



## 16

## BOUND TO THE LAND

MĀORI RETENTION AND ASSERTION OF  
LAND AND IDENTITY

Danny Keenan

Ko ngā Honotanga, a iwi a hapū a whānau, e whakapumautia  
ana te honongā o ngā mātua tūpuna me o ratou uri whakatipu.

Those things that bind Māori people together must remain unbroken, as are those  
things that bind our ancestors passed away to descendants yet unborn.

Turbulent change, substantially arising from colonisation, affected Māori at every level of society in the nineteenth century. Underpinning this was the transformation of the land into which Māori society and culture had long been firmly anchored. Māori people responded to this change in many ways, but perhaps most markedly by reaching back into ancient knowledge in order emphatically to locate a presence and legitimacy on the land. This chapter seeks to describe and explain these responses to changes over which Māori people often felt they had little control, especially as the land was slipping from their grasp. It focuses particularly on Taranaki and explores the persistence of such responses to the present day.

Māori expressed their responses to vanishing landscapes in many different forums, some of which were reasonably well reported. For example, there is the evidence available through the Native Land Court after 1865, especially the investigation of title hearings. There is also Compensation Court testimony of Māori people from those areas caught up by the land confiscations after 1863, in particular Taranaki, Tauranga, and the Waikato. The Compensation Court offered Māori an opportunity to argue a case for the return of land taken by the Crown, even though the process was seriously flawed, with Māori people seldom allowed to present testimony in a form consistent with Māori convention.

Paradoxically, however, it is possible to find within this court testimony indicators of how Māori sought to retain and assert connections between land and identity on the basis of ideas that were current then, and which largely remain intact today. For example, much of the court evidence has a certain narrative value about what was really happening to

people, kinship groups, boundaries, wāhi tapu (sacred areas), and ancient landscapes. One needs to be aware, however, of how the conventions of the marae were brought to bear upon such evidence, in order to obtain some sense of what was actually being said. Māori would have prioritised evidence in a certain way, mediating knowledge of the past through testimony with particular political considerations in mind. In so doing, Māori were trying to make some sense of what was happening to the land and to themselves.

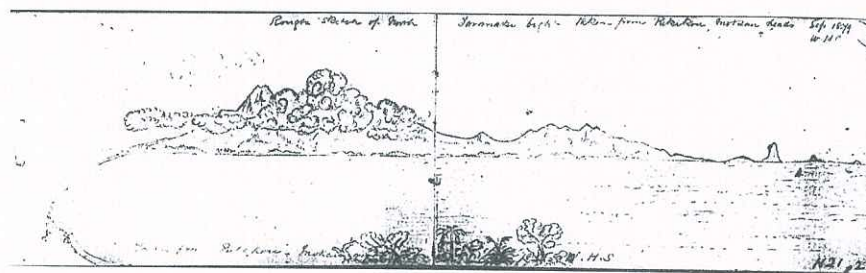
Substantial native land legislation enacted throughout the nineteenth century (see Chapter 3) impacted heavily upon Māori customary tenure, landholdings, and livelihoods. The Native Land Court was established for the express purpose of extinguishing native title. Hence Hugh Kawharu's description of it as the 'engine of destruction' or David Williams' more recent, softer preference—'Te Kooti Tango Whenua—The Land-Taking Court'.<sup>1</sup> Testimony in this court shows how Māori people responded to the court's impacts on their livelihoods, security of land ownership, settlements, cultivations, fishing grounds, and resource trails. Debates over who owned what, and who had primary access to which resources and which use rights, under customary law, are evident in great detail. There are even notes scrawled across the survey maps, as judges sought to disentangle competing claims. Much of this detail is today still recalled to a significant degree on the marae, from the paepae (the place where orators stand). It has also been brought to light by the Waitangi Tribunal, today's process for hearing claims of breaches of the Treaty of Waitangi.

## Taranaki narratives

This chapter focuses on Taranaki because it is the tribal district from which I descend, and I am following the convention that operates among Māori historians that 'one writes about one's own area'. This conforms to the general marae imperative that operates among all Māori—that one speaks from his or her own paepae. In Taranaki, tribunal hearings were always major occasions and important histories were heard. Most accounts of the past, however, were of a fairly recent origin, essentially addressing the land grievances of the nineteenth century. These were matters of considerable importance to the tribes of Taranaki. In 1991 I had an opportunity to contribute when I presented evidence on behalf of my hapū, Ngāti Te Whiti. We drew the tribunal's attention to a number of land issues arising from the early Wakefield settlement of New Plymouth after 1840.

When the first settlers arrived from England they generally saw the land as vast and hostile. Incessant rain seemed to exacerbate a difficult terrain. Many Europeans recorded their impressions of this 'wilderness', seeing it as primordial and intimidatory. The places over which Māori exercised mana whenua (absolute authority over the land) seemed instead to be untamed, awaiting purchase and intensive economic utilisation. Māori communities were often a physical constraint to such ambitions. Opportunities to negotiate accommodations with local Māori were overtaken by increasingly severe land disputes and ultimately war (Figure 16.1).





**Figure 16.1** 'Virgin country of great promise.' The North Taranaki coastline, 1879, looking south from Mokau towards Mount Taranaki (left) and the Ngamotu Islands, site of present-day New Plymouth (right). Sketch by W. H. Skinner, surveyor, ethnologist, and later founder of the Taranaki Museum. Fieldbook N21, p. 2, Department of Survey and Land Information, New Plymouth.

Before the tribunal we discussed how Ngāti Te Whiti responded to these circumstances, and we canvassed some alternative approaches to the researching and constructing of our hapū and tribal histories. I concluded that the material generated by the tribunal process, while significant when emphasising loss, was nonetheless interesting if utilised differently. Perhaps the stories of contact and interaction, of conflict and material loss, might be moved to the outer edges of the colonial contact narrative. If that were the case, then the question arose—what, or whose, story was one left trying to tell? If one is to get closer to how nineteenth-century Māori people themselves perceived the totality of environmental change and sought to relate to it in a positive way—since identity and mana are positive things—then one should be looking beyond the stories of contact, conflict, and deprivation.

But how could these histories of intense land conversion and dispossession be retold? An important clue lay in the Māori notion that constructions of the past should provide validation for the present. As Joe Pere of Rongowhakaata has argued, Māori histories and traditions should not be mere histories of convenience—they should enhance the importance of tribal ancestry, whakapapa (genealogy), karakia (prayer), waiata (song), poetry, and other cultural institutions as of right. They should, says Pere, 'give me the basis of my identity and my mana'.<sup>2</sup>

When recalling the past, it is customary for Māori to mediate history through certain traditions, always with a strong sense of identity, legitimacy, and mana to the fore. These mediated histories were always firmly located in specific historic landscapes, though these landscapes may have undergone marked and permanent change, and may even have slipped from the ownership of the people. In a sense, such assertions of identity and mana were as important as the history of how that land was changed and even lost. This type of approach gives a better sense of how Māori people responded to change. It even suggests how Māori sought to control the meanings of that change—or perhaps even to assert that no real change had occurred, but that continuities with pre-contact tradition had been preserved, as the whakatauki, or proverb, cited at the beginning of this chapter proposes.

The landscape was changed significantly, almost beyond recognition, for most Māori in the nineteenth century. Important customary and cultural markers on the land were removed as communities were destabilised. In response, Māori people represented themselves and their pasts as a validation of their descent, their historic occupation of the land, and their ongoing political activity. Much of the evidence used for this approach, which comes from a number of Taranaki kaumātua, lies primarily in its reconceptualising nature, not in its historical content. Often the processes of constructing a past are more interesting than the literal narratives we produce. Waitangi Tribunal material presented in Taranaki has therefore been extremely useful as it serves as an essential focus and conduit for observations about the nature of the Māori past as envisaged or as re-envisioned in Taranaki today.

The evidence produced by the claims process has revealed four major features of the response of Taranaki in particular, and Māori in general, to the rapid transformation of environment and landscape discussed in this book. First, iwi everywhere have been more concerned with retaining spiritual and legal links to particular pieces of land, or mana whenua, than with condemning change. Certainly there is disappointment and anger at the loss of traditional food sources, fouling of clean water, and blatant disregard of tapu sites and historically important places. But maintaining mana whenua has been paramount. Second, disruption began well before formal colonisation, because the musket wars of the 1820s and 1830s brought the mana whenua of Taranaki iwi under great pressure. Third, hapū, or family groups rather than iwi, increasingly bore the brunt of defending and maintaining mana whenua as disruption quickened with formal colonisation from 1840 and accelerated because of the confiscation policy and the operations of the Native Land Court from 1864. Claims consequently became more individualised, often down to whānau (family) level, and more localised. Fourth, the complexities caused by confiscation and subsequent compensation distorted history because of the clumsy attempts of government to define hapū as either rebellious or loyal.

### Mana whakapapa: binding people to the land

Assertions of mana whenua by Māori over ancestral lands after 1841 were activated through the authority of tribal whakapapa connections. These connections underpinned tribal and hapū activity as colonial pressures on land increased and new concepts of land tenure were enacted. The assertion of mana whenua often compelled tribes, hapū, and other kinship units to redefine their functional kinship bases in both customary and deliberate ways to sustain tribal claims to land in the wake of intense contest with the Crown. It was an activity validated over time by the tribe's mana and its history. It also reflected a certain expedient fluidity of Māori kinship structures, though these were nonetheless always fixed within the broadest context of conventional whakapapa relationships. These relationships were always held to be constant.

A feature of Taranaki history after 1830 was the intense competition for land. New settlers in Taranaki complained that they did not have sufficient pasturage for their flocks



and were 'dissatisfied with the Government and ill pleased with the Maories, who ... possess large tracts of land which they cannot occupy'.<sup>3</sup> But the basis of the tribal hold on land remained constant. Assertions of mana whenua over customary lands constituted a sense of attachment that was described by Chief Judge Eddie Durie of the Waitangi Tribunal as inherent in the 'vastly complex spiritual world through which Maori sought to maintain balance and harmony in his modification of the environment'.<sup>4</sup>

To Māori, the land was paramount. It was the foundation of social and economic life, and it also provided the cultural stability essential to survival. Every aspect of life for Māori could be anchored into the land, as mana whenua was exercised within a long-standing continuum of generations that, together, attached specific tribes, hapū, and other kinship units to specific localities. The exercise of such mana whenua was ongoing, particularly in situations of duress and conflict. This was especially so after 1841, when sporadic hostilities between new European settlers and tribes commenced. According to Wiremu Te Kupenga Kaha of Te Āti Awa, speaking in 1925, 'the tribes joined because of the obvious injustice of the Government. Wherefore they said these words, "Let the land be first and land afterwards"'.<sup>5</sup>

In the normal course of events, recognised subordinate kinship groups within a tribe might be numerous. Each hapū or whānau possessed a mana whakapapa of its own that connected it with others and located it into a well-known portion of the landscape. Such areas were well sustained within tribal histories and traditions. However, hapū and whānau in Taranaki generally recognised the tribe's superior mana whakapapa and rights. Such recognition implied a certain reciprocal relationship, empowering hapū and whānau to act in defence of tribal mana in certain circumstances, at the same time as it acknowledged the mana and rights of each entity. It operated more strongly in the north of Taranaki than in the south, where, among the 'Tokomaru confederation'<sup>6</sup> a clear basis for concerted activity functioned among the Te Āti Awa whānui tribes.<sup>7</sup> All tribes in Taranaki, however, recognised subordinate kinship groups, which 'acknowledged themselves bound to join the other sections in defending all or any part of the tribal estate from encroachment by strangers'.<sup>8</sup>

Whakapapa remained a key device of 'intellectual management' with increased utility where appropriate as a vehicle of a tribe's history.<sup>9</sup> Such devices attracted intense, if misdirected, colonial attention. As Durie has written, the courts 'did not appreciate the idiom, the customary predilections for synecdoche, where ancestors are used as symbolic of their descendants and posited as living at a later period, retrospectively'.<sup>10</sup> Notions of the past as reflected in whakapapa and the more expressive whaikorero (speech-making) therefore continued to 'reach back to bring (them) forward ... everything a Maori ever knew was memory ... it was all coming from behind, bringing it forward'.<sup>11</sup>

Such realities of the 'past in the present' were evident to the ethnographer, and advisor on Māori Affairs, I. L. G. Sutherland, following a visit to Māori settlements in Taranaki in the late 1940s. He observed that 'the past is still very real (here) ... the past is always nearer to Maoris than it is to Europeans'. He further observed that Māori districts where there was 'no heritage of war' were making great progress and were, in comparison with Taranaki, 'almost a half century ahead'.<sup>12</sup>

## Complications of earlier incursions

Less complex but equally current in tribal recall were the earlier catastrophic wars visited upon Taranaki from the hostile north. Incursions of Ngā Puhi, Ngāti Toa, and especially Waikato wreaked havoc throughout Taranaki for at least a generation, bearing heavily on land and people. Ferocious battles would end with the complete destruction of villages, people, and property. Exacting destruction on real or imagined enemies of the past through conquest seems to have been the primary motivation for conducting these fierce and arduous campaigns.

The taking of new land was not, therefore, necessarily a motive for the waging of war. Consequently, the Waikato tribes did not remain in occupation of conquered Taranaki lands long enough to constitute new title, or to extinguish the mana whenua of Taranaki whānui. The Church Missionary Society missionary and champion of Māori land rights Octavius Hadfield thought as much, declaring that Waikato had not held possession of Waitara. As a consequence, they had not acquired rights to it.<sup>13</sup> Nonetheless, incursions from the north impacted on coastal and inland papa kāinga almost as heavily as would the later European conversion of the ancient tribal landscape. At the time of the earliest Ngā Puhi and Ngāti Toa raids some local tribes also waged war on each other, continuing to fight out their own long-standing internecine conflicts. According to Ngāti Mutunga kaumātua Lou MacDonald, such wars and the ensuing migrations south—to the Otaki-Waikanae area—seemingly left behind a deserted and disfigured landscape as tribes and hapū 'became nomads'.<sup>14</sup>

The material havoc wrought on Taranaki communities left, according to Governor Gore Browne, 'a conquered, broken and scattered tribe ... the fairest and most fertile country in New Zealand, their ancient inheritance, was a deserted wilderness at the time of the European colonisation'.<sup>15</sup> Settlements and villages were devastated, sacred places desecrated, and populations annihilated or forced to move away. Such disruption severely destabilised the long-established structures in Taranaki of mana whenua, and mana history itself, but did not destroy them. Waikato could not transform the essential apparatus of cognitive thinking and activity, the Taranaki 'Māori philosophy', to use Moana Jackson's term. Only its material and external manifestations were affected. Many artefacts were preserved in flight, especially carvings, which were frequently buried, so confining them to the protection of Hine-i-te-huhi, the Maiden of the Swamps, for subsequent rediscovery and restoration.

Much of the history of the Taranaki tribes, hapū, and communities after 1835 sought to reimpose their mana whenua and their mana histories upon the landscape where 'the blood of kinsmen' lay in profusion. The advent of colonisation rendered this process increasingly complex. Before colonisation, for most Māori, the intellectual management of knowledge was considered to be sequential. Despite physical devastation, the underlying means of establishing and asserting mana whenua, linked to long-standing mana whakapapa that anchored tribes into localities, were not transfigured. The local Taranaki tribal processes of mana history remained intact, though the land over which these processes acquired their essence and significance might be stripped of occupation.



### British colonisation and the fragmentation and individualisation of land

After 1800, hapū emerged as the most important basis of activity. In Taranaki, hapū are held by the tribes to have evolved out of the larger tribal kinship base that expanded over time, giving rise to small groups breaking away to form smaller entities. Angela Ballara has proposed a different model for Ngāti Kahungunu of Hawke's Bay, that of small and disparate hapū clusters ultimately coming together, propelled by a growing iwi consciousness.<sup>16</sup>

In Taranaki, such hapū and whānau mounted their defence of land from within the continuum of descent that rooted that unit into the known landscape. The tribes and hapū defended mana whenua throughout the Waikato wars as best they could, and continued this defence across the period of colonisation. Contests for land with the Crown usually involved tribes and hapū that were readily identified with assertions of distinct identity. Tribal declarations, such as that made by Tunga Paekawa in 1925, were clearly stated. In a petition seeking redress from the Crown for the 'injustice inflicted upon us by the confiscations of the lands of our fathers', Paekawa cited ancestors connected to known landscapes and people—those of the 'tribes of Ngāti-Uenuku and Kai-tangata'.<sup>17</sup> Other contests after 1830, however, involved smaller kinship units, with varying and primarily individual motivations born of the debilitating conflicts with new settlers and legislation, as diminishing amounts of land remained in collective possession.<sup>18</sup>

After 1830, then, the defence of mana whenua in Taranaki compelled some changes to kinship-group arrangements within tribes. These reconstituted 'families' acted independently to defend smallholdings but continued to acknowledge the superior status of the tribe. This strategy was long-standing and remained central to ongoing demonstrations of tribal mana whenua. By 1870 the incidence of dispossession in Taranaki had sharply increased as lands were moved from effective hapū control. Hapū identities tended to consolidate as determined ongoing assertions of mana whenua evolved from assertions of actual occupation to those of customary, yet dispossessed, occupation.

The Compensation Court, after 1865, was a principal arena in which to assert mana whenua, in rhetoric as well as reality. Later Commissions of Inquiry also provided important forums, as did the Native Land Court. However, given that in the court tribes and hapū contested with each other, Māori pitted against Māori often at the expense of collective identity, direct assertions of mana whenua became less common once early investigation of title hearings were completed. Hence the Native Land Court represented, in Taranaki as elsewhere, a steady diminution of Māori customary title.

Throughout the nineteenth century certain common narratives of the past, and a common geography centred on Taranaki, the mountain, continued to provide the basis for a sense of unity among the tribes of the region. But notions of unity were for a time ambivalent because, as land fragmentation increased, not all the tribes, hapū, and communities subscribed to the expansive 'Taranaki whānui'. Nonetheless, such common narratives of the past found frequent expression before later Commissions of Inquiry. Such ancient knowledge therefore remained central to the Taranaki sense of tribal history.

This was seen in 1880 when Māori laid claim to lands 'all the way from the Tukeho Stream to Taitairamaka'. Landmarks were described as 'the fixed boundaries of the Taranaki people. [They] include Mount Egmont. These are the original boundaries and we claim within these ... our ancestor was called Rua Taranaki and the tribe is called Taranaki'.<sup>19</sup> This citing of Rua Taranaki constituted an ancient mana whakapapa reference, one recalled to validate the mana whenua of Ngāti Tu, Te Kaingati and Ngāti Haumea over lands within the coastal Taranaki rohe (tribal region). This represented a claim to specific title, lands over which individual families had long been settled.<sup>20</sup>

Later land sales especially rendered such assertions more complex in Taranaki as elsewhere. The Rarangi Ingoa O Te Karapapa (Piri Pono) me ona uri papers in 1927, for example, describe 'Ngāti Awa' as being 'landless or practically landless'.<sup>21</sup> Even so, the mana whenua recall of the tribes in Taranaki had not diminished, remaining manifest in the ancient landscape. But the incursions did impact to the extent that tribes thereafter reconstituted whakapapa based on new realities as tribal structures broke down. Some mana whenua attachments as a result became indistinct and weakened,<sup>22</sup> and there were frequent declarations of 'individuated' whakapapa from a seeming fragmenting of hapū identities. Many Māori then became protective of their whakapapa, which, according to Lou MacDonald, came to be considered 'a dangerous thing, especially in Māori company, [because] there was always someone who would pick you out'.<sup>23</sup>

Important references to celestial or mana wairua descent largely gave way, for pragmatic purposes, to the utility of recent mana tūpuna, people known to have lived and whose deeds were well remembered. The reasons for this may have been due to missionary monotheistic influences, the advent of colonial ethnographical research, or the Native Land Court's disregard of celestial lineage. Under Chief Judge Francis Fenton the court certainly placed greater emphasis on recent occupation, as recent as 1840, as the basis for land claims. The preferred citing of mana tūpuna descent lines therefore comprised recently distinguished ancestors who were specifically recalled as 'You bring a whakapapa down so far, to an ancestor, then he'll say, he'll relate himself to that ancestor, and go no further'.<sup>24</sup>

Therefore, recent ancestors who were carefully recalled linked certain individuals directly to lines of descent and attendant lands. Such individuating of whakapapa for pragmatic purposes did not necessarily bear directly on the recognised whakapapa kinship bases of hapū and whānau. For their part, whānau groups operated at a different social level and were often quite unique and broad in composition. The seeming profusion of hapū and whānau was evident to officials such as Police Inspector Donald McLean, who conducted an extensive survey of Māori in North Taranaki in the late 1840s, soon after the tribes began to reoccupy ancestral estates in large numbers.

Mana whakapapa therefore remained important to Māori as a basis of organising and asserting mortal descent traditions and histories across the nineteenth century, histories that were anchored in locality, at the hapū and tribal level. There is much evidence to suggest that these assertions were ongoing. The post-confiscation land claims in particular provided a context for them to continue. Some claims involved hapū, as that of Tapa Te Waero, who in 1876 declared, 'You have got the land, I and my hapū will merely wander about the earth ... the land is mine because it descended to



me from my ancestors.<sup>25</sup> Most, however, seemed to involve smaller kinship groupings best able to locate themselves with specific lands, lying within the customary hapū or whānau estate. The reverence for land did not diminish, as Wiremu Kingi's later waiata illustrated:

Grieved am I for my seaward land  
 Pekapeka looms in the distance  
 My beloved home  
 Kaiwaka appears vividly, my seaward land  
 Kohia stands prominent, my seaward land  
 O tribe, cease from war  
 I have finished.<sup>26</sup>

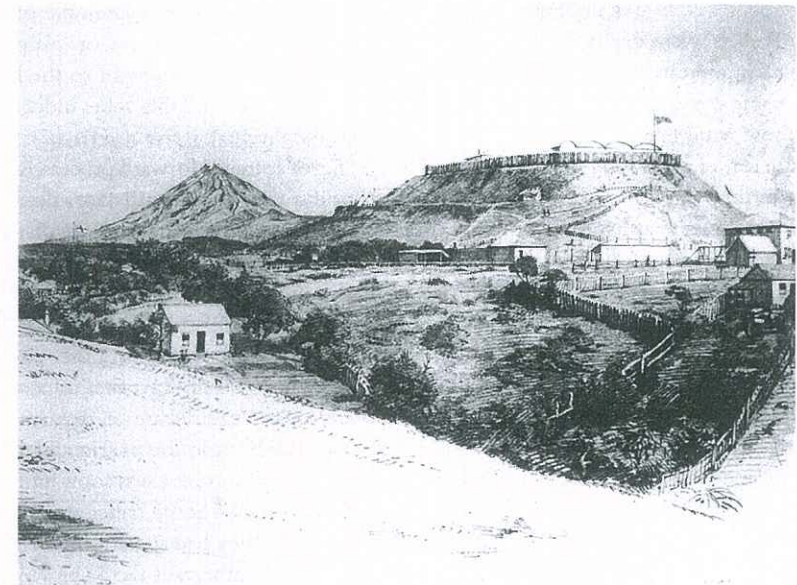
Equally, reverence for wāhi tapu, burial, and other historic sites was maintained. Vigorous collective defences of these wāhi tapu were mounted by hapū and whānau in the wake of confiscations, as defences to the Native Land Confiscation Commission of 1927 illustrate.<sup>27</sup>

However, the customary basis of mana whenua did also fragment under the pressure of land sales and confiscations. The issue of precise hapū boundaries within North Taranaki was thereafter frequently rendered uncertain. This was exacerbated by legislation that required tribes and hapū to establish boundaries commensurate with, for example, section 2 of the Native Territorial Rights Act of 1858, which stated that 'no such Certificate shall be issued until a Survey of the lands ... shall have been made ... and the boundaries thereof distinctly marked out'.

### Confiscation, the Native Land Court, and reforming of hapū

Later consolidated hapū groupings in North Taranaki were therefore largely reconstituted hapū, having adopted a collective identity superseding a possible multitude of previous divisions. In 1927, when extensive lists were presented of the Taranaki district with the tribes or hapū as then known and the approximate areas of land occupied by them, it was clear that earlier and complex tribal-hapū configurations had become smaller and more consolidated in nature.<sup>28</sup> After 1841, then, tribes, hapū and communities had constructed and reconstituted their mana wairua, mana tūpuna, and mana whenua to reflect the new realities. Thereafter, such mana histories and traditions became the collective focus as tribes and hapū faced the processes of Crown inquiry.

The messy process of confiscation and subsequent redress complicated matters considerably by trying to define hapū and whānau as 'kūpapa' (loyal to the Queen), or 'rebel'. The origins of the Compensation Court process in Taranaki lay in the impacts on tribal lands of the New Zealand Settlements Act 1863. This Act was the primary instrument of the land confiscations, although the word 'confiscation' does not appear in it. The Governor was authorised to place tribal districts under the Act, thereby forcibly setting apart sites for colonisation and settlement. Monies raised from sales of land were to be used to



**Figure 16.2** New Plymouth, 1856, with Mount Taranaki and the Marsland Hill Barracks, which housed a British Army contingent after 1855. The landscape shows signs of new settler influence—cottages, small fenced plots and extensive ground clearance, with secondary undergrowth appearing. Reproduced by permission of the Museum of New Zealand Te Papa Tongarewa.

defray the 'expenses of suppressing insurrection', and to meet the costs of surveying new settlements, primarily for military settlers. These settlers were moved into confiscated areas, in the Waikato as well as Taranaki, to create a buffer zone between Pākehā and Māori still thought to be potentially hostile.<sup>29</sup> The first reference to confiscations in Taranaki appeared in a proclamation of 17 December 1864. Although primarily focusing on impending confiscations in the Waikato, it also advised that the Governor would take possession of and retain in the country between Wanganui and New Plymouth such land as belonging to the rebels 'as he may think fit' (Figure 16.2).

Māori deemed to have 'adhered to the Queen' would retain their land, as would those previously in rebellion 'who shall submit to the Queen's authority'. Those tribes deemed to have been guilty of violence would be 'punished as had the Waikato tribes been punished'. Later that year the Governor was empowered to award compensation for continuing losses of land,<sup>30</sup> with a subsequent stipulation that confiscations were to cease by 3 December 1867.<sup>31</sup> On 16 June 1866, regulations were gazetted establishing Compensation Courts for the purposes of awarding or increasing compensation as stipulated under the various Settlements Acts.

The key personnel of the Compensation Courts came from the Native Land Court, which was also the source of precedents and experience. The Compensation Court



subsequently convened in New Plymouth from 1 June 1866 until late September of that year. 'Rebels' were deemed to have forfeited their land, but in reality Māori claimants were so numerous as to render such distinctions difficult to confirm prior to the hearings. Some considerable effort was devoted by the courts to identifying rebel individuals and those hapū members thought to have joined the fighting.<sup>32</sup>

Thereafter, separating 'loyalist' from 'rebel' was never a straightforward process. At any time during the period of hostilities, individuals or disparate groups of Māori throughout Taranaki were as likely as hapū and tribes to have been involved, or not involved, in conflict with or in support of the Crown, or in conflict against each other. The situation in Taranaki was altogether more complex than that suggested by Keith Sinclair, who wrote that about half of the Māori people were neutral, or kūpapa.<sup>33</sup>

The term 'kūpapa' has limited value in Taranaki, as it has for Māori in other parts of New Zealand. 'Kūpapa' first referred to those Māori who were not involved in conflict, who 'remained seated on the ground when others rose to the debate or departed for war'.<sup>34</sup> However, such neutral Māori were later described by colonists as friendly to the Crown since they were not actually fighting against it.<sup>35</sup> However, it was soon found to be impracticable to ascribe this status to specific hapū or tribes. Some tribes argued that they were loyal, while others such as Ngāti Mutunga said they had specifically demonstrated loyalty. Substantiating loyalty to the Crown was an important factor bearing on the successful filing of claims for lost lands. Hemi Matenga's right to petition in 1878 for the return of Waitara South lands was examined on the grounds of rebellion or loyalty. To the question, 'Were any members of [your] tribe in rebellion against her Majesty', Matenga replied, 'No, none of the Ngātihinetutu'.<sup>36</sup>

Issues of loyalty were rendered more complex by later claims that lands returned as Crown grants went to Māori people without rightful claim to the land in question. This was evident in 1927 when Kaho Heremia was asked, 'Do you say that the land where these weirs are situated ... was not returned to the natives after the war?' Kaho Heremia replied, 'It was returned to the loyalists ... that land was confiscated, and that was part of the land which caused the fight. It was afterwards that some of the loyalists were put onto the list of title'.<sup>37</sup> By implication, these were names not previously linked to the land in question.

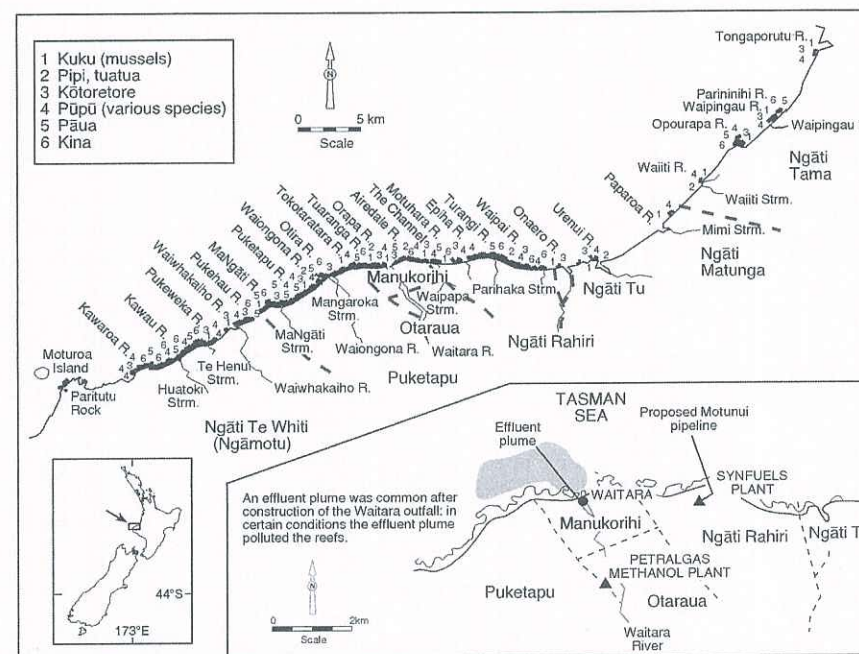
The haphazard process of land reallocation also contributed to land claim difficulties, as with Taurua and his Pakakohe people, who were placed on to reserves 'somewhat promiscuously ... the boundaries of which had never been definitely fixed or surveyed'.<sup>38</sup> Subsequently, the later grievance of Ngāti Maru was one experienced by many of the tribes in Taranaki, that some of those persons were not genuine Ngāti Maru people at all but that some belonged to Ngā Puhi, some to Te Āti Awa and some to Whanganui. On the other hand, many genuine Ngāti Maru who were and are landless were left out of the said grants of land altogether.<sup>39</sup>

As late as 1940, Māori in Taranaki were still being required to state their loyalty to the Crown. Māori petitioners addressing 'claims and grievances remaining outstanding of the Aboriginal Natives of New Zealand' were still compelled to include references to past loyalty to the Crown to demonstrate 'that your Petitioners and their ancestors ...

always have been since the signing of the Treaty of Waitangi, loyal British subjects, and have not in any way been concerned in hostility against the Crown'.<sup>40</sup>

## Continuities with today's claims process

Māori people have continued to file claims for material loss before judicial bodies such as the Waitangi Tribunal. Established in 1975 to consider argument from Māori alleging breaches of the Treaty of Waitangi, the tribunal has conducted a large number of complex historical inquiries dealing with Māori material and cultural loss, tied to specific histories and landscapes. The tribunal has also considered a range of generic issues that are not, on the face of it, connected to land. Māori language retention is one example. Although the Māori language has local nuance and dialect, it might be argued that the fate of Te Reo Māori is an issue that transcends whakapapa-based arguments that emphasise specificity of land, history, and protocol. Before a forum of discerning Māori, such argument might even



**Figure 16.3** Hapū boundaries and seafood resources for the Te Āti Awa tribe, North Taranaki. As presented to the Waitangi Tribunal by Te Āti Awa in 1981. This traditional food-gathering area faced extensive pollution from the Motunui waste outfall. In defence of this coastline, Te Āti Awa established clear whakapapa connections between these resource areas, and tūpuna (ancestors) who had long exercised kaitiakitanga (guardianship) over the reefs. Aila Taylor and members of Te Āti Awa (Wai 6, 4 June 1981), courtesy of Northern Taranaki Iwi Crown Progression Team, New Plymouth.



succeed, if only for pragmatic purposes. However, where the losses argued by Māori relate more directly to land and resources, generic arguments that do not connect those directly to particular histories and landscapes have less chance of succeeding.

One early tribunal case, where historically specific evidence grounded in whakapapa proved to be persuasive, was the Te Āti Awa Motunui claim of the early 1980s. This turned on the fouling of seafood-rich reefs by waste outfalls (Figure 16.3), and it resembled claims brought before other like forums during the nineteenth century by Māori who were aggrieved at the despoiling or outright loss of their resource areas. Critical to such claims in Taranaki was the capacity of Māori, from the paepae, to locate themselves—their tribes and hapū—in the lands and resources under inquiry. This was achieved through whakapapa; and at such hearings, in the past as in the present, much whakapapa was heard, binding people and places together, clearly demonstrating the mana whenua of claimants.

The Te Āti Awa Motunui claim originated in the late 1970s when a small but dedicated group of Te Āti Awa, led by kaumatua Aila Taylor, 'fought judicial snubs; prejudiced attitudes; antagonistic bureaucrats ... and stalling officials ... to pursue a long, legal path that led to the Treaty of Waitangi Tribunal'.<sup>41</sup> Throughout the hearings Te Āti Awa laid emphasis upon their perceptions of the natural world as connected to their stories of tribal origin. These connections provided, among other things, the long-standing basis for resource use, management, and protection. Thus, the atua traditions (deities) provided the mauri (life force) that, when planted into a specific resource area, acted as the kaitiaki (guardian) of the resource area—specifically, in this case, the much valued reefs north of Waitara. Te Āti Awa, as tangata whenua of the area, drew these connections from their whakapapa, which imposed additional responsibilities upon the people to care for these taonga (resources). These responsibilities were met through institutions such as tapu (sacredness), noa (non-tapu), ihi (power), and wehi (reverence). The guiding principle that recognised Te Āti Awa authority to care for this resource was kaitiakitanga (guardianship), and this was derived from the mana whenua of the people. Te Āti Awa followed this process of recall and assertion in the mid 1970s, and they would have done exactly the same in the mid 1870s.

Following the hearings, the tribunal produced a 76-page report described by one observer as 'strong clear persuasive poetry'.<sup>42</sup> Recommendations were made addressing the central issue, that the proposed waste outfall from the synthetic-fuel plant at Motunui would despoil the customary food-gathering areas north of Waitara. The Motunui plant possessed a water right to build a waste pipeline to the sea. However, said Te Āti Awa, not only would its construction offend their cultural and spiritual beliefs, but it also threatened an entire seafood-gathering area with physical pollution. In response to this, the tribunal called for the outfall construction to be stopped and effluent to be discharged through the existing Waitara outfall. It also recommended that a new regional outfall be constructed to handle all the projected North Taranaki 'Think Big' projects. Perhaps inevitably, these recommendations ran foul of local and national political interests, though the initial negative stance taken by the National government was moderated with further mediation. The Waitangi Tribunal also recommended a change to the regulations restricting Māori access to pāua and sought the easing of special licences to

allow for the harvesting of kaimoana (seafood) for occasions such as tangi. It further called for a study to clearly define the customary fishing grounds in North Taranaki, as well as to measure the impact of pollution within those grounds.

Much of the testimony laid before the tribunal by Te Āti Awa was structured and presented in a form consistent with normal marae convention and protocol. As with nineteenth-century testimony, weight was placed on utilising processes of historical recall that emphasised clear whakapapa connections between people and places, tied to known historic landscapes over which claimants exercised mana whenua. Throughout the later Taranaki whānui claim that commenced hearings in 1992, this approach was also followed,<sup>43</sup> as it has been by other tribal or hapū claims elsewhere in New Zealand. And, as with all tribunal cases since Motunui, this was hardly surprising, since, unlike in the nineteenth century, hearings were now located on the marae.

We might contrast this approach with another claim currently before the Waitangi Tribunal, the Indigenous Flora and Fauna claim, sometimes known by the shorthand 'Wai 262', the number by which it was registered. This claim was filed in 1991 by Haana Murray of Ngāti Kuri and Del Wihongi of Te Rārawa, along with a number of other Māori. Since then at least two amended claims have also been filed alongside the primary claim.<sup>44</sup> Few could argue with the central point, which deals with the material and spiritual loss to Māori of indigenous flora, fauna, and resources. The claim argues that Māori have been 'prejudicially affected by the actions and omissions of the Crown ... in denying the tino rangatiratanga o te iwi Māori'. It therefore proceeds on the basis that the Treaty of Waitangi ought never to have subordinated Māori people.

As a consequence of the Crown assuming all authority to itself, the claim argues, Māori people were consistently denied the right to conserve their indigenous knowledge and resources, to develop that knowledge, and to control its use. The claim cites numerous Acts of Parliament and specifically identifies a large range of affected native plants, trees, birds, and animals. Through this claim, Māori people are said to be asserting a prior right to breed and propagate a range of select species for the purposes of research or commercial sale. The claimants conclude by seeking the Crown's acceptance of these arguments, the payment of compensation for losses, and a return to Māori of the sovereign right of control over such flora and fauna.

The Wai 262 claim represents a huge undertaking by its primary claimants, and it has acquired a high level of interest from both Māori and Pākehā, since its potential to influence control of key resources in New Zealand is enormous. It is a very broad-brush claim. However, its ability to achieve redress and restitution for Māori is seriously weakened by its generic nature, by its lack of geographic and historic specificity, and because the cited losses are not sourced within particular tribal landscapes. For all of its scope and detail, and the merit of its arguments, this is not a claim where local resources, flora, fauna, and land are referred to within a mana whakapapa context that emphasises places and people possessing those resources, and over which the claimants exercise and assert mana whenua.

Thus the atua of the named flora and fauna, and the mauri, are difficult to discern, as are the connections with the appropriate kaitiaki. Of course, this is not possible because one needs to know the tangata whenua first, allowing them to speak from their



paepae of their lands where their species can be located, and whakapapa connections made: as, for example, the reefs north of Waitara. There kaumātua of Te Āti Awa named and pointed to specific mauri. The kaitiakitanga of all such taonga is derived from the mana whenua of the people.

This was the approach used by Māori during the nineteenth century when faced with the highest stakes imaginable: the fate of the land itself; and it is the approach preserved by the paepae today. The paepae continues to serve as the place where Māori define themselves and their histories, and determine how, among other things, tribal or hapū resource issues will be addressed, as occurred with Te Āti Awa over the Motunui outfall.

## Conclusion

This chapter has reflected on the nature of Māori processes of historical recall and how these have functioned within the claims process. It has proposed an interpretation that suggests how, on what basis, and for what purposes the tribes and hapū in Taranaki have utilised such processes. The primary structuring device for this kind of approach was undoubtedly whakapapa, as asserted from the paepae. The function of whakapapa was to anchor claimants into known landscapes, and to establish the ongoing basis from which tribal and hapū mana, identity, and activity in the present could be validated by the past.

Central to this process is loss of land, or forced and permanent change to the names, the burial places, the wāhi tapu, the cultivations, the entire physical cover. Yet, for Māori, all of these have remained as the essential material points of reference for interpreting the landscape, substantially surviving the losses that have occurred. Great pains have been taken by Māori to assert their rights to retain and control land and resources. The Crown has frequently been challenged as to the circumstances and iniquities of their losses. Yet the mana of the people has continued to be maintained from the paepae, with the old people and sacred places remembered in whakapapa. Now, as then, what matters most to Māori in the context of marked change and loss is the mana whakapapa assertion of continuing mana whenua. Despite everything, Māori remain forever bound to the land.

## 16 Bound to the land: Māori retention and assertion of land and identity

- 1 I. H. Kawharu, *Maori Land Tenure: Studies of a Changing Institution*, Clarendon Press, Oxford, 1977; David Williams, *Te Kooti Tango Whenua: The Native Land Court 1864–1909*, Huia Publishers, Wellington, 1999.
- 2 Joe Pere, 'Hitori Maori', in Colin Davis & Peter Lineham (eds), *The Future of the Past: Themes in New Zealand History*, Department of History, Massey University, Palmerston North, 1991, p. 30. See also Te Ahukaramu Charles Royal, *Te Haurapa: An Introduction to Researching Tribal Histories and Traditions*, Bridget Williams Books/Historical Branch, Department of Internal Affairs, Wellington, 1992, p. 13; Monty Soutar, *Towards An Acceptable Record: An Analysis of Tribal History*, BA Hons essay, Massey University, 1991.
- 3 Dispatch from his Excellency Governor Gore Browne, C.B., to the Right Hon. Sir E. B. Lytton, 29 March 1859, *Appendices to the Journals of the House of Representatives* (hereafter *AJHR*), E2, 1860, p. 2.
- 4 Eddie Durie, 'The Law and the Land', in J. Phillips (ed.), *Te Whenua Te Iwi*, Allen & Unwin/Port Nicholson Press, Wellington, 1987, p. 78.
- 5 Petition No. 19/1925 (1925), Le 1/1925/12, National Archives, Wellington.
- 6 Ngā Ruahine, for example, itself comprised hapū and did not therefore necessarily operate under the mana of Ngāti Ruanui, the tribe to which it was long thought affiliated as hapū; Tom Ngāti, Ngā Ruahine, personal communication, November 1992.
- 7 Lou MacDonald, Ngāti Mutunga, personal communication, October 1992.
- 8 Kawharu, *Maori Land Tenure*, p. 47.
- 9 Tipene O'Regan, 'Old Myths and New Politics: Some Contemporary Uses of Traditional History', *New Zealand Journal of History*, vol. 26, no. 1, 1992, p. 25.
- 10 E. T. Durie, *Custom Law*, Research Paper, Waitangi Tribunal, Wellington, 1994, p. 96.
- 11 MacDonald, personal communication, October 1992.
- 12 I. L. G. Sutherland, 'Maori and European', *Journal of the Polynesian Society*, vol. 61, no. 1, 1952, p. 139.
- 13 'Evidence relating to the origin of the Native insurrection, 1860', *AJHR*, E4, 1861, p. 1.
- 14 MacDonald, personal communication, October 1991.
- 15 'Thomas Gore Browne, The Governor's Despatch', *AJHR*, E1, 1861, p. 8.
- 16 Angela Ballara, *Origins of Ngāti Kahungunu*, PhD thesis, Victoria University of Wellington, 1993.
- 17 Petition No. 87/1925 (1925), MA 85/5, National Archives, Wellington.



- 18 MacDonald and Ngatai, personal communications, October–November 1992.
- 19 Petition No. 291/1880 (1880), Le 1/1880/6, National Archives, Wellington.
- 20 Kawharu, *Maori Land Tenure*, p. 37.
- 21 Exhibits and miscellaneous papers, Sim Commission (1927); MA 85/6, National Archives, Wellington.
- 22 MacDonald, personal communication, October 1992.
- 23 *ibid.*
- 24 *ibid.*
- 25 Tapa Te Waero to Native Affairs Committee (1867); Le 1/1876/7, National Archives, Wellington.
- 26 Minutes of Evidence, Sim Commission (1927); MA 85/1, National Archives, Wellington.
- 27 *ibid.*
- 28 Report for Commissioners, Sim Commission (1927); MA 85/5, National Archives, Wellington.
- 29 Hamilton, Cambridge, Mercer, and Urenui were established as town centres for such military settlers.
- 30 New Zealand Settlements Amendment Act 1863.
- 31 New Zealand Settlements and Continuance Act 1865.
- 32 Papers Relating to the Sitting of the Compensation Court at New Plymouth, *AJHR*, A13, 1866, p. 3.
- 33 Keith Sinclair, *Kinds of Peace. Maori People After the Wars 1870–85*, Auckland University Press, Auckland, 1994, p. 7.
- 34 E. Durie, personal communication, May 1994.
- 35 To some Taranaki Māori, 'kūpapa' means to crawl on all fours, or to even crawl on one's belly—in other words, tantamount to a traitor. But more broadly speaking, 'kūpapa' is a highly contested term. Various tribal districts see 'kūpapa' in quite different terms. One needs to understand the complexities of local tribal involvements in warfare, for or against the Crown and settlers, or among each other, before one can confidently assert who was 'kūpapa' and who was not—or even what the term means, for individual tribal districts. We should also acknowledge the view held by Māori that 'kūpapa' should not necessarily carry a negative connotation.
- 36 Petition No. 284/1878 (1878), Le 1/1878/6, National Archives, Wellington.
- 37 *ibid.*
- 38 Hon. Sir W. Fox to Hon. Native Minister, 25 February 1882; *AJHR*, G5, 1882, p. 16.
- 39 Petition No. 75/1940 (1940), Le 1/1940/8, National Archives, Wellington.
- 40 *ibid.*
- 41 Alistair Morrison, 'Tribunal Motunui Recommendation Defines The Treaty' in *Tū Tangata. Maori News Magazine*, Issue 13 June–July 1983, p. 2.
- 42 Morrison, *Tū Tangata*, p. 2; *Report, Findings and Recommendations of the Waitangi Tribunal on an Application by Aila Taylor for and on Behalf of Te Atiawa Tribe in Relation to Fishing Grounds in the Waitara District*, Claim Wai 6, Waitangi Tribunal, Wellington, 1983.
- 43 *The Taranaki Report, Kaupapa Tiatahi*, Claim Wai 143, Waitangi Tribunal, GP Publications, Wellington, 1996.
- 44 *Indigenous Flora and Fauna of Aotearoa*, Claim Wai 262, Waitangi Tribunal, 9 October 1991.