



Te Pire Whakataunga o ngā Roto o Te Arawa

25-1

Te pūrongo a te Komiti Whiriwhiri Take Māori

Te Arawa Lakes Settlement Bill

25-1

Report of the Māori Affairs Committee

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Te Pire Whakataunga o ngā Roto o Te Arawa

Tūtohunga

Kua tātāria e te Komiti Whiriwhiri Take Māori te Pire Whakataunga o ngā Roto o Te Arawa. Ko tā te nuinga i tūtohu kia whakaturetia me te kore whakatikatika.

Kupu whakataki

Whakamanatia ai e te pire nei te Whakaaetanga Whakataunga o te 18 o Hakihea 2004 kei roto te Karauna me Te Arawa e whakaae ana ki tētahi whakataunga whakamutunga mō ngā kerēme hitori a Te Arawa mō ngā roto e 14 a Te Arawa me ngā utunga ā-tau. Kei roto hoki i te Whakaaetanga ngā whakaaetanga me te whakapāhā a te Karauna ki a Te Arawa.

I a mātou e whakaaro ana i tēnei pire i te mahara tonu ki ngā here i runga i a mātou mō ngā tikanga e pā ana ki te whakaaroaro i te āhua o te whakaturetanga mō te whakaū whakaaetanga pēnei i ngā whakataunga kerēme Tiriti me ngā whakaaetanga ā-ao. Ko te tikanga o tēnei, e kore e taea e tētahi komiti whiriwhiri, e te Komiti o te Whare katoa rānei te whakarerekē nui ēnei tūmomo pire ki te kore ngā rōpū whai pānga o te whakaaetanga, o te tiriti rānei e whakaae kia whakakaupapatia. Kei te herea hoki mātou e te tikanga hōkai kei te Whakataunga Tū Roa 288(2). He tino whāiti te hōkai o ngā whakaaetanga ā-ao me ngā whakaaetanga whakataunga i raro i te Tiriti o Waitangi. Me haere ngātahi ngā whakarerekētanga ka tūtohungia i te taha o te tiriti, o te whakaaetanga rānei e pā ana.

Ngā Roto o Te Arawa

E ai ki te whakaaetanga i waenganui i a Te Arawa me te Karauna nā te Whakatikatika Whenua Māori me te Whakarerekētanga Kerēme Whenua Māori 1922 i whakamana, ko ēnei e whai ake nei ngā roto 14 i kapi i roto i te pire, arā, ko Ngāhewa, ko Ngāpourī, Ōpourī rānei, ko Ōkareka, ko Ōkaro, Ngākaro rānei, ko Rerewhakaaitu, ko Rotoehu, ko Rotomā, ko Rotomāhana, ko Rotorua, ko Tarawera, ko Tikitapu me Tutaeinanga hoki.

Whakarāpopotonga o ngā tāpaetanga

E 20 ngā tāpaetanga i whiwhi e te komiti. Ō ēnei, 18 i whakahē ki te pire, e 2 i tautoko.

Te hātepe whakataunga

Nā Te Poari Māori o Te Arawa tētahi kerēme (Wai 240) i komo ki Te Rōpū Whakamana i te Tiriti o Waitangi i te marama o Paenga-whāwhā 1987. Ko te tauākī kerēme i whakatikaina, ā, i komo i te tau 1991 i pā ki

- te whakaurunga o ngā momo ika manene me ngā rukenga ki te roto
- te whakaputanga whaina mō te hī kore raihana
- te whakaaro o te Karauna mō te taitara ki ngā roto i raro i te ture i mua i te urunga atu ki tētahi whakaritenga i te taha o Te Arawa mō te rangatiratanga ki ngā roto i te tau 1922. Ki te whakaaro o Te Arawa, i whakakorea te taitara taha tikanga o Te Arawa, i ngaua timotimohia hoki ō rātou tika katoa ki ō rātou whenua, roto, ika.
- ngā whakaroanga atu a te Kōti Whenua Māori ki te tiroiro i te taitara o ngā roto me te whakahaere a te Karauna i a ia i te wā whiriwhiringa o te whakaaetanga 1922.
- te whakatakoto a te Karauna i ngā whakatikatika i raro i te ture, i te whakaturetanga o te whakaritenga 1922, me te kore kōrero ki a Te Arawa.
- te kore whakatika a te Karauna i te utunga ā-tau kia kore ai te ekenga o te wāriu o te moni e mahue.

Ka mahara te uru atu ki tētahi pakirehua a Te Rōpū Whakamana i te Tiriti o Waitangi, i uru hāngai tonu atu Te Poari Māori o Te Arawa ki roto i ngā whiriwhiringa tuatahi i te taha o te Karauna i te tau 1989. I te tau 1997, ka whakaae te Karauna ki te whakawātea i tana kaupapa here whānui me te whakaae ki te whiriwhiri i tētahi whakataunga whānui mō Te Arawa me te wehe atu i ētahi atu kerēme a Te Arawa iwi. I whakatakotoria e Te Poari he whakaaetanga mana kōkiri ki te Karauna i te 2 o Hakihea 1997. Nā Te Poari Māori o Te Arawa mō te iwi o Te Arawa te Whakaaetanga Whakataunga i haina i te taha o te Karauna i te 18 o Hakihea 2004. Nā tēnei tētahi whakatika hapanga i whiwhi ai i a Te Arawa hei whakamana i te whakataunga o ngā kerēme hītori katoa a Te Arawa mō ngā roto e 14 o Te Arawa. Kei roto i te whakataunga:

- he āhuetanga whakatika hapa ki te ahurea tae atu ki te whakawhiti i ngā takere roto e 13 (i te wā nei kei Te Kaunihera ā-Rohe o Rotorua te mana mō te Roto o Ōkarō) me ngā wāhanga e pā ana ki te whakahaere rautaki mō ngā roto
- he āhuetanga whakatika hapa ki te pūtea o te 2.7 miriona taara
- he āhuetanga whakatika hapa ki te pūtea ā-tau o te 7.3 miriona taara (arā, te whakatōpūtanga utunga ā-tau i whakawhiwhia i roto i te whakaaetanga me te whakataunga 1922 mō tētahi take utunga ā-tau
- he whakamāramatanga mō te kōrero hītori i whakaaetia, he whakaaetanga a te Karauna ki ngā takahitanga o te Tiriti o Waitangi me ōna mātāpono e ia, he whakapāha mai a te Karauna ki ngā whakaaetanga nei.

Nō waenganui i te marama o Whiringa-ā-nuku me Hakihea 2004 te hātepe whakatūturu i tū ai. E whitu ngā hui whakaatu kōrero i whakaritea e Te Poari. I tū ki Rotorua (e toru), ki Maketū, ki Awakairangi, ki Tāmaki-makau-rau, ki Ōtautahi hoki. I ngā hui nei a Te Puni Kōkiri. I kite ia i te tuwhera, te marama me te tōkeke o aua hui, ā, ki ō rātou whakaaro, kāore he māharahara e pā ana ki te hātepe whakatūturutanga mō te Whakaaetanga Whakataunga i ara ake.

I runga i ngā whika o te Tataunga Taupori me ngā Nohoanga, tata pea te taupori o Te Arawa ki te 40,000. I tohaina ngā kawenga pōti ki te katoa o ngā pākeke e 8,790 o Te

Arawa i rēhita. Ō aua kawenga e 8,790 i tohaina, e ai ki ngā puka i hoki mai e 4,480 i pōti. I roto i ngā kawenga nei ngā pepa pōti me tētahi mōki whakatūturutanga e whakamārama ana i ngā ritenga o te whakataunga a te Karauna. Tua atu hoki, i whānui te pānui a Te Poari i te hātepe i roto nūpepa, i runga pouaka whakaata me te reo irirangi hoki. I te wā o te hātepe nei, i whakahaerea e Te Poari he rēhita motuhake kia kaha ai te hunga o Te Arawa kāore anō kia rēhita ki te rēhita i a rātou i mua i te katinga o te mahi pōti.

Te mana kōkiri o Te Poari Māori o Te Arawa

I whakatūria Te Poari Māori o Te Arawa whai ake ana i te whakaritenga i waenganui i te Karauna me Te Arawa i te tau 1922. Whai muri ana i te kerēme (arā, te Wai 240) a Te Poari ki Te Rōpū Whakamana i te Tiriti o Waitangi i te marama o Paenga-whāwhā i te tau 1987, i haere Te Poari ki ngā whiriwhiringa tuatahi i te taha o te Karauna i te tau 1989. I whakahaerea e Te Poari he hātepe whakamana kōkiri i te marama o Pipiri i te tau 1997.

E whitu ngā hui ā-iwi i whakatūria i Te Puke, i Maketū, i Rotoiti, i Awahou, i Matatā, i Rotorua, i Reporoa hoki. I roto i ngā nūpepa o te takiwā, o te rohe hoki ngā pānui mō te hui e whakamārama ana i te whakaaro o Te Poari kia whiwhi i a ia te mana kōkiri o Te Arawa ki te whiriwhiri whakataunga Tiriti mō ngā Roto o Te Arawa. Nā ngā whakataunga i tautokona i ngā hui ā-iwi katoa Te Poari i whakatūturutia hei rōpū tika mō te iwi me ngā pānga hapū ki ngā Roto o Te Arawa, ā, ki te whiriwhiri whakataunga mō te iwi me ngā hapū mō ō rātou kerēme Tiriti ki ngā roto.

Nā Te Poari tētahi whakaaetanga mana kōkiri whānui i whakatakoto ki te Karauna i te 2 o Hakihea 1997. I aro matawaitia e te Karauna me te hoatu wāhi ki te katoa ki te kōrero i ō rātou whakaaro. Whai atu ana i te pānuitanga o te whakaaetanga mana kōkiri, e rima ngā tono i whiwhi e te Karauna mō ētahi kape ki te whakaaetanga, i whiwhi reta hoki e tautoko ana i te mana kōkiri, ā, i whiwhi uiui mai i ngā mea o Ngāti Tarāwhai, o Ngāti Māhino, o Ngāti Rangitīhi mō te whai wāhi a te iwi me ngā hapū ki ngā whiriwhiringa mō ngā pānga ki tētahi ake roto. Nā te Karauna te mana kōkiri o Te Poari i whakaae ki te whiriwhiri i ngā roto me te kerēme utunga ā-tau mō Te Arawa i te marama o Hakihea 1998. I kī mai Te Poari ki a mātou i tono ia i muri atu kia whakatūturutia te mana kōkiri i ngā hui i te tau 2000, 2002, 2003, 2004 o muri atu hoki. I whakatūturutia te mana kōkiri i ngā hui nei.

I pātaitia te mana kōkiri o Te Poari Māori o Te Arawa e ētahi kaiwhakatakoto tāpaetanga. I kī ngā mea o Ngāti Whāoa, kāore he mana kōkiri i te Poari ki te tū mō rātou, ā, kāore hoki Te Poari e kaha ki te whakaputa ake i ngā tuhinga mō te hui o te tau 1997 i mea rā a ia, ko tērā te hui i whiwhi ai ia i te whakaae o Ngāti Whāoa. I kī hoki ngā mea o Ngāti Māhino, kāore rātou i tautoko i tētahi mana kōkiri mō Te Poari, ā, kāore a Ngāti Māhino e tukua e te hātepe ki te whakauru ki ngā whiriwhiringa wehe. I kī hoki a Ngāti Rangitīhi, kāore ngā whakamārama i tae pai atu ki a ia i te wā e tū ana te hātepe mana kōkiri, ā, kāore tōna mana kōkiri i Te Poari.

Ko tētahi take nunui i whakatakotoria e ngā mea o Ngāti Whaoa ko te mana kōkiri kei Te Poari Kaitiaki ki te tū hei māngai mō rātou; i kī a ia chara Te Poari i tana māngai. I mea mai Te Tari Whakatau Take E Pā Ana ki te Tiriti o Waitangi ki a mātou, kāore te Karauna i whiwhi pānui mai i a Ngāti Paoa i te wā e tū ana te hātepe kei te ātete a ia i ngā hātepe a Te Arawa, kei te ātete rānei i te mana kōkiri i whiwhi e Te Poari.

I te marama o Whiringa-ā-rangi 2004, ka whakatakotoria e Matua Charters he tono mō tētahi pakirehua kaikā e pā ana ki tētahi kerēme i komoa ki Te Rōpū Whakamana i te Tiriti o Waitangi mō te whakataunga (Wai 837) o ngā Roto o Te Arawa. Ko te whakapae a te tono, kāore ngā mahi a te Karauna i te wā e whiriwhiri whakaaetanga whakataunga ana mō ngā Roto o Te Arawa i te taha o Te Poari Māori o Te Arawa i ōrite ki ngā mātāpono o te Tiriti o Waitangi. Ko te mea māharahara rawa atu, ko te whakurunga o Roto o Ōpouri, Ngāpouri rānei ki roto i te whakataunga ahakoa te mana kōkiri o Ngāti Whaoa kāore i a ia. I tono ētahi atu kaikerēme (Wai 911, 1217, 1227 me 1228) ki Te Rōpū Whakamana i te Tiriti o Waitangi mō tētahi whakawātanga kaikā o ō rātou kerēme me te kī anō ko rātou te māngai o Ngāti Whaoa. I te 23 o Pipiri 2006 ka whakatau Te Rōpū Whakamana i te Tiriti o Waitangi, kāore ā rātau tono i te whakaaetia. I pērā ai tana whakatau nā ngā taunakitanga tae atu ki ngā tuhinga me ngā whakataunga o te Kōti Whenua Māori e hāngai ana nā Kaiwhakawā Fox i arotake, nā tētahi pūrongo hoki nā Te Rōpū Whakamana i te Tiriti o Waitangi i tono kia tuhia (arā, te pūrongo a Melvin). Nā, mō te mana kōkiri kei te Te Poari. I kī a Kaiwhakawā Fox nā ngā taunakitanga a ia i tino whakapono ai nā te katoa te mana kōkiri o Te Poari Kaitiaki i whakarite, ā, e pai ana te pupuri.

Ki Te Poari, kāore noa iho he whakarerekētanga ki te whakataunga e hiahiatia ahakoa ngā māharahara o Ngāti Whaoa. Ki tana whakapono anō, ka whai painga tonu a Ngāti Whaoa i roto i te whakataunga, ā, ka kaha tonu a ia ki te whai wāhi i runga i te Poari Kaitiaki o ngā Roto. I mea mai Te Poari ki a mātou ki a ia nei, chara te tāpaetanga a Ngāti Mākinō nā te katoa o Ngāti Mākinō. Ki tana anō hoki, kāore te tāpaetanga i āta whakatakotoria ki tētahi hui ake a Ngāti Mākinō. Ki Te Poari, puta noa i te hātepe whakataunga te kitea o ngā pānga o Ngāti Mākinō. I kī mai Te Tari Whakatau Take E Pā Ana ki te Tiriti o Waitangi, kāore te Karauna i whiwhi pānui mai i tētahi rōpū tae atu ki a Ngāti Mākinō e kī ana, kei te ātetenga ngā hātepe a Te Arawa, te mana kōkiri rānei a Te Poari.

I kite mātou i whiwhi reta te Karauna mai i a Ngāti Mākinō e uiui ana i te whai wāhitanga o te iwi me ngā hapū ki ngā whiriwhiringa mō tētahi ake roto.

Ki Te Poari chara te tāpaetanga a Ngāti Rangitihī nā te katoa. I kī mai a ia, puta noa i te hātepe whakarite mana kōkiri tēnei mea te whakamārama i whakaputaina paitia ki a Ngāti Mākinō. Ki Te Poari anō kua oti kē ngā māharahara o Ngāti Rangitihī te kōkiri, ā, he rite anō ki ērā a Ngāti Whaoa me Ngāti Mākinō.

I te wā o te hātepe i tino mea Te Minita mō ngā Kōwhiringa Take Tītirii ki ngā hapū e toru ka āta tūtiro a ia kei te whakauru iwi, hapū takitahi hoki Te Poari ki ngā kōrerorotanga mō ngā roto e tino whai tikanga ana ki a rātou. I te ngata Te Tari Whakatau Take E Pā Ana ki te Tiriti o Waitangi i kaha rawa atu te whakauru a Te Poari i te iwi me ngā hapū katoa o Te Arawa ki roto i ngā whiriwhiringa kerēme mō ngā roto. He māngai tā Ngāti Mākinu me Ngāti Rangitūhi i runga i Te Poari. Kāore tā Ngāti Whaoa. He take māharahara tēnei ki a Nāhinara.

I kite Te Puni Kōkiri i te pai rawa atu o ngā pānui mō ngā hui ā-iwi. Tua atu hoki, i tautokona he whakataunga i ia hui ā-iwi, ā, atu i te marama o Hakihea 1997 ki te Hakihea o te 1998, kāore he rōpū i tua atu i mea ko ia te māngai o ngā uri o ngā hapū o Te Arawa i roto i te kerēme mō ngā Roto o Te Arawa. Kua kite hoki te komiti i te mahi a Te Puni Kōkiri ki te whakawhiwhi tohutohu mō te Whakaaetanga Mana Kōkiri, mō te hātepe whakatūturu hoki.

Te Poari Kaitiaki o ngā Roto o Te Arawa

He poari kaitiaki wehe kē Te Poari Kaitiaki o ngā Roto o Te Arawa e mahi ana i raro i tōna ake whakaaetanga kaitiaki. Whakarōpū ai te whakaaetanga kaitiaki i ngā hapū me te iwi o Te Arawa ki raro i ngā rohe e toru. I taketake mai ngā Rohe nā ngā here noa o te whakapapa o ia hapū o tēnā rohe me tēnā rohe ki tētahi o ngā tūpuna e toru, arā, a Te Kawatapuārangī, a Te Ure o Uenukukopako, a Tuhourangi hoki. E toru ngā kaitiaki ka pōtitia mō ia rohe, ko ngā iwa nei te katoa o ngā kaitiaki mō Te Poari Kaitiaki o ngā Roto. Ko Te Poari Kaitiaki te māngai mō Te Arawa i runga i Te Rōpū Rautaki mō ngā Roto o Rotorua. He rōpū whakahaere ā-toru tēnei, arā, ko Te Poari Kaitiaki o ngā Roto, ko Environment Bay of Plenty, ko Te Kaunihera ā-Rohe o Rotorua.

E ai ki ngā whakaritenga o te Whakaaetanga Whakataunga, i whakamanatia he rōpū whakahaere ā muri whakataunga. Nō te 22 o Here-turi-kōkā 2005 Te Poari Kaitiaki o ngā Roto i whakatūria ai hei rōpū whakahaere mō ngā Roto o Te Arawa ka mutu ana Te Poari.

I kī mai Te Poari ki a mātou, he kumeroa, he mahi kimi tohutohu te hātepe whakatinana rōpū whakahaere ā muri whakataunga. I tūmata mai ngā kōrerorero mō tētahi hātepe i te hui i te tau 1997. I tū ētahi atu hui i te tau 2003, me te tau 2004 mō ngā momo rōpū whakahaere pea. I kī Te Poari i kōrerotia ētahi ake tauira i te hui i te marama o Haratua 2004 nā tētahi kaitakawaenga wehe kē i whakahaere. Heoi, kāore ētahi mema o te komiti i pai ki tēnei. Whai muri atu ana i te hui, me te pūrongo hoki a te kaitakawaenga wehe kē, ka whakatūria e Te Poari he wānanga, ā, ka whakaritea he tauira whakatūturu kotahi i reira. Ka whakatakotoria te tauira nei i te tau 2005 kia whakatūturutia. I kī Te Poari, ahakoa i whakahēngia te tauira e ētahi ki a ia nei, ko tērā te hanga tika rawa atu hei rōpū whakahaere ā muri whakataunga.

I uru atu te tauira kotahi i tūtohungia mō Te Poari Kaitiaki o ngā Roto ki tōna wāhanga whakatūturu mutunga i te tau 2005 whai atu ana i te mahi kimi tohutohu i te taha o Te Arawa. Nā Te Poari taua tauira i whakahiato. I roto anō i te mahi nei ngā rārangi hui, e whā i tū ki te takiwā o Rotorua, e toru atu i Tāmaki-makau-rau, Te Whanga-nui-a-Tara me Ōtautahi hoki. I raro i ngā tirohanga o Te Puni Kōkiri te ono o ngā hui e whitu i whakahaerea. E 182 te katoa o ngā tāngata i tae ki ngā hui nei. I kite Te Puni Kōkiri i te tuwhera me te tōkeke o ēnei hui. I kite anō hoki i te māharahara o ētahi ki te hātepe kimi tohutohu, ā, ki taua hunga me te mea nei kua tatū kē ngā tūtohu a Te Poari me te aha hoki, he moumou wā noa iho te kōrerorero i tua atu.

I tū te mahi pōti rōpū whakahaere ā muri whakataunga i te marama o Pipiri me te marama o Hōngongoi 2005. I tukua he kawenga pōti ki te 9,206 o ngā pākeke o Te Arawa i rehita. Ō te 9, 206 kawenga pōti i tohaina, ko te whakaatu a ngā mea i hoki mai, e 3, 286 i pōti. He pikinga o te 416 o ngā kaipōti e tika ana ki te pōti, te whakaatu mai a tēnei ki a mātou. Nā ngā rehita tangata i tua atu anō hoki i pēnei ai. I roto i tēnei ngā pepa pōti me tētahi tuhinga whakatūturutanga e whakarāpopoto ana i ngā whakaritenga whakahaere kei te whakaarotia. Nō te 10 o Pipiri 2005 te tauira nei i whakamanatia ai.

I uiuitia e ētahi kaiwhakatakoto tāpaetanga te hātepe whakatūnga me te anga o te rōpū whakahaere ā muri whakataunga, arā, Te Poari Kaitiaki o ngā Roto a Te Arawa. Nā ngā mea o Ngāti Mākinu, o Te Whetereihana Mana Whakahaere Māori o Te Arawa, o Te Rūnanga o Ngāti Rangiteaorere, o Ngāti Rangiuuora, Ngāti Rongomai rānei, o Waitaha iwi, o Ngāti Whakauē me Ngāti Rangiteaorere ngā māharahara mō te kaupapa ture o ngā rohe e toru i raro i ngā ingoa o ngā tūpuna e toru i whakaara ake. Ko ētahi i whakapono ka katia ētahi hapū, iwi ririki rawa rānei ki te rohe nā te toru anake o ngā māngai ka taea te pōtitia ki runga i Te Poari Kaitiaki o ngā Roto. Nā ngā mea o Ngāti Mākinu, o Te Rūnanga o Ngāti Rangiteaorere, o Ngāti Whakauē, o Ngāti Rangiteaorere i uiuitia te hātepe whakatū i Te Poari Kaitiaki o ngā Roto, me tā ratou mea anō, i iti rawa ngā kōrerorerotanga mō te rōpū whakahaere ā muri whakataunga. Nā ngā mea o Ngāti Mākinu, o Te Rūnanga o Ngāti Rangiteaorere, o Ngāti Whakauē me Ngāti Rangiteaorere hoki te mahi a te Karauna i roto i te whakatūrangā o Te Poari Kaitiaki o ngā Roto i uiui.

I mea mai Te Poari Kaitiaki ki a mātou, ko te whakanoho i te kaupapa ture o ngā rohe e toru i raro i ngā ingoa o ngā tūpuna e toru i runga i ngā rohe tuku iho a te iwi me ngā rohe whenua o Te Arawa te mea tika hei wehewehe i a rātou. I kōrero anō mō te huhua o ngā hapū, iwi hoki, ā, mehemea ka whiwhi māngai ia hapū, ia iwi, ia marae i runga i te rōpū whakahaere kua nui rawa, kua piki ngā utu whakahaere me ērā āhuatanga katoa. E ai ki Te Poari Māori o Te Arawa nā ngā pakeke o Te Arawa i whakarite mā ngā tūpuna e toru, mā Te Ure o Uenukukopako, mā Te Kawatapuārangi me Tuhourangi hoki ngā rohe tuku iho mō te iwi o Te Arawa e whakarite i runga anō i ngā whakapapa me ngā pānga hitori. I whakatakotia te tauira whakarite māngai mā ngā tūpuna e toru ki a Te Arawa whānui i ngā momo hui kimi tohutohu. Ko te tohutohu a Te Poari Kaitiaki ki a mātou, ka kaha tonu ngā hapū katoa o Te Arawa ki te whakapapa ki tētahi o ngā tūpuna e toru nei.

Ki Te Poari, ko te mea nui rawa atu mō te katoa o Te Arawa e tuku kerēme ana mō ngā roto i raro i te whakataunga, ko tā rātou whiwhi māngai i runga i Te Poari Kaitiaki; mārama ana tēnei hiahia a te hapori kaikerēme o Te Arawa i pā ki ngā taringa o Te Poari. Nā te huhua o ngā hapū, iwi hoki o Te Arawa me ō rātau momo rahi hoki, kāore ngā tauira maha mō te whakarite māngai e whakamahia ana e ētahi atu iwi i pai mō Te Arawa.

Kei roto i te Whakaaetanga a Te Poari Kaitiaki o ngā Roto o Te Arawa he wahanga e mea ana me arotake Te Poari i tana anga (tae atu ki te pūtake whakatūtū māngai) me ngā mahi i roto i te rua tau mai i te rā whakataunga. Ko tēnei whakaratonga, he wāhi e whakaae ana ki ngā māharahara me pēhea ngā hapū, iwi hoki whiwhi māngai ai i runga i Te Poari Kaitiaki o ngā Roto, ā, hoatu wāhi anō hoki mō te torotoro i ētahi atu anga whakahaere. E āta tono ana hoki tētahi wāhi o te arotake, kia haere Te Poari Kaitiaki o ngā Roto o Te Arawa ki roto i tana iwi ki te rapu i ō rātau whakaaro, kanohi ki te kanohi. Mā tetahi kaitakawaenga wehe kē ngā hui e karanga. Māna hoki ngā tāpaetanga e whakahiato, ā, e whakatakoto tūtohunga ā tōna wā.

I mea mai Te Tari Whakatau Take E Pā Ana ki te Tiriti o Waitangi me Te Puni Kōkiri ki a mātou i ngata ki te rautaki a Te Poari mō inoi atu ki a Te Arawa mō ō rātau whakaaro ki te rōpū whakahaere ā muri whakataunga kei te whakaarotia. I oti pai, i tutuki pai hoki tērā. I rite tahi tā rāua kī mai ki a mātou, mehemea i puta he paku kōrero e mea ana i roto te Karauna i te hātepe whakatūtū rōpū whakahaere ā muri whakataunga, kāore rawa atu tērā i te tika. Kei Te Poari kē tērā mana, ā, nāna te hātepe i whakahaere, kāore he paku tohutohu mai i te Karauna.

I mea mai Te Tari Whakatau Take E Pā Ana ki te Tiriti o Waitangi i noho te ara i whāia e Te Arawa ki roto i ngā tawha kaupapa here whānui a te Karauna mō ngā Rōpū Whakahaere ā Muri Whakataunga, ā, ko te tikanga o tērā, ka tōtika rawa atu ngā mahi whakahaere a Te Poari Kaitiaki o ngā Roto o Te Arawa mō te iwi o Te Arawa, ā, ka taea e ia ngā putanga e hiahiatia ana mō te whakataunga o ngā roto mā te whakatau tika, mā te mārama, mā te whai māngai.

I te māharahara te komiti mō ngā kōrerotanga e pā ana ki te rōpū whakahaere ā muri whakataunga nā te kotahi anake o te tauira. I te kaitakawaenga o te hātepe mō Te Poari Māori o Te Arawa te whānuitanga o ngā tauira i puta ake i ngā kōrerorero engari kāore i whakaputaina ki te katoa. Mehemea i pērātia, kua kore kē pea ngā māharahara i puta ake ki te komiti. Kāore tēnei māharahara i pā ki Te Rōpū Reipa.

A Ngāti Whaoa me te Roto o Ngāpourī, Ōpourī rānei

I kī te tāpaetanga a Matua Richard Charters mō Ngāti Whaoa nā te whānau anake o Rika te Roto o Ōpouri. I whakatauhia tēnei e te whakawhiwhinga a te Kōti Whenua Māori o ngā whenua i te tau 1887 huri noa i te Roto o Ōpouri ki a Ngāti Whaoa tae atu ki te roto. E hiahia ana a Matua Charters kia whakahokia te Roto o Ōpouri ki ngā tāngata nō rātou ake te whenua i te tuatahi, kia kua hoki te ingoa o te Roto o Ōpouri, o Ngāti Whaoa rānei e whakahuatia i roto i te pire.

Ko te Roto o Ōpouri kei roto i te whaitua whenua e mōhiotia nei ko Rotomahana Parekarangi Nama 3A1B, ā, he wāhanga o te 200,000 eka i mua o te whaitua o Rotomahana Parekarangi. I tiroirohia e Te Kōti Whenua Māori ngā tika i te tuatahi ki te rohe o Rotomahana Parekarangi i te tau 1882. Nā Tuhourangi me Ngāti Wāhiao te katoa o te whaitua i kerēme engari i ātetetia kahangia e ētahi atu kaikerēme tae atu ki a Ngāti Whaoa me Ngāti Tahu. I whakawhiwhia e te Kōti he whenua ki a Ngāti Whaoa me Tuhourangi i te tekihana o te whaitua e taka atu ana ki roto i te rohe o Paeroa. I whakaae atu hoki te Kōti ki ngā kerēme a Ngāti Tahu me Ngāti Rahurahu i tētahi rohe tata atu ki tērā i tohaina ki a Ngāti Whaoa.

Nā te whakataunga a Kaiwhakawā Fox mō te tonono mō tētahi whakawātanga kaikā i ngā tonono a Ngāti Whaoa e pā ana ki te Roto o Ōpouri kua arotakengia, kua whakarāpopotonga hoki ngā pūkete Kōti Whenua i nā noa nei. I te whakamutunga o tana whakataunga i pēnei āna kōrero, arā, ‘ahakoa nā te Kōti Whenua Māori ngā whenua o Rotomahana Parekarangi (ērā e karapoti ana i te Roto o Ōpouri) i wehewehe mā tētahi āhua i mau atu ai te Roto o Ōpouri, o Ngāpouri rānei ki roto i te whakawhiwhinga ki a Ngāti Whaoa i te tau 1887, kāore te tikanga o tēnei e taea te kī ko tā te Kōti i whakatūturu, i a Ngāti Whaoa ake te taitara ki te roto e ai ki te tikanga.

I pīratia ngā whakataunga a te Kōti, ā, ka whakawātia anō te tirohanga o te taitara ki te whaitua mō ngā marama e rima i te tau 1887. I taua tirohanga, ka kite te Kōti i kerēme tahi a Ngāti Whaoa, a Ngāti Tahu me Ngāti Rahurahu mō aua whenua. I taea e Ngāti Whaoa me Tuhourangi te kī pono i a raua te taitara ki ngā whenua i Paeroa, ā, nā tērā ka takoto te whakatau kia wehea te whaitua kia rua ai. He rite te wāhi ki a Ngāti Whaoa, he rite anō ki a Tuhourangi. Ko te wāhi i whakawhiwhia ki a Ngāti Whaoa ko Rotomahana Parekarangi Nama 3 i te rangi nei. Nā Āporo Apiata, te kaikerēme mō Ngāti Whaoa, tētahi rārangi ingoa o ngā rangatira ki Rotomahana Parekarangi Nama 3 i hoatu ki te Kōti. I ātetengia taua rārangi e ētahi atu o Ngāti Whaoa. E rua ngā ingoa nō Tuhourangi i tangohia mai, ā, i whakamātau ētahi ki te tāpiri ingoa atu ki te rārangi nō Ngāti Tahu, nō Ngāti Whaoa rānei, nō Ngāti Tahu anake rānei.

Ki a Kaiwhakawā Fox, ko tā te Kōti i whāia, ‘kō tēahi ara whakatūpatō’, i te mea, ko taua hunga anake o te rārangi i whakatakotoria tōmuatia ki te aroaro o te Kōti ngā mea i whakaurua. Nā, ko te hua o tēnei, e 73 i whakaetia e te Kōti hei rangatira mō Rotomahana Parekarangi 3. I mea anō hoki a Kaiwhakawā Fox, ‘he tino take tērā te inaki o ngā

kaikerēme mō te Roto o Ōpouri, Ngāpouri rānei, ā, kei te tino ora tonu taua take'. I pēnei tana whakamārama i te whakataunga o ngā roto i te tau 2004, arā, ka pēnei tana whakamāramami a ia he hātepe te whakataunga o ngā roto o te tau 2004 he hātepe, 'ka taea ngā pānga katoa mō te Roto o Ōpouri e ai ki te tikanga te whakaaetia me te whakaurua ki roto i ngā kerēme āmuri ake'.

I tere tonu tētahi wāhi paku o Rotomahana Parekarangi 3 te wehea hei whaitua mō tētahi kura. Ko Rotomahana Parekarangi 3A te mutunga mai o te toenga. I whakatakotoria e Ramarihi Tānara he tono i te tau 1896 kia whakaroherohetia a Rotomahana Nama 3A. I whakaaetia tērā, ā, ka wehewehea a Rotomahana Parekarangi Nama 3A. Ko Tekihana 1, 2 me te 3 Nama 3A te mutunga mai. I kaha te mea ake a te Kōti, kāore āna whakawehenga i whakatakotoria i raro i te pūtake tuku iho.

I te tau 1899, ka whakaroherohetia anō a Rotomahana Parekarangi Nama 3A1, ā, ka puta ko te whaitua Nama 3A1A me te whaitua Nama 3A1B. I whakawhiwhia te whaitua 3A1B o te 2,509 eka, 2 hauwhā eka, 11 rima haurua iari ki a Hēnare Werahiko me te 25 o ētahi atu. I te tau 1915, i hokona mai e te Karauna te whaitua Parekarangi 3A1B i ōna rangatira. I taua tau anō, ka whakapuakina te whenua e ai ki tekiona 368 o te Ture Whenua Māori o te tau 1909 hei whenua Karauna. Ki te whakatūturu mehemea i whakaurua a Roto Ōpouri ki roto i a Rotomahana Parekarangi 3A1B i te wā i hokona e te Karauna, ka tīkina e te Karauna he kamupene rūri whenua ki te tiro tiro i te take. Ko tā rātou tohutohu i runga i ngā mahere e hāngai ana me te wāhi o ngā roto e mōhiotia ana, e ai ki te inenga o te rohe mō ngā whaitua i runga i te mahere i whakaaetia e te Kōti Whenua Māori i te wā i whakaroherohetia ai, me kī i whakaurua te roto.

I pēnei te tohutohu a Te Tari Whakatau Take E Pā Ana ki te Tiriti o Waitangi ki a mātou, e ai ki te ture, he pātai anō kei reira mehemea he wāhanga te Roto o Ōpouri o te taitara ki te whaitua o Rotomahana Parekarangi 3A1B, kāore rānei. He tino tautohe tēnei, ā, mehemea ka taea e te Karauna te kī he tika mana tūturu tōna i raro i te ture noa, ki te whānui o ngā roto, mehemea rānei he pānga rangatiratanga tō ngā rangatira e noho ana i te taha o te roto ki ngā takere o te roto i raro i te akoranga *ad medium filum aquae*.

I te tau 1918, e rua ngā tono i whakatakotoria ki te aroaro o te Kōti Whenua Māori hei wāhi o ngā kerēme mō ngā roto o Te Arawa, mō tētahi tirohanga ki te taitara mō te Roto o Ōpouri. Nā Mita Taupopoki (te kaikōrero mō Tuhourangi i te tirohanga o te taitara i te tau 1887 a te Kōti mō te whaitua o Rotomahana Parekarangi), nā Hira Rangimātini, nā Hāmiora Pōhiri me Rēnati Maika Rangipūaiō te tono tuatahi i haina i te 20 o Paenga-whāwhā i te tau 1918. I whai ake te tono tuarua i roto i tētahi reta mai i a Matua Mōrehu Kirikau ki te Kōti e tono ana kia tirohia te taitara o ngā roto 13 me tērā hoki mō te Roto o Ōpouri, Ngāpouri rānei. I tuhia te reta i te 22 o Paenga-whāwhā i te tau 1918. Heoi, me te mea nei i kore rawa taua taitara ki te roto i tirohia.

E ai ki Tekiona 27(1) o te Ture Whakatikatika Whenua Māori me te Ture Whakatikatika i ngā Kerēme o te tau 1922, ko te Roto o Ngāpouri (ko tērā hoki tana ingoa i taua wā) ‘he rawa a ia nā te Karauna, kāore ōna herenga ki te taitara Māori e ai ki te tikanga mehemea tētahi i reira’. Nā ngā ture i whakahuatia i runga ake nei te whakaaetanga o te tau 1922 i whakamana.

I mea mai Te Poari, ki tana whakaaro, kāore te kerēme wehe a Ngāti Whaoa i whai mana. I kaha hoki tana mea mai, ko taua kerēme te pūtake o tētahi pakirehua āmiki a Te Rōpū Whakamana i te Tiriti o Waitangi ki te whakatau i tā Ngāti Whaoa tonu mō te kaikā, ā, i whakaurua hoki ki roto i tētahi pūrongo wehe kē (arā, te Pūrongo a Melvin). I kaha mahi anō te mea a Te Poari, ko te whakaotinga a taua pūrongo i a Ngāti Whaoa te tika me te wā ki te whai wāhi ki ngā hātepe whakataunga, ā, ka pēra tonu a ia. Tua atu hoki, i kite Te Poari chara a Ngāti Whaoa i te hapū anake he pānga ōna ki te Roto o Ōpouri, ā, he uri hoki a ia o te whakataunga i te mea nō Te Arawa a ia.

Kua kite mātou, kāore he wāhi i roto i te Whakaaetanga Poari Kaitiaki, i te pire rānei mō te hapū ki te uru atu ki ngā mahi whakahaere o tētahi ake roto. Ko te tohutohu ki a mātou mai i Te Tari Whakatau Take E Pā Ana ki te Tiriti o Waitangi, ko te hātepe arotake o te tau rua ki tana whakaaro, te wā hei whai ake i tēnei take. Kāore Te Rōpū Kākāriki me Te Pāti Māori i te whakaae, he oranga kei roto i te hātepe arotake hei whakangāwari i ngā āwangawanga kua whakaputaina e ētahi o Ngāti Whaoa.

Te utunga ā-tau me te whakatika hapa ā-pūtea

I whakaritea e te whakataunga tētahi whakatika hapa ā-pūtea me tētahi whakatika hapa ā-tau ki a Te Arawa. Hui katoa ai tēnei korahi ki te 10 miriona taara (arā, te whakatika hapa ā-pūtea o te 2.7 miriona taara, ā, me te whakatika hapa ā-tau o te 7.3 miriona taara).

Ka hāngai te whakatika hapa ā-pūtea ki ngā takahitanga o te whakaaetanga o te tau 1922 a te Karauna. I whakaritea te whakatika hapa ā-pūtea mō ngā wā kāore i arotakengia, kāore i whakapikingia te utunga ā-tau ki ngā taumata e tika ana, tāpae atu ki te kore whakarato a te Karauna i ngā raihana hī ika e tika ana ki a Te Arawa.

I whakatūria te utunga ā-tau i te tuatahi hei wāhanga o te whakaaetanga o te tau 1922, ā, e 6 mano pāuna te korahi o tēnei utunga ā-tau. Kāore tēnei korahi i āta whakaaetia kia arotakengia, kia whakatikaina kia kore ai te wāriu o te moni e mahuea ki waho. Kua whakaae te Karauna nā tana kore arotake i te utunga ā-tau ka whati i a ngā mātāpono o te Tiriti i te wā i ngāro ai te wāriu. Ka hāngai te 7.3 miriona taara o te whakatika hapa ā-tau ki ētahi āhuatanga e rua o te utunga ā-tau. Ko te tikanga o tēnei pūtea, he whakakī i te wāhi o te ritenga e mea ana ka piki haere te korahi o te utunga mai i tōna tīmatanga, tatū rawa ki

tōna whakataunga; ka ea ngā take katoa e pā ana ki te utunga ā-tau, pērā ki ērā e hāngai ana ki te wā atu i, ā, tac atu ki te 21 o Mahuru i te tau 1992.

Ko te kōrero mai a Te Tari Whakatau Take E Pā Ana ki te Tiriti o Waitangi me Te Puni Kōkiri, i whiriwhiria wehenga ia whika, ā, i tātū wehe. He roa, he ōrite te wā e whiriwhiri tahi ana.

Ki te whakaaro o ngā mea o Ngāti Mākinō, o Puamīria, o Te Rūnanga o Ngāti Rangiteaorere, o Ngāti Hinekura, o Ngāti Rangiuuora, Ngāti Rongonui rānei, o Waitaha Iwi, o Te Poari Kaitiaki o Pukeroa Ōruawhata, o Ngāi Whakauē, o Ngāti Rangiteaorere me Ngāti Rangitihī hoki, kāore te utunga ā-tau me te whakatika hapa ā-pūtea i rahi rawa. E ai ki te whakaaro noa kei tēnā, me tēnā ā tōna wā e kitea ai te ririki rawa o te 10 miriona taara i te taha o te whika e whakaarotia ana hei whakatika i ngā paruparu o ngā roto. Ko te tohutohu a Te Tari Whakatau Take E Pā Ana ki te Tiriti o Waitangi ki a mātou, kāore te whakaaro ki te whakatika i ngā hapa whakaparuparu, tūkinō rānei i te taiao i roto i ngā whakataunga Tiriti, ā, ehara te whakatika hapa o te 10 miriona taara mō te whakapaipai i ngā roto.

E tautoko ana ngā mema o Te Pāti Māori me Te Rōpū Kākāriki ki ngā māharahara nā ngā kaiwhakatakoto tāpaetanga i whakaara ake, kāore te utunga ki a Te Arawa mō ngā whatinga ki te Tiriti i rahi rawa.

Te paruparu haere o ngā roto

I whakaputaina e Ngāti Mākinō, e Puamīria Maaka, e Ngāti Hinekura, e Te Ahi Kaa Roa o Maketū, e Ngāti Rangiuuora, e Ngāti Rongomai, e Waitaha Iwi, e Te Poari Kaitiaki o Pukeroa Ōruawhata, e Ngāti Tamakai hoki ngā momo māharahara mō te kounga ā-taiao o ngā roto. Ki a rātou nei, me kua ngā takere moana e whakawhitia mai i te wā e noho kino nei, ā, nō te Karauna te hē i pēnei ai nā tana kore whakatakoto kaupapa here hei whai atu mā ngā kaunihera ā-rohe, ā, kei runga i te Karauna te mahi ki te whakapaipai i ngā roto. Ki a Environment Bay of Plenty, mā te Karauna hoki te mahi ki te whakapaipai i ngā roto me tana kī anō, ehara mā Te Arawa te whakaparuparutanga o ngā roto e utu.

I tohutohu mai Te Tari Whakatau Take E Pā Ana ki te Tiriti o Waitangi, ehara ngā whakataunga take Tiriti mō te whakatika i ngā hapa whakaparuparu, whakatūkinō hoki i te taiao. I te wā nei, kei ngā tikanga whakahaere taiao ā-rohe, ā-motu te mahi nei, ā, ka haere tonu ā rātou mahi hei te whakataunga ā muri ki te whakapaipai i ngā roto o Te Arawa. Mārama ana hoki te whakatau i roto i te pire, ehara mā Te Arawa te mahi utu i tētahi tūkinotanga nā tētahi mahi a ngā Kaitiaki o ngā Roto o Rotorua i āta whakaarotia e rātou, i puta heahea noa iho, i mahue ki waho, i wareware rānei.

He wāhi kei roto i te whakataunga mō te Rōpū Rautaki o Rotorua ki te whakahaere i ngā roto; heoi, ehara māna te mahi whakapaipai i aua roto. Kei roto i te Rōpū nei he māngai nō Environment Bay of Plenty, nō Te Kaunihera ā-Rohe o Rotorua, nō Te Arawa hoki. Ko tāna kaupapa, he:

‘hoatu wāhi ki te whakatairanga i te whakahaere o ngā roto o Rotorua me ngā wāhi hopu wai kua āta whakahuatia kia mau tonu ai mō ngā tipuranga o nāianei, ā muri ake hoki hei whakamahi, hei pārekarekatanga mā rātou, ā, kia mōhio ai hoki rātou ki te hononga tuku iho o Te Arawa ki ō rātou roto tipu me te hoatu wāhi mō tēnei.’

Ka kaha te rōpū ki te whakatakoto tūtohunga ki ngā rōpū o tōna taha, ā, kei a ia hoki te mana whakahaere o te 11 o ngā roto o Te Arawa engari, kāore mō te Roto o Ōpouri, Ngāhewa, Tutaeinanga hoki i te mea, kei raro kē ēnei i te mana whakahaere o Environment Waikato. Ko te tohutohu a Te Tari Whakatau Take E Pā Ana ki te Tiriti o Waitangi me Te Tari o te Waha Kōrero Ture Pāremata ki a mātou, ka haere tonu te mahi whakahaere i ngā roto nei (me ērā o ngā roto 11) ā muri whakataunga i te mea, kei raro aua roto i te wā nei i te maru o te Ture Penapena Rawa o te tau 1991.

Ko te whakaatu a Te Tari Whakatau Take E Pā Ana ki te Tiriti o Waitangi ki a mātou, e ai ki te pūrongo 2004, arā, *Te Hōtaka Whakamaru, Whakaora Ake Anō i ngā Roto o Rotorua*, nā te Komiti Rautaki Mahitahi o ngā Roto i whakaputa, kei te whaitia ake ngā raruraru e pā ana ki te kounga o te wai o ngā roto o Te Arawa. I raro i tēnei hōtaka kua whanaketia he mahere mahi mō te Roto o Ōkareka, Ōkaro, Rotoehu, Rotorua me Rotoiti hoki hei whai ake i ngā raruraru e pā ana ki te kounga o te wai. E 7.2 miriona taara te pūtea kua whakaritea e Te Manatū mō te Taiao ki te whakapaipai i te Roto o Rotoiti.

I rongu mātou i ētahi pūrongo engari he kōrero noa iho mō te pupūtanga o te utu ki te whakapaipai i ngā roto katoa me te whakahōu i ngā mea para hamuti. E 200 miriona taara te whakatau tata. Ko te tohutohu a Te Poari Kaitiaki ki a mātou, i whakaae takitaro a Environment Bay of Plenty me te Kaunihera ā-Rohe o Rotorua ki te utu i te haurua o tēnei pupūtanga.

Te wehenga o ngā takere roto mai i ngā wai

E ai ki te whakaritenga i tatū i waenganui i te Karauna me Te Arawa i te tau 1922, nā te Karauna ngā Roto o Te Arawa (tae atu hoki ki ō rātou takere), te oneone ō-raro me te wai, te takiwā hoki i runga ake o ngā roto. Kāore te Whakaaetanga o te tau 1922 i te mārara mō te wehenga o te takere roto me te wai, te takiwā hoki i runga ake o ngā roto mehemea nā te Karauna ngā roto. E ai ki ngā whakaritenga o te ture noa, ehara te mana o te wai ake nā tētahi. I roto i te pire, kei te whakawhitia te taitara o ngā takere moana ki a Te Arawa, ā, ko te wai me te takiwā i runga ake o ngā roto – e mōhio tahitia nei ko te ‘Kaupapa a te Karauna’, ka noho tonu ērā mea ki te Karauna. I te mea ko tēnei te āhua i te wā nei, ehara te wai nā tētahi. Kō tēnei te āhua i te wā nei. Ka riro mā ngā kaunihera ā-rohe e hāngai ana ngā wai o ngā roto e whakahaere tonu i raro i Te Ture Penapena Rawa o te tau 1991.

Nā ngā mea o Ngāti Māhino, nā Puamiria Maaka, nā ngā mea o Te Rūnanga o Ngāti Te Rangiteaorere, o Ngāti Hinekura, o Ngāti Rangiuuora, Ngāti Rongomai rānei, o Waitaha Iwi, o Ngāi Whakauē me Ngāti Te Rangiteaorere te māharahara i whakaputa, e whakawehea ana e te whakataunga ngā takere moana mai i ō rātou wai, ā, nā te mahi pērā, kāore ngā roto i te whakawhitia katoatia. Ko tā rātou e whakapuaki ana, kāore ngā roto e taea te whakawehea pērātia, e whakahaerea tika tonu rānei i te wā e toru kē ana ngā wāhanga o tō rātou rangatiratanga (arā, te rangatiratanga mō te takere roto, mō te wai me te takiwā hoki i runga ake o ngā roto). I kī ngā kaituku tāpaetanga ki a rātou nei, ko te taonga, arā, ko ngā roto tērā, kāore e tika kia wehewehengia, ā, me kore kē te whakataunga i whai i taua ara.

I whakaatu mai Te Tari Whakatau Take E Pā Ana ki te Tiriti ki a mātou, i te wā e whiriwhiritia ana te whakataunga i te taha o Te Arawa, ko tētahi o ngā whāinga matua a te Karauna, ko tana whakamaru i ngā pānga o te katoa, ā, i āhua tutuki tēnei mā te waiho i te rangatiratanga o te wai me te takiwā i runga o ngā roto ki te Karauna. Mā te noho o te rangatiratanga o aua mea ki te Karauna, i te wā e hiahia he tangata kē ki te whakahaere āhuatanga arumoni hōu, ki te waihanganga āhuatanga hōu rānei ki runga, ki roto i ngā roto rānei, ko te tikanga me whiwhi i a ia te whakaae o te Karauna me Te Arawa hoki. Heoi, me kua te whakaae o tētahi taha, me tētahi rānei, e kaiponutia mō te koretake noa iho.

I mea mai anō Te Tari Whakatau Take E Pā Ana ki te Tiriti ki a mātou, i te wā e whiriwhiringia ana ngā wāhanga o te whakataunga mō te rangatiratanga, i whakaae a Te Arawa me te Karauna i te tika te rangatiratanga o te wai me te takiwā i runga ake o ngā roto, ā, e kaha ai hoki te whakatutuki ngā pānga o te katoa mā roto i te Karauna me Te Arawa.

Te mana whakahaere o Environment Waikato

Ahako te pā o te pire ki ngā Roto 14 katoa o Te Arawa, i roto kē te roto o Ngāpouri, Ōpouri rānei, o Ngāhewa me Tutaeinanga i te mana whakahaere o Environment Waikato me te Kaunihera ā-Rohe o Rotorua. I roto ērā o ngā roto 11 o Te Arawa i te mana whakahaere o Environment Bay of Plenty me te Kaunihera ā-Rohe o Rotorua. Ko te mea i hua mai, kāore ngā pānga o Te Arawa i ngā roto e toru i raro i te mana whakahaere o Environment Waikato e whakaawe e te Rōpū Rautaki o ngā Roto o Rotorua.

I mua i te whakaaetanga o te Whakataunga o ngā Roto o Te Arawa i waenganui i te Karauna me Te Arawa, ka whakatūria he Komiti Mahitahi Rautaki o ngā Roto o Rotorua, ā, ko ngā mema o taua komiti he māngai nō Te Poari Kaitiaki o Te Arawa, nō Environment Bay of Plenty, nō te Kaunihera ā-Rohe hoki o Rotorua. Ehara i te komiti tū roa ana, whakakore ai i a ia whai atu ana i ia pōtitanga kaunihera ā-toru tau me te whakatū anō i a ia. Ko te mahi a te whakataunga he whakamana i te komiti mahitahi hei Rōpū Rautaki o ngā

Roto o Rotorua, he whakapūmau i a ia, he hoatu wāhi ki a Te Arawa ki te tū mema i te mea nōna tērā tika.

Kāore he whakaritenga pēnei e pā ana ki ngā Roto e toru a Te Arawa i roto i te mana whakahaere o Environment Waikato. Kāore a Te Arawa i rapu ki te whakapūmau whakaritenga o tērā momo i te wā o te whiriwhiringa. Nā rāua tahi ko Te Tari Whakatau Take E Pā Ana ki te Tiriti me Te Tari Waha Kōrero Ture Pāremata te tohutohu mai ki a mātou, kāore te tikanga whakahaere i ngā roto e whakaaweatia e te whakataunga. E ai ki Wāhanga 11 o te Ture Penapena Rawa o te tau 1991 me whai whakaaro a Environment Waikato ki te Tiriti o Waitangi me ngā uara o Te Arawa ki ō rātou papatipu, waitipu hoki. I whakamārama mai anō Te Tari Whakatau Take E Pā Ana ki te Tiriti o Waitangi ki a mātou, ka kaha a Te Arawa me Environment Waikato ki te whakauru ki roto i tētahi whakaritenga rite ki tērā mō te Rōpū Rautaki o ngā Roto o Rotorua mehemea ki te whakaaro a ia he painga kei roto.

I mea mai Te Poari ki a mātou, kāore a ia i kōrero ki a Environment Waikato mō te whakahaere o ngā roto e toru ā muri whakataunga i roto i tana mana whakahaere. I kī mai anō hoki Te Poari, i tino tonono a ia ki te Karauna kia tino haere a ia ki a Environment Waikato. Heoi, nā te kaha āki mai a te Karauna kei te mau tonu i Te Poari he hononga ōkawa ki a Environment Waikato.

Tāpiritanga

Te hātepe a te komiti

I tonoa mai Te Pire Whakataunga o ngā Roto o Te Arawa ki te komiti i te 4 o Haratua i te tau 2006. Ko te 31 o Haratua i te tau 2006 te rā i kati ai ngā tāpaetanga. E 20 ngā tāpaetanga i whiwhi, i whakaaroarotia hoki e mātou mai i ngā rōpū me ngā takitahi e whai pānga. I rongo mātou i te 17 o ngā tāpaetanga tae atu hoki ki te whakatū whakawātanga i Rotorua. I whiwhi tohutohu mātou mai i Te Tari Whakatau Take E Pā Ana ki te Tiriti o Waitangi.

Ngā mema o te komiti. Ko

Dave Hereora (Heamana)

Tākuta Pita Sharples (Heamana Tuarua)

Gerry Brownlee

Hōnore Tau Hēnare

Hōnore Mahara Okeroa

Pita Paraone

Hōnore Mita Ririnui

Hōnore Georgina te Heuheu

Mētīria Tūrei

Te Arawa Lakes Settlement Bill

Recommendation

The Māori Affairs Committee has examined the Te Arawa Lakes Settlement Bill. The majority recommends that it be passed unamended.

Introduction

This bill gives effect to the Deed of Settlement dated 18 December 2004 in which the Crown and Te Arawa agree to a final settlement of all Te Arawa's historical claims relating to the 14 Te Arawa Lakes and the related annuity issues. It also records the acknowledgements and apology made by the Crown to Te Arawa in the deed.

In considering this bill we have been mindful of the constraints placed on us by the rules relating to the consideration of legislation to confirm agreements, such as settlements of Treaty grievances and international agreements. These mean that neither a select committee nor the committee of the whole House can substantively amend such bills in a manner that is not acceptable to the parties to the deed or treaty being implemented. We are also constrained by the scope rule as prescribed by Standing Order 288(2). Bills that implement international treaties or deeds of settlement of claims under the Treaty of Waitangi have a particularly narrow scope. Any amendments recommended must be consistent with the treaty or the deed concerned.

Te Arawa Lakes

The 14 lakes covered in the bill are those subject to the agreement between Te Arawa and the Crown that was given effect by the Native Land Amendment and Native Land Claims Adjustment 1922, namely Ngāhewa, Ngāpourī/Ōpourī, Ōkareka, Ōkaro/Ngākaro, Ōkātaina, Rerewhakaaitu, Rotoehu, Rotoiti, Rotomā, Rotomahana, Rotorua, Tarawera, Tikitapu, and Tutaeinanga.

Summary of submissions

The committee received 20 submissions. Of these, 18 submissions opposed the bill, and two supported the bill.

Process of settlement

The Te Arawa Māori Trust Board lodged a claim (Wai 240) with the Waitangi Tribunal in April 1987. The amended statement of claim lodged in 1991 related to

- the introduction of foreign fish species and discharges to the lake
- the issuing of fines for fishing without a licence

- the Crown's presumption of legal title to the lakes before it entered into an agreement with Te Arawa over ownership of the lakes in 1922, which Te Arawa consider negated Te Arawa's customary title and eroded its right to full and undisturbed possession of their lands, lakes, and fisheries
- delays in the Native Land Court title investigation to the lakes and the Crown's conduct during the negotiations of the 1922 agreement
- the Crown making statutory and regulatory amendments to the 1922 agreement without reference to Te Arawa
- the Crown's failure to adjust the annuity to take into account inflation.

Instead of engaging in a Waitangi Tribunal inquiry, the Te Arawa Māori Trust Board entered into preliminary negotiations with the Crown in 1989. In 1997 the Crown agreed to make an exception to the Crown's comprehensive policy and agreed to negotiate a settlement on a Te Arawa-wide basis separate from the other claims of Te Arawa iwi. The Trust Board submitted a deed of mandate to the Crown on 2 December 1997. The Te Arawa Māori Trust Board on behalf of Te Arawa signed the Deed of Settlement with the Crown on 18 December 2004. This provided redress to Te Arawa to effect the settlement of all the historical claims of Te Arawa in relation to the 14 Te Arawa Lakes. The settlement consists of

- cultural redress, including the transfer of 13 lakebeds (Lake Ōkaro is currently vested in the Rotorua District Council) and provisions regarding the strategic management of the lakes
- financial redress of \$2.7 million
- annuity redress of \$7.3 million (being the capitalisation of the annuity payments provided for in the 1922 agreement and settlement of any annuity issues)
- an agreed historical account, an acknowledgement of breaches by the Crown of the Treaty of Waitangi and its principles, and an apology from the Crown based on these acknowledgements.

The process of ratifying the deed took place between October and December 2004. Seven information hui organised by the Trust Board were held at Rotorua (3), Maketū, Lower Hutt, Auckland, and Christchurch. Te Puni Kōkiri was present at these hui and noted that they were open, transparent, and fair, and that in their view no concerns were raised with the ratification process for the Deed of Settlement.

On the basis of 2001 Census of Population and Dwellings figures, Te Arawa had around 40,000 members. Voting packs were distributed to all 8,790 registered adult members of Te Arawa. Of the 8,790 voting packs that were distributed, returns indicate that 4,480 people voted. These packs included voting papers and a ratification package explaining the terms of the Crown's settlement. In addition, the Trust Board advertised the process widely in newspapers and on television and radio. During this process the Trust Board operated a special register to enable unregistered members of Te Arawa to register before voting closed.

Mandate of Te Arawa Māori Trust Board

The Te Arawa Māori Trust Board was established following the 1922 agreement between the Crown and Te Arawa. After the Trust Board's claim to the Waitangi Tribunal (Wai 240) in April 1987, the Trust Board went into preliminary negotiations with the Crown in 1989. A mandating process was undertaken by the Trust Board in June 1997.

Seven hui a-iwi were held at Te Puke, Maketū, Rotoiti, Awahōu, Matatā, Rotorua, and Reporoa. Advertisements for the hui were placed in local and regional newspapers, outlining the intention of the Trust Board of obtaining the mandate of Te Arawa to negotiate a Treaty settlement for the Te Arawa Lakes. Resolutions passed at all the hui a-iwi confirmed that the Trust Board was the appropriate body to represent iwi and hapū interests in the Te Arawa Lakes and to negotiate on behalf of iwi and hapū a settlement of their Treaty claims in respect of the lakes.

The Trust Board presented the Crown with a comprehensive deed of mandate on 2 December 1997. The Crown assessed the deed and gave the public an opportunity to comment on it. Following advertising of the deed of mandate, the Crown received five requests for copies of the deed, one letter expressing support for the mandate, and inquiries from members of Ngāti Tarāwhai, Ngāti Mākino, and Ngāti Rangitīhi about iwi and hapū participation in negotiations regarding interests in specific lakes. The Trust Board's mandate to negotiate the lakes and annuity claim on behalf of Te Arawa was recognised by the Crown in December 1998. The Trust Board told us that it sought later confirmation of the mandate at subsequent hui in 2000, 2002, 2003, and 2004. The mandate was confirmed at these hui.

A number of submitters questioned the mandate of the Te Arawa Māori Trust Board. Members of Ngāti Whaoa said that the Trust Board does not have a mandate to act on its behalf, and that the Trust Board cannot produce the minutes of the 1997 hui where it claims to have secured Ngāti Whaoa's consent. Members of Ngāti Mākino also said that it did not endorse any mandate of the Trust Board, and that the process does not allow Ngāti Mākino to enter into separate negotiations. Ngāti Rangitīhi has also said that it was not well-informed during the process of mandate, and that the Trust Board did not have a mandate to act on its behalf.

A major issue presented by members of Ngāti Whaoa is the mandate of the Trust Board to act on its behalf; it said that the Trust Board is not representative of Ngāti Whaoa. The Office of Treaty Settlements told us that the Crown did not receive notice from Ngāti Whaoa during the mandating process contesting Te Arawa's processes or the mandate obtained by the Trust Board.

An application for an urgent inquiry regarding a claim lodged with the Waitangi Tribunal concerning the Te Arawa Lakes settlement (Wai 837) was filed by Mr Charters in November 2004. The application alleged that the Crown, in negotiating a deed of settlement for the Te Arawa Lakes with the Te Arawa Māori Trust Board, acted inconsistently with the principles of the Treaty of Waitangi. Of particular concern was the inclusion in the settlement of Lake Ōpouri/Ngāpouri without the mandate of Ngāti Whaoa. Other Waitangi Tribunal claimants (Wai 911, 1217, 1227, and 1228) claiming to represent Ngāti Whaoa also applied for an urgent hearing of their claims. On 23 June 2006 the Waitangi Tribunal issued a decision declining the application for urgency. The decision

was based on Judge Fox's review of the evidence, including the relevant minutes and judgments of the Native Land Court, and a Tribunal-commissioned report (the "Melvin Report"). Regarding the Trust Board's mandate, Judge Fox stated that the evidence filed had convinced her that the Trust Board's mandate to represent Te Arawa had been collectively determined and well maintained.

The Trust Board does not believe that any changes to the settlement are warranted on the basis of the concerns of Ngāti Whaoa. It also believes that Ngāti Whaoa will benefit from the settlement and will retain the ability to participate on the Lakes Trust. The Trust Board told us that it considers the submission made on behalf of Ngāti Mākinō is not representative of all Ngāti Mākinō. It also said that the submission was never put formally to a hui of Ngāti Mākinō. The Trust Board considers that Ngāti Mākinō's interests have been represented throughout the settlement process. The Office of Treaty Settlements told us that the Crown did not receive notice from any party, including Ngāti Mākinō, contesting Te Arawa's processes or the mandate obtained by the Trust Board.

We note that the Crown did receive letters from Ngāti Mākinō making inquiries about iwi and hapū participation in the negotiations for specific lakes.

The Trust Board said that it considers the submission of Ngāti Rangitihī is not representative. It told us that Ngāti Rangitihī was kept well-informed throughout the process of determining the mandate. The Office of Treaty Settlements believes that these concerns of Ngāti Rangitihī have been addressed and are similar to those of Ngāti Whaoa and Ngāti Mākinō.

During the mandating process the Minister in charge of Treaty Negotiations reassured all three groups that they would ensure that the Trust Board involved individual iwi and hapū in any discussions of lakes that are of special significance to them. The Office of Treaty Settlements was satisfied that the Trust Board made a commitment to involving all of the iwi and hapū of Te Arawa in negotiations over the lakes claim. Ngāti Mākinō and Ngāti Rangitihī each have a representative on the Trust Board, Ngāti Whaoa does not. National considers this is a matter for concern.

Te Puni Kōkiri noted that the hui a-iwi were well advertised. Also that the mandate resolution was passed at each hui a-iwi and that from December 1997 to December 1998 no other groups claimed to represent the interests of beneficiaries of Te Arawa hapū in the Te Arawa Lakes claim. The committee notes that the role of Te Puni Kōkiri was to provide advice on the Deed of Mandate and the ratification process.

Te Arawa Lakes Trust

The Te Arawa Lakes Trust is a private trust operating in accordance with its trust deed. The trust deed groups constituent hapū and iwi of Te Arawa under three rohe. The rohe are based on the common whakapapa ties of each hapū in each rohe to three tūpuna, Te Kawatapuārangi, Uenukukopako, and Tuhourangi. Three trustees will be elected from each rohe, the total nine constituting the membership of the Lakes Trust. The Lakes Trust will represent Te Arawa on the Rotorua Lakes Strategy Group. This is a tripartite body comprising of the Lakes Trust, Environment Bay of Plenty, and the Rotorua District Council.

In accordance with the requirements of the Deed of Settlement, a post-settlement governance entity was ratified. The Lakes Trust was established on 22 August 2005 to succeed the Trust Board as the mandated governance body for the Te Arawa Lakes.

The Trust Board told us that the process of developing a post-settlement governance entity was consultative and prolonged. The process was originally discussed at hui in 1997. Further hui on possible governance entities were held in 2003 and 2004. The Trust Board said that specific models for a post-settlement governance entity were discussed at hui in May 2004, which were conducted by an independent facilitator. However, some members of the committee do not accept this. Following the hui and the independent facilitator's report, the Trust Board held a wānanga, at which a single model was decided upon to put out for ratification. This model was put forward for ratification in 2005. The Trust Board commented that although there were some objections to the model, it considered that it was the most appropriate form for a post-settlement governance entity.

The recommended model for the Lakes Trust, developed by the Trust Board following consultation with Te Arawa, entered the final stages of ratification in 2005. It included a series of hui, four in the Rotorua district and three others in Auckland, Wellington, and Christchurch respectively. Six of the seven hui were conducted under the scrutiny of Te Puni Kōkiri. These hui were attended by a total of 182 people. Te Puni Kōkiri noted that these hui were conducted openly and fairly. It also noted that some participants voiced concern over the consultation process and that at that time the Trust Board's recommendations appeared predetermined and that further discussion would be pointless.

Voting on the post-settlement governance entity was conducted in June and July 2005. A voting pack was sent to 9,206 registered Te Arawa adults. Of the 9,206 voting packs that were distributed, returns indicate that 3,286 people voted. We note that there was an increase of 416 eligible voters as a result of additional registrations. This included voting papers and a ratification document summarising the proposed governance arrangement. The proposed model was ratified on 10 June 2005.

A number of submitters questioned the establishment process and structure of the post-settlement governance entity, the Te Arawa Lakes Trust. Members of Ngāti Mākino, Te Arawa Federation of Māori Authorities, Te Rūnanga o Ngāti Rangiteaorere, Ngāti Rangiuuora/Ngāti Rongomai, Waitaha Iwi, Ngāti Whakauē, and Ngāti Rangiteaorere raised concerns over the constitution of the three rohe under the names of the three tūpuna. Some believed that some smaller hapū or iwi could become marginalised in a rohe as each rohe could elect only three representatives to the Lakes Trust. Members of Ngāti Mākino, Te Rūnanga o Ngāti Rangiteaorere, Ngāti Whakauē, and Ngāti Rangiteaorere questioned the process by which the Lakes Trust was established, claiming that discussion of a post-settlement governance entity was limited. Members of Ngāti Mākino, Te Rūnanga o Ngāti Rangiteaorere, Ngāti Whakauē, and Ngāti Rangiteaorere questioned the role of the Crown in the establishment of the Lakes Trust.

The Trust Board told us that the constitution of the three rohe under the names of the three tūpuna was a logical division based on the traditional tribal and geographical boundaries of Te Arawa. It also told us that, given the large number of hapū and iwi within Te Arawa, providing for one representative per hapū, iwi, or marae, could be problematic as regards the logistics and costs of operating a governance entity. The three tūpuna Te

Kawatapuārangi, Uenukukopako, and Tuhourangi determine the traditional boundaries for the Te Arawa people, which were based on whakapapa and historical interests determined by Te Arawa elders, according to the Te Arawa Māori Trust Board. The representation model based on the three tūpuna was presented at various consultation hui to Te Arawa whānui. The Trust Board have advised us that all Te Arawa hapū can whakapapa to one of the three tūpuna.

The Trust Board considers that it is important that all Te Arawa whose lakes claims are settled by the settlement be represented on the Trust; this was the clear message the Trust Board received from the Te Arawa claimant community. Given the large number of iwi and hapū that make up Te Arawa, and their varying sizes, many models of representation used by other iwi were not appropriate for Te Arawa.

The Te Arawa Lakes Trust Deed includes a provision requiring the Trust to review its structure (including the basis of representation) and operations within two years of the settlement date. This provision is in part a recognition of concerns about how hapū and iwi are represented on the Lakes Trust, and it will allow other structures to be explored. As part of the review the Lakes Trust will be required to engage with Te Arawa and seek their views. An independent facilitator will convene hui, compile submissions, and ultimately make recommendations.

The Office of Treaty Settlements and Te Puni Kōkiri told us that they are satisfied that the Trust Board's strategy of inviting discussion and seeking Te Arawa's views on the proposed post-settlement governance entity was thorough and well executed. Both the Office of Treaty Settlements and Te Puni Kōkiri told us that they consider that any suggestion of Crown influence on the process and establishment of the post-settlement governance entity is unfounded. The Trust Board was the mandated body, and managed the process without direction from the Crown.

The Office of Treaty Settlements told us that the approach taken by Te Arawa was within the Crown's general policy parameters for Post-Settlement Governance Entities, and will mean that the Lakes Trust operates effectively to represent Te Arawa and further the intended outcomes of the lakes settlement by providing full accountability, transparency, and representation.

With the exception of the Labour Party members, the committee are concerned that the discussions around a post-settlement governance entity was solely about one model. The facilitator of the process for the Te Arawa Māori Trust Board offered a range of models from the discussions that had taken place, but these were not canvassed with hapū of Te Arawa at all. It is suggested that such a discussion of models may well have allayed many of the concerns presented to the committee.

Ngāti Whaoa and Lake Ngāpouri/Ōpouri

Mr Richard Charters' submission, made of behalf of Ngāti Whaoa, states that Lake Ōpouri was discretely owned by the Rika whānau. This ownership was acknowledged by the 1887 Native Land Court's award to Ngāti Whaoa of lands around Lake Ōpouri, including the lake. Mr Charters wants Lake Ōpouri returned to its original owners, and any reference to Lake Ōpouri or Ngāti Whaoa removed from the bill.

Lake Ōpouri is situated within the land block known as Rotomahana Parekarangi No 3A1B, which was part of the original 200,000 acre Rotomahana Parekarangi block. The Native Land Court initially investigated rights in the Rotomahana Parekarangi area in 1882. The entire block was claimed by Tuhourangi with Ngāti Wahiao, but their claim was heavily contested by other claimants, including Ngāti Whaoa and Ngāti Tahu. The court awarded Ngāti Whaoa and Tuhourangi land in the section of the block that falls within the Paeroa area. The court also recognised claims from Ngāti Tahu and Ngāti Rahurahu in an area adjacent to that allocated to Ngāti Whaoa.

The Land Court records have recently been reviewed and summarised by Judge Fox in her decision on the application for an urgent hearing of Ngāti Whaoa's claims in respect of Lake Ōpouri. Judge Fox concluded in her decision that "while the Native Land Court divided the Rotomahana Parekarangi lands (surrounding Lake Ōpouri) in a manner whereby the Ngāti Whaoa award in 1887 captured Lake Ōpouri/Ngāpouri, this cannot mean that the court confirmed that exclusive customary title to the lake was with Ngāti Whaoa."

The court's decisions were appealed and a rehearing of the investigation of the block's title took place over five months in 1887. The court noted that Ngāti Whaoa, Ngāti Tahu, and Ngāti Rahurahu claimed the same lands. It found that both Ngāti Whaoa and Tuhourangi could prove title to the Paeroa lands, and determined to divide the block into two equal portions. Ngāti Whaoa were awarded the portion that became Rotomahana Parekarangi No 3. The claimant for Ngāti Whaoa, Āporo Apiata, handed the court a list of owners for Rotomahana Parekarangi No 3. That list was challenged by other Ngāti Whaoa. Two Tuhourangi names were taken off the list and there were attempts to have other people, who were either Ngāti Tahu and Ngāti Whaoa or solely Ngāti Tahu, added to the list.

The court took what Judge Fox has called "a cautious approach" and admitted only those from a list previously presented to the court. As a result 73 people were approved by the court as owners of Rotomahana Parekarangi No 3. Judge Fox noted that "the issue as to whether there are overlapping claimants to Lake Ōpouri/Ngāpouri is still very much a live one," and described the 2004 lakes settlement as a process whereby "all the customary interests in Lake Ōpouri can be recognised and accommodated into the future".

A small area was immediately divided out of Rotomahana Parekarangi No 3 to become a school block. The remainder of the land became Rotomahana Parekarangi No 3A. In 1896, an application was made by Ramarihi Tānara for the partition of Rotomahana No 3A. The partition was granted and the block was divided into Rotomahana Parekarangi No 3A Sections 1, 2, and 3. The court stressed that its divisions had not been made on an ancestral basis.

Rotomahana Parekarangi No 3A1 was partitioned again in 1899, creating the No 3A1A and No 3A1B blocks. The 3A1B block of 2,509 acres 2r 11p was awarded to Hēnare Werahiko and 25 others. In 1915 the Crown purchased Rotomahana Parekarangi No 3A1B block from its owners. In the same year the land was declared to be Crown land pursuant to section 368 of the Native Land Act 1909. To confirm whether Lake Ōpouri was included within Rotomahana Parekarangi No 3A1B when it was purchased by the Crown, the Crown commissioned a surveying company to investigate the matter. Their advice based on the relevant plans, and the known area of the lakes, is that the area measurement for the

block shown on the plan approved by the Native Land Court in the partitions process can reasonably be expected to include the lake.

The Office of Treaty Settlements advised us that legally there is some question as to whether Lake Ōpouri was part of the Rotomahana Parekarangi No 3A1B block title. This is essentially a dispute as to whether the Crown could assume prerogative rights at common law to ownership of extensive lakes, or whether riparian proprietors enjoyed ownership interests in lakebeds under the doctrine of *ad medium filum aquae*.

In 1918, as part of the Te Arawa Lakes claims, two applications were filed in the Native Land Court for an investigation of title into Lake Ōpouri. The first application, dated 20 April 1918, was signed by Mita Taupopoki (who had been the Tuhourangi spokesman in the Court's 1887 title investigation into the Rotomahana Parekarangi block), Hira Rangimātini, Hāmiora Pōhiri, and Rēnati Maika Rangipūaiō. The second application followed in a letter dated 22 April 1918 from Mr Morehu Kirikau to the court, which requested the investigation of title to 13 lakes, including Lake Ōpouri. However, it appears that title to the lake was never investigated.

Section 27(1) of the Native Land Amendment and Native Land Claims Adjustment Act 1922, which gave effect to the 1922 agreement, declared Lake Ngāpourī (as it was then known) to be the “property of the Crown, free and discharged from the Native customary title, if any”.

The Trust Board told us that it does not consider that Ngāti Whāoa's separate claim is valid. It emphasised that the claim has been subject to a detailed inquiry by the Waitangi Tribunal in determining its application for urgency, which included an independent report (the “Melvin Report”). The Trust Board emphasised that this report concluded that Ngāti Whāoa had the right and opportunity to take part in the settlement processes, and will continue to do so. In addition, it found that Ngāti Whāoa was not the sole hapū with interests in Lake Ōpouri, and that it will be a beneficiary of the settlement as a descendant of Te Arawa.

We note that there is no provision in the Trust Deed or the bill for hapū to exercise any management over specific lakes. The Office of Treaty Settlements have advised us that it considers the two year review process to be an opportunity to address this issue. The Green Party and Māori Party does not agree that the review process provides any relief for the concerns expressed by members of Ngāti Whāoa.

Annuity and financial redress

The settlement provides for both financial and annuity redress to Te Arawa. This is a combined amount of \$10 million (financial redress of \$2.7 million, and annuity redress of \$7.3 million).

The financial redress recognises historical breaches of the 1922 agreement by the Crown. The figure recognises the fact that there were periods when the annuity was not reviewed and increased proportionately to inflation, and the Crown's failure to allocate adequate numbers of fishing licenses to Te Arawa.

The annuity was originally established as part of the 1922 agreement, and set at £6,000 per annum. It was never formally agreed that this amount would be reviewed and adjusted to address inflation. The Crown has acknowledged that its failure to review the annuity when it materially lost value was a breach of the Treaty and its principles. The \$7.3 million for annuity redress addresses two aspects of the annuity. This amount is intended to capitalise the hypothetically adjusted annuity from the date of the deed to settlement; and it settles any annuity issues such as those relating to the period from and including 21 September 1992.

The Office of Treaty Settlements and Te Puni Kōkiri assured us that each figure was negotiated separately and arrived at independently. They were both negotiated equitably over a long period.

Members of Ngāti Māhino, Puamāria Maaka, Te Rūnanga o Ngāti Rangiteaorere, Ngāti Hinekura, Ngāti Rangiuuora/Ngāti Rongomai, Waitaha Iwi, Pukeroa Ōruawhata Trust, Ngāti Whakauē, Ngāti Rangiteaorere, and Ngāti Rangitahi believed that the financial and annuity redress were insufficient. A common view held was that \$10 million would prove very inadequate compared with the projected cost of cleaning up the lakes. The Office of Treaty Settlements advised us that Treaty settlements are not intended to address environmental degradation and pollution, and that the \$10 million redress was not intended to pay for cleaning up the lakes.

The Māori Party and Green Party members of the committee support the concern raised by submitters that the compensation quantum provided does not adequately compensate Te Arawa for Treaty breaches.

Degradation of lakes

Members of Ngāti Māhino, Puamāria Maaka, Ngāti Hinekura, Te Ahi Kaa Roa o Maketū, Ngāti Rangiuuora/Ngāti Rongomai, Waitaha Iwi, Pukeroa Ōruawhata Trust, and Ngāti Tamakari voiced various concerns regarding the environmental quality of the lakes. They believed that the lakebeds should not be transferred while they are contaminated, that the contamination was the Crown's fault as it had not properly regulated the local councils, and that there was an onus on the Crown to make a commitment to cleaning up the lakes. Environment Bay of Plenty also believes that the Crown should make a greater commitment to clean up the lakes, and emphasises that Te Arawa is in no way liable for the contamination of the lakes.

The Office of Treaty Settlements advised us that Treaty settlements are not intended to address environmental degradation and pollution. The environmental regulatory regime that exists at the local and national levels will continue to apply post settlement, and any existing obligations upon local and central government to clean up the Te Arawa Lakes will continue. The bill is also explicit that Te Arawa is only liable for contamination caused as a result of intentional or reckless act or omission, or negligent act of the Te Arawa Lakes Trustees.

The settlement makes provision for the Rotorua Lakes Strategy Group to manage the lakes; it is not, however, charged with responsibility for cleaning up the lakes. The Rotorua Lakes Strategy Group comprises representatives of Environment Bay of Plenty, the Rotorua District Council, and Te Arawa. Its purpose is to “contribute to promoting to the

sustainable management of the specified Rotorua lakes and catchments, for the use and enjoyment of present and future generations, and to recognise and provide for the traditional relationship of Te Arawa with their ancestral lakes”.

The group can make recommendations to its constituent parties and has jurisdiction over 11 of the Te Arawa Lakes, but not Lakes Ōpouri, Ngāhewa, and Tutaeinanga, because these lakes fall within the jurisdiction of Environment Waikato. We were advised by the Office of Treaty Settlements and Parliamentary Counsel Office that these lakes (as well as the other 11 lakes) will continue to be managed post settlement as they are currently under the Resource Management Act 1991.

We were informed by the Office of Treaty Settlements that the Te Arawa Lakes’ water quality problems are being dealt with, as set out in the 2004 report *The Rotorua Lakes Protection and Restoration Programme*, produced by the Lakes Joint Strategy Committee. Under this programme action plans have been developed for Lakes Ōkareka, Ōkaro, Rotoehu, Rotorua, and Rotoiti to address water quality problems. The Ministry for the Environment has committed \$7.2 million dollars to the clean up of Lake Rotoiti.

We heard unconfirmed reports that the total cost of cleaning all the lakes and upgrading existing sewerage facilities was estimated at \$200 million. The Trust Board advised us that Environment Bay of Plenty and the Rotorua District Council have provisionally agreed to pay half of this estimated amount.

Separation of lakebeds from waters

In the agreement reached between the Crown and Te Arawa in 1922, the Crown owns the Te Arawa Lakes (which includes their beds, the subsoil, and the water column and airspace above the lakes). The 1922 Agreement is not explicit over the separation of the lakebed from the water column and airspace, rather it is explicit that the Crown owns the lakes. In accordance with common law, nobody owned the actual water. In the bill the titles to the lakebeds are transferred to Te Arawa, and the water column and airspace—known collectively as the “Crown Stratum”—remain vested in the Crown. As is currently the case, no one will own the water. The waters of the lakes will continue to be managed by the relevant regional councils under the Resource Management Act 1991.

Members of Ngāti Māhino, Puamiria Maaka, Te Rūnanga o Ngāti Rangiteaorere, Ngāti Hinekura, Ngāti Rangiunuora/Ngāti Rongomai, Waitaha Iwi, Ngāti Whakauē, and Ngāti Rangiteaorere expressed concern that the settlement separates the lakebeds from their waters, so the lakes are not being transferred as a whole. They asserted that the lakes cannot be separated thus, or managed effectively while their ownership is separated into three parts (lakebed, water column, and airspace). The submitters said that in their view the taonga that is the lakes cannot be divided into parts, and that the settlement should not have taken that approach.

The Office of Treaty Settlements informed us that when negotiating the settlement with Te Arawa, one of the Crown’s principal objectives was to protect the public interest, and that this is partly achieved by retaining the water column and airspace in Crown ownership. The effect of the Crown retaining ownership of the water column and airspace is that generally when a third party wants to undertake a new commercial activity or build a new structure

on or in the lakes, the consent of both the Crown and Te Arawa would be required, however, the consent of either party cannot be unreasonably withheld.

The Office of Treaty Settlements told us that when negotiating the ownership provisions of the settlement, Te Arawa and the Crown agreed that Crown ownership of the water column and airspace above the lake beds was appropriate, and allowed the interests of the public, as represented by the Crown and Te Arawa, to be served.

Environment Waikato jurisdiction

Although the bill applies to all the 14 Te Arawa Lakes, Ngāpouri/Ōpouri, Ngāhewa, and Tutaeinanga are within the jurisdiction of Environment Waikato and the Rotorua District Council. The other 11 Te Arawa Lakes are within the jurisdiction of Environment Bay of Plenty and Rotorua District Council. As a result the Rotorua Lakes Strategy Group will not affect Te Arawa's interests in the three lakes in Environment Waikato's jurisdiction.

Before the Te Arawa Lakes Settlement was agreed between the Crown and Te Arawa, a Rotorua Lakes Strategy Joint Committee was formed, with membership comprising representatives from the Te Arawa Māori Trust Board, Environment Bay of Plenty, and the Rotorua District Council. The committee was not permanent, dissolving and reforming after every triennial local government election. The settlement formalises the joint committee as the Rotorua Lakes Strategy Group, makes it permanent, and provides for Te Arawa's membership as of right.

There is no similar arrangement regarding the three Te Arawa Lakes that fall within Environment Waikato's jurisdiction. Te Arawa did not seek to establish such an arrangement during negotiations. Both the Office of Treaty Settlements and Parliamentary Counsel Office advised us that the settlement does not affect the regulatory regime governing the lakes. Part II of the Resource Management Act 1991 variously requires Environment Waikato to have regard to the Treaty of Waitangi and the values of Te Arawa in respect of their ancestral lands and water. The Office of Treaty Settlements informed us that Te Arawa and Environment Waikato may enter into an arrangement similar to the Rotorua Lakes Strategy Group if it is considered beneficial.

The Trust Board told us that it had not discussed with Environment Waikato the post-settlement management of the three lakes within its jurisdiction. The Trust Board also said that it had requested the Crown to make a formal approach to Environment Waikato. However, with the encouragement of the Crown, the Trust Board has maintained a formal relationship with Environment Waikato.

Appendix

Committee process

The Te Arawa Lakes Settlement Bill was referred to the committee on 4 May 2006. The closing date for submissions was 31 May 2006. We received and considered 20 submissions from interested groups and individuals. We heard 17 submissions, which included holding a hearing in Rotorua. We received advice from the Office of Treaty Settlements.

Committee membership

Dave Hereora (Chairperson)

Dr Pita Sharples (Deputy Chairperson)

Gerry Brownlee

Hon Tau Henare

Hon Mahara Okeroa

Pita Paraone

Hon Mita Rinui

Hon Georgina te Heuheu

Mētiria Tūrei