- 2.84 Waters from the Whanganui River and its tributaries, including the Whakapapa River and the Taurewa, Okupata, Tawhitikuri, Te Whaiiau, Otamangakau and Mangatepopo Streams, were diverted into Lake Rotoaira and then through the Tokaanu Power Station into Lake Taupō through the Western Diversion of the Tongariro Power Scheme.
- 2.85 These diversions lowered the water level of the Whanganui River and parts of the Whakapapa River quickly became dry. In response to this and earlier lobbying by acclimatisation societies, in 1973 the Minister of Electricity authorised a minimum flow in the Whakapapa River below the diversion structure. Between 1975 and 1977 the Tongariro Power Scheme diverted approximately 84% of the mean flow of the headwaters of the Whanganui River. Between 1973 and 1992 the mean flow reduction at Te Maire, 58 kilometres downstream of the Whakapapa diversion intake, was 26%.
- 2.86 In 1982 the Rangitikei-Wanganui Catchment Board fixed minimum acceptable flows on the Whanganui River pursuant to the Water and Soil Conservation Act 1967. The first term of the fixed minimum flows began in 1983 and expired in 1988. In September 1988, the Rangitikei-Wanganui Catchment Board fixed new minimum flows for the Whanganui River expiring in 1993. Both the Electricity Corporation of New Zealand (ECNZ) and the Whanganui River Māori Trust Board lodged appeals to the Planning Tribunal against Catchment Board's decision. The Trust Board sought to have the natural flow of the River fixed as the acceptable minimum flow. ECNZ sought to have the previous 1983 minimum flow levels restored for another five year term.
- 2.87 The Planning Tribunal sat for 84 days and heard evidence from a number of witnesses, including 24 witnesses in support of the Whanganui Iwi position. The Whanganui Iwi kaumātua, Hikaia Amohia (Ngāti Hauā) told the Planning Tribunal:
- "For our people ihi, tapu, and mana go together. Each one is dependent upon the others. Any interference with nature, including the River, breaks the law of tapu; breaks the ihi or sacred affinity of our Māori people with the River; and reduces the mana and soul of the Whanganui River...When you interfere with the flow of the River, you are interfering with nature."*
- 2.88 The Tribunal delivered its decision on 29 October 1990. It cancelled the minimum flows set by the Catchment Board and instituted a new minimum flow regime that did not meet the levels sought by Whanganui Iwi. In 1992 the Whanganui River Māori Trust Board and others appealed the Tribunal's decision to the High Court. The High Court upheld the Planning Tribunal's decision.
- 2.89 From 1991 the operation of the Tongariro Power Scheme came under the resource consents regime established by the Resource Management Act 1991. Whanganui Iwi have continued to object to the operation of the scheme under that process.
- 2.90 In relation to the Tongariro Power Scheme, Whanganui Iwi have consistently expressed their view that the diversions and reduced flows have damaged the health, wellbeing and mauri of the Whanganui River, and adversely affected the cultural and spiritual values of Whanganui Iwi.

## Further litigation and claims

*“The river and the land and its people are inseparable. And so if one is affected, the other is affected also. My father, mother and our tūpuna lived on the Whanganui River. They knew the river well. The river is the heartbeat, the pulse of our people. Without the Awa we are nothing, and therefore I am reminded of the kōrero when one of our elders Taitoko Tawhiri said of the River, if the Awa dies, we die as a people. Ka mate te Awa, ka mate tātou te iwi.”*

*A statement from kaumātua Niko Tangaroa, (Ngāti Pamoana/Ngā Paerangi), who passed away in 1998, on the Whanganui Iwi perspective of the unity of the River, its land and people.*

- 2.91 When diversion of water from the Whanganui River for the Tongariro Power Scheme began in 1971, Whanganui Iwi kaumātua revived their legal claim to the River by applying to the Māori Land Court for a rehearing of the 1949 Supreme Court decision. The application did not proceed.
- 2.92 From 1974, Whanganui Iwi pursued direct negotiations with the Crown over River issues, including compensation for gravel extraction. In 1975 Whanganui Iwi met with the Minister of Māori Affairs who, relying on the Court of Appeal’s 1962 decision, stated that any claims on behalf of riparian owners at 1903 would have to establish specific details of loss.
- 2.93 In 1983 Whanganui Iwi kaumātua Titi Tihu applied to the Crown for compensation for gravel extraction. Subsequent discussions became intertwined with discussions about the Crown proposal to create a national park in the Whanganui region. Whanganui Iwi maintained that the River should not be included in the proposed park until ownership of the River was resolved. In 1986 Whanganui Iwi consented to the establishment of Whanganui National Park in principle, based on Crown assurances that the riverbed would be excluded from the Park, that the legislation would “recognise the spiritual value and mana” of the River to Whanganui Iwi, that Whanganui Iwi would “have a very real say in matters which affect Māori cultural values and spirituality” and that the Park’s establishment would not prejudice further claims to the riverbed or other lands.
- 2.94 In 1988 the Crown enacted the Whanganui River Trust Board Act 1988 under which the Whanganui River Māori Trust Board was created, consisting of nine members appointed on the recommendation of the Minister of Māori Affairs. Section 6 of the Act authorised the Trust Board to negotiate “for the settlement of all outstanding claims relating to the customary rights and usages of te iwi o Whanganui, or any particular hapū, whānau, or group, in respect of the Whanganui River, including the bed of the river, its minerals, its water and its fish”.
- 2.95 The Crown made an interim financial contribution of \$140,500 to the Trust Board without prejudice to any future settlement. A further payment of \$200,000 was made in 1990. Much of the money was absorbed by continuing litigation regarding the effect of the Tongariro Power Scheme on the Whanganui River.
- 2.96 The Resource Management Act 1991 gave regional and local authorities substantial functions and powers over natural resources, including the power to grant resource consents for uses of the Whanganui River. It also envisaged greater iwi involvement in resource management. However, Whanganui Iwi consider that they have not been accorded any significant recognition or authority in decisions made under the Act.

- 2.97 In October 1990 Hikaia Amohia, and the then members of the Whanganui River Māori Trust Board - Archie Taiaroa, Joan Akapita, Michael Potaka, Rangipo Metekingi, Linda Henry, Julie Ranginui, Brendon Puketapu, Kevin Amohia and John Maihi - lodged the Whanganui River claim (Wai 167) with the Waitangi Tribunal on behalf of Whanganui Iwi. The Wai 167 claim was pursued for the benefit of all who affiliate to Whanganui Iwi and sought, amongst other things, the restoration of “their tino rangatiratanga over the Whanganui River and its tributaries, their full customary entitlements and other attributes of the River, and its tributaries which have been theirs from time immemorial”.
- 2.98 From the 1870s to the present, Whanganui Iwi have continually sought justice for their claims and grievances and protection for the Whanganui River. The principles and values which sustained those claims, and the fundamental ethos of Te Awa Tupua, form the foundation of this settlement.

E rere kau mai te Awa nui,  
mai i te Kāhui Maunga ki Tangaroa  
Ko au te awa, ko te awa ko au

The Great River flows  
from the mountains to the sea  
I am the River and the River is me