

TE MANA WHATU AHURU

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Report on Te Rohe Pōtae Claims

PRE-PUBLICATION VERSION

PART V

WAI 898

WAITANGI TRIBUNAL REPORT 2020

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Waitangi Tribunal
Te Rōpū Whakamana i te Tiriti o Waitangi
Kā puke ki te whai ao, ki te mārama

The Honourable Nanaia Mahuta
Minister for Māori Development

The Honourable Andrew Little
Minister for Treaty of Waitangi Negotiations

The Honourable Kelvin Davis
Minister for Māori Crown Relations: Te Arawhiti

Parliament Buildings
WELLINGTON

8 June 2020

E ngā Minita, tēnā koutou

Tihē mauri ora e ngā Minita. Anei rā te tuawhā o ngā pūrongo mō Te Rohe Pōtae. Nō mātau o Te Rōpū Whakamana i te Tiriti o Waitangi te ngākau āwherangi ki te whakapuaki i tēnei wāhanga o te Whatu Ahuru ki te marea.

We present to you the fourth release of chapters (part v) of our report on claims submitted under the Treaty of Waitangi Act 1975 in respect of the Te Rohe Pōtae inquiry district. This district extends from Whāingaroa Harbour to northern Taranaki, and inland to the Waikato River and Taumarunui.

The report addresses 277 claims that have been brought to the Waitangi Tribunal on behalf of iwi, hapū, and whānau, people representing their tupuna, and current-day entities such as trusts, boards, incorporations, and owners of certain land blocks.

This part of the report follows the release of parts I and II in September 2018, part III in June 2019, and part IV in December 2019. These chapters address the impact of Crown actions, omissions, policy, and legislation on the ability of Te Rohe Pōtae Māori to exercise mana whakahaere and tino rangatiratanga over the district and its inhabitants.

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The Tribunal reserves the right to make further recommendations concerning parts i to v once the complete report is finalised. The release of part v concludes the dissemination, in pre-publication format, of the major thematic chapters of the report. An ancillary volume addressing geographically specific claims related to particular Te Rohe Pōtae takiwā (subregions) will be released in late 2020.

Nāku noa, nā



Deputy Chief Judge Caren Fox
Presiding Officer
Nā te Rōpū Whakamana i te Tiriti o Waitangi

PREFACE

This is a pre-publication version of part v of the Waitangi Tribunal's *Te Mana Whatu Ahuru: Report on Te Rohe Pōtae Claims*. As such, all parties should expect that in the published version, headings and formatting may be adjusted, typographical errors rectified, and footnotes checked and corrected where necessary. Maps, photographs, and additional illustrative material may be inserted. The Tribunal reserves the right to amend the text of these parts in its final report, although its main findings will not change. It also reserves the right not to address certain issues in these parts of the report, and further parts, until the final report is released. The Tribunal reserves the right to make further recommendations on the matters addressed in part v up to and including in the final published report. The Tribunal reserves the right to refuse any applications to exercise its resumptive powers based on this pre-publication report until the final report is released.

In preparing this pre-publication report, the Tribunal has noted variation in spelling and in the use of macrons for a number of words and phrases referred to in evidence on the record of inquiry, particularly in regard to the names of people and places. Parties are therefore invited to submit corrections to these, or any other words and phrases used in the report. Parties must indicate where in the report the term is used, their desired spelling or macron use, and any relevant explanation or evidence. The Tribunal will consider parties' submissions and incorporate any resulting changes into the final published version of the report.

HE KUPU WHAKAMĀRAMA I TĒNEI PŪRONGO: INTRODUCTION TO PART V

Parts I, II, and III of *Mana Whatu Ahuru: Report on Te Rohe Pōtae Claims* examined the relationship between the iwi and hapū of Te Rohe Pōtae and the Crown following the signing of the Treaty of Waitangi in 1840. The Te Ōhākī Tapu agreements (1883–85) and their implications, both short and long-term, have been central to the evidence heard in this inquiry. As discussed in earlier parts of this report, the agreements promised to give local effect to the Crown's Treaty guarantee to preserve Māori authority (rangatiratanga) and control over their lands and affairs (their mana whakahaere), in exchange for the extension of the North Island main trunk railway through the inquiry district.

Despite the gravity of Te Ōhākī Tapu to Te Rohe Pōtae rangatira, the Crown failed to prevent an erosion of the ability of Te Rohe Pōtae Māori to give practical effect to their mana whakahaere and tino rangatiratanga, guarantees at the heart of the agreements. As discussed in part III of this report, in the years following the agreements, the Crown's introduction and implementation of institutions, mechanisms, and practices that either facilitated the removal of lands or prevented owners from using remaining lands as they wished, suppressed and marginalised the tino rangatiratanga rights of Te Rohe Pōtae Māori. The result was a shrinking of the tribal estate from 934,367 acres, or roughly half of the inquiry district in 1909, to just 342,722 acres, around 18 per cent of the district, by 1966.¹

Part IV of this report examined the diminishment of Te Rohe Pōtae autonomy stemming from this loss of whenua, the spread of European settlement, the entrenchment of local government structures oriented to the Pākehā population, and the development of statutory regimes for the compulsory taking of land for public works and the management of the environment and waterways. In that part of this report, we found that, as land alienation intensified, the Crown pursued its interest in facilitating Pākehā settlement with little regard for Māori retention of land and autonomy. The Crown's settlement-focused policies were contrary to the promises of the Treaty and the assurance inherent in the Te Ōhākī Tapu agreements that Te Rohe Pōtae Māori would continue to exercise mana whakahaere. In considering the largest individual takings of land for public works in New Zealand history, which occurred in the inquiry district during the twentieth century, we also found that the Crown failed to engage in considered discussions with Māori, as it had done with the main trunk railway, or meet tests of last resort.

Part V concludes the report's general discussion of the Treaty relationship in the district and the effects of the Te Ōhākī Tapu agreements by addressing claims related to the spheres of health, alcohol consumption and control, socio-economic

1. Waitangi Tribunal, *Te Mana Whatu Ahuru: Report on Te Rohe Pōtae Claims Part III* (Wellington: Legislation Direct, 2019), pxiix.

conditions, education, and the use and development of te reo Māori. Due to their interconnected nature and in the interests of concision, these diverse themes have been consolidated into two chapters:

- ▶ *Chapter 23: Te Oranga o Nga Tangata: Health and Wellbeing, 1886 to the Present.*
- ▶ *Chapter 24: Ngā Mahi Whakaako me te Ahua o te Reo: Education and Te Reo Māori.*

The assurances Crown representatives gave Te Rohe Pōtae leaders in the 1880s (discussed in part II) provide one clear yardstick against which to assess later Crown conduct in the inquiry district. In considering whether the Crown kept to the bargain inherent in Te Ōhāki Tapu, the evidence reviewed in this part of the report contains numerous instances in which the Crown's actions and omissions fell short of these agreements and the Treaty duties and responsibilities they embodied. Ultimately, the long-term and ongoing poor health and well-being outcomes of many Te Rohe Pōtae Māori, outlined across these chapters, reveal the severe impact of the Crown's past Treaty breaches. Its excessive acquisition of Te Rohe Pōtae land without consideration for the present or future needs of its former owners, its weakening of restrictions on private buyers, and its failure to deliver Te Rohe Pōtae Māori equitable support to develop their remaining holdings as available to Pākehā farmers, all contributed to the erosion of the economic and resource base that could have been drawn upon to provide for Te Rohe Pōtae Māori experiencing hardship.

As a result of these failures, Te Rohe Pōtae Māori were disadvantaged within the local economy; earned less than other groups in the population; had worse health and lower quality housing; migrated away from the district out of necessity; had an often-fragile hold on employment; and for many years were unable to exert social autonomy over the health and wellbeing of their communities. Indeed, the Crown's failure to provide opportunities to exercise mana whakahaere over governance of their communities, a pattern developed during this same period, proved particularly problematic when it became clear that State social services and welfare were inadequate. This limiting of mana whakahaere applied particularly to the issue of alcohol use and regulation, a matter of great importance to the Te Rohe Pōtae rangatira who signed the Te Ōhāki Tapu agreements and of continuing relevance in the inquiry district.

In the areas of education and te reo Māori, the evidence traversed in this part of the report also shows a pronounced disjuncture between the promises of the Treaty and the Te Ōhāki Tapu agreements and the experiences of the claimants and their tūpuna. In particular, we find that the declining use of te reo Māori in the inquiry district throughout much of twentieth century is clearly linked to the large-scale alienation of Te Rohe Pōtae Māori land and the associated erosion of Te Rohe Pōtae Māori mana whakahaere, customary ways of life, and social organisation outlined in parts I to IV of this report, as well as the spread of State-administered Native and Board schooling throughout the district. Indeed, while experiencing recent improvements in educational attainment, Te Rohe Pōtae Māori have over a

long period of time received less exposure to, and benefit from, formal education than the general population.

Evidence we received indicates this educational inequity to be the result of many historical and some contemporary factors attributable to the Crown's actions and omissions. These include systemic discrimination in legislative regimes and their implementation by special purpose authorities, requirements for Māori communities to gift land for schools not applied to Pākehā, unequally long waiting periods for provision of schools in those communities, the use of permanent alienation to gain title over school sites, and the mono-cultural orientation of education services.

For much of the twentieth century, government-directed education in Te Rohe Pōtae, as elsewhere in New Zealand, prioritised assimilation over the retention of te reo Māori and cultural practices, sometimes using physical punishment as an informal tool of coercion. These deficiencies were symptoms of a larger Crown failure to ensure Māori parents had the opportunity for meaningful input into their children's education through fair representation on school governance bodies and at the district level. Though improved in certain respects, the pattern of inequity discussed in this part of the report continues to a significant degree in the high level of educational disadvantage many Te Rohe Pōtae Māori suffer to this day.

We note that some Waitangi Tribunal reports referred to in the following chapters were released after the close of hearings for Te Rohe Pōtae claims and are merely reviewed in this part of the report for completeness. They have not influenced the findings and recommendations of the Tribunal.

The remaining chapters of this report will address geographically specific claims relating to particular takiwā (subregions) of Te Rohe Pōtae.

ABBREVIATIONS

AJHR	<i>Appendix to the Journals of the House of Representatives</i>
app	appendix
AUC	Auckland Crown purchase deed
CA	Court of Appeal
ch	chapter
cl	clause
CMS	Church Missionary Society
comp	compiler
doc	document
ed	edition, editor
GIS	geographic information system
GNA	got no address
ltd	limited
MB	minute book
memo	memorandum
MWEO	Māori War Effort Organisation
n	note
no	number
NIMTR	North Island main trunk railway
NZCA	<i>New Zealand Court of Appeal</i>
NZLR	<i>New Zealand Law Reports</i>
NZTPA	<i>New Zealand Town Planning Appeals</i>
OLC	old land claim
p, pp	page, pages
para	paragraph
pt	part
PWD	Public Works Department
ROI	record of inquiry
RUP	recorded under parent
s, ss	section, sections (of an Act of Parliament)
SC	Supreme Court
v	and
vol	volume
Wai	Waitangi Tribunal claim
WMS	Wesleyan Missionary Society

Unless otherwise stated, footnote references to briefs, claims, documents, memoranda, papers, submissions, and transcripts are to the Wai 898 record of inquiry. A copy of the index to the record is available on request from the Waitangi Tribunal.

CHAPTER 23

TE ORANGA O NGĀ TĀNGATA: HEALTH AND WELL-BEING, 1886 TO THE PRESENT

Our tribal kōrero is that the government wanted alcohol in Kāwhia as it promoted poor decision-making among our people and led to debts that would end up having to be paid in land. Alcohol split our people then, as it does today.¹

—Frank Thorne

We see the pain and the negative effects in our community in terms of many of our people's poor physical and mental health and all the other statistics people point to in terms of our proportion of the prison population and so on.²

—Hine Hine Rei

23.1 INTRODUCTION

After Te Rohe Pōtae Māori negotiated with the Crown to open their district to the North Island main trunk railway in the mid-1880s, the region's longstanding isolation from the Pākehā population came to an end. This chapter addresses claims concerning Te Rohe Pōtae Māori health and well-being from 1886 to the present. Its title, 'Te Oranga o Ngā Tāngata', refers not only to the health of the people but to a wide range of topics affecting the wellbeing of Te Rohe Pōtae Māori, from survival, living, and livelihood to welfare, food, alcohol control, and sanitation.³ Accordingly, the chapter touches on subjects as diverse as Māori health and health care, public health and sanitation measures, housing, urban migration, racial discrimination, tribal identity, and liquor control, the latter having been a particular concern for Te Rohe Pōtae rangatira when negotiating the lifting of the aukati.

23.1.1 The purpose of this chapter

This chapter considers the post-1886 health and well-being of Te Rohe Pōtae Māori in relation to the Crown's Treaty obligations, given expression by the Te Ōhāki Tapu agreements. The link between poverty, ill health, and Crown actions can be difficult to make, but the assurances Crown representatives gave Te Rohe Pōtae

1. Document 111 (Thorne), p24.

2. Document 07 (Rei), p13.

3. 'Oranga', PM Ryan, *The Reed Dictionary of Modern Māori*, rev ed (Auckland: Reed Publishing NZ Ltd, 1997), p182; Herbert M Williams, *A Dictionary of the Maori Language*, rev ed (Wellington: Government Printer, 1957), p241.

leaders in the 1880s (discussed in part 11) create a context in which to judge later Crown conduct. This particularly applies in the case of liquor control. Here, the chapter considers whether the Crown kept its part of the bargain after the 1880s negotiations that led to the opening of the district. As seen in part 11, throughout the Te Ōhāki Tapu negotiations, Te Rohe Pōtae Māori sought to exercise authority over issues of concern to their communities, and this included the distribution of alcohol in their territory. This chapter assesses the extent to which the State supported Māori to exercise control over the entry and availability of alcohol in the district. The chapter also considers whether the Crown acted on Māori wishes at other times, thus paying due attention to changing circumstances. The other issues addressed in the chapter also relate to the health and well-being of Te Rohe Pōtae Māori, in particular the rapid and massive Māori urban migration after the Second World War, which the Crown encouraged. We consider whether all aspects of Māori well-being, including tribal identity, were protected during this remarkable transition.

23.1.2 How this chapter is structured

The chapter begins by discussing what past Tribunals have said about the interconnected issues of health, housing, employment, tribal identity, alcohol control, and protection from racial discrimination. The chapter then sets out the positions of claimants and the Crown on these issues, including Crown concessions, distilling a set of issues for determination in the chapter from the major points of difference between the parties' arguments.

The main historical discussion section considers Te Rohe Pōtae Māori health and housing from 1886 to the present, then proceeds to address the themes of urban migration, racial discrimination, and the loss of tribal identity. The discussion of Te Rohe Pōtae Māori health and housing – in terms of both the standards that applied and the nature of the Crown's assistance – is split into four sections: the period from the lifting of the aukati until 1900; 1900 until 1938; 1938 until 1990; and a contemporary assessment, focused largely on data collected in and around 2006. This breakdown reflects the organisation of the research of Dr Helen Robinson, the key technical witness who appeared before the Tribunal on this subject. However, the periodisation also reflects the most significant turning points in the history of State assistance in healthcare. For each period the key issues to consider are the status of Māori health and housing and the degree of assistance provided by the Crown.

The second half of the chapter is devoted to the issue of liquor control, from the late nineteenth century to a decisive 1954 referendum, which lifted the liquor ban over the district, and the impact of alcohol on Māori health. The chapter narrates the developments chronologically, including the various changes in position on the part of the Te Rohe Pōtae Māori leadership, as they became aware that the control they had hoped for in 1886 had not been provided, and that licensing might be the better option. It then relates how, in the first half of the twentieth century, many Te Rohe Pōtae leaders switched away from this position to one that rejected licences as a breach of the 'sacred compact' made with the Crown.

23.2 ISSUES

23.2.1 What other Tribunals have said

23.2.1.1 Health and housing

A number of Tribunal reports have considered claims concerning Māori health and well-being. The *Napier Hospital and Health Services Report* (2001) found that, while the Treaty ‘did not establish a permanent Maori entitlement to additional health service resources as distinct from that of New Zealanders as a whole’, it did create an ongoing obligation on the Crown to protect Māori from the adverse health impacts of settlement. This protection included ‘removing adverse health disparities by appropriate means’. Further, ‘a general equality of health outcomes for Maori as a whole’ was ‘one of the expected benefits of the citizenship granted by the Treaty’ (emphasis in original).⁴

In respect to social settings such as health, the Tribunal in the *Napier Hospital and Health Services Report* found that the Crown’s obligations under the principle of equity are wide-ranging. It must first ensure *equal standards of healthcare* are available to Māori and Pākehā, in other words, that Māori do not receive inferior standards of care to other citizens. The Crown must ensure *equality of access* to such care. In other words, it must work to make sure Māori are not disadvantaged in their ability to access care. Barriers to accessing services might include physical, socio-economic, and cultural barriers. A ‘systematic or prolonged failure’ on the Crown’s part to address such access barriers, the Tribunal found, was inconsistent with the principle of equity.⁵ While the Crown cannot ensure individual Māori health outcomes, the Tribunal found that ‘a general equality of health outcomes for Maori as a whole’ was ‘one of the expected benefits of the citizenship granted by the Treaty’ (emphasis in original).⁶

The *Hauraki Report* (2006) concurred with *Napier Hospital* that Māori had a legitimate, Treaty-based expectation of ‘general equality of health outcomes’. The Tribunal also agreed with the evidence of Professor Bill Oliver, however, who thought it ‘unreasonable to argue that Maori should have received health services above the level of those that were generally available’ in the nineteenth century. As it happened, though, health services provided to Hauraki Māori were inferior, despite Māori health being worse.⁷ By contrast, the Tribunal had a slightly different emphasis in its 2015 report, *He Whiritaunoka: The Whanganui Land Report*. It referred to the Crown’s duty to do ‘what it reasonably could to ensure that their [Māori] health was on par with that of non-Māori’ (emphasis added).⁸ It might be

4. Waitangi Tribunal, *The Napier Hospital and Health Services Report* (Wellington: Legislation Direct, 2001), pp xxv–xxvii, 64.

5. Waitangi Tribunal, *Napier Hospital and Health Services Report*, p 62; see also Waitangi Tribunal, *The Mohaka ki Ahuriri Report*, 2 vols (Wellington: Legislation Direct, 2004), vol 2, p 681.

6. Waitangi Tribunal, *Napier Hospital and Health Services Report*, pp xxv–xxvii.

7. Waitangi Tribunal, *The Hauraki Report*, 3 vols (Wellington: Legislation Direct, 2006), vol 3, pp 1182–1183.

8. Waitangi Tribunal, *He Whiritaunoka: The Whanganui Land Report*, 3 vols (Wellington: Legislation Direct, 2015), vol 3, p 1175.

added, though, that the Whanganui Land Tribunal did not think the Crown had met this duty overall.

Also in 2015, the Tribunal issued part VI of its *Te Urewera* report, which contained a chapter on 'Socio-economic Impacts, 1895–2005'. The *Te Urewera* report found that poor health outcomes among Te Urewera Māori during this period were due to extreme poverty, caused primarily by prior Crown breaches of the Treaty. The Tribunal noted, however, that the Crown's obligations under the principle of equity apply regardless of the origins of the inequity.⁹ That is, once the Crown becomes aware of inequity, it is duty-bound under the Treaty to actively work to address it, whatever its cause.

In 2019, the Tribunal released stage one of its kaupapa inquiry into health-related claims, concentrating on the primary health care sector. In the *Hauora* report, the Tribunal found that the Crown breached the Treaty through its failure to actively address longstanding Māori health inequities within the primary health care system, and through its failure to give effect to the Treaty's guarantee of tino rangatiratanga over hauora Māori (Māori holistic health and well-being).¹⁰

Several Tribunals have discussed the Tohunga Suppression Act, but by far the most comprehensive consideration of this legislation occurred in the 2011 *Ko Aotearoa Tēnei* report (Wai 262). In sum, that Tribunal considered that government action was needed at the time to prevent harmful tohunga practices, such as the immersion of influenza sufferers in water. However, it felt that the Government's response in passing the Tohunga Suppression Act was fundamentally 'unjustified' and a reflection of 'an underlying mindset that was fundamentally hostile to mātauranga Māori'. Rather than legislating to suppress the traditional healing system as a whole, the Crown could have selectively targeted harmful tohunga practices through the existing system of licensing and regulation by the Māori councils and (from 1908) other legislation such as the Quackery Prevention Act. These measures should have been accompanied by greater provision of health services to Māori as well as prosecution in cases of 'genuine fraud and outright dangerous practice' via the criminal law.¹¹ The Tribunal considered that the Act contributed to the stigmatisation of tohunga, and had some prejudicial impact on tohunga activities, but did not find it solely responsible for a decline in traditional healing during and since the era of its application. Instead, it pointed to the role of urban migration and bush clearance in bringing about reduced knowledge of and use of traditional healing.¹²

A number of Tribunals have also discussed the issue of the Crown's provision of housing to Māori. They have usually done so in the context of examining health

9. Waitangi Tribunal, *Te Urewera*, 8 vols (Wellington: Legislation Direct, 2017), vol 8, p 3773.

10. Waitangi Tribunal, *Hauora: Report on Stage One of the Health Services and Outcomes Kaupapa Inquiry* (Wellington: Legislation Direct, 2019), pp xi–xvii; ch 9.

11. It should be noted in this regard that the Tribunal criticised the Crown for failing to fund the Māori councils adequately to fulfil this role: Waitangi Tribunal, *Ko Aotearoa Tēnei: A Report into Claims concerning New Zealand Law and Policy Affecting Māori Culture and Identity, Te Taumata Tuarua*, 2 vols (Wellington: Legislation Direct, 2011), vol 2, p 627.

12. Waitangi Tribunal, *Ko Aotearoa Tēnei, Te Taumata Tuarua*, vol 2, pp 622–627.

and other social and cultural impacts. In its *Tauranga Moana* report, the Tribunal noted that the first real housing assistance provided locally came with the development schemes, although housing supply lagged behind other initiatives. More substantial assistance did not come until well after the Second World War but, even then, the standard of Māori housing remained poor into the 1960s. While many Tauranga Māori were re-housed in the post-war decades, the Tribunal felt this had left a 'somewhat ambivalent legacy'. Titles had often had to be individualised, many had to relocate away from their ancestral land, and 'pepper-potting' further broke up Māori communities. In the 1970s, the provision of housing by the Department of Maori Affairs dropped away, with significant Māori housing needs unmet. Despite the various initiatives since then, the Tribunal concluded that there remained many barriers to improving Māori housing in Tauranga. These hurdles encompass costs, the land tenure regime, zoning restrictions, and rating.¹³

The Tribunal also devoted some attention to housing in *He Whiritauonoka: The Whanganui Lands Report*, mainly because of its impact on health. Māori housing conditions in this district in the middle of the twentieth century were poor, with overcrowding and a lack of heating and sanitation standard. When assistance became available, it could not keep pace with the rapid rise in the Māori population. Moreover, in rural areas the Department of Maori Affairs became increasingly unwilling to provide housing loans to areas where there was little available work. Zoning restrictions also often stopped the construction of housing on Māori land, even when it lay adjacent to urban areas. By the 1980s, when the Department of Maori Affairs' housing programme ended, the gap between non-Māori and Māori housing conditions remained significant.¹⁴

More recently, the Tribunal observed that Whanganui Māori have continued to face serious obstacles to building on rural land, mainly through the lack of access to finance and ongoing planning restrictions. Overall, the Tribunal found that the Crown's measures to improve Māori housing in the twentieth century had not been insubstantial but had never been sufficient 'to fix a very serious problem, especially in rural areas'. While the Tribunal found it difficult to fault the Crown's priority on providing housing to Māori in urban areas, it nonetheless considered that the Crown had failed in its duty of active protection by exposing Māori to the rules that prevented them from building on their tūrangawāwae.¹⁵

23.2.1.2 Urban migration and dispersal from homelands

A number of Tribunal reports have commented on the post-war process of urban migration. In its 1999 *Whanganui River Report*, the Tribunal clarified that it had not been able to fully inquire into the matter, but it recognised that 'world-wide economic forces . . . beyond the power of a government to control' helped to drive this migration. It also accepted that living in towns gave Māori much greater

13. Waitangi Tribunal, *Tauranga Moana 1886-2006: Report on the Post-Raupatu Claims*, 2 vols (Wellington: Legislation Direct, 2010), vol 2, pp753-754, 757-758, 763, 766-767, 776.

14. Waitangi Tribunal, *He Whiritauonoka*, vol 3, pp 1153-1157.

15. Waitangi Tribunal, *He Whiritauonoka*, vol 3, pp1166-1168, 1171, 1176.

access to employment, goods, and services. However, it also found that land loss was almost certainly a factor prompting out-migration, and noted further that ‘many Māori recall how Māori land laws, town planning laws, and Government housing policies worked against those who sought to stay in their traditional communities.’¹⁶

Later that year the Tribunal discussed the same issues in its *Ngati Awa Raupatu Report*. It acknowledged that it was difficult to know whether the large numbers of Māori who left the district did so because of the local loss of land and other resources. As that Tribunal put it, ‘Māori and Pakeha alike in the middle part of this century left rural areas of New Zealand for the better employment, education, and entertainment prospects that the towns and cities offered.’ However, it added that the passage of the Town and Country Planning Act in 1953 had certainly disadvantaged Māori by disallowing them from partitioning building sites for housing on what little land remained in Māori ownership.¹⁷

The Tribunal also considered the subject in its 2015 report, *He Whiritaunoka: The Whanganui Lands Report*. It remarked that urban migration led to improved living standards but ‘had a cost in cultural terms’, and may have ‘led to some of the significant social problems that people increasingly faced – especially young people’. Overall, however, it felt that it lacked the evidence to conclude whether the movement of people was the result of deliberate Government policy or caused by other factors well beyond the Crown’s control. As such it made no findings. In the context of housing, however, it remarked that the Tribunal did not fault the Crown for encouraging Māori to relocate to urban areas where there were more services and jobs. It did find, though, that the legal impediments to Māori building on their tūrangawāwae were in breach of the Treaty.¹⁸

23.2.1.3 Employment

Most Tribunals considering the Crown’s assistance to Māori in finding work and participating in the economy have focused on the extent to which Māori retained a sufficient land base to take advantage of developing economic opportunities. In this, they have invariably found the Crown at fault. In its *Mohaka ki Ahuriri Report*, for example, the Tribunal found:

The Crown failed to reserve a sufficient endowment of land to allow Hawke’s Bay Māori to share equally with Pakeha in the pastoral and agricultural development of the economy. The Crown thus acted in breach of its duty of active protection, the principle of mutual benefit, and the Māori right to development.¹⁹

Similarly, in its *Te Tau Ihu o te Waka a Maui* report the Tribunal found: ‘this [marginal] socio-economic position was the result of the fact that the iwi of Te

16. Waitangi Tribunal, *The Whanganui River Report* (Wellington: GP Publications, 1999), p83.

17. Waitangi Tribunal, *Ngati Awa Raupatu Report* (Wellington: Legislation Direct, 1999), p101.

18. Waitangi Tribunal, *He Whiritaunoka*, vol 3, pp1145–1146, 1176.

19. Waitangi Tribunal, *The Mohaka ki Ahuriri Report*, vol 2, p 681.

Tau Ihu were left with insufficient land for their present and future needs. This situation can be attributed in large part to Crown actions.²⁰

At the same time, Tribunals have tended to recognise – as set out above in regard to urban migration and the dispersal from homelands – that forces shaping the world economy which helped propel urbanisation were well beyond the power of the New Zealand Government to control. However, the Tribunal has on several occasions criticised the Crown for failing to make a difference where it could. In its *Mohaka ki Ahuriri Report*, for example, the Tribunal considered that the Crown had ‘failed to provide alternative employment, other than occasional employment on public works, or to train Maori for employment in the various aspects of the economy’. Moreover, it had acted under the prevailing assumption that Māori needed part-time employment only to supplement their subsistence farming.²¹

In its 2008 report *He Maunga Rongo: Report on Central North Island Claims*, the Tribunal discussed the impact of the 1980s and 1990s State sector reforms on Māori employment, with particular reference to the corporatisation and sale of the State forestry service. That Tribunal made no findings on the ‘policy merits’ of the Government’s economic reforms of this period, nor on its decision to withdraw from the forestry industry and sell State forestry assets to private interests. However, it found that the Crown’s failure to adequately consult with Māori prior to its corporatisation of the State forestry service, or to ‘take proper steps to ascertain and protect’ Māori interests in the State forests, was in breach of the principles of partnership and active protection.²²

In particular, the Tribunal found that given the circumstances surrounding the 1980s economic reforms, and the ‘particular history of Central North Island Māori in exotic forestry’, the Crown failed to provide ‘adequate transitional arrangements’ for Central North Island Māori left out of work due to the restructuring and thus failed in its duty to ‘protect the economic and social interests of Central North Island Māori’.²³

Similarly, the Tribunal in its *Te Urewera* report accepted that the Crown, in exercising kāwanatanga, was and is permitted to set the direction of economic policy, including through the removal of its involvement in certain industries (such as forestry). However, the Tribunal maintained that the Crown had the duty to consult with Māori groups affected by such changes. It found that the Crown had not done this in Te Urewera, and indeed had disregarded the economic well-being of Te Urewera Māori communities. In this it had breached the principle of partnership. In general, and in keeping with other inquiries, the Tribunal found that the economic marginalisation of Te Urewera Māori was a prejudice that stemmed from the Crown’s prior serious breaches of the Treaty, such as the

20. Waitangi Tribunal, *Te Tau Ihu o te Waka a Maui: Report on Northern South Island Claims*, 3 vols (Wellington: Legislation Direct, 2008), vol 2, p1032.

21. Waitangi Tribunal, *The Mohaka ki Ahuriri Report*, vol 2, p680.

22. Waitangi Tribunal, *He Maunga Rongo: Report on Central North Island Claims, Stage One*, revised ed, 4 vols (Wellington: Legislation Direct, 2008), vol 3, pp1215–1217.

23. Waitangi Tribunal, *He Maunga Rongo*, vol 3, pp1217–1218.

failure to ensure the retention by Te Urewera Māori of a sufficient land base or to safeguard Te Urewera Māori autonomy.²⁴

23.2.1.4 Tribal identity

Comments about the loss of tribal identity are found in a number of Tribunal reports. The Tribunal discussed the matter in its *Kaipara Report* in considering the claim of members of Te Taoū, who argued that Te Taoū identity had been suppressed by the Crown's treatment of their tribe in the past as a part of Ngāti Whatua. The Tribunal did not consider that the Crown was necessarily at fault for this, noting that Pākehā scholars such as Stephenson Percy Smith had been influential in proposing interpretations of whakapapa that would not be acceptable today. The Tribunal added that 'the identification of Māori kin groups is the result of the dynamics of social and economic change over time', and '[t]hese social processes cannot be blamed on the Crown, although Crown actions may well be a significant factor in the dynamics of social change. We consider that any dispute over identity and nomenclature is a matter for Māori to resolve among themselves.'²⁵

The *Wairarapa ki Tararua Report* further discussed this issue. This involved the case of Rangitāne, whose unique identity had for many decades been obscured by the Pākehā tendency to consider all Māori of the region simply to be Ngāti Kahungunu (again, Smith was a key cause of this mistake). While the Crown was guilty of treating Rangitāne in this way, the Tribunal considered it had not deliberately suppressed Rangitāne identity. Rather, the general failure to recognise Rangitāne's separate status was exacerbated in the mid-twentieth century by the process of urban migration and the Crown's suppression of te reo and tikanga. Overall, the Tribunal considered that the Crown should ideally have understood the tribal origins and identity of the Māori of the Wairarapa and Tararua districts, but it was reluctant to conclude that there had been any breach of the Treaty. And even if the Crown had purposefully targeted Rangitāne in this way, the Tribunal felt that there was little lasting prejudice because of the strength of Rangitāne tribal identity today. As it put it: 'Rangitāne are really victims of their own success. They cannot succeed in their claim against the Crown because they are so manifestly succeeding as a people.'²⁶

As we will see, the issue of tribal identity was also raised in terms of separate tribal listings in published census results and the Crown's 'large natural groupings' settlement policy. We are unaware of whether previous Tribunals have considered claims about the non-listing of a particular kin group in the census results. However, several Tribunals have considered the Crown's Treaty settlement policy, and generally approved of settlements being made with large natural groupings of

24. Waitangi Tribunal, *Te Urewera*, vol 8, pp3782–3787.

25. Waitangi Tribunal, *The Kaipara Report* (Wellington: Legislation Direct, 2006), p331.

26. Waitangi Tribunal, *The Wairarapa ki Tararua Report*, 3 vols (Wellington: Legislation Direct, 2009), vol 3, pp1039–1043.

claimants. In 2000, for example, in its *Pakakohi and Tangahoe Settlement Claims Report*, the Tribunal wrote:

This is an approach with which we have considerable sympathy. There appear to us to be sound practical and policy reasons for settling at iwi or hapu aggregation level where that is at all possible. As the Whanganui River Tribunal put it, 'While Maori custom generally favours autonomy, it also recognises that, on occasion, the hapu must operate collectively.'²⁷

In *The Whanganui River Report*, the Tribunal remarked further that it was:

not practicable, reasonable, or fair to the majority's point of view that the Government should treat separately for the resolution of this claim, or that one group that has not established a unique status outside of the general genealogical ties should weaken a united position by standing apart.²⁸

By the same token, the Tribunal in its *Mohaka ki Ahuriri Report* considered that both Ngāti Pāhauwera and Ngāti Hineuru were sufficiently distinct groupings that they should each be accorded a separate settlement, even though neither might ordinarily be considered an 'iwi' in their own right.²⁹ In due course, the Crown concurred and negotiated a separate settlement with each group.

To ascertain whether a group had a right to stand apart in settlement negotiations, the *Pakakohi and Tangahoe Settlement Claims Report* applied a four-part test. First, it asked whether the kin group was recognised by tikanga or early colonial history (or both) as being a distinct cultural and political entity from the so-called large natural group with whom the Crown wished to settle. Secondly, it asked whether the kin group had distinct claims. If the answer to either of these questions was 'no', the claim to separate treatment would fail. If they were answered in the affirmative, however, then the Tribunal could proceed to examine the adequacy of the Crown's handling of the mandating process.³⁰

23.2.1.5 Liquor control

It does not appear that any other Tribunals have considered the issue of liquor control in the way that we are required to in this report.³¹ In its *Te Urewera* report, the Tribunal addressed Rua Kenana's unlicensed sale of alcohol to his community at Waimana, prompted by his inability to keep alcohol out. Rua was also resentful of the discriminatory liquor laws, which made it impossible for him to obtain

27. Waitangi Tribunal, *The Pakakohi and Tangahoe Settlement Claims Report* (Wellington: Legislation Direct, 2000), p 65.

28. Waitangi Tribunal, *The Whanganui River Report*, p 13.

29. Waitangi Tribunal, *The Mohaka ki Ahuriri Report*, vol 2, pp 699-700.

30. Waitangi Tribunal, *The Pakakohi and Tangahoe Settlement Claims Report*, p 57.

31. The prohibition of liquor sales within the adjacent Upper Whanganui Licensing Area is mentioned in passing in *The Whanganui Land Report* but is not the subject of specific findings in that Tribunal's report: Waitangi Tribunal, *He Whiritauka*, vol 3, p 118.

a licence. His actions led to his arrest in 1911, 1915, and again – notoriously – in 1916.³² But the comparison does not extend much further. Te Rohe Pōtae's status as a key battleground in the national debate over prohibition for several decades sets this inquiry district apart from others. By the same token, however, to the extent that the control of liquor is first and foremost an issue of mana whakahaere and rangatiratanga, then almost every Tribunal has addressed these core issues in some form.

23.2.1.6 *Protection from racial discrimination*

Almost all Tribunals have considered cases of discrimination against Māori, in one form or another. In general, for example, breaches of article 3 tend to involve discriminatory or unequal treatment of Māori compared to other New Zealanders. However, we are unaware of any Tribunals that have considered what we identify as the key issue in this inquiry, which is whether the Crown was too slow to put in place measures to prevent overt racial discrimination against Māori in the post-Second World War period.

We end by noting that some Waitangi Tribunal reports referred to above were released after the close of hearings for Te Rohe Pōtae claims, and are merely reviewed here for completeness. They have not influenced the findings and recommendations of the Tribunal.

23.2.2 *Crown concessions and acknowledgements*

The Crown has made no concessions with respect to liquor control, health, or any of the relevant social and cultural issues.³³

23.2.3 *23.2.3 Claimant and Crown arguments*

23.2.3.1 *Health and housing*

A large number of claims in this inquiry address health issues. These include several that solely address health and others that include separate issues that are argued to have also had a negative bearing upon the health of Te Rohe Pōtae Māori.³⁴ Particular grievances feature in a number of claims, such as the Tohunga Suppression Act and the lack of State support for traditional healing; the past and present lack of medical services in Te Rohe Pōtae; inadequate support for housing

32. Waitangi Tribunal, *Te Urewera*, vol 5, ch 17.

33. Statement 1.4.3, p 31 (re liquor control), pp 140–141 (re social and cultural issues), p 150 (re health). The only social or cultural issue the Crown made a concession about was the suppression of te reo Māori, which is not relevant to this chapter.

34. These include: Wai 457 (submissions 3.4.238, 3.4.238(a)); Wai 729 (submission 3.4.240); Wai 762 (submission 3.4.170); Wai 836 (submission 3.4.131); Wai 928 (submissions 3.4.175(a), 3.4.175(b)); Wai 1112, Wai 1113, Wai 1439, Wai 2351, Wai 2353 (submission 3.4.226); Wai 1147, Wai 1203 (submission 3.4.151); Wai 196 (submission 3.4.239); Wai 1230 (submission 3.4.168); Wai 1255 (submission 3.4.199); Wai 1299 (submission 3.4.234); Wai 1447 (submission 3.4.187); Wai 1450 (submission 3.4.196); Wai 1480 (submission 3.4.176); Wai 1482 (submission 3.4.154(a)); Wai 1448, Wai 1495, Wai 1501, Wai 1502, Wai 1592, Wai 1804, Wai 1899, Wai 1900, Wai 2125, Wai 2126, Wai 2135, Wai 2137, Wai 2183, Wai 2208 (submission 3.4.237); Wai 1499 (submission 3.4.171(a)); Wai 1606 (submission 3.4.169(a)); Wai 1704 (submission 3.4.297); Wai 1818 (submission 3.4.213); Wai 1824 (submission 3.4.181).

and sanitation; the lack of protection from tobacco and alcohol; the lack of Māori involvement in health service delivery or Māori decision-making over healthcare; the loss of traditional food resources and the resulting switch to a less healthy diet; and the health impacts of the loss of land and other resources.³⁵

In their generic closing submissions, the claimants argued that the Crown has a Treaty duty to actively protect Te Rohe Pōtae Māori health and a corresponding duty to address health disparities between Māori and non-Māori. They maintained that the Crown had breached this duty by its failure to protect Māori ownership of land and other resources, which had led to a cycle of poverty and ill health. They did not argue that the Crown had been 'inactive' in attending to Māori health needs, but rather that it had not done enough. Essentially, claimant counsel argued that the very existence of significant health disparities both now and in the past showed that the Crown had failed to take sufficient protective action with regard to Māori health.³⁶

As noted, the Crown made no concessions, and its determined position in closings was that:

- the issues are complex;
- health outcomes are influenced by a range of factors;
- the role of the State has evolved considerably, and matters that are today regarded as the State's responsibility (such as housing and healthcare) were not seen as such in the past;
- care must be taken not to ascribe today's standards (of, say, adequate housing) to the past;
- the extent to which the Crown can assist depends on its levels of resourcing and the state of scientific knowledge;
- the Crown must balance a range of different interests when implementing measures; and
- the Crown cannot guarantee protection, as some matters remain beyond its control (such as low Māori levels of immunity, personal choice, et cetera).³⁷

Overall, the Crown asked to be judged not on outcomes – over which it claimed to have limited control – but on its actions. These, it asserted, were equitable and fair in the circumstances, and often over and above what was provided to non-Māori.³⁸

Indeed, the Crown went so far as to assert that it has no absolute legal or Treaty obligation to provide healthcare services at all. It claimed that article 1 meant that it is 'for the democratically elected government of the day to determine the extent to which it will provide such services to its citizens'. This, it said, is 'fundamental to our constitutional arrangements, and is consistent with Treaty principles'. Its Treaty duty, it argued, was and is 'to take steps that are reasonable in the circumstances to reduce disparity between Māori and non-Māori New Zealanders'. It met

35. Document A31 (Robinson), pp2–4.

36. Submission 3.4.106, p3.

37. Submission 3.4.282, pp1–5, 11, 33, 37–38, 49–51, 82.

38. Submission 3.4.282, pp5, 9, 37, 41, 49–50, 83.

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this obligation, it submitted, by providing equal access to healthcare to Māori in Te Rohe Pōtae as to non-Māori.³⁹

23.2.3.2 *Urban migration and dispersal from homeland*

In their generic closing submissions on this issue, the claimants argued that the Crown was responsible for the urban migration of their people because it had not protected Te Rohe Pōtae Māori in the ownership of their land or ensured that they had the means to develop what they had been able to keep. For many there had been no choice but to leave their tūrangawaewae. The Crown had also encouraged urban migration by both focusing Maori Affairs housing in urban areas and gearing other policies (such as those involving education and training) towards urban living. In all this, argued counsel, '[t]he Crown failed to take Te Rohe Pōtae Māori relationship with their tūrangawaewae into account when implementing their various policies'. Urban migration had 'robbed communities of leadership and initiative' and severed the connection of those who had left with their marae, whānau, and reo.⁴⁰

Crown counsel contended that urban migration was an international trend for which the Crown could not be held responsible. Nor could the Crown control employment opportunities in remote districts; as counsel put it: 'The Crown could not insulate rural communities from socio-economic change.' Crown counsel added that some Crown policies had in fact encouraged Māori to remain on the land, such as the development schemes. Overall, the Crown accepted that there will have been some negative impacts on Te Rohe Pōtae Māori of urban migration, but it wished to stress that urban migration was 'not an inherently evil phenomenon, but rather an important part of the development of countries'. Moreover, the Crown had sought to mitigate any harmful effects 'through its range of socio-economic policies and initiatives'.⁴¹

23.2.3.3 *Employment*

Claimant counsel contended that the Crown had failed to adequately support Te Rohe Pōtae Māori into employment. The loss of land, in particular, had affected the ability of Māori in Te Rohe Pōtae to make a living. Nor had the land development schemes been sufficient to offset the loss of general employment opportunities on farms in the 1920s and 1930s, with the employment the schemes generated also not coming close to matching the growth of the Māori population. Counsel pointed to past and present evidence of lower Māori incomes in Te Rohe Pōtae compared to Pākehā, and noted also that Māori had been much worse affected by the economic reforms of the 1980s, which had caused the loss of large numbers of jobs in industries with a significant proportion of Māori workers. The district remained heavily deprived, with limited employment opportunities.⁴²

39. Submission 3.4.282, pp11, 31, 60.

40. Submission 3.4.111, pp4-13.

41. Submission 3.4.286, pp20-22.

42. Submission 3.4.110, pp5-6, 9-12.

The Crown maintained that it had little ability to influence local employment opportunities in Te Rohe Pōtae. Such opportunities were dependent upon a range of factors, such as the levels of local population growth, the district's isolation, and the prevailing economic conditions. Crown counsel added, however, that the Crown sought 'to maximise employment opportunities for New Zealanders generally, including in rural areas, through positive social and economic conditions'.⁴³

23.2.3.4 *Tribal identity*

The claimants essentially raised two types of claims. First, there were claims by well-established kin groups such as Ngāti Hikairo and Ngāti Te Wehi that the Crown was failing to recognise and deal with them as separate iwi.⁴⁴ Secondly, several claimant groups were seeking either to resurrect a hapū identity or to bolster the local presence of a migratory hapū, and they blamed the Crown or the Native Land Court for their current lack of members or recognition.⁴⁵ In their generic closing submissions, the claimants contended that the Tribunal in its *Wairarapa ki Tararua Report* had found that the Crown has a Treaty duty to protect tribal identity.⁴⁶ By contrast, the Crown submitted that the preservation of tribal identity was outside its area of responsibility or control. Crown counsel listed the factors beyond the Crown's control that can lead to changes in tribal identity, such as personal choice, migration, and 'political expediency'. Altogether, the Crown felt there was too little evidence for the Tribunal to establish whether the Crown itself was responsible for any 'prejudice to the tribal identities of Rohe Pōtae Māori'.⁴⁷

23.2.3.5 *Protection from racial discrimination*

Claimant counsel submitted that Te Rohe Pōtae Māori were subject to three types of racial discrimination: overt and express discrimination, such as a colour bar; economic discrimination, such as much better support for Pākehā to develop their lands; and indirect discrimination, such as Māori being denied a vote through a technical ineligibility. Examples of overt discrimination cited by counsel included the segregation in the Piopio picture theatre and the aforementioned exclusion of Māori from the Royal New Zealand Returned and Services Association and workingmen's clubs. Counsel argued that the Crown had an obligation under article 3 of the Treaty to prevent such forms of discrimination but that '[t]he Crown did very little to fulfil its obligation to protect Te Rohe Pōtae Māori from racial discrimination'.⁴⁸

The Crown contended that the claimants had only produced anecdotal evidence of racial discrimination, and that this lacked detail. Moreover, said Crown counsel, the Crown had since passed laws 'to promote and protect racial equality in New

43. Submission 3.4.286, p23.

44. Submission 3.4.237, pp 3–6.

45. Document 011, pp 5–9; doc N52 (Hohaia), paras 120, 127.

46. Submission 3.4.113, p 47.

47. Submission 3.4.286, pp 48–49.

48. Submission 3.4.118, paras 20–28, 50, 52.

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Zealand', such as the Race Relations Act 1971, the Human Rights Commission Act 1977, the New Zealand Bill of Rights Act 1990, and the Human Rights Act 1993.⁴⁹

23.2.3.6 *Liquor control*

Claimant counsel argued that the Crown had failed to enforce the liquor ban it agreed to and proclaimed in 1884 or empower Te Rohe Pōtae Māori to enforce it. It had then breached the compact over liquor by introducing licences, and had failed to support Te Rohe Pōtae Māori wishes to benefit from the introduction of licences, if that outcome became inevitable.⁵⁰ Underlying claimant submissions on the issue was the broader contention that the Crown had promised Te Rohe Pōtae Māori local self-government, as Rewi Maniapoto had requested in 1884.⁵¹

The Crown submitted that it had attempted to enforce the liquor restrictions, but the size of the district and the small number of available police made this difficult. Then, when the Māori attitude changed to favour licences in the early 1890s, the Crown had been unable to accommodate this because of the strength of the prohibition movement. The same had applied after 1900, although Crown counsel noted that Māori had been given some power to control liquor via the Māori Councils Act 1900. Counsel submitted that after the First World War, the ongoing strength of the temperance lobby meant that the status quo had had to prevail (which, counsel contended, was now in fact in accordance with the majority of Māori wishes). The two referenda on liquor licensing in 1949 and 1954 did not breach the sacred pact, said counsel, because there never was any such agreement. Furthermore, the 1949 vote was Treaty-compliant, as it effectively granted Te Rohe Pōtae Māori a veto over the introduction of licences. While this veto was absent in 1954, counsel submitted: 'The ultimate result was Treaty consistent.'⁵²

23.2.4 *Issues for discussion*

Based on the arguments advanced by claimants and the Crown, previous Tribunal findings, and the Tribunal's statement of issues, the chapter focuses on the following key issues:

- ▶ what disparities existed between Māori and non-Māori health status and housing and what could be said to have caused them;
- ▶ what was known about health and disease at the time;
- ▶ what priority, in terms of resourcing, was accorded to addressing Te Rohe Pōtae Māori health and housing needs;
- ▶ were services provided to Te Rohe Pōtae Māori at least equal to those provided to non-Māori; and
- ▶ what degree of autonomy Te Rohe Pōtae Māori were accorded in the provision of healthcare services, and over the control of liquor in their district.

49. Submission 3.4.286, pp2 6-27.

50. Submission 3.4.199, pp7-9; submission 3.4.128(b), pp23-25.

51. Submission 3.4.185, pp13-14.

52. Submission 3.4.301, pp83, 86, 94, 99, 103, 106-107, 133.

23.3 HEALTH AND HOUSING

23.3.1 Did the Tribunal receive sufficient evidence for the period before 1900 and the period beyond?

Before proceeding it is necessary to discuss the extent and depth of the evidence available to us, as the Crown has raised questions over its sufficiency. There is certainly a dearth of statistics on nineteenth-century Māori health status, a problem that is magnified when it comes to the specifics of a particular region such as Te Rohe Pōtae. Dr Robinson noted that the research of scholars such as Ian Pool and Derek Dow had enabled her to gain a national picture for the period up to 1900, which she had then supplemented with a variety of locally focused primary and secondary texts. This had enabled her, she said, to piece together an ‘incomplete and somewhat hazy’ image of Māori health in nineteenth-century Te Rohe Pōtae. She nevertheless felt that this picture was ‘broadly accurate’.⁵³

The Crown submitted that Dr Robinson’s qualifications on the evidence – including her concession during cross-examination that she had been able to draw ‘quite limited conclusions’ in regard to the nineteenth century⁵⁴ – was an insufficient basis for the Tribunal to make findings about the Crown’s pre-1900 provision of healthcare to Te Rohe Pōtae Māori.⁵⁵ We agree that, where there is inadequate evidence to draw firm conclusions or make findings, the Tribunal must exercise caution. However, there is a distinction between having a complete and accurate picture of Māori health status in Te Rohe Pōtae at the time and assessing the Treaty-compliance of Crown actions, on a case-by-case basis. As the Tribunal put it in its *Napier Hospital and Health Services Report*, in discussing the sufficiency of the evidence placed before it: ‘We are satisfied that the available evidence is sufficient for us to report on all the matters raised in the claim. On a few questions, however, our findings are restricted by deficiencies in the information or in the scope of the coverage.’⁵⁶

Information about the state of Māori health nationally, or in other rural areas, is also valuable. As the Tribunal remarked in its *Tauranga Moana* report with regard to the lack of locally specific data, there is no reason to believe that the health or housing conditions of Tauranga Māori would substantially differ from those to be found among other Māori communities.⁵⁷ This does not necessarily overcome the difficulties in gaining a complete picture of nineteenth-century Te Rohe Pōtae Māori health standards, but the Crown itself remarked in closing: ‘while there are limitations in the evidence concerning the health of Te Rohe Pōtae Māori historically, the Crown notes that their experiences in respect of health are likely to be similar to those of other Māori in predominantly rural areas.’⁵⁸

In other words, Dr Robinson’s approach of building a picture of pre- and post-1900 Te Rohe Pōtae Māori health conditions through the use of evidence

53. Document A31, pp 5, 11.

54. Transcript 4.1.21, p1168.

55. Submission 3.4.282, p 8.

56. Waitangi Tribunal, *Napier Hospital and Health Services Report*, p 28.

57. Waitangi Tribunal, *Tauranga Moana 1886–2006*, vol 2, pp 710, 812.

58. Submission 3.4.282, p6.

23.3.2

drawn from beyond the inquiry district was sound. We do not doubt that a more comprehensive picture of Te Rohe Pōtae Māori health and well-being could have been achieved through further research. Asked to nominate any other avenues of inquiry that could have filled in the socio-demographic and health history of Te Rohe Pōtae, Robinson noted that the years since 1990 were an obvious gap, while she considered that collections of correspondence and sources in te reo Māori would have added to what is known about the late nineteenth and early twentieth centuries.⁵⁹ Nevertheless, for the purposes of assessing the Crown's actions for their Treaty compliance, we consider Robinson's approach to be sufficient.

There is another important caveat on this chapter's consideration of health issues, however. As the Crown pointed out, Dr Robinson was trained in history, and thus the perspective she brought to bear was that 'of an historian as opposed to a scientist or a medical professional' (a proposition with which Dr Robinson agreed).⁶⁰ Dr Robinson also relied to a degree on other health historians, such as Dow and Raeburn Lange. This necessarily places a limit on the kinds of conclusions we can make about the causes of Māori ill health in Te Rohe Pōtae. This chapter's treatment of the subject is therefore primarily a history of public health, or government health service provision, rather than an analysis of the cause and effect of disease informed by epidemiological expertise. In summary, despite the aforementioned limitations of the available evidence on Māori health conditions in Te Rohe Pōtae, where such gaps are apparent this chapter takes these into account in its assessment of the Crown's Treaty-compliance.

23.3.2 Te Rohe Pōtae Māori health and housing before 1900

23.3.2.1 Te Rohe Pōtae Māori concepts of medicine and healing

At the time of contact with Europeans, Te Rohe Pōtae Māori practised their own forms of medicine and healing (rongoā). Traditionally, Māori had what the Waitangi Tribunal called 'a sophisticated system of public health', with people and places being divided into the tapu and the noa. Public latrines, for example, were designated tapu or off limits (and sited well away from habitations), as were the purest sources of water. Certain people, such as the grieving families of the recently deceased, and those considered vulnerable to ill-health, were also considered tapu and segregated from others, thus minimising the spread of infectious disease.⁶¹

For Māori, health and well-being was, and remains, holistic, encompassing both the taha wairua (spiritual side) and the taha tinana (physical side). Tohunga rongoā, or expert healers, treated the metaphysical causes of ill-health, by driving out spirits or identifying the human transgressions of tapu that led to illness and suffering, at the same time as they treated physical symptoms.⁶² Methods used by tohunga included the recitation of karakia and rituals, the use of rākau rongoā or medicinal plants, mirimiri or massage, the ritual use of water, and minor

59. Document A31(e) (Robinson answers to questions in writing), p3.

60. Transcript 4.1.21, p 1160.

61. Waitangi Tribunal, *Ko Aotearoa Tēnei, Te Taumata Tuarua*, vol 2, pp 602–604.

62. Waitangi Tribunal, *Ko Aotearoa Tēnei, Te Taumata Tuarua*, vol 2, pp 602–604.

surgical procedures, such as binding wounds with flax fibre, and bracing breaks with splints.⁶³

Certain places in Te Rohe Pōtae had particular associations with healing. The Waimiha Valley was once renowned for its tohunga rongoā. Whenuatupu, where the Poro-o-tarao rail tunnel now cuts through the Tihikārearea hill, was the site of the famed whare wānanga Miringa Te Kākara (discussed further in chapter 24). Piripi Ngāwhira recalled how the reputation of Miringa Te Kākara as a house of learning spread around the country, and drew many tohunga and their families to Waimiha, and some remained there.⁶⁴ Harry Kereopa, who gave evidence at the Waimiha hearing, spoke of the long line of healers associated with Te Ihingārangi.⁶⁵ Waimiha was also home to a sacred grove of healing trees that could cure all ailments.⁶⁶ As seen in section 9.4.7 of part 1, the railway's construction led to the felling of the grove of rongoā trees, and the pollution of a puna wai tapu at Potakataka, whose purity and healing properties had attracted many tohunga to live there. Jack Te Reti, of Te Ihingārangi, spoke of his grandfather, Rite Wharekoka, who was a tohunga of birth and fertility: 'there were specific areas in the rohe, which were used for the purpose of healing. My grandfather would gather rongoā and other resources he needed from wāhi tapu around the rohe'.⁶⁷

Te Rohe Pōtae Māori continued to practise customary forms of healing and rongoā following the arrival of Pākehā to the inquiry district. However, as seen in later chapter sections, from the turn of the twentieth century Māori healing practices were increasingly driven underground, most notably through the passage of the Tohunga Suppression Act 1907, which outlawed tohunga.

23.3.2.2 Late nineteenth-century population

It is difficult to precisely define the size of the Te Rohe Pōtae Māori population during or before the period of the aukati. In her evidence, Dr Robinson outlined the inconsistencies in and shortcomings of the Māori population estimates and censuses made between the 1840s and the turn of the century. What appears clear, however, is that – as with Māori in other parts of the colony – the Te Rohe Pōtae Māori population declined after 1840 until some point in the 1890s, after which it began steadily to recover. The Ngāti Maniapoto population specifically reached its officially recorded nadir of 1,263 in 1896.⁶⁸

Historian Keith Sorrenson made use of these census figures in his early research, noting in particular the recorded rise in the Ngāti Maniapoto population until 1886 and its sharp decline thereafter. He reasoned that tribes that had been

63. Waitangi Tribunal, *Ko Aolearoa Tēnei, Te Taumata Tuarua*, vol 2, p604.

64. Transcript 4.1.11, pp [47]-[48].

65. Transcript 4.1.11, p [361].

66. Transcript 4.1.11, p [374].

67. Transcript 4.1.11, p [174] (Jack Te Reti, hearing week 5, Te Ihingārangi Marae, 6 May 2013).

68. Document A31, p13. We do not suggest that deficiencies in the census were eradicated after 1900. The 1926 census, for example, changed the way that 'half-castes' were counted, making accurate comparison with earlier censuses impossible. Opposition to conscription also led to a heavy Māori undercount in Te Rohe Pōtae at the 1916 census: doc. A31, pp 64–66.

defeated in the wars but had not allowed the alienation of any of their land until the 1880s or later – such as Ngāti Maniapoto, and Te Urewera Māori – suffered their most dramatic population decline later than other iwi. That is, despite the negative impact on these tribes of warfare, it was the opening up and sale of their land via the Native Land Court, and the ensuing spread of Pākehā settlement, that caused the most damage.⁶⁹ Dr Robinson warned against ‘hanging any theory’ on the unreliable census figures, concluding that Ngāti Maniapoto’s apparently later decline and revival than other iwi was ‘only a possibility’.⁷⁰ We note, however, that Sorrenson’s assessment was supported by both demographer Ian Pool and – as Dr Robinson acknowledged – the American historian of medicine Stephen J Kunitz.⁷¹

23.3.2.3 *What was the status of pre-1900 Māori health?*

Māori life expectancy in the 1890s was low, at just under 30 for males and 25.9 for females. As Dr Robinson noted, these figures were distorted by extremely high rates of infant mortality. Thus, out of every 100 Māori boys born in the 1890s, 30 would die before turning one, while the corresponding rate for girls (40) was even worse. The majority of girls would die before their tenth birthday. Pākehā life expectancy was much higher, at 59.6 for males and 64.8 for females.⁷² This stemmed not just from much lower rates of Pākehā infant and child mortality, but also reflected what Pool has described as the ‘highly privileged’ status of Pākehā in New Zealand, whose rates of life expectancy led the world at the time.⁷³

The high Māori infant mortality rate reflected the general Māori susceptibility to infectious diseases. Because of its relatively isolated and scattered nature, the pre-contact Māori population was too small to sustain most contagious diseases. As a result, when European diseases arrived Māori suffered a devastating impact. Tuberculosis was regarded as having become the most widespread affliction, but influenza, measles, typhoid, whooping cough, sexually transmitted diseases, and other common nineteenth-century infections all took their toll. Hakihaki or skin infections were also common, especially among children. Eventually, as immunity levels began to build, the impact of disease began to dissipate, and it seems likely that disease-related mortality in Te Rohe Pōtae peaked before the aukati was lifted. This reinforces the notion that factors other than lowered Māori immunity to infectious diseases must have been at play in the the ongoing decline in the Te Rohe Pōtae population after the mid-1880s.⁷⁴

We do not have sufficient evidence to comment on the ongoing effects of the wars of the 1860s on Te Rohe Pōtae Māori health in later decades. Agricultural production recovered reasonably quickly, but never reached pre-war levels, and

69. MPK Sorrenson, ‘Land Purchase Methods and their Effect on Maori Population, 1865-1901’, *Journal of the Polynesian Society*, vol 65, no 3, 1956, pp 193-194; doc A31, p14.

70. Document A31, pp 14, 16.

71. Ian Pool, *Te Iwi Maori: A New Zealand Population Past, Present & Projected* (Auckland: Auckland University Press, 1991), pp 97-101; doc A31, p45.

72. Document A31, pp 16-17.

73. Pool, *Te Iwi Maori*, p77.

74. Document A31, pp18-22.

the burden for Te Rohe Pōtae iwi of hosting their Waikato kin would have involved some overcrowding and led to greater pressure on food resources and, potentially, greater susceptibility to disease. It appears that agriculture may have declined again by 1890, after the commencement of land sales (the decline was observed that year by the native agent in Ōtorohanga, George Wilkinson). Overall, however, there is too little evidence about the late nineteenth-century Te Rohe Pōtae Māori diet to judge whether it was sufficient to maintain a reasonable standard of health.⁷⁵

Dr Robinson did not attempt to quantify the extent to which alcohol had a harmful effect on Te Rohe Pōtae Māori health, although she did venture that the liquor licensing ban imposed in 1884 may well have harmed health overall given the prevalence of sly-grogging and the resort of some Māori to drinking methylated spirits. Nor could she quantify the impact of tobacco, although she proposed that lung cancer and other degenerative diseases associated with smoking would not have presented as a significant problem due to low Māori life expectancy. However, she did consider that smoking would have exacerbated other diseases affecting the lungs and breathing, such as influenza and tuberculosis.⁷⁶

It is broadly recognised that housing quality has a direct bearing on health, and that nineteenth-century Māori housing was generally deficient in this regard. Traditional raupō whare usually had open fires burning and were hot, smoky, and crowded, meaning that infection was easily passed on and respiratory systems suffered. Dr Robinson described them as incubators of tuberculosis. Dampness was also a problem, as houses had earth floors and were often built near swampy ground. A lot of Māori housing was also only temporary and makeshift, as whānau moved for seasonal work or to attend land court sittings. Wilkinson reported in 1887, for example, that the land court had sat for four months at Alexandra during winter and that 90 per cent of the Māori attendees had lived in tents. Pākehā associated Māori housing with ill health at the time, although these views were probably based more on cultural assumptions than scientific knowledge. In any event, while there was political attention paid to the problems of working class, urban, Pākehā housing in the late nineteenth century, there was no similar focus on Māori housing. As it was, Māori often found European-style houses unappealing, being harder to heat and less communal.⁷⁷

Herein lay a key part of the problem: Pākehā housing was culturally alien, but traditional Māori living conditions did not suit the new disease environment. As Raeburn Lange has written, 'until the Māori achieved living conditions that were suited to the new way of life, they were unduly vulnerable to any disease, old or new'.⁷⁸ Aside from issues of ventilation and overcrowding, another major problem was sanitation, although here it may have been a post-contact lifestyle modification that further undermined good health. As noted above, Māori observance

75. Document A31, pp19, 29-33, 44.

76. Document A31, pp36-39.

77. Document A31, pp39-42.

78. Raeburn Lange, *May the People Live: A History of Maori Health Development 1900-1920* (Auckland: Auckland University Press, 1999), p20.

23.3.2.4

of tapu and noa reinforced healthy practices, such as through segregating ablutions and rotting food from dwellings. After contact and colonisation, however, adherence to some of these strict rules of tapu had decreased, and poor sanitation practices in many kāinga led to regular outbreaks of disease. Wilkinson wrote from Ōtorohanga in 1890 that 'the absence of all sanitary laws in connection with their mode of living makes them [Māori] an easy prey to epidemic sickness'.⁷⁹

23.3.2.4 *What medical assistance did the Crown provide in the nineteenth century?*

In the nineteenth century, it was not generally regarded as part of the Government's core function to provide healthcare and housing assistance to the colony's inhabitants. An exception to this was the construction of hospitals, a number of which not only served the settler population but were also aimed at winning Māori support for the spread of colonisation. In this regard, the construction of a hospital was sometimes held out to Māori as an inducement to sell land. The establishment of a hospital at Napier in 1860 is a case in point after a promise Donald McLean made to the Māori sellers of the Ahuriri block in 1851 of the advantages they would reap from a Pākehā town. Similar promises were made to Ngāi Tahu vendors in South Island land transactions in the 1840s. Another exception to the State's non-involvement was Governor George Grey's related native medical officer (NMO) scheme, whereby the colonial government would subsidise doctors to provide free primary healthcare to Māori. Grey felt that this would assist in the task of Māori 'civilization'.⁸⁰

The first hospitals built by the Crown, however, were established in Pākehā towns rather than in close proximity to Māori settlements. Dr Robinson acknowledged that this meant they served the greatest number of people, but felt that the establishment of some hospitals near goldfields confirmed the existence of a priority on providing such services to Pākehā rather than Māori.⁸¹ She found the Crown's motives in this regard unclear, but noted in any event that Pākehā communities tended to be more successful in their efforts at lobbying for hospitals.⁸² Lange has also remarked upon the fact that few hospitals built by the mid-1880s were anywhere near what he called 'the Maori districts'.⁸³ A significant development for the purposes of this report was the founding of Waikato Hospital at Hamilton in 1887, although this remained relatively inaccessible for most Te Rohe Pōtae Māori, at least until the opening of the railway line in 1908.

A further impediment for Te Rohe Pōtae Māori was the cost of using the Waikato Hospital. Central and local government each contributed around 40 per cent of its costs, while the remaining 20 per cent had mainly to be funded by patient fees. Dr Robinson found no evidence at this time that Māori patients were

79. GT Wilkinson to Under-Secretary, Native Department, 19 June 1890 (doc A31, p43).

80. Governor Grey to Secretary of State, 13 February 1852 (Waitangi Tribunal, *Napier Hospital and Health Services Report*, pp87-91).

81. Document A31, p47.

82. Transcript 4.1.21, p 1192.

83. Lange, *May the People Live*, p36.

not paying their fees, but if they could not the hospital board would have to cover their expenses after an 1888 directive to this effect from Native Minister Edwin Mitchelson.⁸⁴ As seen in chapter 19 of this report, most Māori land at this time was exempt from rating. This lack of Māori ratepayers created a funding shortfall for the hospital. Its board argued in the 1890s that if Māori patients had to be treated then Māori land should be subject to rates.⁸⁵ This appears to have been a widespread and controversial issue at the time, with Lange noting the reluctance of many boards to admit Māori patients.⁸⁶

Quite aside from the physical and financial barriers, some Māori may also have been deterred from attending hospitals for cultural reasons. It seems unlikely that staff at Waikato Hospital could speak to reo, or that they had much comprehension of Māori protocols about the appropriate disposal of Māori body parts.⁸⁷ Indeed, the initial high usage of colonial hospitals by Māori appears to have given way later to rather less frequent attendance. In Napier, for example, there seemed to the Tribunal in its *Napier Hospital and Health Services Report* to have been a 'nearly complete disengagement' by Māori from use of the hospital by the late nineteenth century. The Tribunal put this down to a combination of factors related to distance, cost, the negative association of the hospital with death, and its 'monocultural' mode of operation.⁸⁸ Dow looked at the overall national pattern of Māori hospital use in the late nineteenth century and described it as 'a complex and varied picture'. He thought that, while many Māori saw hospitals as places to die, others did seek treatment at them. Of this latter group, some were put off hospital use by the lack of respect for Māori beliefs and the occasional discouragement of Māori attendance.⁸⁹

The NMO (native medical officer) scheme began in 1857, with one of the first recipients of subsidies being a doctor at Raglan. However, the scheme did not always operate as may have been intended, with complaints in 1862 that the Raglan doctor did not visit sick Māori. Dr Robinson reflected that appointment as a native medical officer 'did not necessarily indicate devotion to Māori health'. However, the inverse also applied, with the likes of chemists sometimes being – in the absence of any doctor – quite attentive to local Māori health needs. There certainly was a shortage of trained doctors in and around Te Rohe Pōtae. Dr Robinson reported there being four in Hamilton and two in Te Awamutu in 1883, and only four in total in 1899 (three in Hamilton and one in Cambridge). This only partly reflected the nationwide doctor shortage at the time, as the number of registered medical practitioners had grown between the two dates.⁹⁰

84. Derek A Dow, *Maori Health and Government Policy 1840–1940* (Wellington: Victoria University Press, 1999), p 58; doc A31, p 61.

85. Document A31, p 61.

86. Lange, *May the People Live*, p 36.

87. Document A31, pp 61–62.

88. Waitangi Tribunal, *Napier Hospital and Health Services Report*, pp 129–142.

89. Dow, *Maori Health and Government Policy 1840–1940*, p 71.

90. Document A31, pp 52–55.

Given the lack of trained doctors in Te Rohe Pōtae, others were appointed as native medical officers. Dr Robinson gave their names (a Mr Aubin, a Mr Bay, and a Mrs Berry), but beyond that little information is available about them. It seems in any event that they did not remain long in their roles, with Wilkinson remarking in 1892 that Te Rohe Pōtae Māori were 'left to take their chance between the local Maori tohunga, or doctor, and the few proprietary medicines that are on sale at the local stores'. We return to the role of tohunga below. There was, however, one other important source of Western medical care for Māori in the form of the native school teachers, who dispensed medicines to their pupils and (often) to the wider community. The schools' curriculum included educating Māori pupils about European principles of health and hygiene, with James Pope's 1884 text *Health for the Maori* being studied in class. The operation of the native school system in Te Rohe Pōtae is discussed at greater length in the next chapter.⁹¹

In addition to the Māori reticence to use hospitals, there was also some suspicion towards doctors, particularly among followers of the Kingitanga. Dr Robinson thought this had dissipated somewhat by 1886, when a native medical officer was able to treat sufferers of a 'low fever' epidemic at Whatiwhatihoē.⁹² Lange also felt that language and cultural barriers were a major impediment, just as they were in hospitals. Many Māori regarded Western medicine as foreign and were put off by its practitioners' refusal to consider the Māori emphasis upon the spiritual side to health.⁹³ Robinson was unable to comment on the extent to which Te Rohe Pōtae doctors provided culturally appropriate services to Māori, although she noted that many had a degree of fluency in te reo Māori. Robinson concluded that Māori reluctance to use Pākehā medical services more likely stemmed from 'political antipathy to the Crown, and perhaps a general distrust of Pākehā, than concerns over the efficacy of Western medicine or the cultural appropriateness of its delivery.'⁹⁴

Only a small amount of money was made available for subsidies under the native medical officer scheme, and Lange described it as being 'thinly spread over the country'.⁹⁵ He related the case of an 'industrious half-caste' in Te Rohe Pōtae, just after the turn of the century, who refused to visit a tohunga but whose family went without medical treatment because of the unaffordable cost.⁹⁶ Dow wrote that there was 'no standardised pattern or workload' to the NMO scheme and the Native Department was 'invariably constrained by financial considerations'.⁹⁷ However, Dr Robinson noted that Pākehā received no equivalent benefits. She felt that the subsidies were a means of attracting some doctors to isolated areas, and considered that it would have been impractical and out of keeping with

91. Wilkinson to Under-Secretary, Native Department, 28 June 1892 (doc A31, pp 55-56).

92. Document A31, pp 56-57.

93. Lange, *May the People Live*, pp 37-38.

94. Document A31, p 57.

95. Lange, *May the People Live*, p 73.

96. Wilkinson and Reverend T Hapimana to Justice Department, 7 October 1902 (Lange, *May the People Live*, p 37).

97. Dow, *Maori Health and Government Policy 1840-1940*, p 82.

what was regarded as the Crown's role in medical care at the time to go further, especially given the general shortage of doctors in New Zealand.⁹⁸ She cited Alan Ward's remark (made in reference to the scheme in the 1860s) that 'the system of subsidised medical officers represented an advance in the Government's conception of its responsibilities, creditable in a *laissez faire* age'.⁹⁹

Despite the difficulties for Te Rohe Pōtae Māori of cost, an alien approach to healthcare, and the limits of both hospital coverage and the native medical officer scheme, Dr Robinson argued that the primary reason for Te Rohe Pōtae Māori ill health was not the lack of medical care but the fact that they were 'an immunologically vulnerable people exposed to a range of foreign diseases for the first time', although she noted that warfare, land loss, alcohol and tobacco, and shortages of food likely also played a part in Māori ill health.¹⁰⁰ Robinson also noted the limitations of Western medical knowledge at this time to treat most of the diseases afflicting Māori.¹⁰¹ However, while Robinson's characterisation of Western medical knowledge is likely accurate for the mid-1800s, it holds less true for the latter decades of the century. As the Tribunal has pointed out in its *Napier Hospital* report, significant medical advances took place in the late nineteenth and early twentieth centuries into understanding the nature of disease transmission, as well as the environmental factors that might render individuals or populations vulnerable to certain diseases, even if their treatments remained elusive.¹⁰² The problem lay less in lack of knowledge, than failure to apply the knowledge gained, whether it be in preventing blood infections, stopping the spread of tuberculosis, or requiring improvements in sanitation.¹⁰³ The public health reforms of 1900 were designed in part to address some of these shortcomings.

23.3.3 Te Rohe Pōtae Māori health and housing from 1900 to 1938

23.3.3.1 What was the impact of the public health reforms of 1900?

In October 1900 Parliament passed the Public Health Act, which established the Department of Public Health. The main purpose of the new department was to oversee initiatives to improve sanitation and reduce the spread of infectious diseases. The immediate catalyst for the legislation had been a bubonic plague scare. The department's creation marked a change in mindset on the Government's part away from a minimal role for central government in public health to a proactive and centralised system of controls. Provision was made for the improvement of Māori sanitation in section 65 of the Act, whereby the Governor could declare special districts under elected Māori committees which were empowered to undertake sanitation works. The following year Māui Pōmare – the first trained Māori doctor – was appointed as native health officer, a senior role within the

98. Document A31, pp 57–58.

99. Alan Ward, *A Show of Justice: Racial 'Amalgamation' in Nineteenth Century New Zealand* (Auckland: Auckland University Press, 1995), p142 (doc A31, pp 57–58).

100. Document A31, p63.

101. Document A31, p 63.

102. Waitangi Tribunal, *The Napier Hospital and Health Services Report*, p 119.

103. Document A31, p 48.

department. His mission was to improve the sanitation of kāinga and prevent the outbreak of disease.¹⁰⁴

Allied to the Public Health Act was another piece of 1900 legislation, the Maori Councils Act, discussed in part IV of this report. The core duties of the councils, described more fully in that chapter, included several health-related functions. Section 15 of the Act included planning '[f]or the suppression of injurious Maori customs' and 'generally for the promotion of the health and welfare and moral well-being of the Maori inhabitants of the district'. Councils were also to collect and tabulate health statistics, including the causes of death, and to report to the Governor on 'any influences that may be at work to ameliorate the condition of the race, and the progress that may be made towards the adoption of healthier habits and pursuits'. Under section 16, the councils were empowered to make bylaws concerning a variety of health-related matters, including the cleanliness of houses, drunkenness and sly-grog sales, the activities of tohunga, smoking by children, gambling, the maintenance and protection of water supplies, and the construction of drains for sanitation purposes. Under section 17, komiti marae were to enforce these rules within kāinga. Under section 18, councils could be granted the same roles and powers over sanitation as district health committees set up under the Public Health Act.

As discussed in part IV, a Maniapoto Māori council, covering most of the inquiry district, was established soon after the passage of the 1900 Act. In furtherance of their general functions such as suppressing 'injurious Maori customs' and promoting the health and welfare of Māori in their districts, the councils were empowered to pass bylaws on a range of matters, including those involving health and hygiene. The Maniapoto council supplemented the standard bylaws adopted by other councils with its own. These included a requirement for whare to be built with wooden rather than earth floors, and the prohibition of smoking among under 15 year olds. Several also concerned tohunga. These forbade a tohunga 'or alleged tohunga' from bathing a patient in cold water, hindering the treatment of a patient by a qualified doctor, charging money for their services, or inconveniencing the inhabitants of any kāinga 'by causing waste of food or substance'. However, the council could grant a local licence 'to persons skilled in the use of Maori herbs or wairakau for medicinal purposes, for such term and subject to such conditions as the Council may deem fit'.¹⁰⁵ We are not aware of whether any such licences were ever granted by the council.

It seems that many councils acted quickly to improve the sanitary conditions in Māori settlements, with the superintendent of Māori councils, Gilbert Mair, reporting in 1903:

I can state emphatically that great good has already resulted from the establishment of the Councils. Some of the Native villages are now models of cleanliness and

104. Lange, *May the People Live*, pp137-140.

105. 'By-laws of the Maniapoto District Maori Council, under "The Maori Councils Act, 1900"', Approved, 4 September 1902, *New Zealand Gazette*, no 72, pp1927-1929.

neatness. The unsightly unsanitary old whares are gradually being replaced by wooden buildings. Greater attention is bestowed on the water-supply, sleeping-apartments, fencing-out pigs and other animals from the villages, the disposal of ordure and dead animals, payment of the dog-tax, a stricter supervision over the supplying of spirits in the kaingas or tobacco to children, the interment of the dead within a reasonable time and the consequent saving of waste and impoverishment through prolonged tangis, the discontinuance of eating putrid food, and a better attendance at the schools.¹⁰⁶

In 1903, the legislation was amended by, among other things, the insertion of a provision for additional punishments for anyone convicted of taking liquor into a 'Maori kainga, village or pa'.¹⁰⁷ The liquor control aspects of the Māori councils legislation are touched on in section 23.8.3 below.

As noted in part IV, the work of the Māori councils was severely hampered by a lack of funds. Pōmare's work as native health officer was similarly impacted by inadequate funding, notwithstanding the appointment of Peter Buck (Te Rangi Hiroa) as Pōmare's assistant at the end of 1905. The Native and Health Departments wrangled as to who was to control the meagre funding for Māori health, which had to pay for the salaries of Pōmare, Buck, and the native sanitary inspectors, the subsidies for the NMOS, the medicines dispensed by native school teachers, and miscellaneous other matters.¹⁰⁸ These funds were reduced in the general cost-cutting of 1909, the year that Buck resigned his position to enter Parliament. He was not replaced, and nor was Pōmare when he embarked on a political career two years later.¹⁰⁹ Buck was moved to comment in 1909: 'Unless the Government were willing to spend a reasonable amount in attending to the health of the Maoris, they might as well let them die out.'¹¹⁰ It is important to note that during this period, Buck, Pōmare, and others were advocates for the establishment of a Māori health system, including the training of Māori nurses and other medical personnel, however their plans for systemic reform would not substantially eventuate, due in part to the financial constraints and a governmental reluctance to allocate the necessary resources.

As discussed in chapter 18, the Māori councils were hamstrung from the start by their limited powers (including lack of ability to control Europeans living in Māori villages) and the meagre Crown funding allocated to them. By 1907, the Maniapoto Maori Council had a bank balance of only £126 8s 2d, and by 1910 this had slumped to £58 6s 11d. Most councils had virtually ceased to function in their original form by around 1913.¹¹¹ The support most Māori kāinga received in terms of sanitation works, therefore, was mainly in the form of advice. Where

106. AJHR, 1903, G-1, p1 (doc A71 (Robinson and Christoffel), p188).

107. Document A71, p176.

108. Dow, *Maori Health and Government Policy 1840-1940*, pp95-99; Lange, *May the People Live*, p181.

109. Document A31, pp113-114.

110. 'Supply', 10 December 1909, NZPD, vol 148, p943 (Dow, *Maori Health and Government Policy 1840-1940*, p101).

111. Document A71, pp193-199.

23-3-3.2

fundamental improvements were needed, such as building latrines and the installation of water tanks, Māori communities – even impoverished ones – were generally expected to meet these costs themselves.¹¹² In the meantime, typhoid continued to be a significant problem in Te Rohe Pōtae and elsewhere. Outbreaks were recorded at Kāwhia, for example, in 1902, 1905, and 1912, and at Aria in 1911 and Ōtorohanga and Waitetuna in 1912.¹¹³ The reinvigoration of the Māori councils in the form of Māori health councils after the First World War is discussed in section 23.8.6 below.

23.3.3.2 *What was the impact of the Tohunga Suppression Act 1907?*

As noted, the Maori Councils Act had given councils the powers to make bylaws for ‘regulating the proceedings of tohungas, and the punishment by fine of those (whether European or Maori) who practise upon the superstition or credulity of any Maori in connection with the treatment of any disease’.¹¹⁴ In 1907, Parliament repealed this provision when passing the Tohunga Suppression Act, which now criminalised these and other tohunga activities. Section 2(1) of the legislation stated:

Every person who gathers Maoris around him by practising on their superstition or credulity, or who misleads or attempts to mislead any Maori by professing or pretending to possess supernatural powers in the treatment or cure of any disease; or in the foretelling of future events, or otherwise, is liable on summary conviction before a Magistrate to a fine not exceeding twenty-five pounds or to imprisonment for a period not exceeding six months in the case of a first offence, or to imprisonment for a period not exceeding twelve months in the case of a second or any subsequent offence against this Act.

Dr Robinson did not address the Act’s impact in her report, explaining that it was not part of her commission.¹¹⁵ Therefore, we received no technical evidence about the Act’s impact on Te Rohe Pōtae Māori.

A cursory examination of digitised newspapers reveals that recourse to tohunga was regular among Te Rohe Pōtae Māori suffering ill health at around the start of the twentieth century. This was probably not just because traditional healing remained a core aspect of Māori life, but also a reflection on the lack of trained doctors to deal with the pressing local health problems. According to these newspaper accounts:

- ▶ A ‘notorious’ tohunga named Ehau visited Whatiwhatihoe in November 1898 and ‘succeeded in gathering upwards of five pounds from the deluded natives.’¹¹⁶

112. There were exceptions, however, which Pōmare believed saved ‘many lives’: Lange, *May the People Live*, pp153–154.

113. Document A31, pp76–77.

114. Maori Councils Act 1900, s16(5).

115. Transcript 4.1.21, p1236.

116. ‘Pirongia’, *Waikato Argus*, 15 November 1898, p2.

- A tohunga came under suspicion in the death of a boy at Te Kūiti in 1899, but was found only to have administered him castor oil.¹¹⁷
- A woman at Te Kūiti who believed a mākutū had been placed on her in 1905 'came in to consult a noted female tohunga'.¹¹⁸
- Legislative Councillor William McCardle, in speaking on the Tohunga Suppression Bill in August 1907, claimed 'in the King Country tohungas had taken youths in a raging fever and put them into a pool of water'.¹¹⁹
- An Indian man named Win Singh was charged with being a tohunga in Ōtorohanga in October 1907 after claiming to be able to cure cancer and 'cure Maoris that had "makutu"'. He was convicted, and fined £10 (under which legislation it was unclear).¹²⁰

It should also be noted that newspapers of this period are not a neutral or unproblematic source; most were strongly partisan in favour of the political stance of their owners. Their often derogatory descriptions of tohunga activities reflect broader Pākehā prejudices towards tohunga and Māori cultural practices. With these caveats in mind, newspaper accounts demonstrate the continuing significance of tohunga and traditional health regimes among Te Rohe Pōtae Māori (as well as the State's efforts to suppress them through the criminal justice system).

In terms of the lack of doctors in Te Rohe Pōtae at the time, the 1899 Te Kūiti death may well be a case in point. It will be remembered that, at this time, the nearest doctors to Te Rohe Pōtae were in Hamilton and Cambridge. The care of the boy, named Pohe Tawhana, had been entrusted to a tohunga, who evidently did not know how to treat his illness, and a post-mortem revealed the boy had died from neglected bronchitis.¹²¹ While recourse to tohunga was still perhaps the most popular option among Te Rohe Pōtae Māori in the nineteenth century – and, indeed, in many cases the only option – many Māori 'appreciated the availability of a doctor at least as an alternative', as Alan Ward put it.¹²² Dr Robinson's evidence showed an increased enthusiasm for Western medicine in Te Rohe Pōtae from around the 1870s. She noted, for example, that the medical services of the Kāwhia schoolteacher, Thomas D'Arcy Hamilton, were actively sought out by the Māori community there in the 1890s.¹²³

Claimant witnesses alleged that the Tohunga Suppression Act had stifled the activities of tohunga in Te Rohe Pōtae. Glennis Rawiri said that her mother had been a faith healer but had not practised in public 'for fear of being put in jail'.¹²⁴ Antonio Tipene said that the Act had 'destroyed the very essence of my ancestors' Tohunga

117. 'Inquest at Te Kuiti', *Auckland Star*, 18 May 1899, p5.

118. 'The Tohunga Again', *Taranaki Daily News*, 24 January 1905, p3.

119. 'The Tohunga', *Poverty Bay Herald*, 23 August 1907, p7.

120. 'Ōtorohanga', *King Country Chronicle*, 1 November 1907, p3.

121. 'Inquest at Te Kuiti', *Auckland Star*, 18 May 1899, p5.

122. Alan Ward, *A Show of Justice: Racial 'Amalgamation' in Nineteenth Century New Zealand* (Auckland: Auckland University Press, 1973), p 142.

123. Document A31, pp54–57.

124. Document R4 (Rawiri), p 2.

practices',¹²⁵ while Hine Hine Rei added that the Act would have concerned her tūpuna even if it was not applied to them directly. She explained that '[i]t's not that our people stopped practising their ways completely but the knowledge was not all passed on.'¹²⁶ Thomas Maniapoto was more emphatic, contending that the ban on traditional health practices meant the practice was abruptly lost. As he put it, 'Suddenly something that we depended upon as a people for our well-being for generations was gone at the stroke of a pen.'¹²⁷

Ngāti Māhanga claimants said that the Act had directly led to the closure of traditional whare wānanga,¹²⁸ while Mana Forbes stated that the Act had 'hastened the assimilation of Māori into the mainstream culture.'¹²⁹ Patricia Matthews considered that tohunga had lost mana and authority as a result of the Act, and that 'one of the reasons so many of our people turned to liquor was because there was no one to be scared of.'¹³⁰ Piripi Crown stated that 'the government used the Tohunga Suppression Act to remove our taonga tikanga, and taonga rongoā and all the ways we cared for ourselves.'¹³¹

At the same time, however, other witnesses ascribed the decline in tohunga practice to other factors. Harry Kereopa's evidence on the impact of the railway's construction on the Waimiha Valley, a centre for tohunga activity, has been noted in section 23.3.2.1 above.¹³² Noline Henare said that traditional healing had declined because it had become much more difficult to find rongoā plants. As the plants had become scarcer, she said, 'so did our use and knowledge of them.'¹³³ And despite his criticism of the legislation, Piripi Crown also saw some justification for the Crown's prosecution of fraudulent practices:

I think . . . in some cases they may have been justified in bringing in some cases. I think there was quite a number of people that want to be tohunga and were trying to get in on the act and yeah I think there was another – there's another element that had come to it in being a tohunga. You could either get some more land or you can get some other taonga pēnei i ngā pounamu nei, out of our people that you become a tohunga and treat them for sickness. So those, some of those people were I suppose they were trying to be a tohunga. And some of them were getting away with it making things worse. Some of them were mistreating the patients, the ones that were seeking a cure from the tohunga.¹³⁴

125. Document L6 (Tipene), p [3].

126. Document Q7 (Rei), p11.

127. Document S26 (Maniapoto), p10.

128. Document A94 (Collins, Turner, and Kelly-Hepi 'Ic Huia), pp351, 355, 358.

129. Document N31(a) (Forbes), p.4.

130. Document R17 (Matthews), p.8.

131. Transcript 4.1.11, p51 (Piripi Crown, hearing week 5, Te Ihingārangi Marae, 6 May 2013).

132. Document L14(c) (Kereopa), pp16–19.

133. Document S42 (Henare), p12.

134. Transcript 4.1.11, p [69] (Piripi Crown, hearing week 5, Te Ihingārangi Marae, 6 May 2013).

However, Mr Crown added that the Crown should have been ‘more lenient’ in its application of the law, because the healing qualities of rongoā Māori could have been made use of ‘there and then’. He said these benefits had now been recognised ‘in a big way.’¹³⁵

23-3-33 *What was the impact of the influenza epidemic of 1918 and the health reforms of 1919–20?*

The outbreak of a particularly virulent strain of influenza around the world in 1918 became the worst pandemic of the twentieth century. The flu reached New Zealand in November 1918 and, as historian Geoffrey Rice remarked: ‘No other event has killed so many New Zealanders in so short a space of time.’¹³⁶ The Pākehā death rate was 5.8 per thousand, but the Māori rate was seven times that amount, with as many as 4 per cent of the Māori population dying in November and December 1918. Accounting for the many unregistered or mis-registered (or registered late) Māori flu deaths, Rice calculated that the Māori toll was as high as 2,160. In other words, this was practically a doubling of the official tally of 1,130.¹³⁷ Since the worst affected age group was 25–29 years, the epidemic may have left as many as 2,000 Māori whāngai.¹³⁸ There were 165 registered Māori flu deaths in the King Country (an area overlapping to a large extent with our inquiry district), which Rice concluded should be rounded up to 170. This gave a local death rate of 34.6 per thousand, somewhat lower than the national Māori rate of 42.3.¹³⁹ Rice surmised that Māori were worse afflicted by the flu because of a variety of factors, such as weaker immune systems (due to their relative isolation from major centres of population), overcrowded housing, poorer diets, and the prevalence of other diseases such as tuberculosis.¹⁴⁰

The impact of the influenza pandemic is still spoken about by Te Rohe Pōtae Māori. Wharehuia Hemara said he had heard kōrero about a mass grave at Te Kūiti.¹⁴¹ This may have been separate from the mass grave containing the bodies of 18 influenza victims at Ahoroa Marae mentioned by Hardie Peni.¹⁴² During the pandemic, a temporary hospital was established at Te Tokanganui-a-Noho Marae in Te Kūiti. One of the nurses stationed there, Marion (Mereana) Hattaway (née Marion Tangata), is regarded as probably New Zealand’s first qualified Māori nurse.¹⁴³

Taohua Te Huia referred to what his aunt Pare Hughes had told him about life at Tokanui at the time of the epidemic. She had recalled that the two local doctors

135. Transcript 4.1.11, p [69] (Piripi Crown, hearing week 5, Te Ihingārangi Marae, 6 May 2013).

136. Geoffrey Rice, *Black November: The 1918 Influenza Pandemic in New Zealand*, 2nd ed (Christchurch: Canterbury University Press, 2005), pp 17–18.

137. Rice, *Black November*, pp 17–18; doc A31, pp 78–79.

138. Rice, *Black November*, p 182.

139. Rice, *Black November*, p 160; doc A31, p 66.

140. Rice, *Black November*, pp 161–162.

141. Document s11 (Hemara), p 4.

142. Document s40 (Peni), p 9.

143. <https://nzhistory.govt.nz/culture/influenza-pandemic-1918/maori-and-the-flu>.

were preoccupied with treating Pākehā patients and had turned Māori sufferers away. Using the hospital in Hamilton was not an option either, as it was too difficult to get to and, again, the beds were already taken by Pākehā. She had explained that many of the local people had died and: 'We had to rely on ourselves. As we were a people that had nothing to offer, people could see no reason to help us.' Mr Te Huia's uncle, John Tāngi Hughes, had also told him that the deaths of so many had led others to sell their land shares and leave in the hope of finding better prospects elsewhere.¹⁴⁴ It is certainly true that some Pākehā, including even hospital boards, shunned Māori sufferers and even blamed Māori for the spread of the sickness. However, this was not always the case. Rice's research shows that the Pākehā inhabitants of Taumarunui and Te Kūiti had made considerable efforts to assist their stricken Māori neighbours.¹⁴⁵

The devastation wrought by the epidemic led to a royal commission into the adequacy of the health system, which reported in May 1919. That same month Buck was appointed 'Medical Officer for the Maoris', and later in the year section 17 of the Native Land Amendment and Native Land Claims Adjustment Act 1919 breathed life back into the earlier Māori councils, which had, as noted above, largely ceased to function by 1913. The 1919 Act transferred control of the Māori council system from the Department of Native Affairs to the Department of Public Health.¹⁴⁶ Under the Act, the existing Māori councils could be declared health councils for their respective districts, with the power to appoint health committees (komiti marae) to undertake sanitary works and make and enforce sanitary rules in Māori settlements.

Provisions for funding the councils also changed under the 1919 Act. Section 16 of the Act repealed the existing authority of Māori councils to collect revenue through dog registration taxes. Instead, the councils could claim government funding to cover administration costs incurred by them, as well as applying for pound for pound subsidies for any sanitary works carried out.¹⁴⁷ Otherwise, the existing functions of Māori councils to issue and administer bylaws in their districts under the 1900 Act remained unchanged under the 1919 reforms.¹⁴⁸

The major reforms to the health system recommended by the royal commission came in 1920, with the passage of the Health Act. The 1920 Act restructured the Department of Health into seven divisions, including a Division of Maori Hygiene, which was headed by Te Rangī Hīroa (Peter Buck). Under the 1920 Act, Buck, as director of the division of Māori hygiene, gained responsibility for overseeing the activities of the councils.¹⁴⁹

The membership of the newly reformed Maniapoto Māori Council in 1920 included a number of members of the previous Māori council, with Moerua

144. Document P16 (Te Huia), pp4-5.

145. Rice, *Black November*, pp174-176.

146. Derck A Dow, *Safeguarding the Public Health: A History of the New Zealand Department of Health* (Wellington: Victoria University Press, 1995), pp245-246.

147. Document A29 (Sarich), p70.

148. Document A29, p71.

149. Document A29, p70.

Natanahira continuing in his role as chairman of the new council. Following his death in 1922, another of the members of the former council, Mokena Patupatu, took over as chairman.¹⁵⁰ In 1922, the Maniapoto council established komiti marae at Hangatiki, Otewa, Marokopa, Mangaorongo, Rewatu, Te Kūiti, Te Awaroa, Te Kōpua, Kinohaku, Tahaia, Taringamotu, Piopio, Tokanui, Kahotea, Te Taharoa, Hauturu, Ongarue, Ōpārure, Pohatuiiri, Ōtorohanga, Mangapehi, Korapatu, and Aria, making a total of 23 komiti within the Maniapoto council district.¹⁵¹

In 1922, the newly formed Maniapoto Maori Council adopted a series of new, health-orientated bylaws devised by Te Rangi Hiroa, covering the areas of 'general', 'buildings', 'drainage', 'nuisances', 'keeping of animals', 'privies', 'infectious diseases', 'tangis, huis and gatherings', 'water-supplies', 'drunkenness', 'hawkers', and 'smoking and gambling'.¹⁵² In 1924, the Maniapoto council added several bylaws of its own. These included fines for the mistreatment of animals, assault, and bad language, and for the drinking, sale, or supply of methylated spirits by any European or Māori without a permit.¹⁵³ The Maniapoto Maori Council appears to have been the only council to pass a bylaw concerning methylated spirits, Te Rangi Hiroa stating that 'strong representation has been made to me regarding the amount of drinking of methylated spirits by the Natives and I think we can prevent it by the additional bylaws dealing with the matter'.¹⁵⁴ In 1929, the Maniapoto Maori Council again drew attention to the issue of methylated spirit consumption among Māori and Pākehā within the district, and in 1931, the director of health M H Watt wrote to the Maniapoto council to congratulate it on its efforts in policing its bylaws concerning the sale and consumption of methylated spirits.¹⁵⁵

However, the efforts of the Maniapoto Maori Council to exercise some measure of influence in their communities were constrained by their lack of financial resources. The Māori health councils shared the same issue of underfunding as the earlier Māori councils. Now even the collection of the dog tax had been taken away from them and given over to local authorities. This was a source of resentment among the councils and left them in an even weaker financial state than they had been 20 years earlier. Fines, the council's only source of income, were difficult to retrieve and the councils lacked powers to enforce payment. In 1935, the Maniapoto Maori Council had over £150 owing to it in unpaid fines.¹⁵⁶ The situation never improved. In 1940, the Hamilton medical officer of health, Harold Turbott, remarked upon what he saw as the 'urgent need . . . for some form of income other than the distasteful and little-used method of fining their

150. Document A29, p74.

151. Document A29, pp74-75.

152. Document A29, p78.

153. Document A29, p79.

154. Te Rangi Hiroa to Under Secretary, Native Department, 5 January [1925] (doc A29, p 80).

155. Document A29, p84; Ellison to Tamahiki Waeroa, 3 March 1931 (doc A29, p84).

156. Document A29, p86.

own people'.¹⁵⁷ Mr Sarich described the Maniapoto Maori Council up until 1926 as 'characterised by instability of membership and almost no financial resources'.¹⁵⁸ From 1922 to 1926, its bank balance was less than £1. In September 1926, it had more money, although Mr Sarich's research indicates that this injection came from the tribe itself. In the late 1920s it was successful in gaining subsidies for some important sanitation and water supply projects – such as drainage works at 'Te Kuiti Pa' – but even these were insufficient to complete the work. By 1934, the Maniapoto Maori Council's balance was again as low as 10 shillings. Mr Sarich found no evidence that any subsidies were ever provided to the council for its administrative needs.¹⁵⁹

By the mid-1930s, Māori councils around the country were in decline. By around 1938, the Maniapoto Maori Council was one of only four active Māori councils in the country.¹⁶⁰ In 1937, the Maniapoto council's newly appointed chairman Tamahiki Waeroa wrote to the Native Minister to request an amendment to the Māori council legislation to enable the enforcement of unpaid fines.¹⁶¹ He warned that without such an extension of the councils' authority, their work would 'be nullified'.¹⁶² From this point, Sarich wrote, the Maniapoto council 'seems to have entered decline, with very little correspondence on record'.¹⁶³ The successors to the Māori health councils of the 1920s and 1930s, the tribal committees of the 1940s and 1950s, are discussed further below in section 23.3.4.1, and in sections 18.5.1 and 18.5.2 of part IV of this report.

Beyond the work of the Māori health councils, the new Division of Maori Hygiene also appeared to offer the promise of more concerted action to improve Māori health and living conditions in the interwar decades. In Te Rohe Pōtae, Anthony Ormsby was employed as a sanitary inspector, and according to his reports of 1927 and 1930 he made concerted efforts to improve village sanitation and water supplies, get medical attention for the sick, and establish the causes of deaths.¹⁶⁴ However, it seems that the Division of Maori Hygiene failed to live up to expectations, with health officials continuing to give insufficient priority to Māori-specific health measures. The influenza epidemic royal commission report all but ignored Māori, while a 1928 committee of inquiry into tuberculosis was similarly Pākehā-focused, despite recognising that Māori death rates from the disease were five times higher. According to Dow, even Pōmare's elevation to Health Minister from 1923 to 1926 failed to alter the notable absence of a 'Maori component' from health initiatives. In 1927, Buck resigned as director of Māori hygiene, and when

157. HB 'Turbott, 'Health and Social Welfare' in ILG Sutherland, ed, *The Maori People Today: A General Survey* (London: Oxford University Press, 1940), pp262–263 (Dow, *Maori Health and Government Policy 1840–1940*, pp 153, 157).

158. Document A29, p 75.

159. Document A29, pp86, 112–113.

160. Document A29, p116.

161. Document A29, p115.

162. Tamahiki Waeroa to Native Minister, 26 February 1937 (doc A29, p116).

163. Document A29, p 116.

164. Document A31, p 115.

his successor, Edward Ellison, in turn resigned in 1930 the role was not filled and the Division of Maori Hygiene was disestablished.¹⁶⁵

23.3.3.4 *What was the provision of hospitals, doctors, and nurses?*

Māori were able to benefit from other initiatives in the area of general healthcare provision, however. Waikato Hospital expanded in 1900, and in 1909 a new hospital was opened at Taumarunui. As this also sat on the main trunk line, it was relatively accessible from southern parts of Te Rohe Pōtae. In 1918, the first hospital in the inquiry district was established at Kāwhia, with the Government's support for it a reflection on the settlement's particular remoteness. It was followed in 1926 by another at Te Kūiti. These hospitals tended to follow the growth of the local Pākehā population and their establishment relied heavily on community fundraising. As seen in part IV of this report, a psychiatric hospital had also operated in the inquiry district from 1912 at Tokanui, just south of the Pūniu River.¹⁶⁶

Despite these developments there remained certain challenges of access to the hospitals for Māori. For a start, the Māori antipathy towards hospitals continued. In 1936, Turbott noted that Māori viewed Waikato Hospital as 'a place you went to when you were dying'.¹⁶⁷ Moreover, it appears at the time that few, if any, Hamilton hotels would accept Māori as guests, which made it difficult for whānau to spend time with their sick relations in the hospital. Dr Robinson did not explain why the hotels took this stance, but it echoed the earlier reluctance of many hospital boards to admit Māori patients. Cultural and language barriers must also have discouraged some would-be Māori patients, as well as what in many cases would have been the long and arduous journey to reach a hospital. Perhaps, above all, there was also the matter of the fees, which for many Māori would have been unaffordable. Dr Robinson noted Waikato Hospital statistics from 1929 which showed that the 583 Māori patients admitted over a two-year period had run up an average of the best part of £9 each in fees. This was at a time when a farm labouring job tended to bring in less than £3 per week. Perhaps unsurprisingly, less than 10 per cent of these fees had been collected.¹⁶⁸

The number of doctors in Te Rohe Pōtae steadily increased. In 1912, there were five in the inquiry district (three at Te Kūiti and one each at Kāwhia and Raglan) and a decade later there were 10 (four at Te Kūiti, two at Ōhura, and one each at Kāwhia, Tokanui, Ōtorohanga, and Raglan). Another 10 years on, in 1932, there were 13. The doctors' fees appear to have been quite expensive in the 1920s, at between 10 shillings and £1 per consultation. However, this was offset for Māori to some extent by the continuation of the native medical officer scheme, under which doctors were paid £50 per annum and dispensers either £25 or £15. In 1906, there

165. Dow, *Maori Health and Government Policy 1840-1940*, pp149, 158; Dow, *Safeguarding the Public Health*, p115; doc A31, pp115-116.

166. Document A31, pp143-147; see also Waitangi Tribunal, *Te Mana Whatu Ahuru, Pre publication Version*, part IV, section 20.4.3.

167. John Armstrong, *Under One Roof: A History of Waikato Hospitals* (Hamilton: Half Court Press, 2009), p 91 (doc A31, p147).

168. Document A31, pp147-149, 151.

were two doctors (at Raglan and Kāwhia) and three dispensers (at Ōtorohanga and Te Kūiti) receiving scheme subsidies in Te Rohe Pōtae. In 1909, the two subsidised doctors were at Raglan and Te Kūiti, although the Te Kūiti dispenser's subsidy was discontinued in 1911. In 1933, the three Te Rohe Pōtae doctors in the scheme were at Raglan, Te Kūiti, and Kāwhia. Other native medical officers during these decades were at nearby Taumarunui.¹⁶⁹

The limits of the native medical officer scheme were demonstrated by the fact that two doctors who saw large numbers of Māori patients – Carlyle Gilbert at Ōtorohanga and Keith Hiskins at Te Awamutu – were refused native medical officer subsidies by the Health Department.¹⁷⁰ Dr Hiskins won respect among the district population for his flexible approach, often treating Māori patients for free, or being willing to take in-kind payments such as potatoes or livestock. Gilbert appears to have had a similarly positive reputation during his time in Te Rohe Pōtae. Anthony Ormsby paid special tribute to Dr Gilbert on behalf of the Māori community upon his departure and he would be described as having 'won the confidence and esteem of the Maori people' following a subsequent posting to Whangārei.¹⁷¹ Dr Hiskins had reported in 1930 that Māori in his district 'seem to be more hopelessly poverty-stricken than in many others', and he was having to treat many for free.¹⁷² The medical officer of health considered that many of Dr Gilbert's Māori patients were coming some distance to see him and questioned just why Māori should be subsidised to go to the extra expense of seeing a doctor of their choice rather than the local practitioner. Native Minister Āpirana Ngata later arranged for Dr Gilbert to have a £50 subsidy, but this was cut after only a year. In 1933, 246 Māori signed an unsuccessful petition to have the subsidy reinstated.¹⁷³

Hiskins considered that the abject poverty he described meant that many Māori went untreated (or at least did not seek treatment until the later and more critical stages of their afflictions). Recourse to tohunga or faith healers is likely to have remained common. In November 1920 an estimated 1,000 Māori travelled from Te Rohe Pōtae to see the prophet T W Rātana, including in particular those unable to see or walk properly. It was claimed that one elderly man from Te Kūiti had since been able to dispense with his crutches.¹⁷⁴ It seems that Te Kūiti became a Rātana stronghold, with Buck complaining in 1924 that many Māori in the town followed Rātana and would not attend the district nurse when they fell ill.¹⁷⁵

The hesitance of Māori to summon medical assistance was reported by the *King Country Chronicle* in 1913:

169. Document A31, pp128-131.

170. Document A31, pp131-132.

171. Document A31, pp132-133; 'Important Hospital Post for Dr Gilbert', *Northern Advocate*, 7 February 1941, p7; 'Friend of Maoris: Dr CB Gilbert's Tribute', *Auckland Star*, 1 October 1934, p3.

172. Hiskins to director general of health, 21 October 1930 (doc A31, p131).

173. Document A31, pp132-133.

174. "Maori Miracle Man", *New Zealand Herald*, 22 November 1920, p8.

175. Document A31, p130.

During the past few months deaths among Maoris of this district have been fairly frequent, and typhoid [sic] has claimed several victims. It is unusual for Maoris to call in medical aid in cases of sickness until the patient is in the last stages of disease, and no provision whatever is taken to prevent infection being spread broadcast. These practices are fairly common at Te Kuiti, Oparure, and other centres and it is to be hoped steps will be taken in the interests of the public to inaugurate a system whereby both natives and Europeans will be safeguarded.

The paper reported that some Pākehā parents would not send their children to schools attended by Māori children so as to avoid them catching disease.¹⁷⁶ In 1931, the Ōtorohanga coroner criticised the whānau of a girl who had died from typhoid for failing to seek medical attention in time. It was reported that: 'The health officer had warned natives to report cases of sickness among minors at the pa, but apparently the guardians had relied somewhat on faith healing, rather than upon medical aid.'¹⁷⁷

Aside from hospitals and doctors, the frontline medical professional for many rural communities was the district nurse. The first such nurse stationed in Te Rohe Pōtae was there by 1913. District nurses served their entire communities, and began to give particular attention to Māori health needs in the late 1920s. In 1911, the Department of Health initiated the native health nursing service, partly as a complement (or even alternative) to the overstretched native medical officer scheme. Native health nurses were expected to focus their attention on Māori patients, although they could also treat Pākehā patients in emergencies. As well as nursing patients, they were also expected to perform a wider public health role, including to 'report on the sanitary condition of the kaingas and the prevalence of sickness therein', to advise on pregnancy and the feeding of infants, to instruct Māori on hygiene matters, to carry out medical inspections of native schools, and to keep a record of births and deaths of Māori in the district.¹⁷⁸ The first two native health nurses appointed to cover Te Rohe Pōtae were assigned their roles in 1914. It is not known whether they were Pākehā or Māori. Nurse Ella Cooke, stationed at Ngāruawāhia, was appointed to cover Kāwhia, Mercer, Te Kūiti, and Morrinsville, while Nurse Iris Moore was appointed to cover the Taumarunui region, from the upper reaches of the Whanganui River as far north as Te Kūiti.¹⁷⁹ Nurse Cooke left her role shortly afterwards to join the overseas war effort.¹⁸⁰ Nurse Moore had resigned her role by 1919. We know little about the identity of the native health nurses for Te Rohe Pōtae in interwar decades, except for that in the mid-1920s, the

176. 'Maoris and Health', *King Country Chronicle*, 6 September 1913, p4.

177. 'Maori Girl's Death; Precautions Not Taken; Coroner Outspoken', *Northern Advocate*, 10 October 1931, p3.

178. 'Nursing for Maoris', *Kai Tiaki: The Journal of the Nurses of New Zealand*, 1 April 1912, p26.

179. 'Native Health Nursing in Auckland District', *Kai Tiaki*, 1 January 1914, p47, *Kai Tiaki*, 1 April 1913, p85.

180. 'Appointments and Resignations', *Kai Tiaki*, 1 July 1914, p143.

Hannah Hippolite and the Native Health Nursing Scheme

The Native Health Nursing Scheme, later called the Maori Health Nursing Service, was officially established by the Department of Public Health in 1911. The scheme focused on community health work in Māori settlements, which were often remote and had limited access to doctors. Young Māori women were trained in nursing at Pākehā hospitals then appointed as district nurses to serve Māori communities. There was strong support from Māori health advocates from early on, such as Dr Māui Pōmare, Te Rangi Hiroa, and Āpirana Ngata.¹ The scheme struggled with low numbers of Māori women in training from the beginning, primarily due to the reluctance of hospitals to take on Māori probationers.²

Hannah Hippolite was among the first group of Māori women to be employed as a native health nurse. Hippolite was officially registered as a nurse in 1916, after passing the State examination in Napier.³ She was later stationed at Te Kuiti Hospital, officially opened in 1926, and likely worked at the hospital during the 1930s before moving to Murupara. Māori health nurses like Hannah Hippolite, while permitted to treat Pākehā patients in emergencies, were expected to focus their efforts on Māori patients, and on public health education and initiatives within Māori communities. The work of a Māori health nurse was difficult and often required the women to deal with epidemics.⁴ A number of Māori nurses died during the first years of the scheme due to contracting infectious diseases.⁵

1. Raeburn Lange, 'Te Hauora Māori i Mua – History of Māori Health', Te Ara – the Encyclopedia of New Zealand, <http://www.TeAra.govt.nz/en/te-hauora-a-maori-i-mua-history-of-maori-health/page-3>, accessed 4 May 2020.

2. Alexandra McKegg, 'The Maori Health Nursing Scheme – An Experiment in Autonomous Health Care', *New Zealand Journal of History*, vol 26, no2 (1992), pp150–151.

3. 'State Examination of Nurses', *Kai Tiaki*, 1 January 1916, p.7.

4. McKegg, 'The Maori Health Nursing Scheme', pp151–157.

5. Linda Bryder, "'They Do What You Wish: They Like You: You the Good Nurse!': Colonialism and Native Health Nursing in New Zealand, 1908–40', in *Colonial Caring* (Manchester: Manchester University Press, 2018), pp89–90, accessed 3 May 2020, <https://doi.org/10.7765/9781526129369.00010>.

native health nurse at Taumarunui was a Nurse O'Gorman.¹⁸¹ Dr Robinson could not ascertain the extent to which Te Rohe Pōtae Māori made use of district or native health nurses, although she noted that it was difficult to find nurses willing to fulfil either role in remote communities such as Kāwhia. Moreover, Te Rohe

181. 'Nursing Ethics', *Kai Tiaki*, 1 January 1925, p.27; 'Situations Vacant', *Auckland Star*, 4 May 1919, p.1; 'Situations Vacant', *New Zealand Herald*, 10 May 1919, p.2.

Pōtae roads remained in such a poor condition that there were serious challenges for nurses to reach some settlements.¹⁸²

23.3.3.5 *What were the ongoing effects of poverty?*

By the mid-1930s, the Māori rate of population growth in Te Rohe Pōtae and elsewhere had accelerated, as mortality declined and fertility grew. Dr Robinson did not present the details to us in tabular or other form, perhaps because the change in the way 'half-castes' were counted in 1926 makes it impossible to compare census returns before and after that date. She did record, however, that the Māori population of Otorohanga, Kawhia, and Waitomo Counties increased by 20.9 per cent from 1926 to 1936, compared to a national Māori population increase over the same period of 29.3 per cent. By this stage Pākehā residents of Te Rohe Pōtae significantly outnumbered Māori, with Kawhia County being the last to have a Māori majority until the Pākehā population outgrew it in 1926. Māori life expectancy at birth for both boys and girls had reached 46 by 1936, although this was still distorted by relatively high infant mortality.¹⁸³

Despite these largely positive changes, the major killer of Māori in the period up to 1938 remained communicable diseases, illnesses which are typically associated with poverty. The three most common causes of death in this regard were tuberculosis, typhoid, and influenza, with regular – albeit less frequent – epidemic outbreaks of these and other diseases such as whooping cough, bronchitis, pneumonia, and rheumatic fever.¹⁸⁴ Dr Robinson did not set out for comparative purposes how the majority of Pākehā died, but specific comparisons are instructive. Thus the 1918 influenza epidemic killed 4.23 per cent of all Māori nationwide but only 0.58 per cent of all Pākehā, while the Māori death rate from pulmonary tuberculosis was approximately seven times higher than that of Pākehā during the 1920s.¹⁸⁵ Poor sanitation was evidently a key contributor to some of these illnesses (and particularly typhoid), although it appears that sanitary improvements in Te Rohe Pōtae during the period were considerable, especially in the 1920s under the supervision or insistence of the Maniapoto Māori Council or Native Sanitary Inspector Ormsby.¹⁸⁶ With the benefit of hindsight, it is clear that the Government was too cautious to use the tuberculosis vaccine BCG (Bacillus Calmette-Guérin) that had been developed in the early 1920s, and which would have saved many Māori lives.¹⁸⁷

By and large, despite the sanitary improvements, Māori housing remained comparatively poor. The 1926 census was the first to give housing data, and it revealed that Māori housing was much smaller and more crowded than that of Te Rohe Pōtae Pākehā. Of all the Māori dwellings in Otorohanga, Kawhia, and Waitomo

182. Document A31, pp 133–137.

183. Document A31, pp 66–68.

184. Document A31, pp 72–73.

185. Document A31, pp 72, 81.

186. Document A31, pp 93–95.

187. Dr Robinson noted, however, that the Government was in step with overseas scepticism at the time: doc A31, p125.

Counties that year, 30.3 per cent consisted of one room only. Many of these were huts or tents. If huts, tents, and 'whare' are excluded, in 1926 Māori houses in the three counties contained on average between 6.6 and 7.3 persons each – much more than the national rural non-Māori average of 4.3. Evidently, given the exclusion of the 'temporary' dwellings from the figures, the problem of overcrowding was even worse than they suggest. Overcrowding is a key contributor to the spread of tuberculosis. While this connection was not clearly understood at the time, the correlation between household crowding and ill health was well recognised.¹⁸⁸

The extent of overcrowding in Te Rohe Pōtae had improved by 1926, but only marginally so. However, other factors worsened over the same decade, with the proportion of Māori living in permanent dwellings across the three counties dropping from 68.8 per cent to 45.2 per cent. Dr Robinson attributed this to the local housing stock being unable to cope with the strong population growth. We suspect that the effects of the Depression may have also been an important factor, causing more whānau to resort to makeshift accommodation. Housing problems in Te Rohe Pōtae seem to have been most acute at Kāwhia.¹⁸⁹ The nationwide problem was discussed at a conference to consider Māori welfare issues held at Ōhinemutu in Rotorua in October 1936. A Te Kūiti delegate, Gabriel Elliot, was reported as saying that

in some parts of the Dominion the hygienic conditions of Maori houses was in a worse condition than before the arrival of the first missionaries. There had been 2000 Maoris in his district 25 years ago, but recent figures indicated that there were now only 750. Tuberculosis had taken terrific toll, and the prevalence of disease was due to the filthy housing.¹⁹⁰

Despite the clear evidence of substandard housing (which affected Pākehā as well as Māori in Te Rohe Pōtae, although not to the same extent), the State's role in housing provision at the time was minimal.¹⁹¹

Some caution is needed in assessing the extent of Māori poverty in the early decades of the twentieth century. It would be wrong to judge housing, for example, by the standards of today, and it would be wrong to assess the Crown's response in terms of what would be expected of the Government in modern times. It is not controversial to say, however, that Māori in Te Rohe Pōtae suffered higher levels of poverty than their Pākehā neighbours, and that that poverty had an impact on their health. The impact of poor land development was keenly felt. At a 1927 Te Kūiti conference to discuss the issue of rating Māori land attended by both representatives of local bodies and Te Rohe Pōtae Māori, M C Burgess of Ōngarue

188. Document A31, pp98-99.

189. Document A31, pp99-102.

190. 'Maori Housing Settlement Schemes', *New Zealand Herald*, 5 October 1936, p 11.

191. Document A31, p102.

said, 'on behalf of the Natives,' that Māori could not secure finance to develop their holdings.¹⁹² He added: 'The Māori is in the gutter – don't push him down further.'¹⁹³

Hard physical work, poorer diets, and substandard and overcrowded housing all hastened the onset of sickness and prolonged the return to good health. The Auckland medical officer of health wrote in 1934 that Māori schoolchildren never drank milk and often missed a midday meal, and could thus hardly develop 'powers of resistance to disease.'¹⁹⁴ Ngāta's land development schemes, discussed in part III, brought some relief to some poverty-stricken Te Rohe Pōtae Māori communities during the early 1930s by channelling tens of thousands of pounds of Māori unemployment relief funds into land development schemes on Māori land.¹⁹⁵ However, at the height of the Depression, in 1933, the unemployment rate among Māori men was as high as 40 per cent, and Māori received lower unemployment benefits and relief work payments than Pākehā until 1936. Māori pension payments were also lower until the late 1930s.¹⁹⁶

Claimants spoke of poverty and deprivation during the 1930s. Georgina Turner-Nankivell, who was born in 1932, said everyone was 'really poor' during the Depression and '[i]t was horrific when I was a kid'. Thankfully, for her large family's sake, she explained, they had the means to grow their own food, and to fish and hunt.¹⁹⁷ Mitchell Kereopa, who was born in 1930, likewise said that one key reason his whānau did not starve during the Depression was through catching tuna.¹⁹⁸ Hutukawa Joseph, however – who was also born in 1930 – had a much more positive recollection of her early childhood at Marokopa. She explained: 'Our kai came from large gardens where everyone would manaaki each other. For example, each whānau would contribute and there was no such thing as poverty and no one went without kai.'¹⁹⁹ Hinekahukura Aranui-Barrett grew up at Waitomo, Napinapi, and Piopio in the 1930s. During their time at Piopio, she described her family as very poor:

I a mātou i Piopio, i noho pōhara rawa mātou, kore pūtu, kore kākahu, ā, i noho mātou i roto kāuta, ko te whenua tonu te papa, ko ngā pouaka rākau a mātou tiakinga kākahu, te kaha pōhara I ērā wā.

192. We assume that this was Michael Christian Burgess, the Pākehā husband of Granny Burgess (as Kahutopuni Ripeka Hetet was known). Granny Burgess was the kuia of claimant Huia Brown: doc 119, pp2–3.

193. 'Native Lands; the Rating Problem', *Bay of Plenty Times*, 30 August 1927, p4; 'Native Lands Problem', *New Zealand Herald*, 26 August 1927, p10.

194. Medical officer of health, Auckland, to director-general of health, 2 June 1934 (doc A31, pp108–109).

195. See Waitangi Tribunal, *Tē Mana Whatu Ahuru, Pre-publication Version*, Part III, pp474–475, 492, 521.

196. In fact, benefit discrimination continued against Māori into the 1940s: doc A136 (Walzl), pp111–114.

197. Document s45 (Turner-Nankivell), pp3–4.

198. Document 19 (Kereopa), p4.

199. Document s24 (Joseph), p4.

23.3.4

At Piopio we were very poor, we had no boots, no clothes, and we lived in a rude house with an earth floor and the crates were our wardrobes and our drawers.²⁰⁰

It was not until her whānau moved to Mōkau, in 1940, that their living conditions began to improve:

nō te taenga ki Mōkau, ka timata te piki ake o ngā utauta me ngā kākahu, kāore mātou i mōhio ake ki te pōharaunga, heoi anō, ko te haere ki te kura, me te haere ki te kōhi pipi, anā, timutu tai, ka pari mai te tai ka haere mātou ki te hi ika, ngā moni i haere kē ki te hoko kākahu, me ngā taputapu mō te whare, kore mātou i aro ake ki ngā kai rerekē, i tupu aku niho i te tiori, tāwhara, karaka, whakangau pōaka, mātaitai, pātiki, tāmure, kahawai, kina, paua, kōurā me ngā kai tino rawe a te Māori, kore rawa mātou i noho kore kai, nā mātou anō i tau ngā huawhenua, ngā whara me ngā māuiuitanga i honoa, i rongoatia e tō mātou whaea, mai i ngā taonga o te ngāhere . . .²⁰¹

While Hinekahukura Barrett's whānau were undoubtedly poor by modern standards when they lived at Mōkau, she did not associate her time there as a child with poverty, partly because of the improvement in living conditions from their time at Piopio, and because of the abundant natural food sources available to them. While as Dr Robinson has pointed out, such positive recollections can be partly attributed to a tendency to look back on the past with nostalgia, they also reflect the fact that experiences of poverty are relative, shaped by both personal experience and the observations of others around you. Crown counsel asked Dr Robinson how she reconciled such a recollection with the conclusions she (Robinson) had drawn about the levels of Māori poverty in Te Rohe Pōtae. Dr Robinson replied that 'when people are talking about the past, in particular their childhoods, there is a tendency to idealise it . . . particularly if they're talking about the present and how it's not'.²⁰²

23.3.4 Te Rohe Pōtae Māori and health and housing from 1938 to 1990

23.3.4.1 *What Māori-specific provision was made in State healthcare?*

The year 1938 was an important turning point, as it marked the passage by the first Labour Government of the Social Security Act, which ushered in many forms of State-funded healthcare over the following years. In 1939, for example, public hospital treatment became free, as in 1941 did various hospital outpatient services. In 1941, subsidies were also introduced for general practitioner visits, with further expansions in subsidies and free treatment in other aspects of healthcare during the rest of the decade.²⁰³ Dow considered that 1938 was for both Māori and general health 'arguably a more important watershed than 1900', which had seen the

200. Transcript 4.1.6, p281 (Hinekahukura Aranui, Ngā Kōrero Tuku Iho hui, Te Tokanganui-ā-Noho Marae, 10 June 2010).

201. Transcript 4.1.6, pp281–282 (Hinekahukura Aranui, Ngā Kōrero Tuku Iho hui, Te Tokanganui-ā-Noho Marae, 10 June 2010).

202. Transcript 4.1.21, p 1177.

203. Document A31, pp243–244.

establishment of both the Department of Public Health and the Māori councils. In terms of Māori-specific healthcare, the general GP subsidies saw the end of the free consultations under the NMO scheme, but at the same time meant that Māori would henceforth be able to visit hospitals without the uncertainty as to how they would afford the fees.²⁰⁴ From the hospitals' perspective, this also largely resolved a funding issue that had 'bedevilled' an institution like Waikato Hospital for decades.²⁰⁵

The end of the NM scheme – following, as it did, the demise of the Division of Maori Hygiene and the end of the native health nursing scheme in 1930 – meant that there was now little focus on specifically Māori health needs within the healthcare system. This 'mainstreaming' was, as Dr Robinson put it, in part a result of the new universality of healthcare subsidies, which appeared to remove the need for Māori-specific funding, but it also derived from the idea that the drive for the complete assimilation of Māori was complete, and that Māori now lived Western lifestyles.²⁰⁶ It may also have stemmed in part from the sense that Māori were no longer unusually susceptible to infectious diseases and thus now essentially experienced the same kinds of illnesses as the Pākehā population. Whatever the principal reason, it is clear in hindsight that focus should have been maintained on Māori health status and needs.

Dr Robinson felt that there may have been an upside to mainstreaming for Māori health, with the possibility that 'the absence of a Māori health division within the Health Department forced other divisions to take responsibility for it'. Indeed, the director-general of health, Michael Watt, wrote in 1937 that the medical officers of health had taken little interest in Māori health while the division of Maori hygiene existed, believing it to be 'Buck's or Ellison's job'.²⁰⁷ This necessarily changed under the new regime.

There also remained some specific focus on Māori health within the system after 1938. The medical officers of health held a 1940 conference on Māori hygiene, for example. Although not part of the health system, the Māori tribal committees and executives established by Māori leaders to mobilise Māori communities for the Second World War effort, also addressed Māori housing and welfare. The Maori Social and Economic Advancement Act 1945 provided the tribal committees and executives with a measure of self-government over their social and economic affairs, including in areas such as public health, sanitation, and housing. For instance, the 1945 Act empowered Māori welfare officers appointed under its authority to establish water supply or sanitation schemes in Māori communities.²⁰⁸ The Maniapoto Tribal Executive was active in community affairs in its district, and the use of Māori wardens to police drinking formed an early focus of

204. Dow, *Maori Health and Government Policy 1840–1940*, pp 11–12, 166.

205. Dr Robinson wrote, at the point in her narrative of the late nineteenth century, that 'The question of how to fund the treatment of Māori patients would bedevil Waikato for decades': doc A31, p61.

206. Document A31, pp250, 300.

207. Document A31, p 249.

208. Maori Social and Economic Advancement Act 1945, s32.

the Maniapoto Executive's activities.²⁰⁹ Under a new Act, the Maori Community Development Act 1962, the tribal committees and executives became Māori committees and executives, governed by district Māori councils and the New Zealand Māori Council. Like its predecessor legislation, the 1962 Act bestowed some local health-related functions upon the Māori committees and district Māori councils, including in the areas of liquor control, housing, and public health and sanitation. By the mid-1960s, there were around 49 Māori committees across the Waikato-Maniapoto district.²¹⁰ Unfortunately, little is known of the local work carried out by the committees in this inquiry district.²¹¹

It was not until the late 1950s that thorough efforts were made by the medical profession and Department of Health to quantify the differences in health between Māori and non-Māori. In 1960 – at a time of what Dow described as 'renewed interest in Maori health'²¹² – Richard Rose of the Department of Health's medical statistics branch compiled the landmark report *Maori-European Standards of Health*. In Rose's words, this investigation revealed that 'no very great improvement has taken place in the comparative health standards of the Maori as opposed to the European' since the previous relatively comprehensive assessment (a report by Turbott on tuberculosis among East Coast Māori in 1935).²¹³ As an upshot of this and the influential 1960 report by Jack Kent Hunn on the Department of Maori Affairs, a Māori health committee was established to guide the Health Department on Māori health issues. Hunn's recommended removal of legislation that made any separate provision for Māori saw the repeal of the Tohunga Suppression Act in 1962.²¹⁴

The Māori health committee was not able to challenge the entrenched monoculturalism of the status quo. The researcher Charlotte Williams described it as 'probably more medical than health service oriented' and thus unable to achieve the shift she considered necessary in operational policy or towards closer inter-departmental collaboration (with Maori Affairs).²¹⁵ Mason Durie likewise noted the lack of involvement of Māori community leaders as opposed to medical professionals and bureaucrats. The committee's focus was diluted by expansion to cover Pacific Islander health issues in 1967, and indeed it was renamed accordingly. By the late 1970s it was no longer meeting regularly.²¹⁶ In essence, mainstreaming continued into the 1970s, despite growing recognition of Māori health problems and the need for effective intervention. In this regard Williams felt that the

209. See Part IV, p49.

210. Document A72 (Francis and Sarich), p 189.

211. Document A72, p190.

212. Dow, *Safeguarding the Public Health*, p196.

213. R.J Rose, *Maori-European Comparisons in Mortality*, Special Report No37 (Wellington: National Health Statistics Centre, 1972) (Charlotte Williams, *More Power to Do the Work: Maori and the Health System in the Twentieth Century* (Wellington: Treaty of Waitangi Research Unit, 2007), p23).

214. Williams, *More Power to Do the Work*, pp23–24.

215. Williams, *More Power to Do the Work*, p24.

216. Document A31, pp251–252.

department had 'lost its way on Maori health'. She did think, however, that the tide had begun to turn.²¹⁷

The monoculturalism of the time was illustrated by the experiences shared with us by claimant Moeapatu Borrell, who was working in a public hospital in 1971 during the school holidays. She explained:

In those days a room was set aside in which bowls were sanitised and body fluids were flushed down large sinks custom built.

You would often find kidney dishes sitting on the benches ready to be flushed of their fluid content. One day I walked into the sluice room and there in a large kidney dish, filling all corners of the dish, lay a fully formed stillborn foetus. I had never even seen pictures of a foetus before, let alone a real foetus.

Every part of that baby was clearly recognisable, fingers, toes, eyes, nose, mouth. She had flesh, curled up as she was in her foetal position. As I stood looking at it, a nurse came in and without hesitation, picked up the dish, and flushed the stillborn baby down the sluice.

I was shocked. I screamed at the nurse, 'what did you do that for?'. She replied, 'what do you mean? It's only a foetus!' She stared at me as if I was mad, then marched out.

My mother worked at the hospital. I told her what had happened. She replied – 'Did you whakarite (karakia) yourself?' Then in explanation she said 'when you work at the hospital you have to close your eyes to a lot of the things that you see.'²¹⁸

Although understanding of and familiarity with tikanga was not a major orientation of New Zealand's health system during the 1970s – cultural safety training of nurses, for instance, would not begin until the late-1980s – it is worth noting that reform of health practices to encompass Māori approaches was being discussed by academics and practitioners and would by the following decade achieve significant influence within national health discourse.²¹⁹ In the 1980s, provision began to be made for Māori healthcare to be delivered in a more culturally attuned manner. Part of the impetus for this came from the publication in 1980 by Dr Eru Pōmare of a study of Māori health standards over the years 1955 to 1975. Pōmare (Te Atiawa, Ngāti Toa, Rongomai Wahine, and Rongo Whakaata) was professor at the Wellington School of Medicine from 1986 to 1992. This report is returned to below, but it suffices to say here that it showed Māori health to be comparatively poor on almost every available measure. A series of important hui were held in the early 1980s that set a new direction for Māori healthcare, including the Hui Whakaoranga Māori health conference in 1984. It in turn had been influenced by a 1981 gathering of Māori doctors that, according to Dow, had set the agenda for future discussions with its conclusion that Māori health problems 'stemmed from

217. Williams, *More Power to Do the Work*, pp 24, 87.

218. Document 555 (Borell), pp 8–9.

219. See Mason Durie, *Whaiora: Maori Health Development* (Melbourne: Oxford University Press, 1998).

socio-economic factors and low self-esteem.²²⁰ A number of events at this time, including the Hui Taumata of the same year, reflect a general push by Māori to begin taking a significant part in the provision of a range of services then the exclusive preserve of the Government. The election of the fourth Labour Government in 1984 also saw a greater emphasis placed on the Treaty guiding health policy. Mason Durie identified the key Treaty principles as partnership and participation, with Māori needing to lead the policy direction, and the Department of Health agreed.²²¹

There were, however, real limits to these advances. In Williams's opinion, the department was unable to switch its approach quickly, despite the formation of Māori advisory groups such as the Oranga Māori/Māori Health Project team in 1984 and Te Wahanga Hauora, the Māori health policy unit in 1990. As she put it, the development of 'an understanding of and a working style to address Māori health more effectively across the Department of Health . . . required a change across the whole organisation rather than isolated effort by a specifically Maori group'.²²² Moreover, at the same time as Māori-focused initiatives were taking place, restructuring and cost-saving may have been inhibiting progress. For example, population-based funding of hospitals was introduced in 1983, and this threatened the viability of smaller hospitals in rural areas such as Te Kūiti and Taumarunui. Both these hospitals had to cut back on services. The much smaller Kawhia Hospital had effectively closed much earlier, in 1967, and its permanent closure was confirmed in 1984.²²³

There were also ongoing problems of isolation for Te Rohe Pōtae Māori communities, despite the improvements in transport links. Isobel Kerepa, of Ngāti Te Wehi, explained that the remoteness of Ōkapu had delayed her father's diagnosis of diabetes, which was eventually obtained in Hamilton. His illness had then forced the whole family to move to the city:

Because my father needed constant medication and consultation with the doctors, the whole family had to move to Hamilton. I was 14 years old then. We did not adjust well to the city. The city was noisy and had a different atmosphere. We felt different. We felt frightened and intimidated by the people around us. It was a whole new life.²²⁴

Boss Mahara, also of Ngāti Te Wehi from Ōkapu, said that people had moved away in part because 'our tūpunas in the old days, when they took sick in a place like Aotea Harbour, the nearest doctor or hospital was either in Te Awamutu or in Hamilton, hence . . . we have shifted to those appropriate areas like Kirikiriroa

220. Dow, *Safeguarding the Public Health*, p 233.

221. Document A31, p254.

222. Williams, *More Power to Do the Work*, p41; see also doc A31, pp253-254.

223. Document A31, pp247, 277-281.

224. Document N5 (Kerepa), p 3; transcript 4.1.12, pp633-635 (Isobel Kerepa, hearing week 7, Waipapa Marae, 9 October 2013).

for our tūpunas to get well and to get medicine and other various things'.²²⁵ These problems of isolation persist for Māori in some parts of Te Rohe Pōtae.

23.3.4.2 *What was the nature of the Māori demographic and health transition?*

Notwithstanding previous references to ongoing health problems, the key story for the period from 1938 to 1990 is the dramatic turnaround in Māori health fortunes. From the late 1930s onwards, the Māori population continued to increase rapidly. According to Pool, by the early twentieth century Māori had reached the second stage of the classic demographic transition that begins with high levels of mortality and high levels of fertility. That is, the Māori population had begun to grow rapidly after mortality began to decline and fertility remained high, and continued to do so until the 1960s, when it entered the third stage of transition, with declining fertility and ongoing declines in mortality.²²⁶ Central to this passage through the second stage of the demographic transition was a corresponding shift in health outcomes – the 'great mortality transition', as the historian James Belich has called it.²²⁷

In short, Māori mortality decreased from nearly 250 per 10,000 in 1938 to around 50 per 10,000 in 1990.²²⁸ Within a generation or less, with improved treatments and better understandings, infectious diseases went from the main killer of Māori to a relatively minor one. Nowhere was this change more dramatic than with respect to tuberculosis, as the vaccine came into widespread use. The Māori death rate from tuberculosis was 39.04 per 10,000 in 1946 but only 5.65 per 10,000 a decade later, although Māori remained disproportionately more likely to die from tuberculosis compared to the non-Māori population into the 1960s.²²⁹ Between 1944 and 1968, Māori death rates from rheumatic fever and rheumatic heart disease fell from 15.1 per 100,000 to 1.4 in 100,000. Still, Māori rates of death from these conditions remained far higher than those of Pākehā, which declined from 2.5 per 10,000 in 1944 to 0.1 per 10,000 in 1968.²³⁰ Change was also profound in Māori typhoid deaths, which declined from 31.4 per 100,000 in 1936 to just 3.7 per 100,000 in 1948. Altogether, in 1939, infectious diseases accounted for 30.9 per cent of all Māori deaths, but by 1961 they caused only 5.4 per cent. Pākehā rates of death from infections dropped too, but from a vastly lower starting point: from 75 per cent in 1939 to just 1.2 per cent in 1961.²³¹

As a result of these changes, Māori life expectancy rose significantly in both absolute and comparative terms. In 1951, Māori males could expect to live 14 years less than their non-Māori counterparts, while Māori women could expect to live

225. Transcript 4.1.12, p469 (Boss Mahara, hearing week 7, Waipapa Marae, 8 October 2013).

226. Pool, *Tē Iwi Maori*, p 5.

227. James Belich, *Paradise Reforged: A History of the New Zealanders from the 1880s to the Year 2000* (Auckland: Allen Lane and the Penguin Press, 2001), p471.

228. Document A31, p158.

229. Document A31, pp183–185, 261.

230. Document A31, p 190.

231. Document A31, pp177, 179.

16 years less. By 1980, these gaps were only six and five years respectively.²³² Dr Robinson rightly cautioned about excessive reliance on these figures, noting the changes to the definition of ethnicities over time and the increased heterogeneity of the 'non-Māori' group. She nonetheless considered them a good guide and concluded that 'Māori chances of survival increased dramatically between 1938 and 1990'.²³³ These improvements of course also occurred alongside very rapid Māori urban migration, a subject we return to below.

The end of high mortality from infectious diseases meant that Māori causes of death became similar to those of Pākehā. Previously, Māori rates of death from degenerative diseases such as cancer, ischaemic heart disease, and diabetes had been relatively low, essentially because Māori did not live long enough to suffer from them. But with the problems of infectious diseases largely overcome, it eventually became apparent that Māori death rates from degenerative conditions were considerably worse than those of Pākehā. In other words, one form of health disparity had hidden another. In 1961, cancer and heart disease combined caused 235.4 Māori deaths per 100,000 people. The fact that this was much lower than the equivalent Pākehā rate of 455.7 was a reflection on the much younger age structure of the Māori population. Adjustment for age showed that Māori mortality rates for cancer were actually 2.2 per cent higher than those of Pākehā.²³⁴

The high Māori mortality rates from degenerative conditions stemmed from two principal factors. First, the significant gap between Māori hospitalisation rates and mortality rates for a disease like cancer showed that Māori were often not seeking treatment until the advanced stages of illness. As Rose remarked in 1960, 'It is suspected . . . that there still exists among some Maori persons a reluctance to seek timely medical advice and treatment and much illness, defect or impairment is stoically endured.'²³⁵ Secondly, Māori susceptibility to these 'lifestyle diseases' reflected their poorer diets and greater likelihood to indulge in unhealthy behaviour such as smoking and heavy drinking. In 1974, Māori women had the highest female lung cancer rate in the world, while a 1978 study showed that alcohol, smoking, and accidents combined accounted for 42 per cent of the difference between male Māori and Pākehā death rates. In 1976, the majority of all Māori aged 15–54 smoked, and while these rates had declined by 1981 they did not fall anywhere near as far as non-Māori rates. In the 1980s the gap in smoking rates between Māori and non-Māori grew again, which was linked by health researchers to growing levels of poverty and inequality.²³⁶

Hinga Whiu and her husband Lloyd Whiu moved back to Kāwhia in 1992. She said that, at that time, she was struck by how so many members of Ngāti Hikairo smoked, even in the whare tupuna. All her own aunts and uncles died in their 50s or 60s from smoking-related diseases, and she was motivated to help make the

232. Waitangi Tribunal, *Ko Aotearoa Tēnei, Te Tauniatā Tuarua*, vol 2, p642.

233. Document A 31, pp 163–164.

234. Document A 31, p180.

235. Williams, *More Power to Do the Work*, p23.

236. Document A 31, pp187, 227–228, 234.

marae auahi kore or smokefree, which occurred in 2005. While her people had made their own decisions to smoke, she said she thought the Crown should have taken more active steps sooner to protect Ngāti Hikairo from the dangers of smoking addiction.²³⁷ Hinga's mother, Mere Gilmore, had recently given up smoking after 52 years. She said her brothers and sisters had all died 'from smoking related illnesses inflicted by the British.'²³⁸ On this point, Dr Robinson felt that the Crown had been relatively quick in international terms to warn of the dangers of smoking when they became known in the 1950s. Advertisements were run in *Te Ao Hou*, for example, from 1958, to target Māori readers (although the advertisements themselves were generic, rather than aimed at Māori smokers in particular).²³⁹

As noted above, in 1980 the rather dire state of Māori health was confirmed in Eru Pōmare's first *Maori Standards of Health* report. He noted that the incidence of non-fatal diseases such as ear infections among Māori was also alarmingly high, with a result that many Māori children had hearing defects. Overall, the key health problems he identified included obesity, smoking, alcohol consumption, and a high rate of accidents. He concluded that

The poor health status of the Maori at the present time is largely due to environmental factors. I have no doubt that any substantial improvement in Maori health status will only come about by primary preventive measures. There is, therefore, an urgent need to define more clearly the role of the important environmental factors such as over-nutrition, smoking, alcohol, and infection, if intervention programmes are to be mounted.²⁴⁰

Pōmare argued that Māori would need to be involved in planning the response to these problems 'from the outset', in order to ensure they had any chance of success.²⁴¹ As it transpired, however, health disparities between Māori and non-Māori broadened in the 1980s and early 1990s as the economic reforms of the day disproportionately affected sources of employment in which Māori were concentrated, such as forestry, mining, and the railways.²⁴² Studies of this period later showed that socio-economic status did not satisfactorily explain the growth in disparities, as better-off Māori also had poorer health outcomes than non-Māori of the same socio-economic status.²⁴³ And, as we will see below, Māori continue today to be mired in a 'health crisis', as the Tribunal termed it in 2011.²⁴⁴

In summary, therefore, Māori life expectancy rose during the period from 1938 to 1990, but Māori health standards remained comparatively poor on almost every

237. Document N17 (Whiu), pp 7–11.

238. Document N16(a) (Gilmore), p p 2–3; doc N17, pp 10–11.

239. Document A31, p 229.

240. Eru W Pōmare, *Maori Standards of Health: A Study of the 20 Year Period 1955–1975* (Medical Research Council of New Zealand, 1980), pp 38, 48.

241. Pōmare, *Maori Standards of Health*, p 48.

242. Document A31, p 239.

243. Document A31, p 161.

244. Waitangi Tribunal, *Ko Aotearoa Tēnei, Te Taumata Tuarua*, vol 2, p 642.

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count. There are two ways of looking at these changes. On the positive side of the ledger, Māori health clearly improved significantly on many levels. On the other hand, major disparities continued between Māori and non-Māori health, and the overall increase for Māori was undermined by the broadening of the gaps in the 1980s and 1990s. Moreover, Māori were still presenting in insufficient numbers for primary care – where looming problems could be addressed – leading to a large gulf between hospital admission and mortality rates for diseases like cancer. Many preferred to seek attention at a hospital, where treatment was free, rather than pay a general practitioner. The Tribunal, in its *Napier Hospital and Health Services Report*, summed up this mixed picture in 2001 by noting that the ‘horrendous disparity’ in life expectancy at the end of the Second World War had improved immeasurably by the 1980s, but that it was a matter of debate whether Māori health had continued to improve in absolute terms since then. It felt there was a reasonable consensus, however, that health disparities between Māori and non-Māori had recently been growing.²⁴⁵

23.3.4.3 *What was the state of Māori housing and what support did the Crown provide?*

Māori housing continued to be poor compared to that of non-Māori. Two student dissertations looked specifically at the subject in Te Rohe Pōtae at the start of this period. The first, in 1938, noted what technical witness Dr Terry Hearn described as ‘extremes in housing’, with damp earthen floors, sacking covering windows, and no insulation. The second, in 1940, focused on Otewa, Hangatiki, and Rangiatea Pā in the northern King Country specifically. It reported that five dwellings made from sheet iron at Rangiatea Pā housed 42 people, although houses outside the pā were of better quality.²⁴⁶ That same year Turbott referred to the overcrowding in Māori houses (nationwide) as ‘often gross’. He felt that one-third of Māori houses were uninhabitable in Pākehā terms, with problems such as damp, inadequate ventilation, and a lack of basic sanitation.²⁴⁷ A 1943 Native Department survey of houses in Kāwhia, Aotea, and Hauturu found that 80 per cent of the houses were ‘of the most primitive order’.²⁴⁸ Dr Hearn concluded that ‘a good number of Te Rohe [Pōtae]’s Māori communities had developed by 1940 into rural ghettos characterised by poor and over-crowded housing’.²⁴⁹

A number of claimant witnesses recalled these housing conditions from their own childhoods. Pakira Tetata ‘Clive’ Henare, who gave evidence at the second Ngā Kōrero Tuku Iho hearing, said:

245. Waitangi Tribunal, *Napier Hospital and Health Services Report*, pp 351–352.

246. Document A146 (Hearn), pp110–111.

247. Turbott, ‘Health and Social Welfare’, p238 (doc A31, p213).

248. Field officer, Tūc Kuiti, to registrar, Auckland, 2 August 1938 (doc A146, p111).

249. Document A146, p111.

Whānau mai au i roto • Waitōngi. He whare ponga. He oneone te one • rare. Nā ka kia nei nā ngā pēke huka, ngā niupepa te rā nā he ue ka pārea atu te hau kia kore e puta mai i waenga nui i ngā ponga o ō mātou kāinga.

I was born in Waitōngi. It was a rude whare ponga house, a dirt floor. Sugar bags and newspaper, those were the wallpapers and the curtains to prevent the wind coming through the gaps in the ponga walls.²⁵⁰

Reginald Rickard, who was born in 1947, recalled similar poverty as a child at Rangipu near Raglan, where people lived ‘in tin shacks, corrugated iron tin shacks, dirt floors, big fireplaces, steel rods, number eight wire, boiling the water in four gallon tins, lighting fires outside, getting the ashes together, digging holes, cooking their bread in cast iron pots and that is how they lived.’²⁵¹

Huia Brown, who was born in 1946, grew up in the 1950s at the comfortable Ōngarue home of her grandmother. She contrasted this with the living conditions of her Ōngarue relations, whose homes ‘would have consisted of two rooms at most; dirt floors and the walls lined with newspaper. They did not have electricity and they had to boil the water on the fire to bath in the copper outside.’²⁵² Pōrima Kingi had also grown up at Kāwhia in the 1940s and 1950s. He recalled often sleeping ‘3 to 4 in a bed, top and tail, men, women and children – all together. Some rugs on top to keep us all warm’. In hindsight he concluded ‘we were in poverty compared to the Pākehā’, but he refused to complain ‘as our whānau found much happiness and we didn’t starve.’²⁵³

Isobel Kerepa said that she had grown up in a three-bedroom house at Ōkapu with her parents and 14 siblings. She explained that ‘The house was not insulated and my brothers and sisters would usually get sick. I remember being sick most of the time.’²⁵⁴ Such overcrowding does not appear to have been exceptional: a 1947 survey of 33 Māori houses in Te Kūiti carried out by the Māori branch of the Women’s Christian Temperance Union found that they housed 96 adults and 161 children. One small four-room dwelling had ‘14 children plus adults’, while another cottage of a similar size was home to eight adults and 11 children.²⁵⁵

The State’s contribution to improving the standard of Māori housing largely fell on the Native Department, which was renamed the Department of Māori Affairs in 1947. Some housing had been built as part of the development schemes, and the Native Housing Act 1935 and an amendment in 1938 made housing loans available

250. Transcript 4.1.2, p181 (Pakira Tetata ‘Clive’ Henare, Ngā Kōrero Tuku Iho hui, Waipapa Marae, 30 March 2010). The translation was made by Rangi McGarvey, who provided a simultaneous interpretation of kōrero at the hearings given in te reo Māori.

251. Transcript 4.1.3, p282 (Reginald Rickard, Ngā Kōrero Tuku Iho hui, Waipapa Marae, 30 March 2010).

252. Document L19, pp3–4.

253. Document N29 (Pōrima), p4.

254. Document N5, p2.

255. Document A146, p112.

to Māori.²⁵⁶ In 1938, the sum spent by the department on Māori housing, however, represented only 0.2 per cent of total Crown expenditure on housing. Dr Robinson argued that this was incongruous with the well-known impoverishment of the Māori housing stock. The proportion advanced, but only slowly, to 1.4 per cent in 1945 (by which time the Native Department had taken over the full responsibility for building Māori houses from the Public Works Department) and 3.2 per cent in 1950.²⁵⁷ For its part, the Department of Health was prepared to contribute funds towards the installation of rainwater tanks in 1939, but believed that Māori communities should match this expenditure so that they did not get used to the idea of receiving 'something for nothing'.²⁵⁸

The first National Government, elected in 1949, continued its predecessor's commitment to constructing houses for Māori, although it shifted the focus from rural to urban housing. Dr Robinson had the impression that rural Māori housing became 'somewhat neglected from about the 1950s'.²⁵⁹ Perhaps unsurprisingly, therefore, a 1960 survey of Māori housing in Waitomo and Otorohanga Counties conducted by the Te Kūiti inspector of health revealed that half were 'grossly overcrowded' and nearly 40 per cent were substandard. The majority of these inferior dwellings were rented, with some of the landlords being government departments such as the Railways and Ministry of Works.²⁶⁰ Claimant Wharehuia Hemara quoted from the findings of the inspector of health as follows:

What is overcrowding these homes, such as they are, is firstly the inability of the younger married Maoris to house themselves and secondly, the parents and in many cases the grandparents, are all forced because of their financial instability, to live under the same roof.

We then find three generations of Maoris all living under the same roof, a roof that has [been] gradually crumbling for years; a house that has no proper drainage.²⁶¹

Beyond the early 1960s Dr Robinson could find little specific data on the housing standards of Te Rohe Pōtāe Māori, although since it is known nationally that Māori housing remained comparatively poor it stands to reason that a rural area such as Te Rohe Pōtāe would not have been any exception. In 1961, the proportion of the total housing expenditure put towards Māori housing remained just 3.6 per cent, although by 1966 it had risen to 8 per cent. Again, however, this was directed mainly towards urban areas, to which Māori were being actively encouraged to

256. We note that the development schemes were not always net contributors to Māori housing stocks. We heard from John Mahara, for example, how existing housing at Ōkapu had had to be dismantled and relocated when the development scheme began there in 1962. One house had been left to stand where it was and was used as a hayshed: transcript 4.1.12, pp 574, 581.

257. Document A31, pp213–214, 220–223.

258. Director-general of health to medical officer of health, 22 December 1939 (doc A31, p214).

259. Document A31, p225.

260. Inspector of health to medical officer of health, 12 January 1961 (doc A31, pp216–217).

261. Director of maternal welfare, 'Problems of Maori Maternity', ca 1960–61 (doc s11, p5).

move.²⁶² Claimants, however, gave further evidence on rural conditions in the post-1960 period. Hari Rapata, who was born in 1960, remembered

growing up in a precarious situation of poverty and overcrowding. As a young child I was witness to many dysfunctional family behaviours derived from the circumstances and environment we were raised in. We were landless. In fact, from very early childhood memories I remember visiting close family members whose homes were make-shift tin structures, dirt floors, no running water, and cooking and laundry facilities found outside. This style of living, as I remember it, was common amongst many of our whānau.²⁶³

It is important to bear in mind that substandard Māori houses were not necessarily unclean. The inspector of health who conducted the 1960 survey noted, for example, that even the majority of shacks had clean water supplies. He remarked that Māori placed a high value on a good drinking water supply, often taking 'greater pains than his European counterpart to secure a good quality supply'. This might entail carrying water 'great distances'.²⁶⁴ Under cross-examination by Crown counsel, Dr Robinson agreed that there was a tendency for Pākehā to regard traditional Māori housing negatively and overlook the fact that it was often kept in a very neat and tidy condition. She added that stereotyping also wrongly assumed that Māori lived in poor conditions by choice, and did not wish to improve them.²⁶⁵ A newspaper correspondent in 1942 made these same points in response to another letter-writer who had referred to Māori villages in the Waikato and elsewhere as 'eyesores'.²⁶⁶ As he or she put it,

I would like to ask 'Face Facts' if he has ever visited Maori villages in the King Country? It is my privilege to pay a visit once a week to one such pa. The houses are clean, neat inside and out. If we pakehas had to live on as little, and under such conditions as many Maori people do, what would our villages and homes look like?²⁶⁷

Lloyd Whiu likewise told us:

I hangaia ngā pakitara me ngā pou o tō mātou whare i te rākau ponga. Kāhore he papa rākau o raro, ko te papa oneone anake. Engari he tino mā katoa nā te kaha o te tahitahi me te purūmu mātuka i piata mai te papa oneone.

262. Document A31, pp219, 224.

263. Transcript 4.1.10, pp519–520 (Hari Rapata, hearing week 4, Mangakōtukutuku Campus, 9 April 2013).

264. Inspector of health to medical officer of health, 12 January 1961 (doc A31, p217).

265. Transcript 4.1.21, pp1179–1182.

266. 'Maori Villages', *Auckland Star*, 5 October 1942, p 2.

267. 'Maori Villages', *Auckland Star*, 9 October 1942, p 2.

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The walls and posts of our house were made from ponga timber. Our home had no floor boards. It had a dirt floor only. However, it was a very clean house because it was swept with a mānuka broom which made the floor shine.²⁶⁸

Glennis Rawiri also recalled that the ponga house with a dirt floor she grew up in at Waingarō was ‘warm and dry’.²⁶⁹

After 1966, the Department of Maori Affairs’ expenditure on Māori housing dropped right away, with the department claiming that the need had now been largely met in both rural areas and cities. This was disputed in a 1990 thesis, which considered that less than half of the Māori housing need had been met in the previous five years. Despite this, and the aforementioned neglect of rural housing, there were some positive developments in the coming years. Funding for kaumātua flats near marae was provided from the mid-1960s, and loans for rural Māori housing were introduced in 1969. In the 1980s the Housing Corporation played a greater role in housing Māori, employing Māori liaison officers. In 1985, the fourth Labour Government introduced the Papakāinga Housing Scheme, which worked around restrictions on the building of homes on multiply owned land and provided funds for this via Maori Affairs.²⁷⁰

In summary, Dr Robinson felt that Māori housing had clearly improved between 1938 and 1990, and acknowledged that much of the credit for this was due to State action. However, she noted that the proportion of government expenditure targeted at Māori housing had fallen short of the Māori share of the population, despite Māori housing needs being manifestly greater. Housing in rural areas such as Te Rohe Pōtae had also suffered from the post-1940s prioritisation of Māori housing in cities.²⁷¹ A 1991 study of Māori housing showed that there remained pressing problems, particularly in country areas:

Substandard dwellings both old and new, condemned houses, cowsheds, sheds, garages, woolsheds, temporary shelters such as tents, lean-tos made of tin and tarpaulin, old buses, and caravans constitute the permanent dwellings for numerous Māori families. Others have dirt floors, no power, and no running water. Many are insect and vermin infested, or present ongoing health risks.²⁷²

Part of the problem was that many Māori had begun to migrate back to their tūrangawaewae from the cities, despite the lack of suitable housing (a trend which was noted in a Board of Maori Affairs report in 1986).²⁷³ We return to the issue of

268. Transcript 4.1.12, pp173-174 (Lloyd Whiu, hearing week 7, Waipapa Marae, 7 October 2013).

269. Document R4, p6.

270. Document A31, pp224-226. Dr Robinson did not give a date for the commencement of the kaumātua flats building programme, but an edition of *Te Ao Hou* in 1975 referred to it as having begun in 1965: ‘Kaumatua Flats opened at Manutuke’, *Te Ao Hou*, 11076, June 1975, p42.

271. Document A31, pp226-227.

272. Māori Women’s Housing Research Project, *For the Sake of Decent Shelter* (Wellington: Housing Corporation of New Zealand, 1991), p19 (doc A31, p219).

273. Document A31, p219.

housing in Te Rohe Pōtae in section 23.3.5.2 on the contemporary state of Māori health and well-being.

23.3.4.4 *What trends occurred in Māori mental health and what support did the Crown provide?*

There has traditionally been little reliable data about Māori mental health. Dr Robinson noted that whānau generally kept their mentally ill relations away from the Pākehā healthcare system; in 1899, for example, there were just 21 Māori patients in asylums out of a resident population of 2,480.²⁷⁴ Like health more broadly itself, definitions of mental health also differ between cultures, which makes it problematic to identify in retrospect all the symptoms of Māori mental illness. It is likely, in any event, that some illnesses were regarded as ‘mate Māori’ and thus not treatable by Western medicine.²⁷⁵ Dr Robinson found more information about Te Rohe Pōtae Māori who were mentally unwell (in Pākehā terms) for the period from 1900 to 1938, but then only about specific individuals. Nationwide, Māori admission rates to asylums remained low. Tokanui Hospital had a higher proportion of Māori patients than was the case elsewhere – 4.3 per cent in 1938 as opposed to 1.8 per cent nationally – but Dr Robinson considered that this was because of the significant local Māori population.²⁷⁶ In 1958, the medical officer at Porirua Hospital, Fraser McDonald, remarked that mentally unwell Māori tended to remain within their families and were ‘seen only perhaps by the tohunga who, it must be regretfully admitted, is liable to give them a vastly better type of supportive psychotherapy than a pakeha therapist can provide.’²⁷⁷

Until the late 1960s, age-standardised mental health first admission rates nationally for Māori and non-Māori were relatively similar for those aged between 20 and 40. After that, Māori rates leapt ahead, particularly for those in their twenties. There was a sharp rise in Māori schizophrenia diagnoses, which may in part have related to the illness having previously been treated as mate Māori. In 1984, the Māori male admission rate for schizophrenia was twice that of non-Māori and nearly three times as much for women. Despite these rises, alcoholism became the main cause of first admissions for Māori males in the 1970s, with Māori male alcoholism admission rates in 1984 being nearly three times as high as non-Māori. It may be that, previously, Māori suffering from alcohol dependence ended up in prison rather than in psychiatric care. Despite these caveats – and the need for caution regarding higher admission rates as a sign of more mental illness – Mason Durie did consider in 1994 that there probably were increased levels of Māori mental ill health.²⁷⁸ He noted that other possible explanations included ‘urbanisation and its attendant turmoil’ and ‘cultural bias, if not frank discrimination.’²⁷⁹

274. Document A31, p 24.

275. Document A31, pp124–125.

276. Document A31, pp84–85, 148, 198–199.

277. ‘The Mental Health of the Maori’, *Te Ao Hou*, no 25, December 1958, p 58.

278. Document A31, pp199–202.

279. Mason Durie, *Whaiora: Māori Health Development*, 2nd ed (Auckland: Oxford University Press, 1998), p131.

Māori suicide rates were generally much lower than non-Māori rates, but Māori male youth suicide rates (among those aged 15–24) leapt from a very low base point in 1981 to be higher than non-Māori rates by 1989. For Māori males overall, the average rate of suicide per 100,000 population rose from 3.9 in the years 1978 to 1983 to 27.7 in the years from 1984 to 1990. Dr Robinson thought these and the other statistics on mental health from the 1980s suggest ‘a possible link to the economic restructuring of that period, particularly the loss of jobs in some traditionally working class male fields.’²⁸⁰ Dr Hearn noted research showing, for example, that fulltime jobs in Te Kūiti at the Ministry of Works and Development dropped from 63 to 22 from 1986 to 1988, with similar drops at the New Zealand Forest Service (or the Department of Conservation, as it became in 1987), from 45 to 22, and at the Railways Corporation from 42 to 32. As Dr Hearn observed, these three workplaces were ‘all traditionally important employers of Māori.’²⁸¹ However, as Dr Robinson pointed out, some of the worsening of Māori mental health predated the 1980s, and the causes of it may be found in other factors besides, such as urban migration and the general economic downturn of the 1970s.²⁸²

23.3.5 Contemporary Te Rohe Pōtae Māori health and housing

23.3.5.1 *What are current Māori health standards?*

Dr Robinson supplemented her report on the period up to 1990 with a socio-demographic profile of Te Rohe Pōtae Māori in 2006, drawn largely from the census data taken that year.²⁸³ As noted, she acknowledged that this left an important gap in coverage from 1990 to 2006, a period which included the passage of major health reforms in New Zealand.²⁸⁴ She further noted that the focus on the year 2006 of course also meant that a number of years had elapsed since the information in her report was current (she presented her evidence in 2012).²⁸⁵ In the circumstances she agreed with Crown counsel that the information presented provided ‘a snapshot of how things looked at 2006’, although she added that some non-census data she used came from prior to 2006 and some post-dated it.²⁸⁶ Recent demographic information was also supplied by the Maniapoto Māori Trust Board, most notably a 2009 tribal health status report, although this too relied principally on information from 2006.²⁸⁷ The trust board also submitted some data from the 2013 census, albeit relating only to population numbers, age profile, and income.²⁸⁸

Some information exists which can partly fill the gap in the coverage from 1990 to 2006. Using 1991 census data, for example, economist John Gould ranked

280. Document A31, pp 203–205.

281. Document A146, pp 530–531.

282. Document A31, p 205.

283. Document A88 (Robinson).

284. Document A31(c), p 3.

285. Document A88, p 3.

286. Transcript 4.1.21, p 1157 (Helen Robinson, hearing week 12, Oparure Marae, 8 May 2014).

287. Document s4(b) (Maniapoto Māori Trust Board).

288. Document s4(a); doc s4(d).

16 of what he termed the ‘major iwi’ (defined as iwi with census populations of over 4,000) by their socio-economic characteristics.²⁸⁹ Of these 16 iwi, Ngāti Maniapoto ranked fourteenth overall, including – more specifically – twelfth in terms of income, fifteenth in school qualifications, eleventh in unemployment, and thirteenth in home ownership.²⁹⁰ A decade later Gould updated this comparison through use of the 2001 census results, and this found Ngāti Maniapoto still in fourteenth position. In both censuses, only Waikato and Tūhoe ranked lower.²⁹¹ Whereas many Ngāti Maniapoto live beyond their tribal boundaries (excluding those living overseas, nearly 87 per cent per cent lived elsewhere in New Zealand at the 2006 census and 90 per cent did so in 2013),²⁹² we consider that Gould’s analysis confirms the picture in Dr Robinson’s health report of Te Rohe Potae Māori having had ongoing high levels of deprivation. However, it is worth noting the evident limitations of this study, given that only 16 iwi were considered, and the difficulty of ‘ranking’ large and dynamic groups such as iwi in terms of social indicators.

Dr Robinson’s research revealed that Te Rohe Potae Māori had a higher-than-average tendency to identify solely as Māori rather than for their Māori ethnicity to be part of a more complex identity. Typically – as scholars such as Tahu Kukutai have demonstrated – those who identify solely as Māori have worse socio-economic outcomes than other Māori. Dr Robinson noted this and acknowledged that it might have been useful to provide separate statistics for this group throughout her report. However, she had not obtained the necessary data.²⁹³ As it happens, in both of Gould’s studies, Ngāti Maniapoto tribal members had relatively low levels of reported non-Māori ethnicity (twelfth of 16 iwi in 1991 and eleventh out of 16 in 2001).²⁹⁴ It should be noted that ethnicity is self-identified and often culturally influenced, and not a measure of any ancestral or biological difference.²⁹⁵

With regard to health, Dr Robinson noted 2008 age-standardised Ministry of Health data that showed national Māori mortality rates to be twice that of Pakehā. This gap was most profound for the ages 25–74, although Māori post-neonatal mortality rates (from four weeks to one year in age) were also around double non-Māori rates. The 2006 census showed that Māori were much more likely to be receiving a sickness or an invalid’s benefit or be in receipt of an ACC payment,

289. The iwi selected for Gould’s study were Ngāi Tahu, Te Atiawa, Ngāti Toa, Ngāti Raukawa, Whānau-ā-Apanui, Ngāti Awa, Te Arawa, Ngāti Porou, Ngā Puhi, Ngāti Tūwharetoa, Ngāi Te Rangi, Ngāti Maniapoto, Ngāti Kahungunu, Ngāti Whatua, Tūhoe, and Waikato.

290. JD Gould, ‘Socio-Economic Differences between Maori Iwi’, *Journal of the Polynesian Society*, vol 105, no 2, 1996, p169.

291. John Gould, ‘Socio-Economic Gaps between Māori and Māori: Outcomes of Sixteen Iwi 1991–2001’, *Journal of the Polynesian Society*, vol 114, no 1, 2005, p32.

292. Document A88, pp 32–33; doc s4(a).

293. Document A88, p26.

294. Gould, ‘Socio-Economic Differences between Maori Iwi’, p169; Gould, ‘Socio-Economic Gaps between Māori and Māori: Outcomes of Sixteen Iwi 1991–2001’, p32.

295. See, for example, Tahu Kukutai, ‘The Problem of Defining an Ethnic Group for Public Policy: Who is Māori and Why does it Matter?’, *Social Policy Journal of New Zealand*, issue 23, December 2004, p96.

both in national terms as well as in Te Rohe Pōtae specifically. The proportion of Māori receiving an invalid's benefit was higher in Te Rohe Pōtae than nationally, and particularly high in the towns of Te Kūiti, Ōtorohanga, and Raglan. Māori in Te Rohe Pōtae and nationally were also three times as likely as non-Māori to be caring for a sick or disabled member of their household.²⁹⁶ Note that these figures are based on residence within the inquiry district, and do not include the high proportion of Te Rohe Pōtae Māori living outside of their tribal rohe.

The 2008 Ministry of Health data showed that Māori were much more likely to die of cancer than non-Māori, and much more likely to die of cancer at a younger age. In fact 44.2 per cent of Māori cancer deaths occurred at ages 45–64, as opposed to only 21.5 per cent of non-Māori cancer deaths. Māori lung cancer death rates continued to be very high, particularly among women, where the rates were 154.7 per 100,000 at ages 45–64 and 572.5 at ages 65 and over, as opposed to non-Māori rates of 35.2 and 139.7 respectively. In keeping with this, Māori smoking rates both nationally and within Te Rohe Pōtae in 2006 were much higher than those of non-Māori. Breast cancer also claimed Māori women's lives earlier than for non-Māori women, and breast cancer notifications among Māori women were much more likely to be fatal. Māori men were also equally likely to be diagnosed with prostate cancer as non-Māori men, but much more likely to die from it. A similar story to cancer applied to cerebrovascular disease (causing strokes) and ischaemic heart disease, with Māori much more likely to die of these diseases than non-Māori and much more likely to do so at younger ages.²⁹⁷

Outcomes were similar for other diseases. Between 2000 and 2011, for example, Māori comprised just over half of all notified rheumatic fever cases nationally, and nearly 80 per cent of those in the Waikato District Health Board area. Age-adjusted Māori rates of hospitalisation for chronic obstructive pulmonary disease in the Ōtorohanga and Waitomo local government districts in 2001 were roughly five times higher than for non-Māori. It was the same with diabetes, where – from 2001 to 2006 – the age-adjusted Māori hospitalisation rates in Ōtorohanga and Waitomo districts were also around five times higher than for non-Māori. Worse still was the diabetes mortality rate for the period from 1999 to 2003, with the age-adjusted Māori rate in Ōtorohanga and Waitomo districts more than 10 times the non-Māori rate. Asthma rates for Māori were also much worse, with – for example – an age-adjusted hospitalisation rate for Māori six times that of non-Māori in the Ōtorohanga district from 2001 to 2006.²⁹⁸

Dr Robinson showed that the worsening of Māori mental health since the 1980s, evidenced by the rise in the rates of suicide, had continued. Māori male rates of suicide from 2004 to 2008 were around 50 per cent higher than those of non-Māori, while Māori female rates were around 70 per cent higher. Māori youth (15–24 years old) suicide rates – particularly for women – were even higher, at more than three times as much for Māori women than non-Māori women and

296. Document A88, pp89–90, 92–93.

297. Document A88, pp96–99, 115–116.

298. Document A88, pp101–106.

nearly twice as much for Māori men. One positive was that the Māori male suicide rate dropped dramatically in 2007 and 2008 to 39.5 and 26.9 deaths per 100,000 respectively, after having been more than 50 per 100,000 from 2004 to 2006.²⁹⁹

In 2011, in its Wai 262 report *Ko Aotearoa Tēnei*, the Tribunal considered the most recent Māori health statistics for a variety of diseases, including those discussed in this section, as well as other health indicators such as rates of smoking, obesity, interpersonal violence, marijuana use, and so on. It concluded – in the context of woeful Māori health standards at the time of the Tohunga Suppression Act in 1907 – that ‘contemporary Māori health status is so bad it would be wrong to describe it as anything other than a further calamity, even if it represents an undoubted improvement on a century earlier’. The Tribunal added that many of the illnesses and problems it listed were ‘practically at epidemic levels’.³⁰⁰

The Maniapoto Māori Trust Board noted the variety of systemic reasons that have a negative effect on Māori health. These included the lack of Māori employed as healthcare professionals and the uniform and thus monocultural nature of many services. The rural isolation of many Ngāti Maniapoto communities was also identified as a barrier to accessing healthcare. Kāwhia, for example, has high deprivation levels but had a GP clinic only once a week. Otherwise residents had to travel 30 kilometres to the nearest GP or 80 kilometres to Waikato Hospital. Benneydale was in a similar position, albeit without a GP clinic.³⁰¹ We heard the same story about Marokopa. Kahuwaiora Hohaia told us: ‘If you are sick, you have to go all the way to Te Kuiti to see the doctor. It has been that way since I can remember. It is about an hour to an hour and a half drive depending on how you drive. For me now it can take an hour and a half to two hours one way’.³⁰²

Kāwhia’s solitary GP, John Burton, who has been practising in the township since the early 2000s, provided some comments about the health status of his patients. While the small number of registered patients (648) made comparisons between Māori and non-Māori difficult, he noted that his Māori patients generally had worse health and higher healthcare needs.³⁰³ Thomas Maniapoto regretted the passing of the practice of house calls by Te Rohe Pōtae doctors which had been common in his father’s time during the mid-to-late twentieth century. In the past, too, he said, doctors making house calls had been prepared to be paid in produce rather than cash. Now, however, he thought the provision of care had ‘become more commercialised’.³⁰⁴

Mr Maniapoto also considered that one reason that Māori health had worsened was the decline in access to traditional foods and the ready availability – and even cheapness – of introduced foods high in sugar, carbohydrate, and fat.³⁰⁵ The issue of nutrition and diet was one returned to repeatedly by Dr Robinson in the course

299. Document A88, pp 110–112.

300. Waitangi Tribunal, *Ko Aotearoa Tēnei, Te Taumata Tuarua*, vol 2, p 642.

301. Document S4(b), pp 9–10, 78.

302. Document N52, para 104.

303. Document N19 (Burton), pp 2–6.

304. Document S26, pp 14–15.

305. Document S26, p 12.

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of her research. It seems from this that the advent of Pākehā settlement had broadened Māori diets in positive ways but that the gradual shift away from a more traditional diet – which became more pronounced after urban migration – had brought problems of its own. High levels of Māori obesity, for example, became apparent from about 1960.³⁰⁶

23.3.5.2 *What are current Māori housing standards?*

In keeping with her coverage of the period up to 1990, Dr Robinson dwelt in her contemporary socio-demographic profile on the issue of housing. The most readily accessible data in this regard derive from the census questions on tenure and occupancy. The 'Māori' households Dr Robinson used were those in which at least one person lived who identified as Māori (ethnicity) on the 2006 census form, which she acknowledged introduced some unavoidable uncertainty as to whether Māori were even a majority of household members in each instance. Notwithstanding this imperfection, Dr Robinson noted that Māori were significantly less likely to own their own home both nationally (45 per cent as opposed to 65.9 per cent of non-Māori) and in Te Rohe Pōtae itself (46 per cent and 67.2 per cent respectively). Regardless of rural or town areas or district, she found that 'non-Maori households were consistently 1.4 to 1.5 times more likely than [Māori] households to own their own dwelling'.³⁰⁷

Dr Robinson noted that a reasonable assumption might be that the younger age structure of the Māori population as well as lower Māori income levels might account in part for the lower Māori rates of home ownership. However, a 2009 study by Housing New Zealand had discounted these factors, and the discrepancy may instead be explicable in terms of larger families, a higher incidence of single-parent families, and other issues of family structure. Nor have the lower house prices of a predominantly rural area like Te Rohe Pōtae been sufficient to facilitate greater levels of Māori home ownership. Coastal properties have increased markedly in value, as did house prices generally across Te Rohe Pōtae from 2003 to 2011.³⁰⁸ While Dr Robinson did not suggest it, it may be that prices in districts like Ōtōrohanga and Ruapehu were in part able to rise so dramatically because of a relatively low base point in 2003. Moreover, whereas rural property prices are lower, so too, generally, are rural incomes.

The problem of rising coastal land values had been a particular problem for the tangata whenua of Whāingaroa. As Te Napi Waaka of Ngāti Māhanga told us, 'Whāingaroa has become a haven for those buying beachside holiday homes, and is a popular destination for those fishing and surfing. . . . Most of our whanau couldn't afford to buy a house in Raglan even if they were able to move back there.'³⁰⁹ Aubrey and Marleina Te Kanawa of Tainui hapū said that this rise in

306. Document A31, p210.

307. Document A88, pp123–125.

308. Document A88, p127.

309. Document M4 (Waaka), pp 3–4.

Raglan property prices had even forced some locals to move away, to places like Hamilton, as they were unable to afford the increased rates.³¹⁰

Within the categories of home owners and renters are sub-categories that further distinguish between Māori and non-Māori households. Māori home owners were much more likely to be paying a mortgage (68 per cent as opposed to 50.5 per cent nationally, albeit with less of a gap in Te Rohe Pōtae) and Māori renters were less likely than non-Māori renters to rent from a private landlord and more likely to rent from Housing New Zealand. Both nationally and in Te Rohe Pōtae, Māori households were also more crowded. For example, 21.8 per cent of Māori households had five or more members as opposed to 10.1 per cent of non-Māori households. Conversely, 37.6 per cent of Māori households had only one or two occupants, as opposed to 59.8 per cent of non-Māori households. Despite these differences, Māori were more likely than non-Māori – both in Te Rohe Pōtae and elsewhere – to live in houses with three bedrooms or fewer. By the Waikato DHB's own measure, in 2006 between 19 and 30 per cent of Māori (by Te Rohe Pōtae-connected local authority district) across the DHB area were in overcrowded households, as opposed to 4 to 6 per cent of non-Māori.³¹¹

23.3.6 Treaty analysis and findings

We consider that the Crown was responsible for any lasting impacts on Te Rohe Pōtae Māori health caused by the wars of the 1860s and subsequent influx of refugees, although these are inherently difficult to quantify. As we noted in chapter 7, the Te Rohe Pōtae economy staged a remarkable recovery during the period of the aukati, and some observers regarded those within the aukati as being at least as healthy as or even healthier than those outside it.³¹²

The Crown certainly was responsible for the poverty brought on by increasing land loss in Te Rohe Pōtae itself after 1886, including the susceptibility to disease this brought about. As we explained in Parts II and III, the Crown purchased 639,815 acres (or one-third of all Te Rohe Pōtae land) between 1890 and 1905, driven by the belief that Te Rohe Pōtae Māori had much more land than they needed.³¹³ While it recognised by 1899 that relentless purchasing would render many Te Rohe Pōtae hapū landless, it continued in the same vein regardless. As we saw in part III, purchasing from rapidly diminishing Te Rohe Pōtae Māori land reserves continued apace over the first half of the twentieth century. By 1950, Te Rohe Pōtae Māori land holdings in the district had dwindled to just 402,253 acres, a marked drop from the 1,142,196 acres of land in the district in Māori ownership in 1905.³¹⁴ The causes for this land loss are discussed in Parts III and IV of this report.

310. Document M22 (Te Kanawa and Te Kanawa), p 9; doc M22(b), para 6.

311. Document A88, pp 127–135.

312. Examples include the observations of WN Searancke in 1869 and WG Mair in 1872: see doc A31, pp 17, 22.

313. Waitangi Tribunal, *Te Mana Whatu Ahuru*, Part II, p 1440.

314. Waitangi Tribunal, *Te Mana Whatu Ahuru*, Part III, p 249.

As we remarked in chapter 11, it is impossible to calculate the longer-term damage to Māori health, well-being, and economic success that arose from this rapid loss of land and opportunity, but it is certain to have been substantial.³¹⁵ We find that, through these actions, the Crown failed in its duty of active protection through failing to protect Te Rohe Pōtae Māori from the adverse effects of settlement.

In terms of direct medical assistance, we consider that – aside from instances where promises of a hospital had been made by the Crown at the time of early land purchases – the Crown clearly built hospitals in the nineteenth century to serve the Pākehā population. The remote and scattered nature of the Te Rohe Pōtae Māori population made it difficult for the Crown to be equitable, but the worse Māori standards of health should have had a greater influence on its priorities. One area in which the Crown did attempt to provide specific assistance was in the native medical officer scheme, but its impact on Te Rohe Pōtae Māori health had real limitations. As we have seen, there were only four native medical officers near (but not in) Te Rohe Pōtae in 1900. It is difficult to fault the Crown for these limitations in the period up to 1900, given the general shortage of doctors in New Zealand at the time, but less so beyond 1900, as we discuss below.

The Crown was not responsible for low Māori levels of immunity and the corresponding Māori susceptibility to disease in the late nineteenth century. Nor, was it responsible for the limitations at the time of medical science. It was, however, responsible for the low priority it placed on mitigating Māori health problems. While credit is due for the native medical officer scheme, hospital fees were a disincentive from the outset for Māori to make use of these services. The Crown could have subsidised hospital care for Māori in order to help provide more equitable outcomes. This is a case where equal standards of care (bearing in mind the access challenges of getting to Waikato Hospital) for Māori and Pākehā was not an equitable arrangement. Moreover, the Māori suspicion of hospitals and doctors was recognised at the time but little was done to alleviate it. That suspicion, we might add, was entirely to be expected, both before and after 1900, given the broad assimilationist goals of governments at this time, and the negative attitudes towards Māori culture and beliefs prevailing within the health system and within Pākehā society at large.

As we noted in section 23.2.3.1, the Crown generally stressed its equal standards of care for Māori in regard to healthcare in this inquiry district. We consider, however, that equal standards of care were the bare minimum of the Crown's responsibilities arising from article 3 and the related principle of equity. Full Treaty compliance required the Crown to make additional provision for Māori needs when Māori health outcomes were demonstrably worse (especially, we might add, where those outcomes had been worsened by prior Crown Treaty breaches, such as the failure to safeguard a sufficient endowment of quality land). As we have seen, the Crown frequently failed to make equitable provision for Te Rohe Pōtae Māori health and housing needs. We thus find the Crown acted in a manner

315. Waitangi Tribunal, *Te Mana Whatu Ahuru*, Part 11, p1443.

inconsistent with the principle of equity by failing to subsidise hospital treatment for Māori from 1886–1900.

With respect to the period from 1900 to 1938, we consider that the Crown's actions in targeting Māori sanitation through the public health measures of 1900 (including the Māori councils) were appropriate. The establishment of the Māori councils was a positive step towards empowering Māori in their own self-government through the administration and management of aspects of their own healthcare. Furthermore, the creation of a native health officer position and the appointment of Pōmare to the role were progressive developments. However, as discussed in chapter 18, the Māori councils were under-funded, and the native health officers suffered similarly through lack of resources. Buck's comment in 1909 that the Government should either spend sufficient sums on Māori healthcare or let them die out is particularly telling.

The Crown was not responsible for the terribly excessive Māori death toll in the 1918 influenza epidemic, except to the extent that its past attention to Māori health needs had been insufficient to prepare Māori communities for coping with such a calamitous event. The resulting reboot of public healthcare in 1920 – including the establishment of a Division of Maori Hygiene with a Māori director – offered renewed promise of an appropriate level of focus on Māori health needs. So too did the simultaneous reinvigoration of the Māori councils create the possibility that Māori would at last be empowered to improve the health status of their people. However, both these developments again fell short of expectations.

Once more the Crown failed to resource the Māori councils adequately for the important work before them, and the Department of Health routinely paid insufficient attention to Māori health needs. It was as if the Crown had learned nothing at all from the shortcomings of its approach in the first decade of the century.

Over the course of the period from 1900 to 1938 there was an increase in the provision of medical services in Te Rohe Pōtae, although these were not generally aimed at Māori, but rather followed the expansion of the Pākehā population. To the Crown's credit, the native medical officer scheme continued throughout this period. However, its effect remained limited, and when Te Rohe Pōtae Māori expressed the wish for a particular GP to keep his subsidy, the Crown ignored their request. This would have been a small but meaningful recognition of the Māori right to determine aspects of their own healthcare. Te Rohe Pōtae Māori also remained very poor throughout this period and suffered the classic diseases of poverty, often exacerbated by inferior and overcrowded housing. Given the State's minimal role in housing provision at the time, at the very least the sanitation and water-supply initiatives of the period should have been better supported.

In summary, measures such as increased incentives for GPs to service remote, Māori-dominated areas; hospital subsidies to offset fees; and greater attention to Māori housing needs would all have ensured greater equity in outcomes between Māori and non-Māori in Te Rohe Pōtae in the period from 1900 to 1938. As it was, Māori continued to suffer the prejudice of prior failures by the Crown to uphold its Treaty obligations, particularly in terms of ensuring Māori retained sufficient quality land for their foreseeable needs and had access to assistance to develop

it. Te Rohe Pōtae Māori were economically marginalised between 1900 and 1938, and it is little wonder that their health was considerably poorer over the same time period.

Thus, we find that from 1900 to 1938, the Māori health initiatives delivered by the Department of Public Health and the health work of the Māori councils were important opportunities for enabling Māori self-government and management of their own health. However, these initiatives lacked sufficient Crown funding and support. In particular, the failure to adequately resource the Māori councils to carry out their responsibilities was inconsistent with the principles of partnership and reciprocity as well as the guarantee of rangatiratanga in article 2, and amounted to a failure in the Crown's duty to actively protect Te Rohe Pōtae Māori rangatiratanga and autonomy over their health.

Before moving to the years that followed the introduction of the welfare State in 1938, we first consider the specific case of the Tohunga Suppression Act. We agree with the Wai 262 Tribunal's conclusions in *Ko Aotearoa Tēnei* that the passage of the Tohunga Suppression Act was a fundamentally unjustified response to a Māori health crisis, and was reflective of a Crown mindset that was 'fundamentally hostile to mātauranga Māori'. In imposing an effective ban on Māori traditional health practices, failing to distinguish between those tohunga practices that were harmful and those that were not, the Tribunal found, the Act was 'not only unjustified but also racist, in that it defined a core component of Māori culture as wrong and in need of "suppression"'.³¹⁶ It was also unnecessary. As the Tribunal pointed out in its *Ko Aotearoa Tēnei* report, the Crown could have addressed harmful tohunga practices by better resourcing the Māori councils to license and regulate tohunga (including Pākehā practising as tohunga), rather than criminalising an entire system of healing and medicine.³¹⁷ Working alongside rather than outlawing tohunga, the Government could have co-opted rather than suppressed such traditional knowledge forms.

There is evidence of continued tohunga practice in Te Rohe Pōtae after 1907, even if the easily accessible documentary record comes from a Pākehā – and potentially biased – perspective. In 1916, for example, a Kāwhia settler claimed in a newspaper that it was 'only on investigation that one becomes acquainted with the prevalence of the tohunga element among the Maoris and their ignorance of modern medical methods'.³¹⁸ A decade later, when the coroner ruled that a Māori child had died at Kaitupeka due to 'pulmonary affection', the deceased's grandmother had apparently explained that

None of the natives in the vicinity of Waimiha was a follower of Ratana, but they believed in Tohunganism to some extent. In many cases a Tohunga could cure sickness. Her husband treated deceased for whooping cough. He sprinkled water on its

316. Waitangi Tribunal, *Ko Aotearoa Tēnei, Te Taumata Tuarua*, vol 2, p624.

317. Waitangi Tribunal, *Ko Aotearoa Tēnei, Te Taumata Tuarua*, vol 2, p622.

318. *Observer*, 1 July 1916, p3.

head and prayed to God to restore it. She believed in faith healing, and that was the reason why she did not call in a doctor. She would act in a similar manner again.³¹⁹

The fact that many of the newspaper references to tohunga discussed in this chapter come up in the context of the justice system (in this case a coroner's inquest) is indicative of the extent to which tohunga practices had been driven underground and criminalised.

Evidence from the claimants themselves also confirmed that the Act had failed to completely suppress the practice of tohunga, at least in more isolated areas of the inquiry district where the practice was less likely to be policed. Floyd Kerapa, for example, said that his tupuna Kerapa had practised his gift of healing at Tanuku near the southern shore of the Kāwhia Harbour from 1905 until his death in 1940.³²⁰ Harry Kereopa, who was born in 1940, said he was taken to a tohunga when he became very unwell at the age of seven and healed. He added that 'When I was growing up in Waimiha, I was part of a group of rangatahi that were schooled in the art of tohungaism'.³²¹ Ngāti Māhanga claimants Tuahu Watene, Taotahi Pihama, and Pakira Watene said that 'In the 20th century, Ngāti Maahanga people went to tohunga healers when they got sick, not to doctors'.³²² And Ruth Cuthbertson explained the ongoing (post-Second World War) use by the community at Waimiha of traditional healing:

In terms of 'doctors', our doctor was our Aunty Naki Kino, who used the hono to heal us. Hono is a taonga tupuna i tuku iho ki a mātou. As our doctor, our healer, our tohunga rongoa, Aunty Naki used the wairua, wai, rongoa – nga taonga rongoa i tuku iho.

I never went to a Pākehā doctor until I was an adult. We only ever went to Aunty Naki for healing. Even the Pākehā of our community went to Aunty Naki for healing.³²³

Counsel for Harry and Evelyn Kereopa on behalf of Te Ihingarangi acknowledged that claimant evidence suggested that tohunga continued to operate, although he argued that 'they had no choice but to do so'. As he put it,

The evidence is that they acted out of necessity and on the basis of humanitarian principle to cure those who were sick or to whakanoa a troubled area. Although the Crown has made their activities criminal acts, their responsibility to the hapu meant that they had to do what they did.³²⁴

319. 'Death of Maori Child', *New Zealand Herald*, 24 July 1926, p13.

320. Document 556, p2.

321. Document 114 (Kereopa), p11; doc 114 (Kereopa), p2.

322. Document M5 (Watene, Pihama, and Watene), p4 n

323. Document L1 (Cuthbertson), p4.

324. Submission 3-4-24, P5.

However, the persistence of tohunga health practices, in spite of their suppression by the criminal justice system, is a credit to the resilience of Te Rohe Pōtae Māori cultural practices, rather than to the legislators who designed the Tohunga Suppression Act.

We agree with the Wai 262 Tribunal that the Act was ‘fundamentally unjustified’.³²⁵ While the Tohunga Suppression Act was not the only factor leading to the decline of traditional knowledge of Māori healing (urban migration and loss of native forests likely also played a role) we consider that the Act certainly played a part in the suppression of Māori healing practices, through sanctioning an existing stigmatisation of tohunga practices, and inhibiting their full expression. Furthermore, the removal of the regulatory role over tohunga practice held by the Māori councils was a denial of Māori autonomy and influence over Māori healthcare. The blanket outlawing of tohunga practices also wrongly diminished the role of Māori culture, language, and tikanga in the process of healing. We find that the Crown’s actions in enacting the Tohunga Suppression Act were inconsistent with the principle of partnership, the guarantee of rangatiratanga, and the article 3 principle of options in terms of healthcare.

We now turn to the period from 1938 to 1990, the era in which the Crown was involved in almost all aspects of Te Rohe Pōtae Māori lives. We consider that the universal free hospital care and other welfare measures brought in from 1938 were significant advances. They were offset to some extent by the end of the native medical officer scheme, however, and the cost of attending a doctor remained a barrier to Te Rohe Pōtae Māori accessing primary healthcare. The demise of the native medical officer scheme reflected the new policy of mainstreaming. This had some positive aspects, as it no longer allowed health officials and practitioners to leave Māori health issues for designated Māori health workers. But it was fundamentally flawed, for it failed to recognise that Māori had different health needs. Nor did it allow any prospect of Māori language, culture, and tikanga being incorporated into health services. In short, mainstreaming involved equal treatment, but this did not serve the goal of health equity. It ignored Māori people as Māori, and was underpinned by a settler expectation that Māori would abandon their own culture and become ‘British’ in their approach to health. The advent of the tribal executive committees and Māori welfare officers with the enactment of the Maori Social and Economic Advancement Act 1945 to replace the defunct Māori councils provided some recognition that special provisions for Māori health still needed to be made. However, as the years passed, their powers were eroded with the amendments to the 1945 legislation in 1962 resulting in the Maori Community Development Act. Unfettered, an entrenched monoculturalism in government health administration emerged lasting until the 1980s. For the period from 1938–1980s, the policy of mainstreaming failed to recognise that Māori had separate (and often additional) health needs. Nor did the Māori advisory committees established in the 1980s constitute true partnership.

325. Waitangi Tribunal, *Ko Aotearoa Tēnei. Te Taumata Tuarua*, vol 2, p627.

Throughout this period Māori housing remained relatively impoverished. The Crown made a major contribution to housing Te Rohe Pōtae Māori through the provision of Māori Affairs houses, but the proportion of its spending on Māori housing did not match the Māori share of the population, despite Māori having more acute housing needs. This was neither equal nor equitable treatment. The prioritisation of Māori Affairs housing in urban areas from the 1950s also disadvantaged Māori in Te Rohe Pōtae who wished to remain on their land, or at least near it in the district's principal towns. As such, housing policy went hand in hand with other Crown policies that encouraged Māori to urbanise. The Crown deserves credit for eventually funding Māori initiatives such as kaumātua flats and the papakāinga housing scheme, but these rurally focused measures came too late to balance the overall thrust of its post-war Māori housing policy.

Therefore, we find that the Crown acted in a manner inconsistent with the principle of equity through its failure to provide effective partnership arrangements with Te Rohe Pōtae Māori in terms of their health needs from 1938–1980s. It also failed to improve Māori housing. As a result, Te Rohe Pōtae Māori standards of health and housing were and remain lower than those of Pākehā living in the inquiry district.

Although Māori health status improved between 1938 and the 1980s, it is apparent that profound disparities in health persist between Māori and non-Māori in Te Rohe Pōtae. The Crown is not responsible for individual Māori 'lifestyle' choices that saw (and continue to see) Māori die at much greater rates from degenerative diseases. But it was responsible for the extent to which these behaviours were the product of inter-generational poverty caused by a loss of land and other resources, cultural alienation from healthcare services, inadequate education, and other factors. In other words, poor Māori health choices did not occur in a vacuum. They were the ongoing prejudice of the Crown's earlier breaches of the Treaty that marginalised Te Rohe Pōtae Māori within their own district.

On the basis of the evidence we received, we can see that there remain significant health disparities between Māori and non-Māori, both within Te Rohe Pōtae and nationally. We reject the Crown's argument that the 'snapshot' of 2006 is an insufficient basis to draw conclusions about the present. We are unaware, in any case, of any radical improvement in Māori health outcomes or significant departure in policy in the meantime. The picture we saw was consistent with that identified in other recent Tribunal reports that have addressed contemporary Māori health issues, such as the *Napier Hospital and Health Services* report of 2001 and the *Ko Aotearoa Tēnei* report of 2011. Both these Tribunals remarked upon the way the health system continues to fail Māori. We endorse their calls for the Crown to partner more with Māori in healthcare policy and service delivery, in order to encourage Māori to engage better with the health system.

23.4 URBAN MIGRATION AND DISPERSAL FROM THE HOMELAND

23.4.1 What was the nature and impact of urban migration?

Dr Hearn noted that the trend for Māori to leave rural areas and move to towns and cities had begun as early as 1926.³²⁶ By 1936, however, 89.1 per cent of the Māori population continued to live in counties (as opposed to boroughs and towns), and it seems that urban migration began in earnest during the Second World War. By 1945, the rural or county share of the Māori population had fallen to 82.1 per cent and by 1951 it had declined further to 79.5 per cent. At this stage, as Dr Robinson pointed out, the movement had largely been an independent Māori reaction to economic and social incentives. From the 1950s – as we have seen above in the context of housing – the Government also employed various policies to encourage more Māori to urbanise. By 1971, the proportion of the Māori population living in counties had dropped to just 33 per cent.³²⁷ Pool noted a 1973 assessment that this may have been, at the time, ‘perhaps the most rapid urbanward movement of a national population anywhere.’³²⁸ There was also a localised urban movement within Te Rohe Pōtae itself, with the proportion of the Māori population living in Ōtorohanga and Te Kūiti as opposed to the surrounding Kawhia (until its abolition), Ōtorohanga, and Waitomo Counties rising from 10.1 per cent in 1951 to 29.3 per cent by 1971.³²⁹

Both ‘push’ and ‘pull’ factors drove this migration. Dr Hearn summarised the former as including ‘burgeoning numbers, dissatisfaction with an inferior material standard of living, a lack of employment opportunities for the growing numbers of Māori entering the workforce, and insufficient land to provide a reasonable livelihood for more than a small proportion of the population.’ Pull factors, by contrast, included ‘the prospect of regular employment, higher wages, better housing, and educational and medical services.’ In short, in the years after the Second World War there was what Dr Hearn referred to as a ‘revolution of rising expectations’ among Māori that meant they were unprepared to remain in rural poverty.³³⁰

The Crown’s encouragement of Māori to urbanise stemmed in part from a realisation that the resources left to Māori in rural areas were insufficient to support the growing Māori population. The economist Horace Belshaw noted in 1939 that the rural land base was too small and that ‘a great and increasing majority must find other means of livelihood.’³³¹ In 1960, the Department of Labour observed:

We cannot afford to allow Maori population to pile up in backward rural areas which are incapable of carrying any great concentration of people. There is already evidence of under-employment amongst Maoris in some of these areas and there must be a much greater migration . . . out of these areas in the near future than there

326. Document A146, p563.

327. Document A31, pp167-168.

328. Pool, *Te Iwi Maori*, p154.

329. Document A31, p168.

330. Document A146, pp25-26, 515-516.

331. Horace Belshaw, ‘Maori Economic Circumstances’, in Sutherland, ed, *The Maori People Today*, p192 (doc A146, p563).

has been in the past . . . Maori migration to urban areas should already be flowing at a rate of possibly some 4,000 a year and must continue to increase in volume year by year.³³²

The same year Hunn recommended that the Government encourage Māori urban migration, remarking: 'Farming will never support more than a handful; the rest must enter the towns in search of work.'³³³ As noted above in section 23.3.4, from the late 1940s the focus of Department of Maori Affairs' Māori housing schemes had shifted from rural housing to the urban areas, where Māori were expected to move. By the end of 1960 the Department of Maori Affairs had embarked upon a programme of 'planned re-location', connecting rural Māori families with employment and accommodation in urban areas.³³⁴ While this was claimed to be the facilitation of an existing flow, the incentives clearly all pushed rural Māori in one direction. In 1959, the department had noted that some Māori were reluctant to move away from their rural homelands. It remarked that: 'Here it is not only a question of building the [urban] houses, but of helping the people to reorient their thinking about the new world in which they are living.'³³⁵ Quickly, the rural parts of Te Rohe Pōtae began emptying out. The department noted in 1961:

[while] there are small industries in Te Kuiti and Otorohanga and so on, these are not sufficient to cope with the demands [for jobs] with the result that there is quite a lot of movement out of the district. This becomes most marked in that to date much of the relocation material [*sic*] to Hamilton has come from the Maniapoto zone. Outlying areas such as Makomako, Kawhia, Rakaunui, Marokopa, and Mokau have provided the bulk of the new applications for group housing in Hamilton.³³⁶

The Government did provide limited housing assistance to those Māori who chose to remain in (or move back to) rural areas. For instance, during the 1960s, the Government provided funding assistance for the building of kaumātua flats near marae, and in 1969 it introduced a loan scheme for rural Māori housing. However, the overall impetus of Government policy remained in support of the push for Māori to move into urban areas.

Government zoning legislation of the 1950s and 1970s presented a further obstacle to Māori wishing to live and build housing on their rural lands. As seen in part IV, the Town and Country Planning Act 1953 provided for local authorities to

332. Quotation from Industrial Development Conference, 1960 in G v Butterworth, *The Maori in the New Zealand Economy* (Wellington: Department of Industries and Commerce, 1967), pp37–38 (doc A146, pp563-564).

333. AJHR, 1961, G-10, p14 (doc A146, p564).

334. Document A146, pp564-566.

335. AJHR, 1959, G-9, p28 (doc A31, p224).

336. Moana Raureti, 'Hamilton District Office Welfare Report Year Ended 31 December 1961' (doc A146, p566).

set district plans regulating land use within their territory.³³⁷ There was no requirement for them to take into account Māori perspectives in doing so. The result was that Māori were often prevented from building homes on land that was zoned rural. David Alexander considered that this was not much of a problem before the 1970s, as rural Māori communities in Te Rohe Pōtae were generally afflicted by depopulation and thus the need for more houses was 'limited'. This changed in 1973 when the Town and Country Planning Act was amended to the effect that councils, in formulating their district plans, would have to have regard to and provide for 'The preservation of the natural character of the coastal environment, and of the margins of lakes and rivers, and the protection of them from unnecessary subdivision and development'. In 1973, as seen in part IV, the application of these rules by the Waitomo County Council thwarted plans for a housing subdivision of Māori land at Waikawau. The Crown did not assist Te Rohe Pōtae Māori to overcome these obstacles. In fact, during the 1970s, it actively opposed the rezoning (from rural to coastal) of Māori land at Te Maika at the south head of the Kāwhia Harbour on which the owners wished to develop a residential subdivision.³³⁸

Governments of the 1950s and 1960s saw Māori migration into urban areas as a progressive step towards the assimilation of Māori into modern Pākehā lifestyles. Jack Hunn's influential 1961 report on the Department of Maori Affairs (discussed more fully in part IV) classified Māori into three groups: group A, completely assimilated Māori; group B, 'integrated Maori', comfortable in both Māori and Pākehā worlds; and group C, an unassimilated and unintegrated minority 'living a backward life in primitive conditions'. The aim of the Government's Māori policy, Hunn argued, should be to eliminate group C by lifting its members to the standard of group B. From there, they could make the personal choice whether to remain in group B or move to group A, the completely assimilated Māori.³³⁹ Importantly, although Māori had a long tradition of mobility and having many seasonal and temporary 'homes', Governments assumed that Māori migration (and accompanying transition from 'backwards' tribalism into fully integrated modern Māori) would be one-way and permanent.

The impact of urban migration was certainly devastating for many Te Rohe Pōtae rural communities, and was raised by many witnesses, particularly those of Ngāti Hikairo and Ngāti Te Wehi from Kāwhia and Aotea. At Te Maika, on the Kāwhia Harbour, explained John Uerata, migration of families away meant that, by the 1950s, the area was 'depopulated and farms and housing left to go into ruin'.³⁴⁰ Te Kore Ratu's whānau had left Te Rohe Pōtae in the 1950s to seek work in Wellington, having been 'very poor' despite her parents' hard work. As a result her family found it harder to practise Māori spirituality; although skilled in rongoā,

337. See Waitangi Tribunal, *Te Mana Whatu Ahuru, Pre-publication Version*, Part IV, pp344–346, 438–439.

338. Document A148 (Alexander), pp96–103, 131–142. In the Te Maika case, the land owners were eventually able to secure a zoning change to allow for the subdivision of 60 house sites.

339. Jack Kent Hunn, *Report on Department of Maori Affairs* (Wellington: Government Printer, 1961), p16.

340. Document J29 (Uerata), p3.

for example, her parents felt pressured to start seeing a doctor. She felt that ‘very few whānau survived all of these changes with their tikanga and kawa intact’. The Crown, she said, ‘made it hard to be Māori’ and seemed to want Māori ‘to become Pākehā and to assimilate fully’.³⁴¹

However, as the claimants also emphasised, the migration of Te Rohe Pōtae Māori has not been one way. Te Kore Ratu’s whānau returned to Kāwhia in around 1985 upon her parents’ retirement, and at the time she gave evidence she still lived at Mokaikainga.³⁴² In this she was one of a number of Te Rohe Pōtae Māori who have returned to their homelands after many years of living away from the land. Such returns to small, isolated rural communities are not without their challenges, however. Her 23-year-old daughter, Amiria Ratu-Le Bas, had work in Kāwhia but said this made her ‘really lucky’ as there were few jobs or opportunities for young people there. Her partner, for example, had to work out of the district. She described Ngāti Hikairo as ‘struggling to survive in our own rohe and having to move away for work’.³⁴³ Venus Daniels, who was born in 1978, had a similar story:

My grandparents moved away from Kāwhia because there was no work. The point I want to make to the Tribunal is that it’s really hard if you are Ngāti Hikairo and you want to stay in your own rohe. Ever since my grandparents time, Ngāti Hikairo people have been forced to leave Kāwhia in order to find work and survive. It’s even just a struggle to come home to our Marae because we are really on the bones of our nono a lot of the time. The majority of my whanau only come back every 10, 20 years.³⁴⁴

Pipi Barton said that the movement away from Kāwhia had negatively impacted on the health of the members of Ngāti Hikairo who had left:

We know we are from Kāwhia, it provides us with our history, our mana, our sense of identity and pride, it is the place where most of us wished we could live, and the place where most of us want to be when we die, surrounded by our tūpuna. Many of our Tūpuna made that decision to move away from the hau kāinga in the hope for a better life for the following generations. The loss of land and the movement away of our people from their tribal home, has had a lasting and detrimental effect on our health and wellbeing, this is evident in our over representation in all the poor health and crime statistics. It is also indicated in the poverty experienced by our people.

I worked for Te Rūnanganui o Ngāti Hikairo for 10 years, during that time we wished for our people to return to Kāwhia, to come home and help revive the iwi, through our language our tikanga and our history. We dreamt of building our capacity, of having places for our people to work and live in Kāwhia, we dreamt of having our people return to live on their turangawaewae, we dreamt of being once again

341. Document N11 (Ratu), p5.

342. Document N11, p 6.

343. Document N12(a) (Ratu-Le Bas), pp2-3.

344. Document N13 (Daniels), p4.

the industrious and entrepreneurial people that we were before it was all taken away. Dreams are free.³⁴⁵

We were also told by Kāwhia schoolteacher Roimata Pikia that there had been another, more recent 'wave' of migration away from Kāwhia for employment opportunities in urban areas from around 2003 to 2008, and that this had resulted in more than a halving of the local primary school's roll from around 110 to less than 50, thus threatening teaching positions.³⁴⁶ We note that the roll has now climbed slightly, to 58 in October 2016.³⁴⁷ As discussed in chapter 24, lack of educational opportunities (including Māori-medium education) have been another factor in Te Rohe Pōtae Māori migration to urban areas; as well as a factor deterring some whānau from returning to their tribal rohe.

Miki Apiti said that, from the mid-1960s onwards, there was 'a mass exodus from Aotea to Ngaruawahia and Hamilton in search of work. This all stemmed from Ngāti Te Wehi being removed from their lands as a result of the land development schemes of the 1950's.' As a result of this movement, he said, Ngāti Te Wehi's identity as a separate iwi had 'really started to become blurred'.³⁴⁸ We return to the issue of tribal identity below. One of the members of Ngāti Te Wehi who moved away because of the Okapu Development Scheme was John Mahara, who had gone to Hamilton in search of work. The scheme, he said, had left his whānau with too little land. As a result, his own children had not been raised at Aotea as he had been, and had thus missed out on the benefits of living on their tūrangawaewae:

My children have not been brought up at Aotea. My mokopuna today have a completely different life to what I had growing up. My children have not been brought up growing their own food. They do not know how to grow their own kai. They do not know how to milk cows. They do not know how to catch their own kaimoana. Living at Aotea meant that we were able to carry out our traditional practices and tikanga. Living at Hamilton has meant that our children have not had those opportunities. They do not grow up as kaitiaki as we did. Our kids have lost Te Reo. But we are doing our best to teach them these things that we once took for granted.³⁴⁹

A report on Ngāti Te Wehi oral history recorded for this inquiry found that the outward migration of so many had meant that 'the claimants lost their connection to their identity, their lands and to their tikanga'.³⁵⁰

345. Document N4(b) (Barton), p10.

346. Document N10 (Pikia), pp9-10.

347. Education Review Office/Te Tari Arotake Mātauranga, 'Kawhia School – 7/12/2016', <http://www.ero.govt.nz/review-reports/kawhia-school-07-12-2016/>, accessed 29 March 2017.

348. Document N42 (Apiti), p 13.

349. Document N1 (Mahara), para 16.

350. Document A105 (Jenkins), p4.

23.4.2 What are the impediments to return migration to tūrangawaewae?

As noted, some have returned from the cities to their tribal homelands, such as Hinga and Lloyd Whiu's return to Kāwhia in 1992. While this had involved some personal sacrifice, Ms Whiu explained that 'the pull to home was very strong'. Their motivation was 'a desire to bring up our children on their turangawaewae and strong as Ngāti Hikairo'.³⁵¹ Isobel Kerepa, whose family had migrated away from Ōkapu because of her father's illness, said that some of her family had returned to Aotea. Her eldest brother, for example, had moved back to the family home at Aotea. However, many of the younger generation now did not want to return there, which saddened her.³⁵² Roimata Pikia was raised in Invercargill after her father left Kāwhia in the 1950s, but in 2001 took the chance to begin a teaching job at Kāwhia School. She felt she had been 'called back to Kāwhia in order to help to re-establish my immediate family's relationship to our tūpuna, our whanaunga, the whenua and the moana'.³⁵³ However, she noted that there were now government impediments placed in the way of whānau returning to the area:

I understand that Government policy does not allow people living in Kāwhia to receive the unemployment benefit, as they are deemed to be unavailable for work, therefore, if people find themselves out of work, the lack of financial assistance available to them prevents them from returning home. We call this the 'black zone' policy. I've been told it is called the 'Limited Employment Locations' policy within the Government. I don't know anything more about the policy except that Kāwhia has been listed from the early 2000s as a location where there is no work so the WINZ officials take a special look at anyone living here and seeking a 'job-seeker' benefit. I guess the Government is trying to reduce benefit dependency and restrict the movement of beneficiaries from the cities to isolated rural areas where there is a lack of jobs. The big problem for our people has been that we want our people to come back to their turangawaewae and we think many of our people will fare better living close to their marae and support networks of the whanau hapu and iwi. But I believe that this policy is a big factor in causing our people not to return to Kāwhia. Maybe we should call it the 'brown zone' policy.³⁵⁴

Key findings of a 2005 thesis on the Limited Employment Locations (LEL) policy, which had been introduced in 2004, were that it had a particular impact on Māori and that it had been largely ineffective in preventing movements to LEL areas. The author, who used Opotiki district as a case study, stressed

the importance of 'home' in the motivation of beneficiaries moving to LELs, particularly Maori beneficiaries who dominate movement to LEL areas in the district. This movement is shaped by the desire to maximise living standards and to take advantage

351. Document N17, pp 5, 12.

352. Document N5, p 4.

353. Document N10, p 5.

354. Document N10, p 9.

of the social, family, and cultural networks that these areas offer. Returning to home L.E.L. communities occurs in spite of the new policy and the risks of benefit sanctions that it presents, and there is also very little evidence to date that the L.E.L. policy is encouraging beneficiary movement to areas of better employment prospects.³⁵⁵

A 2007 student article labelled the policy as ‘unlawful, arbitrary, unnecessary and ineffective’, noting that Kāwhia may have been declared an L.E.L. community on the basis of inadequate information, and remarked that the policy ‘may be considered particularly discriminatory towards Māori, who could be prevented from returning to their papakāinga’.³⁵⁶ Other Te Rohe Pōtae L.E.L.s besides Kāwhia were Oparau, Pureora Forest, and Rewarewa in Ōtōrohanga District; Waimiha, Ohura, Ongarue, and Matiere in Ruapehu District; and Mōkau, Benneydale, Taharoa, Aria, Awakino, Marokopa, Te Anga, Mahoenui, Waikawau, Puketutu, and Te Maika in Waitomo District.³⁵⁷

Crown counsel questioned Ms Pikia about the L.E.L. policy and put it that people in Kāwhia could obtain Jobseeker Support ‘as long as they continue to meet their work obligations which include being available for and taking reasonable steps to obtain suitable employment’.³⁵⁸ It seems that these ‘reasonable steps’ include having access to reliable transport and being able to commute to an area of available employment.³⁵⁹ We do not know how these criteria have been applied to individuals in Kāwhia, although Ms Pikia said it was generally understood there that ‘if you live in Kāwhia you can’t get a . . . Jobseekers Benefit these days’. She personally knew ‘quite a few’ people who said that ‘they wish they could come back here because it’s such a good place for their kids to be especially if they’re out of work’.³⁶⁰ While she did not make clear, it does not seem that Ms Pikia meant that those who were already living in Kāwhia in 2004 when the policy was first implemented have since been denied benefits (which was something the Government at the time said would not happen).³⁶¹ Given Kāwhia’s remoteness, however, it seems likely that few returnees to the community since 2004 will have qualified for an unemployment benefit. The subject would clearly appear to merit further research.

355. Gabriel Luke Kiddle, ‘Spatial Constraints on Residency as an Instrument of Employment Policy: The Experience of Limited Employment Locations in New Zealand’, Victoria University of Wellington Masters of Development Studies, June 2005, pp ii-iii.

356. Amelia Evans, ‘Limited Employment Locations: A Critical Assessment of an Unnecessary Policy’, *New Zealand Law Students’ Journal*, vol 1, 2007, pp179, 188–189.

357. Kiddle, ‘Spatial Constraints on Residency’, appendix 1. A further L.E.L. was at Te Akau, just north of the Whāingaroa Harbour, falls within the northern extension of the inquiry district.

358. Transcript 4.1.12, p368.

359. Kiddle, ‘Spatial Constraints on Residency’, p45; Ministry of Social Development, ‘Social Assistance Chronology 1844–2013’ (2013), pp332–333, <http://www.msd.govt.nz/documents/about-msd-and-our-work/about-msd/history/social-assistance-chronology-18442013.pdf>, accessed 29 March 2017.

360. Transcript 4.1.12, p369 (Roimata Pikia, hearing week 7, Waipapa Marae, 8 October 2013).

361. The Minister for Social Development, Steve Maharey, told Parliament in February 2004 that ‘Wherever people live at the present time, we are not applying the policy’: NZPD, vol 615, 18 February 2004, pp11081–11082.

As noted, another factor which has both contributed to the outward migration of Māori from rural areas and inhibited the return migration of Māori to their homelands has been the local planning laws that have made it difficult for houses to be built on papakāinga. In researching her local government report, Jane Luiten was not able to access sufficient primary sources to quantify the impact on Te Rohe Pōtae Māori of these zoning rules and regulations. However, she noted that the matter had been well researched in other inquiry districts, and that many district plans from the 1950s onwards had prevented housing development in rural zones by setting a minimum subdivision requirement of between five and 20 acres per section. This had been shown to negatively impact on Māori, with the Waiapu County Council on the East Coast recognising in 1989 that the rural zoning policy had caused Māori out-migration.³⁶²

Despite the lack of Te Rohe Pōtae source material – such as local authority correspondence and subject files – Luiten did find some relevant information in surviving district schemes. These showed, for example, that Raglan County Council had required a minimum section size of two acres for rural-residential subdivision in the 1950s, and that staff from the Department of Māori Affairs had identified this as preventing the provision of much-needed Māori housing. The Raglan County Council subdivisional threshold appears to have been greatly increased in the 1970s, although the council claimed in 1977 that it had exercised discretion with regard to multiply owned Māori land ‘to enable owners to obtain title to their share in a block’. Otorohanga County had a subdivision requirement of 10 acres in 1970, with only one house permitted per title, although this was relaxed somewhat in 1979.³⁶³

According to the evidence of Angeline Greensill, these problems were not entirely alleviated by the Government’s 1985 facilitation of papakāinga housing that we have referred to above. In her 2010 Masters thesis she recalled preparing objections in 2006 to the Waikato District Council’s proposed district plan:

Some of the provisions in the plan were overly prescriptive and the proposed rules appeared to benefit the ‘public’ at the expense of Tainui landowners of coastal bush covered hapū land in the Karioi Native Reserve. For example landscape and coastal policy areas were imposed over our lands making it difficult for our hapū members, who had lived on our lands and in the bush on and off, for generations from getting permits to build homes because the houses weren’t in pa zones or residential subdivisions. Our lands are not subdivided but multiply-owned and so rules governing their use needed to be tailored to meet collective whanau needs.³⁶⁴

362. Document A24, pp 23-24 (Luiten).

363. Document A24, pp 24-25.

364. Angeline Greensill, ‘Inside the Resource Management Act: A Tainui Case Study’, University of Waikato MSocSci thesis, 2010, p 92 (doc M31(a)).

23.4.3 Treaty analysis and findings

It is difficult to measure the Crown's level of responsibility for the urban migration of so many Māori from Te Rohe Pōtae. We accept, as other tribunals have done, that urban migration was a worldwide phenomenon that no New Zealand government could have easily contained, let alone reversed. It is also true that the movement of Māori to urban areas brought a number of advantages, both to them and to the country. Living in urban areas gave Māori greater access to employment and health and other social services, for example. The ability to urbanise met the 'revolution of rising expectations' (see section 23.5.1 below) among rural Māori, in which they considered they should be able to access a materially better life.

However, urban migration was by no means a singularly positive development. It was driven first and foremost by Māori dispossession. That is, it was the inevitable outcome of the long process of reducing Māori land-holdings to a fraction of what they once were, and then under-developing and materially disadvantaging the Māori communities that clung to the remnants of their territories. In these circumstances the crucial element of free choice had effectively been removed from many of the Māori migrants, who saw no possibility of remaining on the land. In this they were suffering the lasting prejudice of the Crown's earlier breaches of the Treaty, but nor was the Crown a neutral actor in the process of urban migration itself. It encouraged Māori to leave their rural homelands through wilfully neglecting those communities where the prospects of employment were low. One of the means by which it achieved this was its prioritisation of Māori Affairs housing provision in urban areas, although some rural housing assistance on Māori land was provided. While we accept that this emphasis may have promoted urbanisation, we consider that Māori ultimately made the choice to urbanise and for many good reasons given their economic, health and housing status.

We also acknowledge that in the process of moving to towns and cities the Crown expected Māori to give up their tribal identities and become assimilated into the Pākehā way of life. That policy was reflected and encouraged by the 1960 Hunn report, which had a heavily assimilative agenda (albeit expressed at the time in terms of 'integration'). An example of the application of the policy was in the 'pepper-potting' of Māori housing in otherwise predominantly Pākehā neighbourhoods. Hunn had advocated this method of blending Māori into Pākehā society. The fact that Māori migrants were able to create tribal and pan-tribal networks and associations in the cities went against the grain of government expectation and policy, as did ongoing Māori connections to and migrations back to rural homelands.

We accept previous Waitangi Tribunal findings on this issue of urbanisation at the national level. We have also previously made findings regarding the Town and Country Planning Act in part IV.³⁶⁵ We are unable to make any findings on the application of these policies including the Limited Employment Locations policy on communities in Te Rohe Pōtae as we lack detailed information on these matters.

365. Waitangi Tribunal, *Te Mana Whatu Ahuru, Pre-publication Version*, Part IV, p502.

23.5 EMPLOYMENT

23.5.1 What have been the patterns of Te Rohe Pōtae Māori employment?

The issue of employment does not exist in isolation from other key issues in the inquiry, such as land loss, land development, urban migration, education, health, and so on. We seek here nonetheless to address employment separately, avoiding where possible overlap with other parts of the report. The key technical evidence on the matter was Dr Hearn's report on Māori economic development in Te Rohe Pōtae from 1885 to 2006.

After the lifting of the aukati, as we have discussed in chapter 11 and elsewhere, the Crown actively purchased large areas of Te Rohe Pōtae land. And, as we have set out in chapter 12, the Crown provided financial assistance to Pākehā farmers to develop their newly acquired holdings while offering Māori land owners limited assistance. This pattern lasted until the development schemes of the 1930s, which covered limited areas of Te Rohe Pōtae land and were aimed principally at soaking up high levels of Māori unemployment.

Te Rohe Pōtae Māori gained employment during the pre-1930 period not so much as farmers of their own lands, therefore, but in the physical slog of breaking in the land for Pākehā land holders. Dr Hearn noted what he referred to as a 'perfect illustration' of this in the case of the Rangitoto improved farm settlement established in 1909, where Māori were employed to clear the land for the Pākehā settlers who had taken the land up.³⁶⁶ We were told by Haami Bell that, during his time working for the Department of Māori Affairs in Te Kūiti from 1977, part of his role had involved visiting First World War veterans at least once every three months. Some had told him that they had enlisted for the war to get 'away from the humdrum of the work they were doing. Most were employed as labourers or farm hands.'³⁶⁷

At the time of the 1926 census, the primary sector employed over half of Māori males in the Auckland Provincial District, which covered most of the upper North Island. By the 1920s, however, this labour-intensive phase of Te Rohe Pōtae's development was giving way to a style of farming that made greater use of machinery. Furthermore, the accessible native forests had largely been cleared. Given their reliance on these kinds of employment, therefore, Te Rohe Pōtae Māori wage-workers were particularly vulnerable to periods of downturn in primary production. The recession of 1921–22 was uncomfortable and the 1920s were generally sluggish, although they were of comparatively little moment compared to the drastic reduction in demand for labour brought on by the Depression of the 1930s. In 1933, when unemployment was at its worst, there are likely to have been around 430 Māori unemployed men and 320 Māori unemployed women in the district.³⁶⁸

Te Rohe Pōtae development schemes offered Māori of the district limited relief, but they were few in number compared to other districts and could not

366. Transcript 4.1.20, p 646 (Terry Hearn, hearing week 14, Waitomo Cultural and Arts Centre, 8 July 2014).

367. Document 535 (Bell), pp 3–4.

368. Document A146, pp 460–462.

hope to absorb the full excess of local Māori labour. Dr Hearn made this point and concluded it was likely that, in 'the 1930s, a period during which contracting employment opportunities coincided with declining income from land sales and modest (at best) returns from leasing, subsistence food cultivation and gathering re-emerged'. While the available data on incomes were too limited for an exact comparison, Dr Hearn noted the conclusion of JA Macrae's 1975 PhD study that Māori incomes fell dramatically compared to those of Pākehā from 1926 to 1936. Dr Hearn saw no reason why Te Rohe Pōtae would have departed from this pattern.³⁶⁹

Overall, and despite the 'fragmentary' evidence, Dr Hearn assessed the economic position of Te Rohe Pōtae Māori during the period from 1885 to 1951 as 'marginal to the region's commercial economy'. A good example of this was in timber milling, where the Te Rohe Pōtae Māori role in the industry was mainly in terms of leasing or selling timber blocks or cutting rights. Some mills employed Māori as part of their agreements to extract the timber, but with the few exceptions discussed in part IV, Māori did not own any of the mills themselves.³⁷⁰ As claimant Lois Tutemahurangi put it, 'Pakeha owned sawmills and Maori were sent into bush to cut trees down.'³⁷¹ Another case in point was the operations of the Tourist Department at the Waitomo Caves from 1910, where – according to Philip Cleaver – local Māori involvement appears to have been 'limited to a relatively small amount of low-level employment'.³⁷² Some Māori labour was used in the construction of roads and bridges, but Dr Hearn explained that the archives were too depleted to ascertain the approximate extent of this.³⁷³

As a result of this economic marginalisation, Māori began to leave Te Rohe Pōtae. As we noted above, Dr Hearn explained that this national phenomenon had become apparent as early as the 1920s. It was then delayed by the onset of the Depression and the Māori preference for what has been termed 'guaranteed rural subsistence'. The Second World War, however, caused a major upheaval, with thousands of Māori either enlisting or being employed in essential industries. At a local level, for example, the mobilisation effort saw many Māori families move to Te Kūiti for employment. In general the war resulted in a significant shift for Māori from primary production into manufacturing. The latter accounted for just 4 per cent of the Māori workforce in 1936 but 18 per cent in 1945.³⁷⁴

Despite these changes, the greatest proportion of Māori male labour in 1951 remained concentrated in primary industries. The census of that year showed that 39.4 per cent of working Māori males nationally were employed as 'Farmers, fishers, hunters, lumbermen & related'. Together with the 27.1 per cent whose occupation was 'Manual not elsewhere included', the overall low-skilled character

369. Document A146, pp 465, 505–506.

370. Document A146, pp 466, 492; see Waitangi Tribunal, *Te Mana Whatu Ahuru*, Pre-publication Version, Part IV, p 389.

371. Document R3 (Tutemahurangi), p18.

372. Document A25 (Cleaver), p297.

373. Document A146, pp 504–505.

374. Document A146, pp 513–515.

of Māori male employment was reflected in an average per capita income of just £54, as opposed to £123 for non-Māori.³⁷⁵ Economically, Māori of Te Rohe Pōtae suffered from what Dr Hearn accurately described as ‘an imbalance between population and resources’. This imbalance, he added, was one that ‘successive governments appear to have had neither the capacity nor the will to remedy.’³⁷⁶

The migration to urban centres further shifted the pattern of Māori employment away from primary production and towards manufacturing. By 1966, just 23 per cent of Māori males and 10 per cent of Māori females were employed in the primary sector, while 53 and 36 per cent respectively worked in the secondary sector. By 1981, the proportions of Māori employed in the primary sector had dropped further, to 16 per cent and 9 per cent respectively. However, the shift towards greater involvement in manufacturing did not necessarily make Māori workers less vulnerable to change. The removal of State subsidies and tariffs after 1984 particularly affected core Māori areas of employment such as manufacturing and transportation – as well as agriculture – and Māori unemployment rates doubled between 1981 and 1991.³⁷⁷

We have already noted, in discussing Māori mental health above in section 23.3.4.4, the loss of public sector jobs in Te Kūiti over the period from 1986 to 1988. Further statistics bear out the severe impact of the radical economic reforms of the 1980s on Māori employment. Nationally, between 1987 and 1991, 30,000 jobs were lost from the three largest sectors alone. Forestry, mining, and postal services (which included telecommunications), all traditionally significant employers of Māori, were heavily hit.³⁷⁸ The demographer Paul Spoonley has calculated that, in the two years from March 1987, around 20 per cent of working-age Māori lost their jobs. In addition to the examples we gave earlier of the Ministry of Works and Development, the Forest Service, and the New Zealand Railways, the number of Telecom employees at Te Kūiti fell from 69 to 39 from 1986 to 1988 and the number of New Zealand Post employees from 25 to 18.³⁷⁹ Despite the speed and scale of the job losses, and absence of alternative sources of employment, we have seen no evidence that the Government specifically consulted with Te Rohe Pōtae Māori either prior to or in the aftermath of reforms.

The decline in railway workers was particularly dramatic, with the number employed on the railways nationally falling from 22,000 in 1982 to 8,000 in 1990 and 5,400 in 1992.³⁸⁰ Cleaver and Jonathan Sarich calculated that, of the 349 fulltime railways workers in Te Rohe Pōtae and Taumarunui in 1980, at least 20 per cent were Māori. By the 1990s, railway employment had fallen as a result of restructuring. The loss of railway jobs had a particular impact on settlements such as Te Kūiti and Taumarunui, where whole whānau were sometimes employed on the railway. Tiwha Bell, who worked on the railway from 1952 to the 1990s, recalled

375. Document A146, pp512-513.

376. Document A146, pp520-521.

377. Document A146, pp582-583.

378. Document A20 (Cleaver and Sarich), p241; doc A31, p239.

379. Document A146, pp530-531.

380. Document A146, p584.

that 'If you go back to to all our families – you can go back to most of our families from [Te Kūiti], from big families, all our uncles and cousins, and all of them, they were Railways.'³⁸¹ At our hearings at Waimiha, several claimants reflected on the impact of the railways restructuring on the Māori community there. Hoani Titari (John) Wī recalled 'The restructuring of the railways hit the rural community significantly. The older families sold their farms leaving for the big cities for jobs to make a living, and the school had to close. Some people never came back and the effects of that can still be felt.'³⁸²

Jack Te Rei remembered his uncle Phillip Rite's sorrow at the 1986 closure of the Waimiha Station (part of a series of station closures during the 1980s restructuring) and its devastating impact on the community:

It brought about the closing of vital businesses, such as the privately-owned mill, grocery store, post shop, petrol station/fully functioning garage workshop, picture theatre, and declining housing standards. We were unable to retain what was left. We were also unable to maintain and upgrade with an economy shattered and no future planning by local planning bodies or government supports once closures of these establishments – including eventually Waimiha School took place.³⁸³

The Crown was aware of the likely impact of its social sector reforms on rural communities such as Te Rohe Pōtae. A 1986 State Services Commission paper anticipated the reforms would have a major impact on regional employment, and that many people may be forced to relocate to find new jobs.³⁸⁴ However, officials believed that the impact of State sector job losses would be temporary, and mitigated through the existing 'social safety net'.³⁸⁵ This social safety net was itself, we note, subjected to significant cuts in the 1990s.

In addition to the existing welfare system, the Government made some targeted assistance available to regional communities most impacted by State sector job losses. Cabinet approved a regional assistance package of \$4 million, of which \$48,000 had been paid out to Te Rohe Pōtae communities by 1987.³⁸⁶ In its application to the fund the King Country Regional Development Committee noted that unemployment rates were particularly high in the northern King Country, where communities were suffering the impacts of cuts to the forestry service as well as other State sector restructuring.³⁸⁷ The committee noted that most of the affected individuals and whānau wished to remain in the area.³⁸⁸

381. Document A20, p217.

382. Transcript 4.1.11, p [237] (Hoani Wī, hearing week 5, Te Ihingārangi Marae, 6 May 2013).

383. Document L5 (I'e Reti), p 15.

384. Document A20(a) (Cleaver and Sarich supporting papers), p335.

385. Document A20(a), p336.

386. Document A20, p248. Due to access restrictions at Archives New Zealand, we have been unable to view the original documents cited in Cleaver and Sarich's report.

387. Document A20, p248.

388. Document A20, p248.

As a result of State sector reforms, as well as cuts to manufacturing jobs, Māori labour force participation declined nationally over the 1980s from 82 per cent for men and 54.0 per cent for women in 1986 to 72.5 and 49.6 per cent respectively in 1991. The proportion of all Māori males aged 15 and over employed full or part-time (a different measure to the labour force participation rate) dropped from 72.5 per cent in 1986 to 50.6 per cent in 1991.³⁸⁹ A 2006 Department of Labour report on Māori employment noted the recession and economic restructuring of the late 1980s and 1990s had ‘disproportionately affected Māori’. In accounting for this impact, the report noted:

In the late 1980s and early 1990s Māori were characterised by being employed in low skilled’ occupations and having relatively low levels of education. The impact of the recession and economic restructuring adversely affected Māori, reducing their employment and increasing unemployment. Furthermore, Māori, because of their low skill levels at the time, bore the brunt of the decline in employment.³⁹⁰

The period since the early 1990s has seen improvements in Māori employment numbers. The Te Rohe Pōtae Māori unemployment rate fell from 16.2 per cent in 1996 to 14.5 per cent in 2001 and 9.9 per cent in 2006. But here – as we often saw with improving health figures earlier in this chapter – disparities between Māori and non-Māori have remained significant. Thus the overall Te Rohe Pōtae unemployment rate for the same years was 6.7, 6.0, and 4.2 per cent respectively. Te Rohe Pōtae Māori also remained concentrated in particular types of work. In 2006, for example, they were heavily overrepresented among labourers and heavily underrepresented among managers. This in turn led to an overrepresentation among low income earners and an underrepresentation among the highest paid. Unsurprisingly, the areas of highest deprivation in Te Rohe Pōtae in 2006 were those with the highest proportions of Māori among their population.³⁹¹

So has the shift away from agriculture continued apace. In 1981, 30.4 per cent of the Te Rohe Pōtae Māori workforce was employed in agriculture and fisheries, but by 2001 this proportion had dropped to only 16.2 per cent. In 2006, the proportion of Te Rohe Pōtae Māori employed in agriculture, forestry, and fishing was less than half the proportion employed in these industries among the total Te Rohe Pōtae workforce. By contrast, Māori workers were heavily overrepresented in manufacturing and mining. Overall, Dr Hearn concluded that, by the end of the 1930s, Te Rohe Pōtae Māori had been ‘marginalised economically’, with their workforce unskilled and dependent on ‘poorly remunerated wage labour’ and other meagre sources of income. For the post-war era, he singled out the economic reforms of the 1980s and 1990s as having left a particular legacy of deprivation for

389. Document A146, pp 575, 577.

390. Department of Labour, ‘Trends in Māori Labour Market Outcomes, 1986-2003’, Hui Taumata 2005 (Wellington: Department of Labour, 2006), pp1, 8, accessed 27 April 2018; http://ndhadeliver.natl.govt.nz/delivery/DeliveryManagerServlet?dps_pid=11762187&dps_custom_att_1=ilsdb.

391. Document A146, pp578, 586–588, 599; see also doc A88, pp38–67.

‘a people more likely than their Pakeha counterparts to depend upon paid rather than self-employment’.³⁹²

A number of claimant witnesses told us how meaningful employment had been difficult for them or their whānau to find within Te Rohe Pōtae. The now-retired Meri Walters of Ngāti Urunumia recalled how, as a young woman, she had moved to Auckland as there was no employment for her or her siblings at or near Kinohaku.³⁹³ Joseph Tuhoro, who was born in 1958, said his parents had moved from Ōtorohanga to Auckland when he was a child after ‘realising that the city provided employment and financial security’.³⁹⁴ Georgina Turner-Nankivell, who lived in Te Kūiti, told us that ‘There are not enough jobs here for our young people. The main employment is the meatworks. They work for the season and then they go off for about 3 months and they have to go on the dole’.³⁹⁵ Lois Tutemahurangi, who lived in Taumarunui, told us that the largest employers in the town today were social services, such as the local hospital. As she put it, ‘There is a serious lack of employment in the area – if there is a job then 50–60 people are applying for it’.³⁹⁶

23.5.2 Treaty analysis and findings

The employment vulnerabilities faced by Te Rohe Pōtae Māori constitute another lasting prejudicial effect of the Crown’s breaches of the Treaty in respect to its failures to safeguard a sufficient Māori land base, to give Māori communities adequate support to develop such holdings, and to provide for the mana whakahaere over their land and resources that Te Rohe Pōtae Māori sought upon the lifting of the aukati in the mid-1880s. As Dr Hearn put it, Māori of the district were marginalised in the local economy, being reliant on unskilled work to break in or develop land for its Pākehā owners. When this initial phase of development was over, and the agricultural sector was hit by recession in the 1920s and then the Great Depression of the 1930s, it was inevitable that Māori workers would be the primary casualties.

Our conclusions here need to be read in conjunction with those in chapters 11 and 14. In chapter 11, we found that the Crown failed in its duty of active protection and in its duties to act honourably and in good faith, both in its land-purchasing methods from 1890 to 1905 and in its failure to ensure that Te Rohe Pōtae Māori retained sufficient land for their present and future needs. In chapter 14, we found that the Crown’s purchasing of Māori land continued apace from 1906. At the same time the Crown progressively weakened restrictions on the alienation of Māori land to private buyers. Overall, we found that both the intent and the effect of the Crown’s purchasing methods were to undermine collective Māori authority over land, in breach of the Treaty and its principles. We also noted in part IV the impact

392. Document A146, pp585–586, 617.

393. Document 552 (Walters), paras 9, 13.

394. Document 014 (Tuhoro), p3.

395. Document 545, p 9.

396. Document R3, p21.

of the public works legislation in facilitating the loss of Māori land ownership. The unemployment, poverty, and ensuing ill health of Te Rohe Pōtae Māori in the 1930s were the prejudice suffered as a result of these various actions and policies of the Crown, inconsistent with the Treaty of Waitangi and its principles.

The development schemes soaked up some unemployment, and offered thereby some relief, but they were insufficient to make much of a difference, and often not all the owners of the land benefited from these schemes, as we discussed in part III. As Dr Hearn contended, there was a growing asymmetry between the size of the Te Rohe Pōtae Māori population and the resources available to sustain it. Another lasting prejudice was urban migration in search of employment, as we outlined in the previous section. Through this transition, Māori employment became much more concentrated in the secondary sector (that is, in manufacturing). Again, however, this left Māori workers vulnerable to the winds of change, as was all too apparent during the radical economic reforms of the 1980s.

In both the pre- and the post-war period, we have no doubt that the Crown could have done more to protect Te Rohe Pōtae Māori workers, even if the root cause of most of the problems stemmed from its earlier actions. We think this particularly applies to the restructuring of the 1980s, which disproportionately impacted on Māori jobs and livelihoods.

Like the Central North Island Tribunal, we make no findings on the economic necessity or otherwise of the Government's State sector reforms. In our view, the Crown's exercise of its rights of kāwanatanga under article 1 of the Treaty extend to a right to set broad economic policy, including to corporatise and withdraw its support from certain state-owned industries. Nor do we seek to make findings upon the direction of Crown economic policy during the 1980s and 1990s.

However, like the Central North Island Tribunal, we note that the Crown had a Treaty duty to consult with affected Māori communities on its restructuring plans. Such consultation was necessary both to give communities sufficient time to prepare and to ensure that the Crown was adequately informed of the likely impacts of its policies on affected communities. As that Tribunal noted, such local consultation was essential to the Crown's ability to 'assess or protect Maori interests' and thus fulfil its duty as Treaty partner.³⁹⁷

The Government's assumptions at the time of the State sector reforms, that the effects of high regional unemployment, and that all job-seekers were equally willing and able to move (or that alternative sources of employment were available to them elsewhere) were, in our view, highly flawed. The Government vastly underestimated the difficulties that Māori in rural areas such as Te Rohe Pōtae – an area characterised by a relatively unskilled workforce with low levels of educational attainment – would face obtaining new jobs in a period of economic downturn.³⁹⁸ In addition, in treating all workers as equally mobile, the Government discounted the importance of whānau and community networks, as well as Māori connections to tūrangawaewae.

397. Waitangi Tribunal, *He Maunga Rongo*, vol 3, p1215.

398. See, for example, doc A88, ch 4; doc A146, pp592–593.

Through its failure to take a more measured approach to its State sector reforms – such as through consulting with Te Rohe Pōtae Māori over its planned reforms, or appraising itself of the likely impact of job cuts on Te Rohe Pōtae Māori communities in a time of recession – we find the Crown acted in a manner inconsistent with the Treaty principle of partnership. The meagre State assistance offered to Te Rohe Pōtae Māori in the wake of job losses, we find, would have done little to mitigate the impacts of unemployment in a district already impacted by economic recession.

There is anecdotal evidence that Māori workers were also negatively affected by other, broader factors. First, where Māori were able to obtain employment, they were often the first laid off when employers came under pressure. Secondly, Māori were also prejudiced by a prevailing, constricted expectation of the kinds of work that they were suited to or capable of performing. This saw Māori channelled towards unskilled work, which naturally rendered them more likely to find themselves unemployed. Thirdly, lower average rates of Māori achievement in education (discussed in chapter 24) meant the alternative employment prospects available to Māori workers who lost their jobs were limited.

We do not have the answers to the limited employment prospects in Te Rohe Pōtae today. It may not be possible for the Crown to create a regional economy that would provide all uri of Te Rohe Pōtae with meaningful employment in or near to their tūrangawaewae. However, given the serious Treaty breaches and prejudice we have identified, generous redress through the Treaty settlement process, in a form or forms reached by way of negotiation and close consultation with the claimants, may be one means of helping to reinvigorate the local economy.

23.6 TRIBAL IDENTITY

23.6.1 The grievances of Ngāti Te Wehi and Ngāti Hikairo

The loss of tribal identity was an issue raised in particular by members of Ngāti Te Wehi. Miki Apiti contended that the Crown had caused – and indeed continues to cause – the loss of Ngāti Te Wehi identity in two principal ways. First, the development schemes that were begun in the 1960s had forced many members of Ngāti Te Wehi to leave their lands and migrate to places, towns and cities, where they ‘were integrated into other tribes and nearly lost sight of who they were as a people’. As Mr Apiti put it: ‘Many of Ngāti Te Wehi think that we are Waikato. They think this because many of them were brought up in Ngaruawahia and Hamilton.’ The confusion had also arisen, he said, because of Ngāti Te Wehi’s long commitment to the Kīngitanga. Furthermore, after not having been among the 32 hapū coming under the authority of the Tainui Maori Trust Board when it was set up in 1946, Ngāti Te Wehi had joined in 1948. This, he explained, had been done to support the kaupapa, not to become part of Waikato, but it had subsequently diminished Ngāti Te Wehi’s independent identity.³⁹⁹

399. Document N42, pp4–5, 12–15.

The second way in which the Crown was causing the loss of Ngāti Te Wehi identity, said Mr Apiti, was its 'large natural groups' Treaty settlement policy. This, he argued, 'obscures and diminishes tribal identities because it forces Maori to neatly fit under one umbrella for the sole Crown benefit of so-called economics and efficiency'. Ngāti Te Wehi had sought to negotiate a settlement with other west coast harbours groups but had been told that the Crown's preference was for them to settle alongside Ngāti Maniapoto. The Crown, he said, 'should recognise us as a people with our own mana who signed Te Tiriti and should speak directly with us'. Mr Apiti claimed that the objective was not simply to have a separate settlement, but for Ngāti Te Wehi to be recognised as an iwi in its own right.⁴⁰⁰

Mr Apiti was supported in evidence by other Ngāti Te Wehi witnesses. Peggy Nelson was born at Ōkapu in 1956 but later moved to Hamilton with her family. The experience of living there, she claimed, had been culturally alienating, and had led among other things to the loss by herself and her sisters of their reo, their self-confidence, and their tribal identity.⁴⁰¹ Boss Mahara said that Ngāti Te Wehi had agreed to come under the 1995 Waikato-Tainui raupatu settlement without understanding the implications. As a result of this, he said, 'the Crown does not want to recognise us nor deal with us directly. It says we are a hapu of Waikato and that they will deal with the Arataura and the Kauhanganui. This is wrong and must stop. We want our own mana recognised.'⁴⁰²

The damage to tribal identity was also raised by Ngāti Hikairo. Roimata Pikia said that the Crown's taking of Ngāti Hikairo resources had resulted 'in a lack of employment, several generations of high urban drift by Ngāti Hikairo people and an associated loss of reo and identity'. As noted above, she had grown up well away from Kāwhia and it was not until she was an adult that she began 'to learn about Ngāti Hikairo and Waipapa [Marae]. It was only through her good fortune to get work in Kāwhia, and bringing her own children there, she added, that she had been able to prevent her family's links to Kāwhia being 'lost to following generations'. She criticised Statistics New Zealand (in terms of the census) and the Ministry of Education for not recognising Ngāti Hikairo as a separate iwi, asserting:

children whose parents have stated that their iwi is Ngāti Hikairo are not able to have this information entered into official forms. This is one way subsequent governments have continued to devalue the knowledge that has been passed down through the generations and refused to recognise Ngāti Hikairo as an iwi.⁴⁰³

Dr Robinson explained to us the criteria that Statistics New Zealand applies when establishing whether a particular group should be classified as an iwi. These include the number of census respondents stating that affiliation; the distinct legal or administrative representation of that group; any distinctive recognition

400. Document N42, pp 5, 16–18.

401. Document N7, pp 2–4.

402. Document N43, pp 11–12.

403. Document N10, pp 2, 4, 5–6, 8.

of it in historical traditions; and whether the group has been actively seeking independent iwi status. Perhaps crucially for groups such as Ngāti Te Wehi and Ngāti Hikairo, Statistics New Zealand also consults the larger iwi that the group in question wishes to be identified separately from. In each case, this would be Waikato. Furthermore, a 2009 study noted that census entries of 'Kawhia' (or indeed other place names in the Waikato tribal rohe) were simply coded as members of Waikato iwi. To add to the confusion, we assume that members of the Tainui hapū from Whāingaroa who entered that on the census form will have been recorded as undifferentiated members of the Tainui confederation. The authors of the 2009 research suggested that 'coding of New Zealand census iwi data is due for a substantial review', but Dr Robinson was unaware if any had been undertaken.⁴⁰⁴

23.6.2 Attempts to revitalise or reawaken hapū

Aside from the grievances aired by members of Ngāti Te Wehi and Ngāti Hikairo, other claimants raised issues concerning the loss of tribal identity. Pani Pāora-Chamberlin explained that he had been raised in Invercargill by his Māori father and Pākehā mother, and had lived 'a pretty Pākehā life'. In the 1970s, however, when he was about seven, a man who had known his grandfather explained his Māori whakapapa, which included descent from Wharekōkōwai. Through this Mr Pāora-Chamberlin had later come to realise that he was Ngāti Wharekōkōwai, a Te Rohe Pōtae hapū identity that had long since passed out of active use. Mr Pāora-Chamberlin considered that Ngāti Wharekōkōwai's story 'is an example of what happened to many Iwi and hapū throughout New Zealand' as a result of 'colonial practices' that alienated them 'from their unique indigenous Māori cultural identity'. He added that 'The phenomenon of Māori people without a cultural identity is represented in census data where thousands of people identify as Māori but yet do not know who their Iwi and hapū are.'⁴⁰⁵ Mr Pāora-Chamberlin said that the loss of Ngāti Wharekōkōwai identity had begun in the late 1880s, when his tupuna Te Putu Taiki had laid claims to land in the Native Land Court. Te Putu's claim to Ōrahiri through Ngāti Puha had succeeded, but his claim to Pukeroa-Hangatiki through Ngāti Wharekōkōwai had not. As a result, said Mr Pāora-Chamberlin, 'The Ngati Wharekōkōwai identity was lost and not the Puha identity.' Furthermore, the Crown had actively pursued the acquisition of his whānau's land interests, until all that was left was an urupā in Orahiri 8. He contended that 'What happened to the people of Ngāti Wharekōkōwai as a result of Crown actions was cultural genocide', since the 'cumulative effect' of these actions was 'the loss of cultural identity as a descendant of Wharekōkōwai'. In recompense Mr Pāora-Chamberlin believed the Crown should, among other things, help the descendants of Wharekōkōwai 'relink as a hapū and iwi', assist them to establish a marae, and recognise them as an iwi under the fisheries legislation.⁴⁰⁶

404. Document 188, pp10-12; Julie Walling, Desi Small-Rodriguez, and Tahu Kukutai, 'Tallying Tribes: Waikato-I'ainui in the Census and Iwi Register', *Social Policy Journal*, 1036, August 2009, p8.

405. Document 04, pp2-3.

406. Document 011, pp5-9.

We asked Mr Pāora-Chamberlin how many people today identify as Ngāti Wharekōkōwai. Usually, we noted, those who wish to reawaken a hapū identity need to demonstrate to the rest of the iwi that they can become a functioning hapū as quickly as possible. Mr Pāora-Chamberlin said, however, that he could probably count those identifying as Ngāti Wharekōkōwai ‘on one hand’.⁴⁰⁷

Kahuwaiora Hohaia appeared on behalf of Ngāti Toa Tupahau, the kin of Te Rauparaha left behind at Marokopa to maintain ahi kā upon his hiko south. She contended that Ngāti Toa Tupahau had not been adequately recognised by the Native Land Court, with an ensuing loss of standing and identity. She stated: ‘Not a lot of our own people recognise their whakapapa to Ngāti Toa Tupahau. It has been a fight to get recognition from our people and from our whanaunga. . . . We are not greedy, we only want to claim what is ours’.⁴⁰⁸ Like Mr Pāora-Chamberlin, Kahuwaiora Hohaia hoped to re-establish a base at Marokopa ‘for our people to come back to’. This would be a place ‘where we can celebrate being Ngati Toa Tupahau’.⁴⁰⁹

Wayne Herbert appeared on behalf of Ngāti Rangatahi, a group whose tūpuna had migrated from the district alongside Ngāti Toa in the 1820s but some of whom had returned to Te Rohe Pōtae after the fighting in the Hutt Valley in 1846. Mr Herbert hoped that ‘through this hearing process and future relationship with the Crown . . . the mana and identity of Ngati Rangatahi can once more be recognised and restored for the present and future generations of our people’.⁴¹⁰ He did not suggest that this loss of status stemmed from any Crown actions in Te Rohe Pōtae.

In the context of Mr Pāora-Chamberlin’s evidence about Ngāti Wharekōkōwai, we asked Ngāti Maniapoto researcher Paul Meredith about the phenomenon of hapū names losing currency over time. Mr Meredith, who has extensive knowledge of Native Land Court minutes, had no comment on Ngāti Wharekōkōwai, but considered that hapū names would often be used for the purpose of a Native Land Court hearing but not beyond that. This stemmed from the need of competing groups ‘to differentiate their identity from another to make their claims, a phenomenon that Mr Meredith saw repeated today in claims before the Tribunal. He referred to this as a kind of situational identity, and noted how the court minutes had the unfortunate effect of freezing hapū identities rather than allowing for their organic evolution’.⁴¹¹

23.6.3 Treaty analysis and findings

We agree with other Tribunals that it is the business of Māori to decide whether a group has iwi or hapū status. That said, the Crown’s role can be quite influential. Being listed separately in the census results gives a tribal group a greater standing in the eyes of officialdom, and the Crown’s Treaty settlements policy can wield

407. Transcript 4.113, pp1291–1293.

408. Document N52, para 120.

409. Document N52, para 127.

410. Document R6, para 9.

411. Transcript 4.113, pp130–133.

significant influence over personal affiliation choices. We have seen, for example, how certain tribes have experienced a quantum leap in census numbers as the result of a Treaty settlement.⁴¹² Nor are the census listings set in stone: some groups have been listed separately after previously being included within the numbers affiliating to larger or neighbouring groups.⁴¹³

Ngāti Te Wehi and Ngāti Hikairo are important groups in the district. If we applied the test devised by the Tribunal in its *Pakakohi and Tangahoe Settlement Claims Report* to Ngāti Te Wehi and Ngāti Hikairo, we would have to conclude that both were recognised historically as distinct cultural and political entities from either Waikato or Ngāti Maniapoto, despite their close associations. As we have seen in this report, they also both have distinct claims; neither, for example, lost core territory in the raupatu and both have particularly strong relationships with (respectively) the Aotea and Kāwhia Harbours. They have their own marae and both have sought to engage with the Crown and local authorities in terms of their own identities rather than under the umbrella of their larger neighbours. We are not aware of whether Waikato-Tainui is blocking the separate listing of either of these two groups in the census results, but we note that Waikato-Tainui did not challenge the stance either group took in our inquiry.

The other claims we have discussed in this section constitute a different matter. It is not the responsibility of the Crown to reinstate past hapū identities or restore certain kin groups to a more secure contemporary standing. We do not believe that either Mrs Hohaia or Mr Herbert expected this assistance from the Crown in any event. By contrast, Mr Pāora-Chamberlin did believe that the Crown should assist in the reawakening or revival of Ngāti Wharekōkōwai. However, we do not have sufficient evidence before us to prove the disappearance of this hapū identity was caused by the Crown. Old hapū names could go out of use and new hapū names could appear as a result of particular events, such as marriages, leadership changes, and conflicts, or as groups moved into new territories. Hapū might also use different names on different occasions, depending on the circumstances. What we were describing was a dynamic and organic process, which the intervention sought by Mr Pāora-Chamberlin would entirely cut across. The evidence of Mr Meredith also suggests the possibility that Ngāti Wharekōkōwai could have been a name used for a specific purpose but not more broadly beyond that.

Therefore, we find that the Crown has acted inconsistently with the principle of equal treatment by failing to respect the identity of Ngāti Te Wehi and Ngāti Hikairo.

We make no findings with respect to any Crown actions in relation to the other hapū identities discussed in this section.

412. For example, the number of those giving Te Uri o Hau as an affiliation rose from 90 in 1996 to 732 in 2001 after Te Uri o Hau signed a deed of settlement with the Crown in 2000.

413. Ngāti Pāhauwera first achieved a separate census listing in the 2006 census, after previously being counted as Ngāti Kahungunu ki Te Wairoa. Thereafter, it negotiated its own deed of settlement with the Crown in 2010. These developments followed on from the Tribunal's recommendation in 2004 that there be 'separate negotiations and a separate settlement' with Ngāti Pāhauwera: Waitangi Tribunal, *The Mohaka ki Ahuriri Report*, vol 2, pp 699, 701.

23.7 RACIAL DISCRIMINATION

23.7.1 Picture theatre segregation and exclusion from clubs

While we have already noted that Hamilton hotels generally refused to accept Māori as guests in the 1930s, and that Māori were discriminated against in terms of government welfare benefits as late as the early 1940s, we focus here on the issue of overt racial discrimination during the post-war period. It was after the Second World War that there was a growing awareness of civil and human rights and a push in many parts of the world towards decolonisation. It is also the period for the claimants of living memory, and thus the time period in which many of the claims of racial discrimination were focused. The essence of the claimants' grievance was the perceived tardiness – given the colour bar that operated in certain places at the time – of the Government's passage of anti-race discrimination legislation in 1971. We omit from this chapter consideration of the discrimination that occurred in the context of the education system or the use of te reo, both of which are addressed in chapter 24.

A notable claim of racial discrimination was made by Mona Thompson of Ngāti Waiora, who had grown up at Arapae near Piopio. After some years of living away from the district, she recalled attending the Piopio picture theatre in the 1950s and being warned by her companions that she could not sit in 'the Pakeha section'. This had shocked and embarrassed her, but she had not complained about it at the time. Later, in around 1960, when she and her Pākehā husband had been seated at the Pukekohe picture theatre, she had been asked to move downstairs to 'the Maori section'. Her husband had reacted indignantly and, were it not for this, Ms Thompson might have moved. As she put it, 'I was brought up not to question Pakeha and that behaviour was so ingrained in us that I didn't think I had the right to question things or stand up for myself.' Today, she said, she would not be so compliant. She explained:

I know that the incidents that happened to me at Piopio and Pukekohe were not right. They were also not unique. Racial segregation and other acts of racial discrimination were a reality for many Maori across New Zealand, including us. The Government should have done something to protect us so that we weren't treated like second-class citizens but they didn't.⁴¹⁴

Mark Bidois, of Ngāti Te Paemate, also made reference to racial segregation in the Piopio theatre. He recalled that 'we had to sit apart, Māori on one side Pākehā on the other.'⁴¹⁵

Several witnesses also noted that Māori had been excluded from clubs and institutions. Rewi Takuira, who was born in 1936, said that his father had not been allowed entry to the Ohura Cosmopolitan Club and as a result had resorted to making his own alcohol: 'There was racism in the little Ōhura valley. There was a little Cossie Club there. The manager, Jack English would not let any Māori into

414. Document Q8 (Thompson), pp4–5; transcript 4.1.15, pp1086–1089.

415. Document Q2 (Bidois), p8.

23.7.2

the club. Even though my Dad had lived and worked there his whole life he was not allowed in the club.⁴¹⁶ We assume this refers to the period after 1954, as the Ohura Cosmopolitan Club was not opened until then.

Georgina Turner-Nankivell of Ngāti Rōrā recalled a 'deep seated racism' in Te Kūiti. For example, she said, the workingmen's club only admitted Pākehā. She recalled that, in about 1952,

my husband who is half caste and quite fair went to the club with his workmates. My father asked me where he was and I told him Bob was at the club. When he got home, my father said to him, you were lucky to get in there, and my husband said why is that, because it's pakeha only in that club. That was the sort of thing we had to put up with in our own rohe.⁴¹⁷

Mark Bidois said that no Māori were allowed in the Piopio RSA after the Second World War or, somewhat later, in the workingmen's club. He said that this exclusion lasted until about 1965.⁴¹⁸

The RSA exclusions may not have been universal: Rangianiwaniwa Pehikino said that many Māori servicemen came back from the Second World War and 'lived in the RSA, and thus distanced themselves from their whānau.'⁴¹⁹ Alternatively, there may be some confusion over timing. The technical evidence of Mr Sarich, which we go on to discuss below in our consideration of the issue of liquor control, was that workingmen's and returned services clubs began selling liquor from around 1939 in spite of the no-licence rules, and that they largely excluded Māori from membership, including after the war.⁴²⁰

23.7.2 Treaty analysis and findings

Aside from Mr Sarich's report on liquor-related matters, we lack technical evidence on the issue of post-war racial discrimination. That said, we do not consider that the Crown can dismiss the examples of racial discrimination provided by the claimants as 'anecdotal'. The exclusion from clubs is well documented, and the segregation in the Piopio picture theatre is of a type known to have occurred in other small towns such as Pukekohe, where such discrimination was notorious. Indeed, as we have seen, Ms Thompson experienced similar discrimination in both Piopio and Pukekohe.

The exclusion from the clubs is tied up with the vexed issue of liquor restrictions, which we address below. While many Te Rohe Pōtae Māori at the time opposed any liquor sales in their district, the Crown knew that this discrimination existed (such as through the 1939 letter of complaint to the Prime Minister by

416. Document R11 (Rakuirā), p 10.

417. Document S45, p 4.

418. Document Q2, p 8; transcript 4.1.15, pp 472-473.

419. Document L20 (Pehikino), para 39.

420. Document A29, pp 178-179. Mr Sarich relied here on the 1972 University of Auckland MA thesis of Peter Skerman.

Erana Patupatu that we refer to below) and did not prevent it. Such overt racial discrimination should not have been tolerated under article 3.

We do not have sufficient information to know whether the Crown was tardy in its passage of the Race Relations Act in 1971. We are aware that this legislation was designed to give effect to the United Nations International Convention on the Elimination of All Forms of Racial Discrimination that had been adopted in 1965, but do not have any information as to why its passage took a further six years. We know enough about the history of Te Rohe Pōtae to conclude, however, that the discrimination Māori faced in the decades following the war was merely a reflection of their further marginalisation and exclusion in the district. In other words, the discrimination that took place at Piopio was not an isolated incident but rather an aspect of the legacy of prejudice that followed the confiscation and subsequent loss of most of the remaining Māori land base. Pākehā had become conditioned to treat Māori in this way, and Māori had become conditioned to acquiesce to it.

While we consider that the general level of discrimination Te Rohe Pōtae Māori suffered was the result of lasting prejudice from earlier Treaty breaches, we nonetheless find that the Crown was directly at fault for permitting the overt acts of discrimination that the claimants outlined. That is, the Crown had an obligation under article 3 to prevent such mistreatment when it arose. Moreover, its duty of active protection required it to be proactive in eliminating such discrimination, rather than merely reactive when examples were brought to its attention. On the available evidence, it does not appear that the Crown's response to the discrimination it was aware of was either prompt or adequate.

We find, therefore, that by omitting to institute measures to prevent racial segregation and racism, the Crown failed in its duty of active protection of Te Rohe Pōtae Māori and acted inconsistently with the principle of equity.

23.8 LIQUOR CONTROL

23.8.1 The establishment of the no-licence district and the application of national liquor legislation

As we discussed in chapter 8, the Te Rohe Pōtae leadership in the mid-1880s had sought to gain control over the liquor trade, viewing such authority as an important means of protecting the health and well-being of their people. Liquor had become an issue of concern because of what had been seen of its effect on Māori whose lands were passing through the Native Land Court at Cambridge in the 1870s. The establishment of the constabulary camp at Kāwhia in October 1883 had also seen liquor begin to flow into Te Rohe Pōtae via the camp canteen, causing drunkenness. It would not appear that the leadership were all steadfastly opposed to any consumption of alcohol whatsoever. As we also mentioned in chapter 8, for example, Tāwhia permitted alcohol to be consumed at a ceremony in 1882. The paramount issue was one of control, even if there were differences on how that control should be exercised.

As a result of the leadership's negotiations with the Crown, and the involvement of the Gospel Temperance Mission, the Government issued a proclamation in

December 1884 forbidding the sale of liquor within what was called the Kawhia Licensing Area, which included most of Te Rohe Pōtae. After John Ormsby, in his role as chair of the Kawhia Native Committee, pointed to the exclusion of an area of land within the proclamation boundaries, a new proclamation was issued in April 1885 that extended the boundary. Other amendments were made in subsequent proclamations until the boundaries were finally settled in a proclamation in 1894. The only part of the inquiry district excluded was the north-western tip between the Aotea and Whāingaroa Harbours. In 1887, a separate, 'Upper Wanganui Licensing Area' was proclaimed that was contiguous with a large section of the Kāwhia district's southern boundary (essentially the Whanganui River from somewhat downstream of Taumarunui to its headwaters and on to the summit of Ruapehu), thus creating a vast no-licence area.⁴²¹

It is not certain whether the Te Rohe Pōtae leadership intended to keep alcohol outside the boundary or whether they expected instead to be able merely to control its availability within. Paul Christoffel noted that Wahanui had both signed the 1884 petition that called for a ban on liquor licences and told Parliament in November 1884 that he wished the sale of liquor within Te Rohe Pōtae to be 'stopped absolutely'. In Dr Christoffel's view, this appeared to indicate 'that he was well aware that the liquor ban would not stop liquor from entering the district, but would only prevent its sale'.⁴²² On the other hand, Wahanui stated at the sod-turning ceremony on 15 April 1885:

I consider we could not have a better boundary with which to keep back the liquor than this stream of fresh water running down below us [pointing to the Puniu]. I have seen, in one map that has been published, a certain boundary defining this licensing district; but that I did not agree to. I myself consider the proper boundary by which to keep back the liquor is a river of fresh water like the Puniu.⁴²³

We return to this issue in the conclusion. In any event, for the reasons we have set out in chapter 8, we consider that the key issue for the Te Rohe Pōtae leadership was control. With that control the prohibition on sale and the limitation, at least, of the entry of liquor could have gone hand in hand. It would have been for the Te Rohe Pōtae leaders to decide the best method of dealing with liquor and social problems to which it gave rise.

The ongoing access to alcohol actually accorded with the prohibitionist belief that the possession of liquor and its private consumption should not be entirely banned. This appears to have stemmed from the prohibitionists' view of such controls as unworkable and undemocratic. The Alcoholic Liquors Sale Control Act 1893 had at its core this democratic principle, providing for Pākehā to be

421. Document A71, pp205-209.

422. Document A71, pp204, 207. Dr Christoffel quoted Wahanui as asking the House for the sale of spirits to be 'stopped immediately' but his words were in fact recorded in *Hansard* as 'stopped absolutely': NZPD, vol 50, 10 November 1884, p556. There is no Māori version of his speech in *Ngā Korero Paremete*.

423. AJHR, 1885, D-6, p4 (doc A71, p206).

able to vote on whether liquor sales should be banned in their electorates (with a three-fifths majority needed to go dry). The prohibitionists did not consider, however, that the same choice should be extended to Māori, whom they regarded as particularly vulnerable to the harmful effects of liquor. Dr Christoffel noted that a temperance advocate told a meeting in Wellington in 1900 that granting Māori voting rights on access to liquor was ‘on a par with a man asking his children to decide what kind of gunpowder they should play with.’⁴²⁴

The Alcoholic Liquors Sales Control Act 1895 allowed breweries to operate in dry areas and alcohol to be imported into them, so long as it was declared. As this applied only to electorates that had voted to go dry, it excluded the Te Rohe Pōtae no-licence area, which had been proclaimed as such. This discrepancy was statutorily amended in 1904, so that the same provisions applied to King Country. Moreover, this legislation provided for districts to be proclaimed in which it was illegal to sell alcohol to Māori ‘for consumption off the premises’ (section 46 of the Licensing Acts Amendment Act 1904), and by the end of 1906 nearly the whole North Island had become subject to such proclamations. Essentially, this made it unlawful for Māori in Te Rohe Pōtae to obtain or consume alcohol. By contrast, it was not until 1910 that Pākehā residents of Te Rohe Pōtae were placed under the same restrictions over the amounts of liquor they could legally import as residents of other dry districts.⁴²⁵

There was some initial optimism about how well the Te Rohe Pōtae ban on liquor sales was working. Wilkinson reported in 1887 that ‘the Natives in this district are much more temperate than they used to be in years gone by’, an observation which he repeated in 1890 and 1891. He did note that some Māori – followers of the prophet Te Mahuki – were openly selling liquor in defiance at the ban, although he put this down to political opposition to the Te Rohe Pōtae leadership.⁴²⁶ In reality, however, the 1884 proclamation and its subsequent replacements had already proven rather ineffectual. As the railway line was constructed – reaching Ōtorohanga and Te Kūiti by 1887 and Taumarunui by 1903 – more and more liquor entered the district.

Railway construction camps were famed for their ‘lawless’ nature and illegal consumption of alcohol. The illegal liquor trade, known as ‘sly-grogging’, was said to be particularly rife in the camps. The railway provided a ready means of transporting alcohol into the district, and high levels of alcohol consumption were reported in the railway camps from the early stages of construction. Te Kūiti, the northern base for construction workers working on the line, was known as ‘a great place for sly grog selling’, with large quantities of beer and spirits brought in on the ballast trains.⁴²⁷ Travelling through Te Kūiti in 1887, one commentator described

424. George Fowlds quoted in ‘Liquor in the King Country’, *Evening Post*, 24 July 1900, p2 (doc A71, p210).

425. Document A71, pp211–212.

426. A)HR, 1887, G-1, p 5 (doc A71, pp212–213).

427. I Coates, *On Record* (Hamilton: Paul’s Book Arcade, 1962), p125.

the township as a 'frightful example' of 'the demoralising effect of surreptitious whisky-drinking'.⁴²⁸

Further south, the workers' camp at Carson City was notorious for 'sly-grogging' and the drinking habits and lawless behaviour of its inhabitants.⁴²⁹ Evidence from the time demonstrates that senior government officials were aware of this illegal alcohol trade. As early as 1887, George Wilkinson noted that the influx of European labourers had created demand for alcohol in the district and that both Europeans and Māori were involved in 'sly grogging'.⁴³⁰ In 1900, Āpirana Ngata, having undertaken a three-week tour of the district as part of an inquiry into abolishing prohibition, reported that the illegal liquor trade was mainly concentrated around the railway line: 'Between Mokau [Station] and Otorohanga. Just along the railway-line and a little off it. That is where most of it exists'.⁴³¹

According to the historian Peter Skerman, there was no shortage of those willing to sell alcohol for 'a quick profit'.⁴³² The risk of prosecution cannot have been great: the 1898 Royal Commission into the police force concluded that the policing of liquor in the district was inadequate. So, though, was the law; in 1901, for example, it was revealed that one man in Te Rohe Pōtae had legally brought in 60 cases of spirits by rail. As Cathy Marr observed, Wahanui's belief in 1885 that no liquor would cross the Pūniu 'had proved to be sadly mistaken'.⁴³³

23.8.2 Why did the Te Rohe Pōtae leadership request licences, 1891–1900?

In December 1891, Wahanui, Taonui, and other leading Te Rohe Pōtae rangatira met the Native Minister, Alfred Cadman, and requested that he grant a liquor licence to John Hetet, one of the Māori owners of the Temperance Hotel in Ōtorohanga. They subsequently followed up this request with a letter, in which they explained that their request stemmed from the increased number of Pākehā visitors to Ōtorohanga. These travellers had an expectation of being served alcohol, and local Māori wished to be hospitable. The letter cited the arrival of the railway and the Native Land Court to Ōtorohanga as further reasons for the necessity for legal sales of alcohol, suggesting that Wahanui and others had become concerned about the ready availability of illegal liquor and its consumption by Māori at land court sittings in Ōtorohanga and other gatherings. Their attempt to secure a liquor licence in the town was therefore an attempt to institute some degree of formal control over Māori drinking. Wahanui and Haupokio Te Pakaru made a similar request for a liquor licence at Kāwhia, which appears to have stemmed from problems being experienced with sly-grogging there.⁴³⁴

428. 'Casual Ramblings', *New Zealand Herald*, 21 August 1897, p 1.

429. P J Gibbons, 'Some New Zealand Navvies: Co-Operative Workers, 1891–1912' in *New Zealand Journal of History*, vol 11, no 1, 1977, pp 63–64.

430. AJHR, 1887, G-I, p 6.

431. AJHR, 1900, 1-1A, p 2.

432. P J L Skerman, 'The Dry Era: A History of Prohibition in the King Country, 1884-1954', MA thesis: University of Auckland, 1972, p 62.

433. Document A115, pp149–150.

434. Document A71, p213; doc A115, pp150–151.

The Government's response was sympathetic. While Wilkinson suspected that the licence at Ōtorohanga was partly wanted to protect Hetet from prosecution, should he be caught serving alcohol to undercover police, he supported the application. He reasoned that the Māori hotel owners should be able to make money from alcohol sales rather than sly-groggers reaping all the financial reward. For his part, Cadman turned down the Kāwhia request but agreed that a licence could be issued at Ōtorohanga, and Cabinet endorsed this. As a result, a new proclamation was issued in April 1892 that amended the no-licence area boundary to exclude a one-acre section at Ōtorohanga (the site of the Temperance Hotel). Soon afterwards, however, the prohibitionists learned of these developments and swung into action. There ensued a period of intense lobbying on their part, which included a large deputation to the Premier by a mix of clergymen, members of Parliament, and others on 20 June 1892. Tellingly, also, Rewi Maniapoto sent the Governor a telegram on 23 June that read (as translated) 'This is my word to you. Do not by any means allow a license to be issued within this Rohe Potae tribal boundary district at Ōtorohanga.'⁴³⁵ We were not provided with the original Māori text of Rewi's message.

Confronted by this opposition, John Ballance hesitated. Even though Wahanui, Taonui, and others confirmed their request in further correspondence of 21 and 25 June, Cabinet now went back on its earlier decision. Ballance claimed that 'the Natives were divided upon it', although he can only have based this view on Rewi's telegram. Wilkinson's advice – which arrived too late for Cabinet's consideration – was that 'the Natives' were in fact solidly united behind the request. After learning of the Cabinet decision, Wahanui, Taonui, and three others wrote to Cadman to say that Rewi was 'not from this district' and requesting a local poll on the matter.⁴³⁶ This appeal, however, was to no avail, as a new proclamation on 7 July 1892 returned the Temperance Hotel site to the proclaimed no-licence district. Wahanui and Taonui persisted over the next two years in pushing the matter, demonstrating frustration that – as Dr Christoffel characterised it – 'it was they who had asked for prohibition to be imposed, but now that they were asking for it to be removed, even to a tiny extent, numerous outsiders interfered'.⁴³⁷

The Government's reversal owed everything to the electoral power of the prohibition movement. Seddon – who had succeeded Ballance upon the latter's death in April 1893 – managed to handle this pressure adroitly, passing measures – such as the aforementioned Alcoholic Liquors Sale Control Act later that year – which drove a wedge between the hardline and moderate prohibitionists.⁴³⁸ While no advocate of prohibition, he was conversely reluctant – in the political climate of the day – to accede to a Māori request he received at Moawhango (in the Upper Wanganui dry area) in 1894 for a licensed hotel. This plea appears to have arisen

435. Rewi Maniapoto to Governor, telegram, 23 June 1892 (doc A71, p215).

'Liquor License in King Country', 29 June 1892, NZPD, vol 75, p49 (doc A71, p216).

436. Taonui, Wahanui, and three others to Native Minister, 5 July 1892 (doc A71, p216).

437. 'Liquor License in King Country', 29 June 1892, NZPD, vol 75, p49 (doc A71, p216).

438. David Hamer, *The Liberals: The Years of Power, 1891–1912* (Auckland: Auckland University Press, 1988), pp115–119.

from a concern about local sly-grogging. In Te Rohe Pōtae itself, the scale of sly-grogging and disregard for the ban on liquor sales had become notorious. Prohibitionists called for stricter enforcement, while Te Rohe Pōtae rangatira continued to press for the grant of liquor licences. In September 1896 a petition along these lines was presented to Parliament signed by Wahanui and 201 others. They hoped that 'sly grog selling in our district may be suppressed'. In 1897, two further petitions calling for the restoration of licences were received, both this time from Te Rohe Pōtae Pākehā. The Parnell member of Parliament and hoteliers' lobbyist, Frank Lawry, gave evidence to the 1898 police royal commission that Māori and Pākehā of Te Rohe Pōtae were united 'in favour of establishing a license and the regulation of the trade', and the royal commission itself concluded that it might well be better if licensed houses existed where people could obtain liquor 'under proper regulation and control'. But the Government remained wary of upsetting the prohibitionists, and declined to take action.⁴³⁹

Several developments in mid-1900 prompted a reconsideration. At a public meeting at Te Awamutu on 1 June – which passed a resolution calling for Te Rohe Pōtae residents to be entitled to a vote on the matter, as those in other districts were – John Ormsby stated that he now believed it was time for a change, despite the original 'compact' over liquor:

He was one of those interested at the time the question of prohibition was brought up, and favoured the view that liquor should not be introduced into the King Country. That Act was part of the great scheme, the remainder of which did not enter into the present discussion. The scheme provided that no land should be sold until the titles were investigated. But neither part had been observed. The Temperance Party had failed to carry out their promises. He did his utmost, but he had failed. The compact had been made in 1885 and it was now 1900, and what had happened in the interval? The country was being settled, and where there were Europeans there would be liquor, and the natives would get it.⁴⁴⁰

Another (Pākehā settler) speaker at the meeting asserted that 'The consent of the Maoris for the railway to cross over the boundary was gained on one condition, and that was that no intoxicating liquors should be taken over the Punui [*sic*]. Large petitions were also received by the Government in June from both Māori and Pākehā in Te Rohe Pōtae arguing that the time was now overdue to revisit the licence restriction given the influx of Pākehā and the ongoing illicit trade in liquor.'⁴⁴¹

An influential and unexpected call for reform was then made by Āpirana Ngata, whose personal inclination was much more towards supporting temperance. He had visited Te Rohe Pōtae to prepare a report on the liquor issue for the Te Aute Students' Association but was told by previously staunch advocates of prohibition

439. AJHR, 1898, H-2, ppxxiv, 1088 (doc A71, pp221–222); doc A71, pp217–222.

440. Document A89, p 54.

441. Document A71 (Loveridge), pp222–223; doc A71(b), p5.

Moerua Natanahira and Whitinui

Te Rohe Potae was established as a 'dry district' in the 1880s, following the Ōhākī Tapu agreements. These negotiations also included provisions for Māori to retain control of their lands and other measures of self-governance.¹ As a result no licences could be granted in the area to sell alcohol, and it became illegal to sell or supply alcohol to Māori. Importing alcohol from outside the district remained legal and the practice of 'sly-grogging' was common throughout the 1890s.

Moerua Natanahira and Whitinui were Te Rohe Pōtae rangatira, who despite supporting the Temperance movement, advocated for the introduction of licences into the area during the 1890s. Moerua and Whitinui are reported by Apirana Ngata as saying the prohibition in the district "has had a fair trial, and is an absolute failure"². Instead of strengthening the prohibition to make importing alcohol into the district illegal, these rangatira were part of a group of Māori to support the introduction of licences as a way to regain control of alcohol within the district. Ngata, reporting to the Public Petitions Committee in 1900, recommended the end of the prohibition, stating 'the Native chiefs who secured the prohibition sixteen years ago petitioned for its removal before they died, and the Ngatimaniapoto Tribe of today, among whom are prominent men of pronounced temperance views, ask for its removal.'³

1. Document A29.

2. AJHR, 1900, I-1A, p2.

3. AJHR, 1900, I-1A, p3.

like Whitinui and Moerua Natanahira that the licence ban 'has had a fair trial, and is an absolute failure'.⁴⁴² He had also attended the Te Awamutu meeting and clearly been persuaded by Ormsby's kōrero – in fact Dr Loveridge noted that he almost repeated Ormsby's words to the Public Petitions Committee on 6 July 1900. Ngata concluded that Te Rohe Pōtae Māori should be entitled to vote on the matter. Seddon, it seems, now agreed, and told both Parliament and a visiting deputation of prohibitionists a few days (on 12 July) later that he intended to allow Māori and Pākehā 'to vote on the subject in the King Country as elsewhere.'⁴⁴³

442. James Mandeno quoted in *Prohibitionist*, not dated (doc A71(b) (Christoffel supplementary evidence), p5).

443. Document A71, pp222–224; 'The Licensing Laws', *Evening Post*, 12 July 1900, p6 (doc A71, p224); doc A89, p55.

23.8.3 How did the prohibitionists prevail, 1900–14?

This victory for the advocates of licensing was short-lived. Quite possibly because of Ormsby's reference to a 'compact', the prohibitionists were soon able to run a successful line of attack against any relaxation of the licence restrictions. An editorial published in the *Wairarapa Standard* on 16 July seems to have picked up on the points discussed at the Te Awamutu meeting:

There can be no denying the assertion of the Premier that the conditions have altered since the educated and enlightened Maori chiefs petitioned for protection and secured it (as they thought), but how have these altered conditions come about? By the advent of civilisation in the person of the European settler. What induced European settlement? – the railway across the boundary. What were the conditions upon which the Maoris permitted the railway to cross the boundary? – that no intoxicating liquors should be taken over the Puniu, and that the King Country should remain a prohibited country as regards the sale of such liquors either publicly or privately. Is this not a fact? And if it be, how can so solemn a compact be broken on such a flimsy plea as that advanced by the Premier, or on any other plea?⁴⁴⁴

Around this time a leaflet was also hastily prepared by Frank Isitt, the acting secretary of the New Zealand Alliance for the Abolition of the Liquor Traffic ('the Alliance') and editor of the *Prohibitionist* newspaper, in which he asserted that it was 'plain that both races understood that the prohibition of liquor was a condition of the opening of the King Country and the introduction of the railway, which the Maoris imposed and the Europeans accepted'. The text of Isitt's leaflet was sent to newspapers around the country and appeared, with nearly the same wording, as a letter from Isitt in the *Evening Post* on 23 July 1900.⁴⁴⁵

Dr Christoffel considered that several aspects of Isitt's leaflet were fabrications, such as Rewi Maniapoto supposedly having sent the Governor a telegram on his deathbed in 1892 pleading that alcohol not be allowed into Te Rohe Pōtae. As Dr Christoffel pointed out, Rewi had not died until two years after this telegram, and the wording Isitt used had been altered from the translation of Rewi's original message quoted above. According to Isitt, Rewi had written 'My first request is that you prevent strong drink being allowed to come within the Rohe Potae. This my first request will be my last.' Isitt also made the unlikely claim that in 1896 Wahanui had come to regret his call for the introduction of liquor licences before his death in 1897. However, as Dr Christoffel acknowledged, Isitt's suggestion that a

444. Document A71(b), p7. Dr Christoffel provided this quotation with some added emphasis, which we have removed.

445. Document A71, pp225–226.

deal had been struck over liquor was not an entirely new one, but rather something that had been asserted at the beginning of the previous month in Te Awamutu.⁴⁴⁶

Isitt sought the support of the Bishop of Wellington, Frederick Wallis, who in turn asked Sir Robert Stout – by now the chief justice – for confirmation that a ban on liquor had been a condition of the railway going through. Stout had not traditionally been a prohibitionist, but had come to see promotion of it as a means of destabilising his great rival Seddon's leadership of the Liberal Party.⁴⁴⁷ He had certainly become a staunch advocate of the cause as president of the Alliance from 1895 to 1897. He sent Wallis a letter, which the latter read at a Wellington public meeting held on 23 July 1900 to protest any relaxation of the Te Rohe Pōtae liquor restrictions.⁴⁴⁸ Dr Loveridge described Stout's comments as 'a bombshell'.⁴⁴⁹ Stout explained that the Māori owners of Te Rohe Pōtae had requested a no-licence area, and that the proclamation of 3 December 1884 had delivered this. He continued as follows:

Wahanui, the great chief of the Ngatimaniopoto, attended with many other influential chiefs in Wellington, and urged that this proclamation should be issued. He was allowed to address both the House of Representatives and the Legislative Council. In his address to the House of Representatives he said, referring to the sale of liquor amongst the Maoris: 'Another request I have to make is that the sale of spirits within our district shall be stopped absolutely. I do not want this great evil brought upon our people. I hope this House will be strong in preventing this evil coming upon us and upon our people.' (See *Hansard*, vol 50. Appendix, p 556)

I can further say that if we had not acceded to Wahanui's representations about the sale of liquor, I feel sure that he and his people would not have consented to the railway being made through the King Country. I met Wahanui and other chiefs at Alexandra and at the boundary of the King Country at the Punui River [*sic*] on the morning the first sod was turned (in 1885). I had a long talk with them, and it was a feature of the arrangements that no liquor was to be sold if the territory was to be opened for the railway.⁴⁵⁰

446. Document A71, pp 219, 225–227; doc A71(b), p 16. Dr Christoffel had not been able to access copies of the *Prohibitionist* newspaper in the course of his research because of the ongoing refurbishment of the National Library. Dr Loveridge had, and pointed to the account of the Te Awamutu meeting that Dr Christoffel had missed (this omission having led to Dr Christoffel's uncertainty as to just where Isitt had come up with the idea of a deal over liquor). In response to this, Dr Christoffel submitted subsequent evidence based on further research in the *Prohibitionist* and elsewhere. He concluded that 'This supplementary evidence indicates that the idea of a Rohe Pōtae rail-liquor agreement may not have emerged as abruptly as indicated in our main report. Our report implies that the idea emerged suddenly in July 1900, whereas it appears that the general idea of such an agreement was around by June 1900': doc A71(b), p 16; doc A89, pp 73–74; doc A71, pp 225–226.

447. Hamer, *The Liberals*, p 115.

448. Document A71, pp 226–228.

449. Document A89, p 48.

450. *Prohibitionist*, 4 August 1900, pp 4–5 (doc A71(b), pp 8–9).

Dr Christoffel noted that – despite Stout’s implication – the issuing of the proclamation in December 1884 did not in fact owe to Wahanui’s address to Parliament on 1 November, as Cabinet had already agreed to the proclamation in September.⁴⁵¹

Together, the Isitt leaflet and Stout’s letter ‘completely changed forever the debate on King Country prohibition’, according to Dr Christoffel. Newspaper editorials now emphasised that the Crown was ‘morally bound’ to uphold the ‘compact’, ‘promise’, or ‘pledge’ to Te Rohe Potae Māori about the licence ban. These terms were often accompanied by adjectives such as ‘sacred’, ‘binding’, and ‘solemn’. The same sentiment was repeated over and over throughout the country during the coming months in sermons, speeches, and petitions.⁴⁵² A senior minister in the Anglican Church, the Reverend TH Sprott, went as far to say that the agreement must be upheld ‘even if there was a general demand from the Māoris to do away with prohibition in the King Country’.⁴⁵³ Dr Christoffel thought that the introduction of ‘a liquor-railway link’ into the Te Rohe Pōtae prohibition debate had ‘probably succeeded far beyond expectations’. Two petitions were even received from Māori with interests to the southern part of the wider proclaimed district, calling for there to be no introduction of licences. There were opposing voices raised, including a petition by Terenui Te Tuku and 229 others, but – as Dr Christoffel remarked – ‘these minority views were lost in the flood of anti-license lobbying flowing in from all around the country’.⁴⁵⁴

Parliament debated the issue on 30 August 1900. Hone Heke argued that the ubiquity of (often poor) liquor meant that ‘the sooner licenses are granted in the King-country the better’, while Lawry called the notion of a promise over liquor and the railway ‘insufferable “rot”’. But the member of the House of Representatives for Wairarapa, John Hornsby, warned that there should be no attempt ‘to break the solemn pledge given by the Government of this country’.⁴⁵⁵ A few days later Seddon was called upon by a Kingitanga deputation, which comprised Te Heuheu Tukino, Matengaro Hetet, Moerua, and Wahanui’s brother, Kahu Huatare. Te Heuheu proposed the introduction of licences. He too thought that a ban on sales had been a condition of allowing Te Rohe Pōtae to be opened up, but reasoned that – since the other condition, on land alienations, had been breached – so should the licence ban be set aside so that the harmful effects of illicit liquor could be brought under control. Te Heuheu and the others proposed five locations within Te Rohe Pōtae where licences could be issued.⁴⁵⁶

Seddon expressed qualified support, acknowledging that the scale of the illicit trade in liquor needed to be addressed. However, instead of legislating to put

451. Dr Christoffel explained that the delay in issuing the proclamation until December 1884 had arisen from ‘the time it took the Justice Department to determine and describe the boundaries of the proposed prohibition district’: doc A71(b), p9.

452. Document A71, pp229–230.

453. ‘Liquor in the King Country’, *Otago Daily Times*, 31 July 1900, p3 (doc A71, p230).

454. Document A71, pp229–233.

455. ‘Liquor in the King-Country’, 30 August 1900, NZPD, vol 113, pp326, 327, 329 (doc A71, pp234–236).

456. Document A71, pp234–237.

matters to a local vote, as he had told Parliament and the prohibitionist delegation only weeks earlier, he now considered there should first be a commission of inquiry. He announced this idea in Parliament two days later, justifying his indecision on the basis that there was much ‘conflicting testimony’.⁴⁵⁷ The premier was mocked for this backflip, but was having to deal with considerable political pressure, including from within his own party. As Dr Christoffel remarked: ‘A royal commission may have seemed to Seddon to be a way of getting a non-parliamentary body to make recommendations on the issue, thus absolving politicians of responsibility.’⁴⁵⁸

The Public Petitions Committee then returned to considering the request for the introduction of licences. Various Pākehā witnesses testified that Te Rohe Pōtae Māori were solidly behind the end of the ban on liquor sales, including – it was said – the leading rangatira, who personally abstained but shared the concern about sly-grogging. Isitt, by contrast, repeated the claim that Wahanui had come to regret his altered position on liquor licences.⁴⁵⁹ The prohibitionists’ case was then given a major boost by Te Heuheu, who now claimed (at a debate in December 1900) that he had himself been at the sod-turning ceremony in April 1885 and had borne personal witness to the stipulation that no liquor be allowed into the King Country. The press reported: ‘He was present and heard two conditions imposed, (1) that liquor should not be admitted, and (2) that no land should be sold. Because the second condition had been broken they (the natives) now demanded that the first should be repealed.’⁴⁶⁰

Dr Christoffel summarised the reasons why this account was ‘highly implausible’. They included the improbability that such a bargain would have been negotiated at such a late moment; the lack of any record of it or reference to it by the main players in the 15 years that followed; the fact that Wahanui and Taonui had repeatedly sought the introduction of licences; and the possibility that Te Heuheu was not even there. Be all that as it may, Te Heuheu’s comments had the effect of consolidating belief in a compact over liquor, even – in 1903 – among those like Lawry who had so recently called the notion ‘rot’. Seddon, for his part, attempted unsuccessfully to pass Bills that would have allowed King Country residents a vote on prohibition. In 1904, he put forward a Bill that did have sufficient support to pass, although it tightened rather than loosened legal controls (see above on the provisions of the Licensing Acts Amendment Act 1904).⁴⁶¹

It seems that, from this point forwards, Māori opposition to the licence restriction fell away. Mr Sarich considered that this solidification behind the status quo stemmed in part from Te Rohe Pōtae Māori being concerned about the burgeoning Pākehā population. He also felt it arose from the sense that the no-licence provision was the last aspect of the agreements struck with the Crown in the

457. ‘Licenses in the King Country’, 5 September 1900, NZPD, vol 113, p488 (doc A71, pp 237–238).

458. Document A71, pp237–239.

459. Document A71, pp239–240.

460. ‘Liquor in the King Country’, *Wanganui Chronicle*, 11 December 1900, p 2 (doc A71, p240).

461. Document A71, pp240–247.

mid-1880s that remained in place.⁴⁶² For his part, Dr Christoffel suggested that the change may have been connected to the aforementioned Maori Councils Act, with its provisions allowing the councils to make bylaws to control liquor and drunkenness. How well the councils achieved this is unclear, but the fact of these powers may have been sufficient for some. Aside from John Ormsby, Dr Christoffel could not find any other Te Rohe Pōtae Māori voices in opposition to the licence restriction over the coming years (until 1913, the point at which his coverage concluded), although he allowed that there may have been a greater internal Māori debate than the public record suggests. Nor could Dr Christoffel find any mention of the compact in news reports from 1904 until 1909, when a new electorate was created around Taumarunui. This provided the opportunity for a newly elected liquor licensing committee to issue licences within the King Country on land that had belonged to the Crown in 1894 when the no-licence proclamation was made with respect to Māori-owned land. After prohibitionist outrage – and many further references to the ‘solemn promise’ – Parliament hastily closed this legal loophole (via the King-country Licenses Act 1909).⁴⁶³

Seddon’s successor as premier, Joseph Ward, said in 1909 he would support local King Country residents having a vote on whether the district should remain dry or not, and Opposition leader William Massey agreed. This idea, however, was overtaken by the issue of the Taumarunui licences and was not put to a parliamentary vote. Ward put forward another Bill in 1910, but it instead proposed a national referendum. The Taumarunui member, William Jennings, sought to have a clause inserted to provide for a King Country licensing vote, but this was defeated. Only two of the four Māori members of Parliament voted for Jennings’ amendment, and its failure, according to Dr Christoffel, ‘represented the end, for several decades, of serious attempts to introduce licenses into the King Country’.⁴⁶⁴

Henare Kaihau voted in favour of the amendment, but in other utterances expressed his strong opposition to licences. The latter stance may have reflected his close relationship with Mahuta and the Kingitanga. In mid-1910, before Ward’s Bill had been prepared, Mahuta had given his weight to the prohibitionist cause. The press reported that he had told an Alliance deputation that

My words shall not be many, but few, about the Rohi Pōtai [*sic*]. Those words (the proclamation) shall never be altered. They never shall be. The intention of our Maori Councils is that we will not have liquor in the district. This thing shall be again discussed at our great meetings. I quite approve of what you ask for. I shall stand by the work of our fathers and our grandfathers. Their work was right. I will do as you ask and will send a message to my people through the Council to say that the word of our fathers is to stand and that no liquor shall come into Rohi Pōtai.⁴⁶⁵

462. Document A29, p131.

463. Document A71, pp247–253.

464. Document A71, pp251–257.

465. ‘Liquor and the King Country’, *Wanganui Chronicle*, 8 June 1910, p5 (doc A71, pp255–256).

Mahuta's assertion that no liquor should enter Te Rohe Pōtae appeared to overlook the fact that the Alliance was merely opposed to licences being issued. As noted, prohibitionists generally did not object to Pākehā possessing liquor for consumption in their own homes. Mahuta also appeared not to recognise the reality that, besides the legally declared imports, large amounts of illicit liquor had been entering Te Rohe Pōtae for many years. Dr Robinson noted that there were 47 convictions for selling illegal liquor in Te Rohe Pōtae in 1897 alone, which probably represented only a small fraction of the illicit trade due to limited policing.⁴⁶⁶ A by-product of the licence ban was the ready availability of poor-quality alcohol, such as methylated spirits. It may have been this that Pōmare was referring to in 1903 when he remarked that Māori within the no-licence district could easily obtain alcohol and 'it is of such a poisonous character that if it does not kill them outright it soon would do so.'⁴⁶⁷ We return to the drinking of methylated spirits below.

23.8.4 The first and second Hockley committees of 1921 and 1923

In June 1914 a deputation of local officials met with Massey in Te Kūiti to present their case for a local option poll. Ormsby was among them and was reported in the press as reiterating his reasons why it was now time for a change:

Mr Ormsby said he had acted as spokesman for the Maoris in 1885 at the turning of the first sod of the railway at the entrance to the King Country when application was made to the Government of the day to prohibit the introduction of liquor to the district and to prohibit all land dealings until titles were determined. The result was that licenses were prohibited but liquor came in very freely. In any case the conditions had changed entirely. He felt it was time the restrictions were removed.⁴⁶⁸

Ormsby's statement here was consistent with his comments at Te Awamutu in June 1900 that an agreement had been made that liquor was not to be allowed into the district. It was also consistent with remarks he had made in 1909, when he had recalled that Stout had been asked at the sod-turning ceremony 'that no sale of land should be allowed until after the completion of the investigation of titles, and that no liquor should be allowed in the district, as we wished to avoid the evils we had seen associated with the land courts and the sale of liquor'. According to Ormsby, Stout had 'then promised he would have the requests attended to, and the district was shortly afterwards proclaimed a prohibited area.'⁴⁶⁹ While we can see that Ormsby's chronology was incorrect, in that the initial proclamation preceded the sod-turning ceremony, we can nonetheless detect a clear pattern in his

466. There were never more than seven officers based in the entire inquiry district in the returns Dr Robinson looked at for 1900, 1910, 1920, and 1930: doc A31, pp 36–37, 106–107.

467. AJHR, 1903, II-31, p70 (doc A31, pp106–107).

468. 'The Liquor Question', *King Country Chronicle*, 20 June 1914, p5 (doc A29, p133).

469. 'The Maori Agreement; Ancient History Revived', *King Country Chronicle*, 14 June 1909, p2 (doc A89, p78 n).

recollections between 1900 and 1914 on whether there was to be a full liquor ban or merely a ban on sales.

The other speakers among the June 1914 deputation also emphasised the altered circumstances and their view that the supervision of a licensing system was superior to the prevailing and unenforceable restrictions. A second King Country delegation visited Massey in Wellington the following month, again with Ormsby among it. Massey, like Seddon before him, decided upon the relatively safe option of holding a commission of inquiry. As he told Parliament on 21 July 1914, the issue of King Country liquor licensing 'cannot be dealt with satisfactorily in any rough-and-ready method . . . We are in the habit of setting up Royal Commissions, and I think we might be wise to set up a Royal Commission to inquire into the state of things existing in the King Country, and its possible remedy.'¹⁷⁰

As it happened, the First World War delayed any inquiry and it was not until 1921 that the Government instituted a Parliamentary Committee on Licensing. This committee, which was chaired by the Rotorua member of Parliament Frank Hockley, had a much broader remit than just considering the issue of liquor licences in Te Rohe Pōtae. Nevertheless, three of the 42 witnesses that appeared before it were from the King Country. They included Ormsby, who was by now in his late sixties. His address to the committee followed that of Hamilton solicitor (and later Supreme Court judge) Erima Northcroft, who contended that the notion of an unbreakable, sacred compact over liquor arose from a 'gross misunderstanding'. Northcroft explained that Te Rohe Pōtae Māori had been most concerned about alcohol because of the land alienation they had seen following drunkenness at land court sittings, but argued that any arrangements made in the 1880s could not bind future governments. He noted that Wahanui and others had attempted to change the arrangement as soon as the early 1890s because 'it had never been carried into effect'. Northcroft added that the prohibition had never been enforceable, and that illicit liquor had done much harm. He concluded by proposing that State control over sales be instituted, which he felt would be the most beneficial solution for Māori:

The desire of the Maoris themselves is that their liquor should be sold to them, if they had it at all, under the best conditions, or if they were not to get it they should be entirely restrained. It is clear that State Control would meet that position. If a Maori should have liquor imported for him from Te Awamutu or Hamilton, you will have a better opportunity of restraining him through a Manager in a State Controlled hotel. If the police act in conjunction with the Managers of State Institutions [*sic*], then we think the evils can be minimised. The people would have no incentive to deal with sly-grog sellers. You cannot build a barrier around a country such as Rohe Pōtae, and under present conditions the evils will not be stopped until National Prohibition is

470. 'Licensing Amendment Bill', 21 July 1914, NZPD, vol 168, p830 (doc A29, p134).

carried. I urge that the matter of being able to acquire alcohol in the King Country should be done in the way I suggest.⁴⁷¹

Ormsby spoke next, telling the committee that the original desire of the Te Rohe Pōtae leadership had been to prevent alcohol interfering in the process of title investigations. As such, their ambitions had converged in the 1880s with those of the prohibitionists, resulting in the 1,400-signature 1884 petition. Consistent with his previous statements, he stated that he had discussed the matter with Stout at the sod-turning ceremony in April 1885 and told him 'that it was the wish of the Natives that liquor was not to be allowed to cross the Puniu river, in order to allow them to carry on their investigations in connection with the titles'. In reply, he said, Stout had 'promised to give effect to that wish'. In other words, Ormsby's evidence was that the Government had agreed to keep all liquor out of Te Rohe Pōtae. He described the agreement as a 'solemn pact'.⁴⁷²

Ormsby then related how liquor had nevertheless freely entered Te Rohe Pōtae, despite Māori protests to the Government on the subject. The solemn pact had 'never been carried out'. Despite favouring complete prohibition himself, he felt the introduction of licences was the only practical solution:

Personally, my own leanings are toward absolute prohibition, but it seems to me that under the present circumstances the Natives will get liquor whatever you do. They are getting it now in the worst form, under the most expensive system possible. They must go individually or else get an accomplice to buy for them . . . There should be liquor or prohibition according to the vote. It would be manifestly better for the Natives, that if licenses were granted it should be granted either to the State or to the municipality, to ensure proper control. There is no other way to limit drinking.⁴⁷³

The third Te Rohe Pōtae speaker was the former mayor of Taumarunui, Alexander Laird, who also stressed the harmful effects of the consumption of inferior alcohol that many in Te Rohe Pōtae – and particularly Māori – resorted to. The Hockley Committee did not receive any statements from opponents of licensing in the King Country, and recommended that, if the whole country did not go dry at the next national licensing poll, 'the people of the Rohe Potae should be given the opportunity of voting as to whether they desire license or not'. The committee's suggested method of voting was the prevailing set of rules in the Licensing Act, which Mr Sarich pointed out made no provision for Māori voting (since licensing districts were Pākehā electoral districts). Mr Sarich thought it quite unclear whether the committee envisaged some special provision being

471. EH Northcroft, evidence to Parliamentary Licensing Committee, 1922, pp161–162 (doc A29, pp135–137).

472. J Ormsby, evidence to Parliamentary Licensing Committee, 1922, p169 (doc A29, pp 138–139).

473. Ormsby evidence, p171 (doc A29, p139).

made for Te Rohe Pōtae Māori to vote, but assumed in any event that the vote of the larger local Pākehā population would be decisive.¹⁷⁴

It may be that the prohibitionists were complacent about the Hockley inquiry, but they were anything but in their response to it. Protest letters and petitions were sent to the Government from around the country. These included a letter from the Methodist congregation in Te Kūiti, which railed against attempts 'to induce the Government to break a sacred pledge entered into between the Government and the Maori race.'¹⁷⁵ Three petitions against any change to the status quo were also forwarded to the Government by Te Rohe Pōtae Māori. One, signed by more than 1,000 people, was presented to Massey in July 1923 by 'a deputation of Natives from the King Country'. At this meeting a Mr Hetet stated that the petitioners were opposed to the compact of 1884 being 'trample[d] underfoot'. A Mr Atutahi said that he was personally unwilling 'to break the compact which has been entered into by my predecessors'. And a clergyman, the Reverend Seymour, added that 'The Natives absolutely repudiate the evidence given by Mr Ormsby of Otorohanga. He simply appeared on his own authority.'¹⁷⁶

Another deputation called on Massey two weeks later, this time consisting of King Country Pākehā. It presented a petition with 1,400 signatures. One of its spokesmen, a Mr Stanton of Taumarunui, stated that Te Rohe Pōtae Māori – as one of the parties to the original agreement – would have to agree to any introduction of licences. Frank Kitt's brother Leonard, the member of Parliament for Christchurch North and himself a former president of the Alliance, objected to the suggestion of Māori having a vote on the matter, describing them as 'a semi-civilised people' who should not be exposed 'to the temptations of the licensed liquor trade'. Stanton clarified that he had only meant that 'the representative men' should decide, not that there should be a vote by all Te Rohe Pōtae Māori.¹⁷⁷ In any event, the cause of those advocating a licensing poll in Te Rohe Pōtae was dealt a blow by the further recollections of the now-78-year-old Stout. He told a prohibitionist gathering in Wellington in August 1923 that, at the sod ceremony in April 1885,

the Natives wished to know if the Government would continue the prevention of alcohol being brought into the Rohe Pōtae district. I told them that I pledged the Government to that effect, and that the Government had already carried out the promise which had been made to Wahanui by publication of the Gazette notice in December . . . We therefore have this position, that there was a bargain made between the Maoris and the Government that this district was to be kept free from the sale of spirituous liquors. That was our bargain, and I might say that this bargain has been referred to since by the Maoris . . . Are we to break the bargain that we made with

474. AJHR, 1922, 1-14, c15, p 2 (doc A29, pp 140-141).

475. Officers and members of the Methodist Church of Te Kūiti to Massey, 4 March 1923 (doc A29, p 141).

476. Transcript of deputation, 12 July 1923 (doc A29, pp 141-143).

477. Transcript of deputation, 26 July 1923 (doc A29, pp 139, 143-144).

them? We got their territory on this condition: no alcoholic liquor was to be sold in that district.⁴⁷⁸

Partly as a result of these strong protests, and partly in response to a new petition by Hone Pihama Te Uru and others, a new parliamentary licensing committee was established in August 1923. It was again chaired by Hockley. Mr Sarich characterised the evidence presented to it on the issue of Te Rohe Pōtae, by both Māori and Pākehā, as falling into two now familiar camps: those who considered that licensing was the best solution to the sly-grogging problem, and those who felt that the original 'compact' should be upheld and strengthened. In the first camp some considered that licensing should be under municipal control, allowing some direct financial benefit to be provided to the Māori community. This group also tended to favour the matter being put to a vote. The second group included the Kingitanga, and preferred any Māori decision to be made by tribal leaders.⁴⁷⁹

One of the first to appear before the committee was the petitioner, Hone Pihama Te Uru. He made the point that, as the sale of land had become the decision of individual owners rather than subject to chiefly veto, so should he be able to vote on liquor licences in the same way that individual Pākehā could. He proposed that the proceeds of liquor sales should go to the local authorities rather than private publicans, denying the suggestion that this idea had originated with Pākehā. Other Māori disagreed. Tuwhakaririka Patena, for example, contended that Stout had promised that 'strong drink' would not be allowed into Te Rohe Pōtae at the sod-turning ceremony, and that the Te Rohe Pōtae leaders present had in turn pledged to gift the land for the railway line. He objected to any move to break Stout's promise. He had brought with him the wheelbarrow and pick and shovel used at the ceremony itself, and claimed that 'no one would have possession of those things only those who are the right descendants of the old people who made the pledge'. He denied that either Ormsby or Pihama Te Uru represented the view of Te Rohe Pōtae Māori.⁴⁸⁰

Stout himself then appeared before the committee. His recollection of the events of 1885 was as follows:

The Maoris made a request to the Government; if you will refer to *Hansard* you will see that Wahanui was called to the bar of the House and made a speech in which he referred to this question of licensing and demanded that there should be no liquor. That was in 1884. Then the question arose about the opening of the railway. When I arrived at Alexandra in April 1885 I found that there had been no final agreement. I went to the house of Wahanui and had a conversation with the natives. There were also natives from the Waikato present. Two of the native Waikato delegates objected to permission being given to turn the first sod. After considerable discussion and a

478. *New Zealand Herald*, 3 August 1923, p 5 (doc A29, pp 143–145).

479. Document A29, p 145.

480. 'Transcript of the examination of Mr Partene', 23 September 1924 (doc A29, pp 150–151); doc A29, pp 146–151.

speech by Wahanui, the natives agreed. I then spoke and said it was settled that one of the conditions was that the land was not to be opened for the sale of liquor. – You have seen, I presume, the petition presented by Wahanui in which reference was made to the sale of liquor in the district. That was emphasized, and when the first sod was turned some hours later I addressed the natives and mentioned what the agreement was in reference to that matter. To show you what the natives thought, when the new Governor Lord Glasgow, arrived, a telegram was sent by Rewi Maniapoto asking that no liquor should be sold in the King Country. So you will see that it was a bargain made between the Government and the Maoris of the King Country that the land was not to be opened for the sale of liquor. That was agreed to by the Government of the day. I do not think there was any formal resolution passed by the House, but not a single member of the House, so far as I know, ever raised an objection to this bargain being carried out by the Government. The natives gave up the land on the faith of that bargain, and therefore, as a citizen, I think it would be a disgrace to the Colony if that bond were broken. We ought to look upon ourselves as the helpers of the Maoris and to do all we can to preserve the race, but if we are going to do something to kill the race it will be a disgrace to civilisation.⁴⁸¹

Stout considered that the no-licence agreement ‘was to hold good for all time’.⁴⁸²

The Hockley committee decided not to make a recommendation in regard to Pihama Te Uru’s petition, and merely referred the other petitions that were in protest to its first report to the Government for consideration. The recommendation by the first Hockley committee that a licensing poll be held in the King Country was removed from the report of the second committee. Mr Sarich considered that the Te Rohe Pōtae liquor licensing issue had become ‘a political “hot potato”’, in a reflection of the tense nationwide struggle in the 1920s between the prohibitionist lobby and the liquor industry. In this climate – with the prohibition cause polling at nearly 50 per cent at the 1922 election – the Government had no stomach for decisive action. Mr Sarich described the question of Te Rohe Pōtae licences as being ‘left in abeyance’. It is clear, also, that Te Rohe Pōtae Māori were divided on the issue, although Mr Sarich appeared to imply that the advocates of the status quo were now predominant. He remarked that the Te Rohe Pōtae leaders ‘had mobilised a significant level of protest in reaction to efforts to introduce licenses’.⁴⁸³

There is no doubt, however, that the resort to inferior alcohol was having a harmful effect on Te Rohe Pōtae Māori, as Ormsby and others claimed. In late 1924 the Maniapoto Māori Council devised special bylaws that set out fines for any Māori or Pākehā selling methylated spirits without a permit and fines for any Māori ‘who drinks or procures Methylated Spirits (Mete) in any quantity whatsoever without a permit’. Buck – in his role as director of Māori hygiene – approved these for gazettal, having been told of ‘the amount of drinking of methylated spirits

481. “Transcript of the examination of Sir Robert Stout,” 3 October 1924 (doc A29, p 153).

482. “Transcript of the examination of Sir Robert Stout” (doc A29, p154).

483. Document A29, pp155–157.

by the Natives.’⁴⁸⁴ Newspapers of the day certainly carried numerous stories about the drinking of methylated spirits in Te Rohe Pōtae. In June 1919 a member of the Te Kuiti Chamber of Commerce remarked that ‘it was being consumed internally in very large quantities by confirmed drunkards’.⁴⁸⁵ It appears that Te Rohe Pōtae gained an unwelcome reputation for this. In a 1927 case in the Hamilton Supreme Court a witness admitted to drinking methylated spirits ‘when he could get nothing better’. The judge asked him if he came from the King Country and, when he replied that he did, the judge remarked ‘I understand.’⁴⁸⁶ It was not just methylated spirits that caused acute inebriation. Rewi Nankivell recalled, when he was much younger, being told the following by his grandmother Makere Ngaraima Bell:

i a au i tupu ake ki konei, i kitea au te haurangi hoki o ngā whanaunga ki te tiriti matua o Te Kuiti. Arā, ko te tiriti Rora tērā. He tamahine tonu au i te wā i kitea ai ōku whanaunga e moe ana i ngā tahataha o te tiriti Rora. Nā te haurangi, nā te kaha hoki rātou ki te inu wihikē. Mai i te ao ki te pō, e pērā ana taua āhuatanga.⁴⁸⁷

When I grew up here I saw the relations drunk on the main street of Te Kūiti. That was Rora Street. I was young at that time and I saw my relatives sleeping on the sides of Rora Street. That was due to them being drunk and because they drank so much whiskey. They did that day and night.⁴⁸⁸

It seems that this recollection referred to the 1920s or 1930s.⁴⁸⁹

23.8.5 How did the licensing debate proceed from the mid-1920s to the mid-1940s?

The years that followed the second Hockley committee saw further petitions and depositions from both sides of the no-licence debate and from both Māori and Pākehā. In July 1926, for example, Ngohi Ngatai and 211 others petitioned asking for either complete prohibition (which they claimed had been Wahanui’s actual request in 1884) or a vote on licensing by Te Rohe Pōtae Māori. They were countered by a deputation of 35 Ngāti Maniapoto ‘elderly chiefs’ who delivered – in the wheelbarrow from the sod-turning ceremony – a ‘declaration of protest’ to the Native Minister and Attorney General the following month. The first signature on the declaration was that of King Te Rata.⁴⁹⁰ The declaration implored Te Rohe Pōtae Māori as follows:

484. Te Rangi Hiroa to Under-Secretary, Native Department, 5 January 1924 [sic: 1925] (doc A29, pp79–80). For some reason, despite Buck’s request for urgency in January 1925, the gazettal did not take place until the start of 1927.

485. ‘A King Country Evil, Drinking Methylated Spirits’, *Press*, 16 June 1919, p5.

486. ‘Judge Understands’, *Evening Post*, 9 December 1927, p8.

487. Document 115 (Nankivell), p5.

488. Tribunal translation.

489. Document 115, p5; doc H5(b) (Nankivell), p5.

490. Document A29, pp 162–164.

No reira e te lwi, kau ra hei whakaoho i te moe a nga matua. Kia tupato ki nga whakawainga o te Pakeha. Waiho tatou ma etahi huarahi atu i te Pakeha e patu ko te huarahi i waiho iho ai e Rewi e Wahanui hei taiepa iho koutou kei pera Koutou ma era atu lwi otaua o te lwi Maori. No reira kia mau ki te kupu e tu ra 'Ka whawhai tonu, Ka wbawhai tonu ake ake.' Heoi ano na o koutou matua.⁴⁹¹

This was translated by the Government as follows:

Now oh people do not disturb the sleep of your ancestors. Beware of this temptation from the pakeha. The path which was marked out by Tawhiao, Rewi Maniapoto and Wahanui is safe for you. In it you will not be injured by strong drink like the other Maori people (those who live in licensed areas). Therefore stand firm. The historic words stand. (They represent our attitude on this question. 'Ka whawhai tonu matou, Ka whawhai tonu ake ake!') (We will fight continually, we will fight for ever.) There it is. From your Fathers.⁴⁹²

Parliament came to consider the Te Rohe Pōtae licence ban the following year in the debate on a new Licensing Amendment Bill. Prime Minister Gordon Coates felt he had too little evidence about the agreement of the 1880s to interfere with the current settings. Waitomo member of Parliament John Rolleston, however, advocated for King Country residents to have a local option poll, as was afforded others. He also carefully examined Wahanui's November 1884 speech to Parliament, and concluded that it consisted of two requests: that there should be absolute prohibition, and that Te Rohe Pōtae lands should be protected from purchase. Neither of these requests had ever been fulfilled, he said. With specific regard to liquor, he remarked that, if such a pact had been made, Māori had repudiated it by 1891 with their request for hotel licences. Rolleston added that not allowing Māori a vote on the subject was paternalistic, and thought that Te Rohe Pōtae Pākehā were also unfairly treated, given that they now outnumbered Māori in the district by 24,000 to 4,000. Ngata essentially agreed with Rolleston, considering the most important thing was to act 'in the interests of the Maori people'. As it transpired, the Bill did not pass, in any form.⁴⁹³

The 1930s saw a continuation of the status quo, despite the sly-grog problem worsening. In 1929, in fact, the Maniapoto Maori Council had requested further help from the Health Department to address the drinking of methylated spirits. It appears that the council had forgotten about their existing bylaws. As the council's chairman told Ellison,

Our Council feel that something should be done in the way of placing restrictions on the sale of methylated spirits to natives and Pakehas. This form of drinking

491. 'The Solemn Testamentary Declaration of the Chiefs of the Maniapoto (King Country) Tribes', not dated (doc A29(a), p 1410).

492. Document A29, p164.

493. Document A29, pp167–170.

is growing in the King Country and we feel that something in the way of legislation should be brought forward at an early [sic] to combat this evil.⁴⁹⁴

Ellison replied by pointing out what powers the Maniapoto Maori Council already had in this regard. This may have spurred the council into imposing fines for possession or misuse of methylated spirits. In 1931, the director of health wrote to the council congratulating it 'on the very firm stand it has taken in endeavouring to combat this dangerous practice'.⁴⁹⁵ This was by no means sufficient to address the scale of the problem, however. Mr Sarich observed that it continued during the 1930s, with sanitary inspector Anthony Ormsby reporting in 1933 that the consumption of methylated spirits was 'prevalent' throughout 'most of the King Country'. Moreover, the Maniapoto Maori Council had no control over storekeepers outside its district and, by 1935, was finding it very difficult to extract fines. The slygrog problem appears to have peaked in around 1939, as evidenced by convictions for alcohol-related crime. This included 42 convictions in Te Rohe Pōtae in 1938 and 1939 combined for 'supplying liquor to natives'.⁴⁹⁶ Skerman's view was that increased transport routes into the district and the weight of the Depression exacerbated drinking problems.⁴⁹⁷

Claimant evidence attested to the ease by which liquor could be brought into Te Rohe Pōtae via road and rail. Hardie Peni of Ngāti Rereahu told us that 'During the time of prohibition, our people would order alcohol from Kihikihi and a driver was despatched to deliver the items to Rangitoto'.⁴⁹⁸ Rewi Nankivell told of the kōrero passed on to him in this regard by his mother:

I konei ka huri au ināiane ki tētehi kōrero o tōku whāea a Georgina Turner-Nankivell. E waru tekau tōna pakeke. Kua puta āna kōrero mō te hokonga atu o te waipiro mai i 'Te Teihana o Te Kuiti' i ā ia i tūpu ake ki Te Kuiti. Me pēnei tāna kōrero: 'i te wā i tupu ake au ki Te Kuiti, ka kite au te rahi hoki o Ngāti Rora e hoko waipiro ana mai i "Teihana Rerewe." E ai ki ana kii: mehemea e pirangi waipiro ana, nā te 'Kaiwhakahaere Teihana Pākehā' i kōhi te putea mō te waipiro, e tohatoha ana te waipiro ki ngā Māori i teihana.

Nā, i kōrero atu anō ia mō tētehi tāima i kite ia i te 'Taraiwa Tekehī', ka tac haere atu ki Kihikihi hoko waipiro ai. Ā, kātahi ka hoki mai te tangata nei ki Te Kuiti me te kii hoki i tōna tekehī i te waipiro. Nā kona te nanakia i hokonga atu te waipiro ki ngā uri o Ngāti Rora. Ahakoa kua aukatingia tonu te whenua o Ngāti Maniapoto ki te hoko

494. Document A29, pp83-84.

495. Document A29, p84. In early 1931 the press reported that 'There has been a noticeable increase of methylated spirit drinking among Maoris in the King Country and at a sitting this week of the Maniapoto Maori Council, whose control runs over the Northern King Country, roughly, from Te Awamutu to Taunaranui, fines totalling over £40 were inflicted on natives convicted of this offence': 'Drinking by Maoris; Use of Methylated Spirits', *New Zealand Herald*, 31 January 1931, p15.

496. Document A29, pp85-86, 177-178.

497. Document A31, p230.

498. Document S40, p8.

waipiro. Kua hoko tonutia e te Pākehā i te waipiro ki te hapū o Ngāti Rora. Koinā ētehi o āna maharatanga i roto i ngā tau 1940 ki te 1950.⁴⁹⁹

Mr Nankivell translated this as follows:

I now turn to my mother, Georgina Turner-Nankivell. My mother has recently celebrated her 80th birthday. My mother shared her recollections with me, which included the sale of alcohol from the 'Te Kuiti Train Station' while she was growing up in Te Kuiti: When I grew up in Te Kuiti, I saw a lot of my family from Ngāti Rora purchasing beer from the Te Kuiti Train Station. She also said: If you wanted to purchase beer, all you needed to do was approach the Pākehā Station Master, he would collect the money for the beer and the beer would arrive on the back of the train where he would distribute to Ngāti Rora families at the station.

My mother recalled times where the taxi driver purchased beer for her relatives in Te Kuiti: The taxi driver would travel through to Kihikihi to purchase beer for parties in Te Kuiti. He would then travel back to Te Kuiti with a taxi full of beer for my relatives in Te Kuiti. Even though this was a dry area and there was prohibition on alcohol, the taxi driver would still persist and sell alcohol from his taxi. My mother recalls these events happening during the 1940s to 1950s.⁵⁰⁰

Mrs Turner-Nankivell told us that the notion of Te Rohe Pōtae being a 'dry' area was misplaced. She recalled: '[s]ometimes you couldn't get on the platform at the railway station because it was covered in kegs. Home brew was brewed here a lot. I have never seen more alcohol than what I did when I was a kid.'⁵⁰¹

Some Te Rohe Pōtae Māori continued to press for change to the no-licence rules. The 1926 petition of Ngohi Ngatai and others was presented by the Waitomo member of Parliament Walter Broadfoot in 1934, but then withdrawn after criticism that it was now years old. In 1936, however, Broadfoot submitted another petition signed by Hurakia Tawhaki Matena and 69 others (Matena was the koro of claimant Hine Hine Rei).⁵⁰² This was drafted by Pei Te Hurunui Jones, the secretary of the Maniapoto Maori Committee, who had formed a committee of 'young Maniapoto tribal leaders'. The petition asked that, if liquor licences were introduced into Te Rohe Pōtae, then a fee of £500 should be paid by each hotel annually to a Māori trust board to administer for the benefit of the Māori people. The petitioners reasoned that a local vote in favour of licences appeared 'inevitable', and that Māori should reap some benefit from this outcome. The petition was also signed by the chairman of the Maniapoto Maori Committee, Tamahiki Waeroa.⁵⁰³

The petition aroused predictable opposition from the prohibitionists, who described it as an attempt to break the 'covenant' and the proposal for £500

499. Document 115, pp5–6.

500. Document 115(b), p6.

501. Document 145, p5.

502. Document 17, pp12–13; doc Q7(b).

503. Document 129, pp170–174.

fees as a 'bribe' to Te Rohe Pōtae Māori. The opposition of other Māori in the district on this occasion, however, was not quite as forthright as previously. Mr Sarich speculated that there may have been a sense among the tribal leadership that the income generated from the trust board scheme could fund a new system of tribal governance, and thus replace the financially crippled Maniapoto Maori Committee. For his part, the Under-Secretary of Native Affairs considered that Te Rohe Pōtae Māori should be able to waive the condition that had been instigated for their benefit, but was not enamoured of the trust board plan. He felt that it 'commercialises the promises made to the Maoris by former Administrations', and noted the small number of petitioners. The Native Affairs Committee decided that no action should be taken.⁵⁰⁴

At this stage it appears that the majority of the Ngāti Maniapoto leadership remained committed to preserving the status quo. An important hui at Te Kūiti in August 1936 resolved that the word of Wahanui in 1884 should be followed. It was reported that the participants considered that the issue of liquor should not be 'again brought forth by certain parties in an endeavour to violate the sacred pacts of the past'. The hui also considered the Labour Government's emphasis on equality, which – in the context of liquor – would mean that Te Rohe Pōtae Māori might be expected to be able to vote on the matter if their Pākehā neighbours were given the right. Perhaps for this reason, the hui resolved that 'the Ngāti-Maniapoto were not yet ready for equal status, and though they appreciated the sincere desire of the Premier to improve their standing, it was felt that much improvement could readily be effected without the institution of 'equal status'.⁵⁰⁵

Mr Sarich took from this that the rangatira and kaumātua preferred to maintain their right to speak for their people after consensus-building meetings, rather than allow individual decision-making at the ballot box.⁵⁰⁶ This was in keeping with the position the deputation to Coates had taken in 1926.⁵⁰⁷

As we have noted above, from the late 1930s workingmen's and returned services clubs began flouting the Te Rohe Pōtae liquor laws and selling drinks over the bar. Given the ongoing problems with illicit liquor, the police made no effort to counter this development, and it may well have significantly lessened the resort to sly-grog. As we have also mentioned, Māori were generally excluded from these clubs (as indeed also were women). George Searancke, who was born in 1929, worked on the railway as a young man during the period Māori were excluded and recalled seeing liquor being freighted in on the trains for illicit consumption by Māori:

In the consignment of goods that I carried was a significant amount of alcohol. It was all addressed to pakeha names to accommodate the law. I remember that all the

504. Under-Secretary to chairman, Native Affairs Committee, 14 April 1936 (doc A29, pp174–176).

505. 'Interests of the Maori', *King Country Chronicle*, 22 August 1936, p 4 (doc A29, p 176).

506. Document A29, p177.

507. Document A29, p164. The deputation had responded negatively to Coates's question as to whether they would consider holding a referendum on liquor licensing.

23.8.6

boys in the goods-shed, including the Wi boys would laugh as we all knew where all the beer was going. Why would a pakcha cart his beer from Hamilton when they could buy the stuff from the clubs in Te Kūiti.⁵⁰⁸

The clubs' marginalisation of Māori did not sit easily with Erana Mokena Patupatu, who in May 1939 wrote to the Prime Minister calling for the introduction of liquor licences. A reason she cited was the exclusion of Māori from the Ōtorohanga workingmen's club, thus affording Pākehā only a venue in which to meet and drink. In 1939, the Secretary for Justice recommended a royal commission on liquor laws but, as had happened with Massey's proposal of this nature in 1914, the onset of war intervened. Pressure on the Government from the King Country local authorities and from the National Party of Sidney Holland did, however, lead to a commitment by the Government to hold a commission of inquiry if it was re-elected at the 1943 election. The Royal Commission on Licensing (RCL) was finally established in January 1945 under Justice David Smith, and began hearing evidence in July that year.⁵⁰⁹

23.8.6 What was the outcome of the Royal Commission on Licensing?

Before the RCL began, the Te Rohe Pōtae iwi met at Te Kūiti in late April 1945 to discuss the liquor issue. The hui resolved that, first, there should be absolute prohibition and, secondly, that there should be no referendum on the subject. However, it resolved further that, in the event of licences being introduced to Te Rohe Pōtae, then the trust board system outlined in the 1936 petition of Matena and others should apply, including the annual £500 payment by hotels to the proposed Māori trust board. It gave as an alternative the collection by the Government of the proceeds of liquor sales and the distribution of an amount not less than £500 per licensed establishment to the trust board. Unlike in 1936, the hui's resolutions did not refer to the inevitability of liquor licensing in the district.⁵¹⁰ However, the stated preference for total prohibition was in keeping with past statements by both sides of the debate, and suggests that the hui had reached a compromise position that most Te Rohe Pōtae Māori could live with: licensing should be opposed, in accordance with Wahanui's original position, but a scheme that would benefit Māori should be advocated in the event that licensing was introduced.

Pei Jones spoke to these resolutions before the RCL at Te Kūiti in July 1945. He was accused by counsel for the Alliance of being Pākehā-influenced and having hijacked the April 1945 hui after most of the elders had left in order to advance the pro-licensing agenda. Jones denied this, stating that the trust board plan was a "last ditch" defence to ensure that some Māori control over liquor would exist if licences were introduced. If liquor was prohibited, he added, then 'well and good'. The chairman of the April hui, Tame Reweti, backed Jones's version

508. Document H21 (Searancke), para 34.

509. Document A29, pp170, 178–180.

510. Document A29, pp180–182.

of events.⁵¹¹ However, other Māori witnesses before the RCL were opposed to the resolutions set out by Jones. Tita Tauī Wetere of the 'Waikato-Maniapoto Council' (a Kingitanga body backed by the Alliance) contended that the April hui was but another case of Pākehā interests manipulating Te Rohe Pōtae Māori over liquor. He claimed that his council had circulated a statement that accorded with what 'the chiefs and people really wanted', and that it had been signed by all but one of the 36 'leading "Elders and Chiefs"' and by 2,264 Te Rohe Pōtae Māori, which equated to 93 per cent approval.⁵¹²

The wording of this statement, and its translation, were as follows:

He Whakamahatanga

Ko matou ko nga Kaumatua me nga Rangatira Morehu o nga Hapu o roto i te Rohe-Potae e hiahia ana kia tino mohio mai koutou ko nga Honore Mema o te Komihana (Licensing Commission), kahore matou e whakaae ana kia hokona he waipiro ki roto i te Rohe-Potae. Me mau tonu te Ohaki (Pact), notemea i hanga e o matou Matua tenei Kirimini ki te Kawanatanga ko te take he whakaaro no ratou ki te whakaora ia matou i nga morehu o te iwi a, ko matou ko o ratou uri e whai tahi ana kia ora to matou iwi, noreira ka tino kaha ta matou tautoko i tenei Ohaki.

E tino inoi ana matou kia purutia tonufia tenei Here kia kaua e hokona mai te waipiro ki to matou iwi Maori a, kia whakakahangia hoki te ture e pa ana ki taua take hei mea i puta ai te painga ki to matou iwi me a matou tamariki, mokopuna a, e tino hiahia ana hoki matou kia pumau tonu nga ture katoa a, kia kaha ake nga Rekureihana e pa ana ki te waipiro koia nei tenei te tino hoariri o te iwi Maori.

A Memorial

We, the Elders and the remaining chiefs of the Tribes within the King Country, desire it to be known unto you the Honourable Members of the Royal Commission on Licensing, that we will not agree to the sale of alcoholic liquor in the King Country. The Pact must remain firm because this Agreement was made between our Fathers and the Government to protect us the remnant of the race and we their descendants desiring the welfare of our people strongly support the said Pact. We earnestly request the continuance of the restrictions prohibiting the sale of intoxicating liquor to the Maori people and the rigid enforcement of the law respecting the same in order that our people and our children and our grandchildren may derive the most benefit thereby and we strongly desire the continuance of all laws and the strengthening of the regulations restricting intoxicating liquor which is the greatest enemy of the Maori race.⁵¹³

Crown counsel put it to Wetere that the statement he had presented and the resolutions of the April hui actually had much in common, with the only

511. Royal Commission on Licensing, 1945, notes of proceedings, vol 33, p4811 (doc A29), pp183-185).

512. Royal Commission on Licensing, notes of proceedings, vol 33, p 4909 (doc A29, pp186-187).

513. 'He Whakamahatanga', 18 June 1945 (doc A29(a), p1922).

difference being the hui's idea of a trust board. Wetere said there was 'no "if" in my attitude' – a reference to Jones having described the trust board scheme as only an 'if (a big "if")'. Smith asked him if he would support a Māori referendum on the subject and, in likelihood because of his claim of such overwhelming support, Wetere initially said he would. He later withdrew this statement, however, explaining that his council opposed any referendum.⁵¹⁴ As it happened, the proportion of his 2,264 signatories who actually resided in Te Rohe Pōtae became a matter of dispute. Matengaro Hetet was asked to inspect the list by Smith and considered that only 30 to 40 per cent were locals. The matter was unresolved but must have been an important one for Smith, who was presumably already thinking that matters should be put to a vote. Two other Māori witnesses appeared who were aligned neither to Wetere nor to Jones but both of whom affirmed the importance of honouring the original pact. Two others, however, wanted either the no-licence ban lifted (in the case because of Waimarino Māori, because of its harmful effect) or returned Māori serviceman to have the same rights to club membership as 'our Pakeha brothers in arms'.⁵¹⁵

Mr Sarich summarised the non-Māori evidence to the RCL as follows. A variety of church and Alliance witnesses argued for the licence ban to continue. In doing so, they supported the testimony given by Māori about the arrangement reached in the 1880s and tended to give much greater weight to Māori oral tradition than other Pākehā witnesses. Mr Sarich characterised their evidence as paternalism mixed with 'first hand experiences of the negative effects of alcohol on the health and welfare of Maori communities'. The Under-Secretary of Native Affairs told the RCL that Te Rohe Pōtae Māori were divided, and recommended that a referendum be held. Pro-licensing witnesses were mainly Pākehā from Taumarunui. One of these, Matthew Wilks, argued that complete prohibition – the original Māori request – was no longer a viable option and that the best solution was the introduction of licences. A trust board could administer the profits for the whole community. Wilks proposed that one seat on the trust board out of seven be reserved for Māori.⁵¹⁶

The RCL issued its report in 1946. It concluded that the current situation was untenable, having been particularly swayed by the evidence of the negative effects of the illicit trade in alcohol. It favoured the issue of licensing being put to a vote. It considered, however, that Te Rohe Pōtae Māori had an entitled position on the subject, and therefore recommended that the question first be put to a vote among Māori electors. If a threshold of 60 per cent in favour was reached, then the question would in turn be put to the Pākehā residents. As the RCL put it in its report:

514. Royal Commission on Licensing, notes of proceedings, vol 33, p4917 (doc 129, pp184, 186-188).

515. Evidence of Thomas Matengaro Hetet, Royal Commission on Licensing, notes of proceedings, vol 33, pp486-487 (doc 129, pp 187-190).

516. Document 129, pp190-193.

If the Maori people decide against open licenses, the Europeans cannot complain if they are not permitted to vote on the question whether there should be open licenses. The Europeans came into the King-country, knowing the nature of the present restrictions, and they must await the decision of the Maori residents on the question of open licences.⁵¹⁷

In recommending that the matter be put to a vote, the RCL essentially went against the position often expressed by Te Rohe Pōtae Māori leaders that they should decide the matter themselves after consulting their people. And, in a further undermining of the prospects of keeping liquor out of Te Rohe Pōtae, the RCL recommended that clubs be issued charters to sell alcohol even if the Māori vote failed to reach 60 per cent. It did believe, however, that any licensing regime adopted upon a 'yes' vote should be subject to community control.⁵¹⁸ In an appendix, Smith also examined the events of the 1880s in detail and rejected the idea that there had been an unbreakable compact. In his assessment, there had never been a bargain or deal struck over liquor and the land for the railway line. Rather, Smith considered that Te Rohe Pōtae Māori had made a separate arrangement concerning licences prior to striking any agreement over the land for the line, and they had in fact expected to be paid for the land. That there had been no 'solemn pact', said Smith, was demonstrated by Wahanui's request in 1891 for the Temperance Hotel licence in Ōtorohanga.⁵¹⁹

In his appendix Smith also considered the apparent confirmation by Stout in later years that he had agreed, at the sod-turning ceremony, that no liquor would be allowed into Te Rohe Pōtae at all. Smith felt that Te Rohe Pōtae Māori may have been confused about the effect of the proclamation, and were stating their preference on the day for the district to be entirely liquor-free. In pledging the Government's commitment to this objective, wrote Smith, Stout must have been thinking of the December 1884 proclamation, which he would have regarded as 'a sufficient answer to the request'. In any case, thought Smith, Stout's remarks at the ceremony could not have amounted to a 'pact', especially a binding one.⁵²⁰

The reason the RCL recommended a referendum appears to have been that it was convinced that Te Rohe Pōtae Māori were deeply divided on the question, particularly along generational lines (with the elders preferring to retain the status quo). Wetere made the point after the report's release that Māori opinion had in fact been relatively united. As he put it, 'all except representatives of a very small group spoke in favour of the Pact being sustained'. He also criticised Smith for collecting 'new evidence from incomplete and Pakeha-coloured Government files'.

517. AJHR, 1946, II-38, p230 (doc A29, p194).

518. Document A29, pp193-194.

519. Document A29, pp195-196.

520. AJHR, 1946, II-38, appC, p372 (doc A89, pp27-29).

23.8.7

He and others established the King Country Sacred Pact Committee (KCSPC) to continue the fight against the introduction of licences.⁵²¹

23.8.7 What were the results of the referenda of 1949 and 1954?

The Government prepared a Licensing Amendment Bill that incorporated the key recommendations of the RCL, and referred it to a select committee in November 1948. In response, the KCSPC held hui at Ōtorohanga and Te Kūiti and forwarded a statement to the Minister of Justice demanding ‘that the King Country Pact entered into in good faith by our fathers should be kept inviolate.’⁵²² Te Puea, among others, also expressed her concern. Māori from Waimarino, however, again dissociated themselves from this protest and reiterated their desire for Waimarino to be severed from the no-licence area. The Bill itself provided for a vote for both Māori and Pākehā, with each to be asked whether they wanted the introduction of licences and, if so, whether they preferred trust control of this or not. Whereas the RCL had recommended that there remain restrictions on male Māori off-licence drinking and full restrictions on female Māori drinking, the Bill provided for no such controls.⁵²³

When members of the House came to debate the Bill they generally accepted the correctness of Smith’s conclusions. That is, they felt there had been no binding agreement, and thus there was no legal obligation on the Government to maintain the no-licence rules. The fairest way of gaining clear Māori agreement, they reasoned, was a referendum. As Thomas Webb, the member for Rodney, put it, it was intolerable ‘in these modern days’ for the Māori elders to argue that the matter was tapu and should not be put to a vote.⁵²⁴ The Māori members of Parliament largely went along with this. Eruera Tirikatene, for example, accepted that a poll with a 60 per cent threshold for change was fair, even if he accepted that Te Rohe Pōtae Māori had a different understanding of the events of the 1880s. The Bill was passed into law on 3 December 1948 and the referendum held on 9 March 1949.⁵²⁵ Mr Sarich set out the results in two tables, which we reproduce below, with minor modifications.⁵²⁶

Neither Mr Sarich nor Dr Loveridge commented on the fact that the total vote was 15.2 per cent higher for Pākehā in response to the trust control question than for the licensing question and yet 10.1 per cent higher for Māori in response to the licensing question than the trust control question. It seems odd to us that more Pākehā would vote on the secondary issue than the first, but we cannot take the

521. Maori King Country Sacred Pact Committee, *Te Kingi Kanatere Ōhaki Tapu me te Kōmihana Raihana: The King Country Pact and the Licensing Commission* (Te Kūiti: Maori King Country Sacred Pact Committee, 1949), p3 (doc A29, pp196-200).

522. *Waikato Times*, 13 November 1948, p6 (doc A29, pp201-202).

523. Document A29, pp202-203.

524. ‘Licensing Amendment Bill’, 30 November 1948, NZPD, vol 284, p4219 (doc A29, pp203-204).

525. Document A29, pp203-205.

526. Document A29, p205. While Mr Sarich labelled the non-Māori voters as Pākehā, we understand from Dr Loveridge’s evidence that they were referred to on the ballot as ‘other than Maori’: doc A89, pp12-13. We have also used one decimal place for the percentages (Mr Sarich used two or none).

Non-Māori	Votes	Percentage	Māori	Votes	Percentage
For	7,737	80.8	For	1,550	50.4
Against	1,844	19.2	Against	1,527	49.6
Majority	5,893		Majority	23	

Table 1: Results of the 1949 referendum (licensing issue)

Non-Māori	Votes	Percentage	Māori	Votes	Percentage
For	8,300	75.2	For	1,957	70.0
Against	2,738	24.8	Against	838	30.0
Majority	5,562		Majority	1,119	

Table 2: Results of the 1949 referendum (trust control)

matter any further. Nor did we receive any evidence about the turnout by either Māori or non-Māori. The result, in any event, was against the introduction of licences because the Māori vote in favour had not reached the threshold of 60 per cent. However, the legislation had – as per the RCL’s recommendation – provided that clubs would still be eligible for charters to sell drinks if the Māori vote did not cross the hurdle.

Despite the continuation of the no-licence area, the referendum brought about considerable Māori dissatisfaction. A very large deputation led by King Koroki, Te Puea, and Ngāti Maniapoto rangatira met Prime Minister Peter Fraser in Wellington on 30 March 1949. Wetere read a statement claiming that the consultation Fraser had previously promised had not materialised, and that the ‘solemn pact’ had been ‘ignored and insulted’. Fraser was unapologetic, and did not rule out the matter being put to another vote at some point in the future. In April 1950 Te Puea asked the Government to refer the matter to the United Nations. These protests were in vain, however. In August 1949 tourist house licences were issued at Waitomo and the Chateau Tongariro, and in May 1950, 12 charters were awarded to Te Rohe Pōtae clubs. The Māori opponents of these developments may well have sensed an inexorable move towards full liberalisation of local liquor laws.⁵²⁷

Indeed, pressure was mounting at the same time from proponents of licensing for another vote. The member for Waimarino, Patrick Kearins, proposed that a separate vote be held for Māori in his electorate, whom he considered to be more than 60 per cent in favour of change. The member for Waitomo, Broadfoot, advocated a second, combined vote of Māori and Pākehā at the next election (which would clearly result in a large majority in favour of licensing). Then, in August

527. Document A29, pp 206–208.

1951, the governing National Party made it an election policy that such a joint vote would be held, at the same time as the 1954 election. Labour opposed this, but National's election victory effectively began the countdown to the introduction of liquor licences into Te Rohe Pōtae. The volume of protests, however – including six petitions from Te Rohe Pōtae Māori alone in September and October 1953 – caused the Government to hesitate, especially after some unease among its own ranks. In late September 1953 it appointed the parliamentary historian, A H McLintock, to inquire into the 'existence or non-existence of a King-country Licensing Pact'.⁵²⁸

Mr Sarich described McLintock's report, which was completed a month later, as 'the final blow against arguments in opposition to the introduction of licenses which were based on the agreements of the 1880s'. McLintock effectively endorsed Smith's research and conclusions, finding that there had been no irrevocable pact in the 1880s. He considered the request for a no-licence proclamation both to have been 'inspired' by the prohibitionists and to have had nothing to do with the agreement to construct the main trunk railway.⁵²⁹ Like Smith, McLintock thought that Te Rohe Pōtae leaders at the sod-turning ceremony had been labouring under a misunderstanding that the December 1884 proclamation prohibited any alcohol from entering the no-licence district. He also dismissed the statement by Ormsby to the first Hockley committee as 'hopelessly confused' and Stout's remarks of August 1923 as being either the result of 'failing powers of memory' or, at the least, 'partisan'.⁵³⁰

Mr Sarich argued that McLintock had 'demonstrated minimal understanding of the Maori perspective' of the negotiations of the 1880s, 'failing to consider them holistically as a concerted effort by Rohe Potae leadership to retain control over their land and communities while accepting selected aspects of Pakeha settlement'. Mr Sarich felt McLintock had reached this point by privileging written sources over any other forms of evidence. Indeed, McLintock was quite dismissive of Māori memory and traditions about what had been agreed. As he put it in his report,

Before this report is concluded it is only fair to the Maori people of the King Country to make reference to the evidence which has been submitted from time to time from them or on their behalf. That many of these petitioners and memorialists believe most sincerely in the existence of a pact cannot be gainsaid. Unfortunately, the grounds on which their belief is based are far from satisfactory. With all the good will possible, the historian cannot escape the conclusion that much of what is attested to owes its origins to the circumstances of a half-century ago. A general vagueness on what ought to be clear, combined with errors and discrepancies on fundamental points, renders invalid a great mass of traditional evidence.⁵³¹

528. Document A29, pp208–210; *Waikato Times*, 12 September 1953, p6 (doc A29, p210).

529. Document A29, pp210–211.

530. Document A89, pp38–39, 57–58; AJHR, 1953, H-25, pp 48, 51 (doc A89, pp57–58).

531. Document A29, pp211–212; AJHR, 1953, H-25, p56 (doc A29, pp211–212).

On the other hand, Dr Loveridge thought that McLintock's research was sufficiently thorough to reach his conclusions, which Dr Loveridge believed to be the correct ones. While Mr Sarich and others had argued that both Smith and McLintock had failed properly to consider Māori oral evidence, Dr Loveridge believed that doing so would not necessarily have led them to any different conclusion.⁵³²

Given the findings in McLintock's report, the Maori Affairs Committee made no recommendation on the six Te Rohe Pōtae petitions. Iriaka Rātana, the member for Western Maori, objected to this, decrying the lack of understanding of 'Ohaki' among her Pākehā colleagues.⁵³³ Nonetheless, the Government moved directly in late 1953 to pass legislation to allow a new, joint licensing referendum. Holland argued that the Māori minority in the King Country should not be able to exercise a veto over the majority, and that it was only democratic to allow for a joint vote. Opposition leader Walter Nash, in perhaps a surprising development given Labour's attitude during its years in power, argued that McLintock had focused too narrowly on written sources, and that Māori were well known to have placed great importance on verbal agreements. He remarked that 'There is nothing more magnificent in the record of the Maoris than the manner in which they expected their word to be accepted.' Nash felt that McLintock had been requested simply to disprove Māori assertions, and that – because they were party to the original agreement with the Crown – Māori agreement was needed first before the licence ban was lifted.⁵³⁴

The Government mustered the numbers to pass the necessary amendment, notwithstanding some misgivings within their ranks. It is not entirely clear to us whether there was a conscience vote or not, but the defeat of Rātana's proposed amendment to allow a separate Māori poll by 38–33 suggests that some National members voted for it (the composition of the House after the 1951 election was National 50 and Labour 30). As a result of the amendment, the referendum was held in November 1954 in conjunction with the general election. Unsurprisingly, the result was a clear victory for the advocates of licensing.⁵³⁵ Again, Mr Sarich set the results out in tabular form, which we reproduce below. Once again, we do not know what the vote represented in terms of the turnout of eligible electors.

Liquor licences began to be issued by the local licensing committees in early 1955. This excluded Te Rohe Pōtae Māori from any say in the licensees' locations, as the committees were voted in by the (Pākehā) voters of the general electorates. In March 1955 a hui of 'Maniapoto Maori' passed a resolution which it forwarded to the Minister of Maori Affairs:

532. Document A89, pp77–8.

533. 'Alleged King Country Pact: Report of Select Committee', 12 November 1953, NZPD, vol 301, p2229 (doc A29, pp 212–213).

534. 'Alleged King Country Pact: Report of Select Committee', 12 November 1953, NZPD, vol 301, p2349 (doc A29, pp213–214).

535. Document A29, pp215–216.

	For	Against	Percentage for
Combined	17,031	4,135	80.5
Western Maori	2,178	1,381	61.2

Table 3: The results of the King Country referendum, 1954 (licensing)

	For	Against	Percentage for
Combined	7,475	13,165	36.2
Western Maori	1,606	1,669	49.0

Table 4: The results of the King Country referendum, 1954 (trust control)

This meeting expresses its deep indignation and protests against the racial discrimination which deprived the Maoris of a vote in the control of the first hotels licensed for the sale of liquor to both races in the Waitomo district.

The Government agreed to a combined vote of both races at the demand of the pakehas on the grounds of democracy. How is it not deemed undemocratic to rob the Maori of his human rights at the ballot in selecting a committee to control the licenses which may prove most detrimental to our race?⁵³⁶

Dr Maharaia Winiata of the 'Te Puea Herangi Advisory Council' also wrote to the Minister the following month, describing the inability to elect the licensing committee as 'one wrong after another'. He also criticised the Government for engaging 'a European historian . . . to carry out research along lines that ignored the oral traditions of the tribes.'⁵³⁷

23.8.8 What happened after Te Rohe Pōtae liquor availability was liberalised?

As it happened, the issuing of liquor licences in Te Rohe Pōtae was just one of a series of steps that greatly liberalised access to alcohol after the Second World War. Six o'clock closing was abolished in 1967, and in the 1970s and 1980s the range of outlets where liquor could be purchased was considerably broadened. Te Rohe Pōtae was no exception to this trend, although some specific controls over Māori alcohol consumption remained in place under the Maori Social and Economic Advancement Act 1945 and the Maori Welfare Act 1962 (essentially in the form of the Māori Wardens).⁵³⁸ As we have noted above, Māori rates of psychiatric admission for alcoholism nationally increased from the 1970s, but it seems from crime

536. *Auckland Star*, 26 March 1955 (doc A29, p217).

537. Winiata to Minister to Maori Affairs, 12 April 1955 (doc A29, p217).

538. On this see Augie Fleras, 'Maori Wardens and the Control of Liquor among the Maori of New Zealand', *Journal of the Polynesian Society*, vol 90, no 4 (1981), pp 495–514.

statistics that alcohol abuse was already a significant problem. Dr Robinson noted that Māori males had much higher rates of imprisonment than Pākehā in 1960 for drink-driving and drunken disorderly conduct. The rate of alcohol-related death rose fivefold among Māori from the early 1960s to the late 1970s. We have also noted above that, according to a 1978 study, more than two-fifths of the difference between male Māori and Pākehā death rates was due to alcohol, smoking, and accidents. Alcohol on its own accounted for 10 per cent of the difference, and alcohol was probably also a factor in many of the accidents (which accounted for 17 per cent of the difference).⁵³⁹

A number of claimants told of the great difficulties alcohol abuse had caused their families. Patricia Matthews, of Whanganui iwi and born in 1959, said that ‘alcohol had a huge impact on my life’. She noted the irony that her great-grandmother, Te Puea, had been such an avid campaigner against alcohol ‘yet her own mokopuna ended up dying from the drink.’⁵⁴⁰ Glennis Rawiri said that her grandfather Manganui had owned land beside the Kihikihi pub but that he and his whānau had ‘lost that place behind the pub due to alcoholism. My whānau would drink and built up massive debts with the pub.’⁵⁴¹ Hine Hine Rei referred to the damage that alcohol had done to her community: ‘We see the pain and the negative effects in our community in terms of many of our people’s poor physical and mental health and all the other statistics people point to in terms of our proportion of the prison population and so on.’⁵⁴² Lois Tutemahurangi, who worked in mental health in Taumarunui, reported that ‘mental illness, drug and alcohol abuse and domestic abuse are rife.’⁵⁴³

Some blamed the Crown for this situation. Lois Tutemahurangi said that these problems arose from Crown acts and omissions, which ‘have resulted in an almost complete loss of the Māori way, breaking down the once strong base of whanaungatanga in and around Te Rohe Pōtae.’⁵⁴⁴ Thomas Maniapoto said that the Crown should not have allowed tobacco and alcohol to be used as trading items, and that the result of their use was a rapid deterioration in the health of Te Rohe Pōtae Māori.⁵⁴⁵ Hine Hine Rei likewise said that ‘our whānau, hapū and iwi were not protected from the impact of alcohol by the Crown.’⁵⁴⁶ Lynda Tōki of Ngāti Kinohaku alleged that alcohol had even been used by the Crown as a means of suppressing Māori. As she put it, ‘They have kept our senses dull and numbed by their bully culture tactics assisted by the use of alcohol, drugs and legislation.’⁵⁴⁷ Frank Thorne of Ngāti Hikairo had a similar view. He told us: ‘Our tribal kōrero is that the government wanted alcohol in Kāwhia as it promoted poor decision-making among

539. Document A31, pp 232–234.

540. Document R17, p 5.

541. Document R4, p 5.

542. Document Q7, p 13.

543. Document R3, p 22.

544. Document R3, p 21.

545. Document S26, pp 12–13.

546. Document Q7, p 13.

547. Document H3 (Tōki), p 12.

23.8.9

our people and led to debts that would end up having to be paid in land. Alcohol split our people then as it does today.⁵⁴⁸

23.8.9 Treaty analysis and findings

Our key conclusion is that the authority Te Rohe Pōtae Māori sought over liquor did not eventuate. The district's leaders had been willing to open their country for the railway on the condition that they be able to exercise their mana whakahaere. The exclusion of liquor was fundamental to them at the time, because they had seen the harm it had done elsewhere, particularly in the context of Native Land Court sittings. If they had been accorded the authority they sought, and been able to set up the necessary institutions of self-government, the saga over liquor control narrated in this chapter may not have eventuated. As it transpired, all the Crown delivered was a licence ban that did little to prevent the problems with liquor consumption that the tribal leadership had wished to avoid. That ban also caused a schism within the Te Rohe Pōtae Māori community between those who felt the Crown must continue to uphold it regardless and those who reasoned that it would be better for the no-licence rules to be abandoned.

Dr Christoffel thought that Wahanui was well aware that liquor would still be able to enter the district and that, when he said at the sod-turning ceremony that he wished no liquor to cross the Pūniu, he may have been 'speaking allegorically'.⁵⁴⁹ Crown counsel put it to Mr Sarich in cross-examination that the licence ban 'was precisely what the [1884] petitioners had asked for, wasn't it?'⁵⁵⁰ To our mind, however, the idea that Māori simply wanted a licence ban was – and remains – simplistic. It is true that, when Wahanui signed the 1884 petition and addressed Parliament later that year, he called for the sale of alcohol to be prohibited. We consider it quite possible, though, that he and others had not understood the ease with which liquor would soon be able to flow into Te Rohe Pōtae. We wonder, for example, just how the legal importation of so much alcohol in the years after 1886 could square with Wahanui's strong desire to prevent Te Rohe Pōtae Māori from drinking. As we have seen, both Smith and McIntock considered it likely that, in 1885, many Te Rohe Pōtae Māori did not understand the limited effect of the 1884 proclamation.

Moreover, two key participants in the sod-turning ceremony later stated that an agreement was reached there that no liquor should enter Te Rohe Pōtae. John Ormsby informed the first Hockley committee that he had told Stout that Māori did not want liquor to cross the Pūniu, and that Stout had agreed. Stout himself told a meeting in Wellington in 1923 that Māori had asked if the Government would prevent liquor being 'brought into' Te Rohe Pōtae, and he had 'pledged the Government to that effect'. At the 1923 Hockley committee Tuwhakaririka Patena added that Stout had promised that 'strong drink' would not be allowed across the Pūniu. When Stout appeared before the second Hockley committee he instead

548. Document 111, p24.

549. Document 171, pp206–207.

550. Transcript 43.17, p854.

characterised his undertaking as a reaffirmation that no liquor would be sold in the King Country, but it appears perfectly likely that Te Rohe Pōtae Māori asked him in 1885 for an assurance that liquor would be kept out of the district and he verbally agreed. Smith himself considered that the conflict between the wording of the proclamation and the remarks made by Stout in 1885 ‘explains the statements of the Natives who say that “the pact” has never been kept’.⁵⁵¹

In our view, neither Smith nor McLintock was prepared to place any importance on this apparent agreement at the sod-turning ceremony because they regarded it as immaterial to the issue of whether there could be said to have been an inviolable pact or not. That is, they regarded Stout’s commitment, if he made it, as insufficient on its own to have equated to a ‘pact’ that the railway line could be constructed in exchange for certain guarantees about land and liquor. Dr Christoffel also appears to have disregarded the possibility that Te Rohe Pōtae sought confirmation from Stout of their understanding that liquor would be entirely excluded. This was due to what he saw as the limited nature of the requests made in both the 1884 petition and Wahanui’s address to Parliament, and because he, too, was concerned principally about whether there had been a ‘sacred pact’ or not.

As we have noted, Smith thought that Stout responded positively to the request from Ormsby at the ceremony because of the very existence of the 1884 proclamation. If this is so, then Stout singularly failed to communicate the narrower effect of the licence-ban, and he may well have left Te Rohe Pōtae leaders believing that the Crown had committed to do more to protect their people from liquor than was actually the case. This plausible interpretation shows the pitfalls of Smith and McLintock’s approach of privileging the documentary record over both the memory of participants and the Māori tradition of what happened. There was certainly confusion and contradiction in these later recollections, but the fact is that Ormsby and Stout each independently shared the same memory of a verbal exchange over keeping all liquor out of the district.

The Māori idea of a pact over liquor – first, it seems, mentioned publicly by Ormsby – was clearly co-opted and expanded by the prohibitionists for their own ends. It is also quite likely that the prohibitionists in turn influenced Māori thinking about the pact. None of this, however, should obscure the fact that Te Rohe Pōtae Māori wanted recognition of their mana whakahaere to deal with such issues within Te Rohe Pōtae, and entrusted the Government with the responsibility of helping to keep liquor entering from without. As such, for us, the issue of whether there was a sacred pact or not over liquor is beside the point. The debate on that point also largely assumes that the Crown could have kept its part of the bargain by maintaining the liquor ban. Our view is that this detracts from the Crown’s failure to deliver something much more comprehensive altogether. In short, the decades-long saga Te Rohe Pōtae Māori endured over liquor was a lasting prejudice from the Crown’s failure to recognise and provide for Te Rohe Pōtae self-government after the lifting of the aukati. Consideration of how effect could have been given to the rangatiratanga of Te Rohe Pōtae Māori over liquor

551. AJHR, 1946, II-38, p372 (doc A89, p27).

in the King Country entirely eluded both Smith and McLintock. As Dr Loveridge observed, for example: 'Conspicuous by its absence from McLintock's discussion is any reference to the Treaty of Waitangi, and the implications of the Crown's Treaty obligations with respect to the series of events which led to the opening of the King Country.'⁵⁵²

In the 1890s, the Te Rohe Pōtae Māori leadership clearly favoured the limited introduction of licences, given the harm illicit liquor was causing. They had requested the license ban, and later sought to make an adjustment because the arrangement was not working. The Government could not muster the numbers to pass legislation. However, the vote was left to the conscience of parliamentarians, instead of being promoted in the same manner as other Government legislation. Thus, change was difficult to achieve.

Such a hindrance would not have arisen in Te Rohe Pōtae if it had been Māori setting the local liquor laws via their own structures of self-government rather than the rules being made by Pākehā parliamentarians in Wellington. Aside from the powers given to the Māori councils in 1900, the history of liquor control in Te Rohe Pōtae liquor is characterised by Pākehā decision-makers choosing what rules should apply to Māori.

After 1900, the matter was further complicated because a significant proportion of Te Rohe Pōtae Māori abandoned the call for licences and instead favoured the licence ban to be maintained. The royal commission that both Seddon and Massey had favoured as a means of taking the politics out of the issue was finally held in 1945. None of the nine appointees to the 1945 royal commission were Māori.⁵⁵³ The royal commission was a product of its time, in that – as we have noted – it focused narrowly on written documents to decide whether there had been a liquor compact or not. Concluding that there had not been, it recommended a veto. The Crown defended this vote as Treaty-compliant, because it effectively allowed for a Māori veto. This is fair only up to a point, because if Te Rohe Pōtae Māori self-governing structures had been put in place from the 1880s, it would never have come to such a means of decision-making.

McLintock's investigation preceded legislation that allowed for the 1954 veto. Crown counsel argued that the absence of a Māori veto on this occasion was justified by the result, and that – as we have noted – 'The ultimate result was treaty consistent'. This strikes us as a case of being wise after the event. The fact is that most Māori voices on the subject of liquor controls in the late 1940s and early 1950s were not listened to, and the Crown allowed for a swamping of the Māori vote at the 1954 poll. That was not consistent with the Treaty. Indeed, if it had been good enough for Māori electors to have an effective veto in 1949, the same should have applied in 1954. 'Democracy' in this case was always going to favour the Pākehā majority.

In summary, then, the Crown breached the principle of partnership by failing to recognise and provide for the mana whakahaere of Te Rohe Pōtae Māori over

552. Document A89, p6.

553. AJHR, 1946, II-38, p1.

liquor. It breached the duty of good faith through the premier, Stout, giving the impression at the sod-turning ceremony that liquor would be kept out of Te Rohe Pōtae.

We find that the Crown failed to act in a manner consistent with the principles of partnership, mutual benefit and the guarantee of rangatiratanga because it did not work with Te Rohe Pōtae leadership to provide a solution to the ongoing issue of controlling the supply and use of liquor in the district. It also failed to protect Te Rohe Pōtae Māori from the most harmful effects of alcohol. This was in spite of the undertaking given by Premier Seddon at the lifting of the aukati.

We further find that it acted inconsistently with the principles of partnership, mutual benefit, and the guarantee of rangatiratanga, by failing to provide for any Māori membership of the 1945 royal commission, and in providing for a referendum in 1954 in which the Pākehā majority would hold sway over whatever choice the Māori minority favoured as far as liquor licensing was concerned.

23.9 PREJUDICE

As explained at several points in this chapter, the poor social outcomes affecting Te Rohe Pōtae Māori were often the prejudice of earlier or ongoing serious breaches of the Treaty by the Crown. These breaches particularly concerned the Crown's excessive acquisition of Te Rohe Pōtae land without consideration for the present or future needs of its former owners, its weakening of restrictions on private buyers, and its failure to deliver Te Rohe Pōtae Māori support to develop their remaining holdings equivalent to that provided to Pākehā farmers. As a result, Te Rohe Pōtae Māori were marginalised within the local economy; were poorer; had worse health and much less adequate housing; migrated away from the district in large numbers; had a much more tenuous hold on employment; and earned considerably less. The prejudice also stemmed from the Crown's failure to recognise and provide for the mana whakahaere or rangatiratanga of Te Rohe Pōtae Māori after the aukati was lifted in the 1880s.

More specifically, the prejudice we have identified is as follows. During the period from 1900 to 1938, the poor state of Māori health and housing reflected the Crown's failure to uphold its Treaty obligation to ensure Te Rohe Pōtae Māori retained sufficient productive land to draw an adequate income and maintain a degree of self-sufficiency. The retention of more land would not have protected Māori from infectious diseases, but – to the extent that those diseases were caused and exacerbated by poverty – a much greater land base would have placed Te Rohe Pōtae Māori in a stronger position to cope with these challenges. So too would greater and earlier assistance with developing their land, even their remaining holdings. The economic marginalisation caused by the Crown's actions led to significant job losses and hardship in the 1920s and 1930s.

While Māori health generally improved from 1938 to 1990, Te Rohe Pōtae Māori continued to suffer the lasting prejudice of these earlier breaches. The sheer scale of urban migration after the war is a classic example of this. A proportion of this movement may have occurred regardless of the dispossession of Te Rohe Pōtae

Māori in their rural homelands, as individuals and whānau sought out the more diverse opportunities and greater material benefits of the towns and cities. But a large number of the migrants will have left because urbanisation was the only option for them. The diminishing of their land base at the hands of the Crown, and their subsequent economic marginalisation meant that they had little land, insufficient work, and meagre incomes. The urban migration and separation of whānau from their tūrangawaewae also had a negative impact on Māori cultural strength and identity, hastening the loss of te reo and tikanga; severing Māori from their marae and their traditional sources of food; and weakening their links with their whanaunga. These changed lifestyles have in turn negatively impacted on Māori health, contributing to the high rates of mortality from degenerative diseases.

The marginalisation of Māori in Te Rohe Pōtae created other kinds of prejudice, such as racial discrimination and limiting expectations of Māori potential and capability. These sorts of problems were experienced by Māori nationally, and were by no means restricted to Te Rohe Pōtae. However, as this chapter has established, the discrimination Te Rohe Pōtae Māori faced reflected their entire marginalisation and exclusion in the district. It was a legacy of the prejudice that followed the loss of their land and the occupation of it, with government support, of Pākehā farmers. It was to these farmers that Māori had to turn for employment opportunities, thus creating an imbalance which was not conducive of mutual respect. An example of this mistreatment was the exclusion of Māori from membership of clubs that served alcohol before and after the Second World War. As stated, the various grievances Māori held about the availability of liquor in Te Rohe Pōtae were a lasting prejudice of the Crown's failure to provide for the establishment of the institutions of Māori self-government when the aukati was lifted in the 1880s.

23.10 SUMMARY OF FINDINGS

23.10.1 Health and housing

- ▶ Due to the loss of land, there was a corresponding negative impact on Te Rohe Pōtae Māori health and well-being, a result for which the Crown was responsible, and therefore we find that the Crown failed in its duty of active protection of Māori against the adverse health impacts of settlement.
- ▶ In the period from 1886 to 1900, the fees charged by Waikato Hospital were an added and avoidable barrier to Te Rohe Pōtae Māori accessing hospital services (alongside the other hurdles of the distance to Waikato Hospital and the understandable Māori suspicion of Pākehā hospitals). We find that the Crown acted in a manner inconsistent with the principles of equity by failing to subsidise hospital treatment for Māori from 1886–1900.
- ▶ From 1900–1938, the Māori health initiatives delivered by the Department of Public Health and the health work of the Māori councils were important opportunities for enabling Māori self-government and management of their own health. However, these initiatives lacked sufficient Crown funding and support. In particular, the failure to adequately resource the Māori councils to carry out their responsibilities were policies and actions inconsistent

with the principles of partnership and reciprocity as well as the guarantee of rangatiratanga in article 2, and they resulted in a failure of the Crown's duty to actively protect Te Rohe Pōtae Māori rangatiratanga over their health.

- We agree with the Wai 262 Tribunal that the Tohunga Suppression Act was 'fundamentally unjustified', and that the removal of the regulatory role of the Māori councils denied Māori a degree of autonomy over their own health-care. We find that the Crown's actions enacting the Tohunga Suppression Act were inconsistent with the principle of partnership, the guarantee of rangatiratanga, and from article 3, the principle of options in terms of healthcare.
- For the period from 1938–1980s, the policy of mainstreaming failed to recognise that Māori had separate (and often additional) health needs. Nor did the Māori advisory committees established in the 1980s at the end of the period of mainstreaming constitute true partnership. Therefore, we find that the Crown acted in a manner inconsistent with the principle of equity through its failure to provide effective partnership arrangements with Te Rohe Pōtae Māori in terms of their health needs from 1930–1980s. It also failed to improve Māori housing. As a result, Māori standards of health and housing were and remain lower than those of Te Rohe Pōtae Pākehā.

23.10.2 Urban migration and dispersal from homeland

- We made no new findings with respect to urban migration and dispersal from Te Rohe Pōtae homelands.

23.10.3 Employment

- Through its failure to take a more measured approach to its State sector reforms – such as through consulting with Te Rohe Pōtae Māori over its planned reforms, or appraising itself of the likely impact of job cuts on Te Rohe Pōtae Māori communities in a time of recession – we find the Crown acted in a manner inconsistent with the Treaty principle of partnership. The meagre State assistance offered to Te Rohe Pōtae Māori for job losses, we find, would have done little to mitigate the impacts of unemployment in a district already impacted by economic recession.

23.10.4 Tribal identity

- We find that the Crown has acted inconsistently with the principle of equal treatment by failing to respect the distinct identity of Ngāti Hikairo and Ngāti Te Wehi.
- We make no findings with respect to any Crown actions in relation to the other hapū identities discussed.

23.10.5 Racial discrimination

- We find that the Crown by omitting to institute measures to prevent racial segregation and racism failed in its duty of active protection and acted inconsistently with the principle of equity.

23.10.6 Alcohol control

- ▶ We find that the Crown failed to act in a manner consistent with the principles of partnership and mutual benefit, and the guarantee of rangatiratanga because it did not work with Te Rohe Pōtae leadership to provide a solution to the ongoing issue of controlling the supply and use of liquor in the district. It also failed to protect Te Rohe Pōtae Māori from the most harmful effects of alcohol. This was in spite of the undertaking given by Premier Seddon at the lifting of the aukati.
- ▶ We further find that it acted inconsistently with the principles of partnership and mutual benefit, and the guarantee of rangatiratanga by failing to provide for any Māori membership of the 1945 royal commission, and in providing for a referendum in 1954 in which the Pākehā majority would hold sway over whatever choice the Māori minority favoured as far as liquor licensing was concerned.
- ▶ It breached the principle of equity through the discriminatory nature of liquor legislation such as the Licensing Act Amendment Act 1904.
- ▶ It breached the duty of active protection by failing to protect Te Rohe Pōtae Māori from the most harmful effects of alcohol, in spite of both its initial assurances when the aukati was lifted and the many requests from Te Rohe Pōtae leaders for the introduction of limited licensing to combat these problems in the 1890s.
- ▶ It breached the principle of partnership by failing to provide for any Māori membership of the 1945 royal commission, and breached its duty of good faith by failing to require either the royal commission or the parliamentary historian to consider the Crown's obligations under the Treaty.
- ▶ And, in providing for a vote in 1954 in which the Pākehā majority would hold sway over whatever choice the Māori minority favoured, it failed to consider the principle of rangatiratanga or Māori self-determination.

CHAPTER 24

NGĀ MAHI WHAKAAKO ME TE AHUA O TE REO

Ko te raru o tērā, kāre ō mātou tamariki i te tipu ake ki te wā kāinga. Kāhore rātou i te tipu ake ki roto ake i ō rātou ake Maniapototanga. Kia mōhio mai te mātinitini he reo, he kawa, he tikanga ake tā Maniapoto, te tae te ako ki waho o Maniapoto. Ki te kore e huri te kei ō te waka, ka memcha noa atu ēnei taonga i a mātou.

The problem . . . is, our children are missing out on an education focused around their Maniapoto identity. So that people will know that Maniapoto has its own language and identity. If we do not correct this, our treasures will be gone.¹

—Hemaima Rauputu

24.1 INTRODUCTION

Prior to European settlement in the inquiry district, Te Rohe Pōtae Māori had their own education systems. Children learned by observing and working alongside their elders.² Tikanga and mātauranga Māori were passed down through the generations through kōrero, waiata, whakapapa, place names, and carvings. Whare wānanga, houses of learning reserved for those with chiefly lineage, thrived within the inquiry district.³

From the mid-nineteenth century, the iwi and hapū of Te Rohe Pōtae embraced new opportunities for learning arising from contact with early Pākehā settlers and missionaries. After the Te Ōhāki Tapu agreements (1883–85) lifted the aukati, the Crown established schools for Māori, or native schools, in the inquiry district. The first Te Rohe Pōtae native school opened at Te Kōpua in 1886. These institutions spread throughout the district, eventually being amalgamated into the general school system in 1969.⁴ Māori children also attended general primary schools catering largely for the district's expanding settler population. Secondary education was available in the inquiry district from 1914.⁵

1. Transcript 4.1.15(a), pp357-358 (Hemaima Rauputu, hearing week 10, Maniaroa Marae, 4 March 2014).

2. Joan Metge, *Tauira: Maori Methods of Learning and Teaching* (Auckland: Auckland University Press, 2016), pp252–266.

3. Transcript 4.1.16, p262 (Huirangi Tahana, hearing week 6, Aramiro Marae, 10 September 2013); doc A110 (Douglas), pp319, 322, 325, 327, 337–338.

4. Document A27 (Christoffel), pp54, 63.

5. Document A27, p163.

Te reo anchors te ao Māori as the essential medium of communication and intergenerational knowledge transfer. As Pākehā settlement of the inquiry district increased, Crown policy and practices led to the large-scale alienation of Te Rohe Pōtae Māori land, as outlined in parts I–IV of this report. This loss of whenua helped erode Te Rohe Pōtae Māori mana whakahaere, customary ways of life, and social organisation. Alongside these upheavals, the use of te reo declined over the twentieth century.

In the 1980s, a language revitalisation movement seeking to arrest this decline spurred the establishment of the first kōhanga reo and Māori-medium schools in the inquiry district. Nearby, Te Wānanga o Aotearoa spearheaded growth in tertiary study among Māori. The revival notwithstanding, the long-term decline in Māori language proficiency and educational attainment remains stark. In the 1880s, Te Rohe Pōtae Māori lived in wholly Māori-speaking communities. Only a few intermediaries with the Pākehā world were fluent in English. Today, less than one-quarter of Te Rohe Pōtae Māori can speak their own language with any degree of fluency. However, despite recent successes and improvements, Te Rohe Pōtae Māori have lower rates of formal educational achievement than the general population.

This chapter examines the interconnected Te Rohe Pōtae Māori experiences of education and relationship with te reo to consider whether the Crown complied in these areas with the Treaty and its principles.

24.1.1 The purpose of this chapter

Since the spread of secular and compulsory primary education from the late nineteenth century, the government education system has been, and remains, the most sustained and intensive exposure most New Zealanders will have to the State in their lifetimes.

The formative role of early educational experiences in influencing a range of social outcomes, such as health, educational achievement, employment, and income, is widely recognised by researchers and governments.⁶

This connection between education and long-term well-being is particularly important for the present inquiry. While experiencing recent improvements in educational attainment, Te Rohe Pōtae Māori remain poorer, sicker, and receive proportionally fewer formal educational qualifications than the general population. Despite some positive signs, te reo Māori in Te Rohe Pōtae and te mita o Maniapoto (the Maniapoto dialect) are also in a perilous state. The central question for this chapter to determine is the extent to which the Crown and its education system is responsible for this state of affairs and whether the Crown has met its Treaty obligations with regard to education and te reo Māori.

6. Te Puni Kōkiri, *Progress Towards Closing Social and Economic Gaps Between Māori and Non-Māori: A Report to the Minister of Māori Affairs* (Wellington: Te Puni Kōkiri, 2000), p 15.

24.1.2 How the chapter is structured

The chapter begins by reviewing what previous Tribunals have said on education and te reo Māori. It then sets out the positions of the parties to this inquiry, and distils the key issues arising from their submissions into five questions. The chapter proceeds to address these questions in turn.

Section 24.3 looks at the Crown's provision of primary education in the inquiry district between 1840 and 1969, focusing particularly on the issues of access and quality. The section ends in the year 1969, which saw the closure of the separate system of Māori schools after over a century of operation. Section 24.4 extends this discussion of the Crown's provision of education to secondary education, also using 1969 as its end point. Section 24.5 examines the Crown's provision of education in the inquiry district from the 1970s up to the present day, covering the early childhood, school, and tertiary sectors. Section 24.6 focuses on issues of consultation, and the extent to which Te Rohe Pōtae Māori have had input on matters to do with their children's education. Section 24.7 considers the intended outcomes of the Crown's education system in Te Rohe Pōtae, and the extent to which it succeeded in its goals. The chapter's analysis concludes in section 24.8, which considers the Crown's role in the decline and revival of te reo Māori in the inquiry district.

24.2 ISSUES

24.2.1 What other Tribunals have said

The Tribunal has considered the issues of education and te reo Māori development for over 30 years. In its *Report on the Te Reo Maori Claim* of 1986, the Tribunal found that the Māori language was a 'taonga' guaranteed protection under article 2 of the Treaty of Waitangi.⁷ More broadly, the Te Reo Māori Tribunal found that the Treaty of Waitangi promised to ensure 'equality in education' between Māori and Pākehā. That many Māori pupils were 'not reaching an acceptable standard of education' the Te Reo Māori Tribunal found, was proof that the whole education system was 'being operated in breach of the Treaty'.⁸

In a historical overview of the education system, the Tribunal's *Wananga Capital Establishment Report* of 1999 traced the roots of current Māori educational achievement to past education policies, including the goal of assimilating Māori, the undermining of Māori knowledge and culture, low expectations of Māori achievement, and the belief that Māori were more suited to vocational or agricultural instruction than academic subjects.⁹

The Tribunal's *Ko Aotearoa Tenei* report on the Wai 262 claim reviewed the state of te reo and Māori-language education in 2011. Despite some promising

7. Waitangi Tribunal, *Report of the Waitangi Tribunal on the Te Reo Maori Claim* (Wellington: Brooker's, 1986), pp1, 20.

8. Waitangi Tribunal, *Report on the Te Reo Maori Claim*, p38.

9. Waitangi Tribunal, *The Wananga Capital Establishment Report* (Wellington: GP Publications, 1999), p9.

initiatives, the Tribunal found the Crown to be failing in its Treaty obligations to te reo on a number of fronts. These included a lack of a partnership approach with Māori to the revival of te reo, and failure to adequately capitalise upon the momentum of the Māori-language movement through policy and resourcing for Māori-language initiatives.¹⁰ *Matua Rautia: The Report on the Kōhanga Reo Claim* reached a similar conclusion in 2013. It found that the Crown must work in partnership with Māori to ‘develop legislation and policies to support the transmission of te reo Māori so that it may survive as a living language’.¹¹

A number of district historical inquiries have also considered the role of past education systems in the decline of te reo and Māori educational under-achievement. In its *Hauraki Report*, the Tribunal found that the Crown’s historic provision of education to Hauraki Māori was comparable to Pākehā children living in rural communities, although of lower quality than that available to town and city dwellers.¹² Similarly, the Tribunal’s *Te Tau Ihu* report found that, although the education provided to Māori children in rural Te Tau Ihu was ‘insufficient’, it did not amount to a Treaty breach because Pākehā residents of isolated rural communities suffered similarly.¹³

The *Te Urewera* report reached a different conclusion. It found that, while Māori living in their traditional lands in small and scattered communities could not expect the same level of services provided to city dwellers, it was ‘reasonable’ that Māori living in such areas should be able to access social services such as education. ‘Remaining in one’s ancestral rohe’, the Tribunal found, ‘should not mean going without the benefits of citizenship’.¹⁴ The Tribunal found the Crown’s failure to assist Te Urewera Māori to access educational and other social services, such as through providing allowances for students having to board away from home, was not consistent with the Crown’s duty of active protection, and the principle of equity.¹⁵

Past Tribunals agree that the Crown has overwhelmingly failed in its Treaty obligation to protect and promote te reo and Māori culture through the education system.¹⁶ However, they differ on the extent to which the Crown’s education system can be blamed for the historic decline in te reo fluency among Māori. While finding that the school system, including a widespread practice of banning the use of te reo in schools, undoubtedly contributed to the decline of te reo among

10. Waitangi Tribunal, *Ko Aotearoa Tēnei: A Report into Claims Concerning New Zealand Law and Policy Affecting Māori Culture and Identity, Te Tāumata Tuatahi* (Wellington: Legislation Direct, 2011), p169.

11. Waitangi Tribunal, *Matua Rautia: The Report on the Kōhanga Reo Claim* (Wellington: Legislation Direct, 2013), p234.

12. Waitangi Tribunal, *The Hauraki Report*, 3 vols (Wellington: Legislation Direct, 2006), vol 3, p1197.

13. Waitangi Tribunal, *Te Tau Ihu o te Waka a Maui: Report on Northern South Island Claims*, 3 vols (Wellington: Legislation Direct, 2008), vol 2, pp1031–1033.

14. Waitangi Tribunal, *Te Urewera*, 8 vols (Wellington: Legislation Direct, 2017), vol 8, p3780.

15. Waitangi Tribunal, *Te Urewera*, vol 8, p3780.

16. Waitangi Tribunal, *Te Tau Ihu*, vol 2, pp1029–1030; Waitangi Tribunal, *The Wairarapa ki Tararua Report*, 3 vols (Wellington: Legislation Direct, 2010), vol 1, p304.

Hauraki Māori, the Hauraki Tribunal found that such a ban was not ‘the sole or even the main reason for the decline of the language among Hauraki Maori’, with the movement of Hauraki Māori into English-speaking areas and an influx of non-Māori into Hauraki also being important factors.¹⁷

In the *Whanganui Land Report*, the Tribunal noted that, while it is difficult to measure the extent to which the Crown education system may have ‘contributed to the decline of te reo Māori’, such policies cannot be separated from a wider societal context in which ‘the dominant society’s messages to Māori consistently lacked respect for their language and culture. Parents imbibed these messages, and lost confidence themselves in the ability of mātauranga Māori (Māori knowledge) to enrich and advance their children’s lives’.¹⁸

The *Te Urewera* report found that for much of the twentieth century, the absence of Māori culture and language from the education system ultimately alienated many Māori pupils from education, and taught them that their language and culture were inferior to that of Pākehā.¹⁹ The Tribunal found that the Crown’s delivery of monocultural and monolingual education to Māori and Pākehā alike was not equitable. The Treaty principle of equity, the Tribunal found, ‘should not be conceived as a duty to provide aid and services to Maori on exactly the same basis as non-Maori’. Rather, the Tribunal found that, when ‘aid or services are tailored to Pakeha needs or are more accessible to Pakeha than Maori, Maori are not receiving the same privileges as other New Zealanders’. While equal, such treatment was not equitable under the Treaty.²⁰ The Crown’s Treaty obligations to address disparities in outcomes between Māori and non-Māori applied, the Tribunal found, regardless of their cause.²¹

Previous Tribunals to engage with these issues have drawn clear links between land loss, poverty, and the poor performance of Māori across a range of social indicators, including educational attainment. The *Te Tau Ihu* report linked the socio-economic impoverishment of Te Tau Ihu Māori, including educational under-achievement, to their loss of their land base.²² The *Tauranga Moana* report described educational disadvantage as one element of an interlinked ‘cycle of deprivation’ experienced by Tauranga Moana Māori as a result of widespread land alienation.²³ In this sense, the Tribunal has a well-developed position that Māori educational under-achievement is an ongoing aspect of prejudice stemming from land loss due to Crown actions.

17. Waitangi Tribunal, *The Hauraki Report*, vol 3, p1193.

18. Waitangi Tribunal, *He Whiritaunoka: The Whanganui Land Report*, 3 vols (Wellington: Legislation Direct, 2015), vol 3, p 1174.

19. Waitangi Tribunal, *Te Urewera*, vol 8, p3638.

20. Waitangi Tribunal, *Te Urewera*, vol 8, p3776.

21. Waitangi Tribunal, *Te Urewera*, vol 8, p3773.

22. Waitangi Tribunal, *Te Tau Ihu*, vol 2, p1027.

23. Waitangi Tribunal, *Tauranga Moana, 1886-2006: Report on the Post-Raupatu Claims*, 2 vols (Wellington: Legislation Direct, 2010), vol 2, p716.

24.2.2

24.2.2 Crown concessions

The Crown has not made any concessions on education and te reo Māori.

24.2.3 Claimant and Crown arguments

Education and Te Reo Māori are matters of great importance to the claimants. In addition to general claimant submissions, the Tribunal received a large number of specific claims on education and te reo.²⁴ At hearings, many claimants shared their whānau experiences of the education system. A number of these specific claims concern the taking of Māori land for schools under the Public Works Act and related legislation.

Both parties agreed that Te Rohe Pōtae Māori occupy a disadvantaged position in the education system. However, the parties fundamentally disagreed upon the extent to which the Crown is to blame for such educational inequalities, and what the Crown's role should be in addressing them. The claimants highlighted the negative experiences of many Te Rohe Pōtae Māori within the education system. They say that, while these experiences have often not been captured in official Government records, they have nevertheless had a real and lasting impact on Te Rohe Pōtae individuals and whānau, which continues to this day.²⁵

The Crown accepted the importance of the issue of education to Te Rohe Pōtae Māori, recognising the educational aspirations of tangata whenua.²⁶ The Crown also acknowledged the school experience for many Te Rohe Pōtae Māori was not a positive one.²⁷ However the Crown said the reasons for this were complex and largely beyond its control.

The claimants drew a direct link between the ongoing disadvantage of Te Rohe Pōtae Māori in education and the Crown's failings in the provision of education to Māori in the inquiry district.²⁸ By contrast, the Crown pointed to the multiple factors influencing Te Rohe Pōtae Māori educational achievement, and stressed that it is difficult or even impossible to determine the Crown's role in causing

24. Including Wai 125 (submission 3.4.210); Wai 457 (submission 3.4.238(a)); Wai 472 (submission 3.4.140); Wai 535 (submission 3.4.243(a)); Wai 586, Wai 753, Wai 1396, Wai 1585, and Wai 2020 (submission 3.4.204); Wai 691 (submission 3.4.246); Wai 729 (submission 3.4.240); Wai 762 (submission 3.4.170); Wai 784 (submission 3.4.147); Wai 788 and Wai 2349 (submission 3.4.246(a)); Wai 836 (submission 3.4.131); Wai 845 (submission 3.4.166); Wai 928 (submission 3.4.175(b)); Wai 987 (submission 3.4.167); Wai 1112, Wai 1113, Wai 1439, Wai 2351, and Wai 2353 (submission 3.4.226); Wai 1147 and Wai 1203 (submission 3.4.151); Wai 1230 (submission 3.4.168); Wai 1255 (submission 3.4.199); Wai 1299 (submission 3.4.234); Wai 1309 (submission 3.4.220); Wai 1327 (submission 3.4.249); Wai 1447 (submission 3.4.187); Wai 1448, Wai 1495, Wai 1501, Wai 1502, Wai 1592, Wai 1804, Wai 1899, Wai 1900, Wai 2125, Wai 2126, Wai 2135, Wai 2137, Wai 2183, and Wai 2208 (submission 3.4.237); Wai 1469 and Wai 2291 (submission 3.4.228(b)); Wai 1480 (submission 3.4.176); Wai 1482 (submission 3.4.154(a)); Wai 1500 (submission 3.4.160(a)); Wai 1534 (submission 3.4.217); Wai 1588, Wai 1589, Wai 1590, and Wai 1591 (submission 3.4.143); Wai 1599 (submission 3.4.153); Wai 1606 (submission 3.4.169(a)); Wai 1803 (submission 3.4.149); Wai 1824 (submission 3.4.181); Wai 1898 (submission 3.4.200); Wai 2273 (submission 3.4.141).

25. Submission 3.4.104, p3.

26. Submission 3.4.294, p1.

27. Document L16 (Rehu); doc n8 (Moke).

28. Submission 3.4.104, p3.

negative education outcomes.²⁹ The Crown said there was insufficient evidence to support the claimants' case that modern-day socio-economic disparities between Māori and non-Māori are a direct result of negative Māori experiences of education.³⁰ The Crown advised the Tribunal against making any broad findings of Treaty breach concerning te reo or education. Any limited findings the Tribunal may choose to make, the Crown said, should be on a case-by-case basis, taking account of prevailing historical context, including societal attitudes, the state of knowledge, the Crown's limited finances, and the geographical isolation of many Te Rohe Pōtae communities.³¹

The claimants reproduced a range of statistics from the 1960s to the 2000s pointing to what they described as the over-representation of Māori, including Te Rohe Pōtae Māori, in 'negative statistics relating to education'.³² The claimants said that the persistence of disparities in the educational achievement rates of Te Rohe Pōtae Māori and non-Māori is proof that the Crown has not done enough to address the root causes of Māori educational under-achievement.³³ The Crown, the claimants submitted, is in breach of its Treaty duties so long as Te Rohe Pōtae Māori continue to experience poorer educational outcomes than Pākehā.³⁴

The Crown did not accept that it has a Treaty duty to ensure Māori have equal educational opportunities to non-Māori.³⁵ Indeed, it maintained that it has never had an 'absolute duty' under the Treaty to educate its citizens.³⁶ Instead, where the State chooses to offer education, it must simply ensure that it applies its policies and practices equally between Māori and non-Māori.³⁷ While 'equality of outcomes' is the Crown's ideal, it stressed that it cannot control all of the factors influencing educational achievement.³⁸

The Crown told us in its submissions that it funds education for Te Rohe Pōtae Māori by means of early childhood services, kōhanga reo, kura kaupapa, primary schools, secondary schools, and tertiary education services such as Waikato University, the Open Polytech, and Te Wānanga o Aotearoa, as well as through the student loan and student allowance schemes and a range of targeted scholarships and grants.³⁹ The Crown offered the following summary of the support it provides to education in the inquiry district:

Today, Rohe Pōtae communities have access to a wide range of education facilities within their district. These include, but are not limited to, early childhood education

29. Submission 3.4.294, p4.

30. Submission 3.4.286, pp 13–17; submission 3.4.294, p21.

31. Submission 3.4.294, pp5–6.

32. Submission 3.4.104, pp 7–8.

33. Submission 3.4.104, pp 6–7.

34. Submission 3.4.104, p 8; submission 3.4.320, pp 4–5, 7, 9.

35. Submission 3.4.294, p3.

36. Submission 3.4.294, p4.

37. Submission 3.4.294, p2.

38. Submission 3.4.294, pp4, 10.

39. Statement 1.3.1, pp372–373; submission 3.4.294, pp14–15.

24.2.3.1

services, kohanga reo and kura kaupapa schools, primary and secondary schools, the New Zealand Correspondence School, the Open Polytech and Te Wananga o Aotearoa, as well as access to tertiary education facilities in surrounding areas, such as Waikato University and the Waikato Institute of Technology.⁴⁰

24.2.3.1 Access to education

On the question of access to primary-level schooling, the claimants argued that the Crown has often failed to provide Māori in the inquiry district with adequate access to primary education, or has placed undue burdens upon Māori whānau seeking an education for their children.⁴¹ The claimants pointed out that Māori were expected to request a school and gift land if they wished a native school to be established, while no such expectation was placed on Pākehā communities who wished their children to receive an education.⁴² The Crown's 'passive' approach to establishing native schools, the claimants said, denied some Te Rohe Pōtae Māori access to education.⁴³ In addition, the claimants said that, while most native schools in the inquiry district were established promptly, in other cases Māori requests for schools encountered lengthy delays.⁴⁴

In addition, long distances, poor roading, and landlocked properties also presented barriers to Māori children wishing to access primary schooling.⁴⁵ Further, the claimants alleged that the primary schooling that Te Rohe Pōtae Māori were able to access was of a poor standard, due to small school size, lack of quality teaching staff, and frequent disruptions to schooling.⁴⁶

Concerning the fate of gifted school sites, the claimants said that the Crown in some cases failed to return such sites to their Māori owners after they were no longer needed for educational purposes, and that on occasions where the Government did return gifted sites, long delays occurred in doing so.⁴⁷

On the issue of secondary education, the claimants stated that, while access to secondary education was poor for both Māori and Pākehā during the first half of the twentieth century, the position was worse for Māori due to the distance of the secondary schools that existed from the remote rural settlements where most Māori lived.⁴⁸ The five district high schools that existed in the inquiry district by the 1920s catered for areas of significant Pākehā settlement. While the Māori boarding schools presented an option for the most able Māori pupils, the claimants argued that the Government showed little interest in increasing Māori access to such schools.⁴⁹ It was only after the Second World War, the claimants

40. Submission 3.4.294, pp 14–15.

41. Submission 3.4.104, p 15.

42. Submission 3.4.104, pp 19–20.

43. Submission 3.4.104, p 16.

44. Submission 3.4.104, p 12.

45. Submission 3.4.104, p 18.

46. Submission 3.4.104, pp 26–29.

47. Submission 3.4.104, p 20.

48. Submission 3.4.104, p 17.

49. Submission 3.4.104, p 17.

said, that ‘Maori within the Inquiry District gained reasonable access to secondary education.’⁵⁰

Regarding access to schooling in general, the Crown submitted that it has never had ‘an absolute duty’ to provide education services to its citizens, ‘in either a legal or Treaty sense.’⁵¹ The Crown acknowledged that access to education in Te Rohe Pōtae was historically ‘poor at times’ by modern standards, but submitted that this was true of geographically isolated communities around New Zealand, Māori and Pākehā.⁵² According to the Crown, a range of historical factors contributed to poor educational provision over the nineteenth century and the first half of the twentieth century, including disruptions to the missionary schools during the Waikato War, the existence of the aukati and the late arrival of the Crown and Pākehā settlers to the district, lingering suspicion towards government institutions among Te Rohe Pōtae Māori, and the district’s geographical isolation and associated higher costs of providing educational services in rural areas.⁵³

In regard to secondary schooling, Crown pointed out that until the first half of the twentieth century it was historically rare for either Māori or Pākehā to proceed on to secondary school. It argued that secondary education was based on need, and the population of the inquiry district was too sparsely distributed to support anything but district high schools. Later, many of these district high schools were converted to full secondary colleges.⁵⁴ Outside of the State system, the Crown pointed to its support for Māori education through its funding of scholarships to the Māori boarding schools.⁵⁵

24.2.3.2 Consultation

The claimants said that the Crown has a Treaty duty to consult with Māori who may be impacted by particular government legislation, policies, and practices concerning education. However, the claimants said that the Crown’s approach to consultation with Te Rohe Pōtae Māori on educational matters has been ‘a far cry’ from the partnership the Treaty envisaged.⁵⁶ The claimants said that the Crown has failed to ‘adequately consult with Te Rohe Pōtae Māori on important aspects of the education of their tamariki, and ‘failed to provide adequate avenues through which Te Rohe Pōtae Māori could express concerns or preferences in relation to education.’⁵⁷ Further, the claimants pointed to the lack of involvement of Te Rohe Pōtae Māori in the design and oversight of educational services, except for the marginal functions given to native school committees.⁵⁸

50. Submission 3.4.104, pp17-18.

51. Submission 3.4.294, p4.

52. Submission 3.4.294, pp10, 18.

53. Submission 3.4.294, pp18-19.

54. Submission 3.4.104, pp 12-14.

55. Submission 3.4.294, pp 13-14.

56. Submission 3.4.104, pp21-22.

57. Submission 3.4.104, p21.

58. Submission 3.4.104, p24.

24.2.3.3

A specific example raised by the claimants of the Crown's alleged lack of consultation with Te Rohe Pōtae Māori was when native schools became education board schools. In some cases in the inquiry district, such transfers took place despite the opposition of Te Rohe Pōtae Māori communities.⁵⁹

In its submissions, the Crown recognised its Treaty duty to 'make informed decisions on matters that affect Māori interest'.⁶⁰ On the Crown's historical record of consultation in the inquiry district, the Crown acknowledged that 'some evidence on the record of inquiry' pointed to the conclusion that 'Rohe Pōtae Māori may not always have had the same level of input into the establishment of education facilities, institutions and processes that they have today'.⁶¹ That said, the Crown maintained that no specific policy existed that would have prevented Te Rohe Pōtae Māori from having input into educational issues that affected them.⁶²

Today, the Crown said, the situation is vastly improved. The present regulatory framework and Ministry of Education policies have been designed to promote consultation with iwi and whānau Māori, and the ministry has formal relationship agreements in place to increase engagement with iwi.⁶³

24.2.3.3 *Intended outcomes of the education system*

The claimants in this inquiry argued that disparities between the educational achievement of Te Rohe Pōtae Māori and non-Māori can be clearly linked to the Crown's failure to provide 'an adequate standard of education to suit their needs'.⁶⁴ In particular, the claimants alleged that the Crown's education system was designed from the outset to 'civilise' and assimilate Māori, and to replace Māori values and culture with those of Pākehā.⁶⁵ They asserted that the education on offer to Māori favoured practical or vocational courses over academic study, reflecting the belief that Māori were only suited for working-class employment.⁶⁶

The claimants argued that the racist attitudes of some Pākehā teachers towards Māori students inhibited the ability of Te Rohe Pōtae Māori to achieve in the education system most pervasively through the power of low expectations and the labelling of Māori students as 'dumb'.⁶⁷

The Crown denied that the intent of the education system was to civilise Māori; instead, the Crown said, it aimed to equip Māori students for their interactions with the Pākehā world.⁶⁸ The Crown acknowledged that evidence exists, in this

59. Submission 3.4.104, pp 22-23.

60. Submission 3.4.294, p 15.

61. Submission 3.4.294, pp 15-16.

62. Submission 3.4.294, p 16.

63. Submission 3.4.294, p 17.

64. Submission 3.4.104, p 25.

65. Submission 3.4.104, pp 50-55.

66. Submission 3.4.104, pp 32-33.

67. Submission 3.4.104, pp 32-34.

68. Submission 3.4.294, p 32.

and previous Tribunal inquiries, of ‘Māori children being forbidden from speaking te reo Māori in schools.’⁶⁹ However, it denied that there was ever any such official policy banning te reo Māori in schools.⁷⁰ It nevertheless accepted that ‘the promotion of English’ in this period ‘may have been at the expense of te reo Māori.’⁷¹

The Crown denied that the curriculum offered to Te Rohe Pōtae Māori during the first half of the twentieth century was aimed at restricting their vocational opportunities.⁷² It acknowledged that there was an increasing emphasis on ‘practical subjects’ in native schools from the early twentieth century, but denied that such a curriculum was ‘unique to native schools, or schools with a predominantly Māori roll’; rather the Crown argued that a movement towards more practical and less academic education was evident across the State school system.⁷³ Regardless, the Crown pointed out that Christoffel’s research showed that such practical subjects remained peripheral to teaching in Te Rohe Pōtae native schools, which remained firmly focused on literacy and numeracy.⁷⁴

The Crown has also pointed to the existence of a ‘state-funded kaupapa Māori pathway in education from pre-school to tertiary level’ as proof of the progress that the Crown has made in Māori education.⁷⁵

24.2.3.4 Te reo Māori

On te reo Māori and the Maniapoto dialect, the claimants alleged that the historic decline of te reo Māori is directly attributable to Crown actions, particularly the deliberate suppression of the language through the school system.⁷⁶ The claimants also argued that Māori educational initiatives such as kōhanga reo and kura kaupapa have suffered through lack of finances and excessive Crown regulation.⁷⁷

With respect to te reo Māori, claimants alleged that ‘as a result of breaches by the Crown, Te Reo Māori has been lost to current generations’, and that in particular, ‘the Reo o Maniapoto has been lost to a very large extent.’⁷⁸

Evidence that Māori children in both native and general schools were physically punished for speaking te reo is ‘clear’ and ‘overwhelming’, the claimants alleged.⁷⁹ Such practices were so ‘widespread’, in the claimants’ submission, it is ‘virtually inconceivable’ that it went on without the knowledge of Crown education

69. Submission 3.4.294, p 32.

70. Submission 3.4.294, p 32.

71. Submission 3.4.294, p 32.

72. Submission 3.4.294, p 29.

73. Submission 3.4.294, p 26.

74. Submission 3.4.294, p 26.

75. Waitangi Tribunal, *Ko Aotearoa Tēnei: A Report into Claims Concerning New Zealand Law and Policy Affecting Māori Culture and Identity*, Te ‘āumata Tuarua, 2 vols (Wellington: Legislation Direct, 2011), vol 2, p 560 (submission 3.4.294, p 14).

76. Submission 3.4.104, p 42.

77. Submission 3.4.104, pp 38–39; submission 3.4.104(a), p 18.

78. Submission 3.4.109, para 1.

79. Submission 3.4.104, pp 44–45.

24.2.3.4

officials.⁸⁰ However, they say that there is no evidence the Crown acted to address the issue.⁸¹

The effects of such practices on the state of te reo, and Māori children's attitudes to schooling more generally, the claimants argued, are significant and detrimental:

The impacts of corporal punishment for speaking te reo on young tamariki, in their formative years, must not be underestimated. It is clear from tangata whenua evidence that this treatment made learning difficult and many tamariki associated speaking te reo Maori with punishment, whether being punished themselves or knowing that their parents or tupuna were punished for speaking their reo. One result was that te reo Maori was often not passed on to the next generation. The experiences of these tamariki moulded the way in which subsequent generations were educated. Another was the reluctance to attend school or partake in education at all, reducing academic achievement and lessening the prospects of Te Rohe Pōtae Maori youth.⁸²

The claimants also emphasised the language's loss of mana as an underlying cause behind declining te reo speaking rates.⁸³ Over time, English has become normalised, the language of government, the law, commerce, and education.⁸⁴ By contrast, claimants emphasised the barriers to speaking te reo Māori, including the lack of a Māori-speaking community and the cost and difficulty of obtaining translations.⁸⁵ The claimants stressed the Crown's obligation to expand te reo Māori-speaking communities and remove the barriers to speaking te reo.⁸⁶

The claimants argued that recent Māori educational initiatives such as kōhanga reo, kura kaupapa, and wānanga have not been sufficiently supported by the Crown.⁸⁷ The claimants stated that government support for Māori institutions has been 'begrudging' and that on the condition that Māori 'jum[p] through the right hoops' to qualify for funding.⁸⁸

While acknowledging that the teaching of English in New Zealand schools may have come at the cost of Māori fluency in te reo, the Crown maintained that schooling was just one of a range of factors leading to te reo's decline in the twentieth century.⁸⁹ The Crown advised that it has made considerable progress in

80. Submission 3.4.104, p 47.

81. Submission 3.4.104, p 47.

82. Submission 3.4.104, pp 47–48.

83. Submission 3.4.109, para 48.

84. Submission 3.4.109, paras 48, 59, 61, 64.

85. Submission 3.4.109, para 61.

86. Submission 3.4.109, para 95.

87. Submission 3.4.104, pp 38–39.

88. Submission 3.4.104, p p 2 4-25; submission 3.4.104(a), p 18.

89. Submission 3.4.286, pp 13–17.

improving its services for Māori, pointing to the existence of a State-funded kaupapa Māori pathway from pre-school to tertiary level as proof of this progress.⁹⁰

The Crown recognised the status of te reo Māori as a taonga, and acknowledged its Treaty duty to take ‘such action as is reasonable in the prevailing circumstances’ to protect and sustain the language.⁹¹ The Crown also accepted that the English language was promoted in New Zealand schools, and that this may have been at the expense of te reo.⁹² It acknowledged that the direct or ‘immersion’ method promoted by early twentieth-century educationalists is likely to have led to te reo being spoken ‘less frequently’ in schools.⁹³

The Crown acknowledged the evidence presented to the Tribunal of Māori students receiving punishment for speaking te reo.⁹⁴ However, the Crown denied that there was ever an official policy to punish Māori pupils for speaking te reo.⁹⁵ Rather, the Crown argued that schooling was just one of a complex range of factors which led to the decline of te reo in the twentieth century.⁹⁶

In respect of its provision of education services today, the Crown pointed to the comments of the Wai 262 Tribunal that the education system has made considerable progress in providing services for Māori. That Tribunal said the existence of a State-funded kaupapa Māori pathway in education from pre-school to tertiary level was proof of this progress.⁹⁷

24.2.4 Issues for discussion

Based on the arguments advanced by claimants and the Crown and the Tribunal’s statement of issues, this chapter addresses the following questions.

- Did the Crown ensure Te Rohe Pōtae Māori had access to quality education in the period 1840 to 1969?
- Has the Crown ensured access to quality education in the post-1970 period?
- Did the Crown consult Te Rohe Pōtae Māori on important decisions to do with their education?
- What were the intended outcomes of the Crown’s education system in Te Rohe Pōtae? Did it succeed?
- What has been the Crown’s role in the historic decline and survival of te reo Māori?

90. Submission 3.4.294, pp14–15.

91. Submission 3.4.286, p13.

92. Submission 3.4.294, p 32.

93. Submission 3.4.294, p33.

94. Submission 3.4.294, pp 35–36.

95. Submission 3.4.286, p17.

96. Submission 3.4.286, pp1 3–17.

97. Submission 3.4.294, p14.

24.3 DID THE CROWN ENSURE TE ROHE PŌTAE MĀORI HAD ACCESS TO QUALITY PRIMARY EDUCATION IN THE PERIOD 1840 TO 1969?

24.3.1 Māori forms of education

At 1840, Māori in Te Rohe Pōtae had their own school systems and methods of transferring knowledge to new generations, and these persisted after Pākehā colonisation.⁹⁸

Tribal whakapapa and traditions were passed down to future generations through memorising kōrero, waiata, whakataukī, kōrero tuku ihu (histories), and pūrākau (myths).⁹⁹ Children absorbed basic values such as kaitiakitanga (care and obligation for others and te taiao – the natural environment) and manaakitanga (hospitality to guests), and learned tikanga Māori (the right way of doing things) through the experience of participating in communal activities and life alongside their elders.¹⁰⁰ Some forms of mātauranga Māori were reserved for adults, or the members of one sex or other, or viewed as tapu or restricted fields of knowledge, to be imparted to and held in trust only by certain individuals, chosen for their abilities or their descent lines.¹⁰¹

Māori who grew up in rural communities in the first half of the twentieth century remember a strong emphasis on demonstration, observation, and imitation in both formal settings, such as on the marae, and informal settings, such as in the home or the bush.¹⁰² Children were expected to participate in all of the communal activities of the extended whānau, such as the tending and harvesting of gardens, or by helping out at the marae. Children learned about the medicinal uses of plants while gathering rongoā, or assisted in gardening or kai gathering expeditions. Girls were initiated into traditional arts such as weaving mats and tukutuku by helping their female elders. Learning was imparted not only by parents but by entire extended whānau, with grandparents playing a particularly important role in the transmission of knowledge.¹⁰³

Claimant Tangiwai King recalled her own education growing up in Marokopa during the late 1930s and 1940s:

I went to the marae and that is where I learnt my Māori. No one taught us to karanga, it just came to me. I just knew what to say and how to say it. The seed was in me and it just needed to be sparked. At home, I learnt about Māori legends. My uncle told stories about patupaiārehe. My uncle also taught my whakapapa. . . . We grew vegetables like corn, pumpkin, kamokamo and kumara to take to the poukai. I learnt planting by watching. You plant kumara like this and not like this. . . . We learnt the traditional ways of Māori rongoā. There was the red kākūka, the white mānuka and

98. Transcript 4.1.11, p [401] (Rangi Kereopa, hearing week 5, Te Ihingārangi Marae, 7 May 2013).

99. Document A110 (T'auariki), p 20; Atholl Anderson, Judith Binney, and Aroha Harris, *Tangata Whenua: An Illustrated History* (Wellington: Bridget Williams Books, 2015), p 314; Metge, *Tauira*, p 11.

100. Metge, *Tauira*, pp 47, 253.

101. Metge, *Tauira*, pp 73, 112, 256.

102. Metge, *Tauira*, p 211.

103. Metge, *Tauira*, p 47.

the kōwhai. I had to scrape them for the bark. We did not have a doctor so we had to get those sorts of the rongoā. We did not learn these things from our formal education. Instead we learnt them from the people around us.¹⁰⁴

Whare wānanga, traditional places of learning reserved for those with chiefly lineage, thrived within Te Rohe Pōtae.¹⁰⁵ Wānanga were invaluable to Māori as a means of teaching traditional knowledge such as tikanga, whakapapa, and religious practices. Information such as karakia for various aspects of daily life was kept and handed down through wānanga.¹⁰⁶ Tauira (students) were carefully selected by whakapapa and skill to attend these houses of learning.¹⁰⁷ Tohunga and tribal leaders were among those who attended whare wānanga.

In hearings, claimants detailed the histories of whare wānanga and other houses of learning, the important role of tohunga, and the long distances that Māori in the region. A large number of whare wānanga existed in the inquiry district, including Te Miringa Te Kākara, Te Ahurei, Te Kahuwera, Pākuru a Te Rangikataua (otherwise known as Papa-o-rotu), Rangiatea, Hurakia, Tiroa, Kuranui, Te Kāhū Pōkere, and Whenuatupu.¹⁰⁸ There may have been many more. For instance, claimant Jason Pahi told the Tribunal that there were approximately 36 whare wānanga within the vicinity of where his father was raised, around Te Hape and Pureora.¹⁰⁹

The first wānanga in the inquiry district, Te Ahurei, occupied the site of the *Tainui* waka resting place, overlooking Kāwhia Harbour.¹¹⁰ The masters and the builders of this marae were Hōturoa and Rakataura.¹¹¹ Claimant Merv Ranga described Te Ahurei as the principal school of learning for his people, Ngāti Mahuta.¹¹² Tohunga practised mystical rites at the site, and spoke of and practised knowledge brought from Hawaiiki.¹¹³

Claimant Edward Wilson spoke of the marae Te Papa-o-rotu (otherwise known as Pākuru a Te Rangikataua¹¹⁴) as being one of the wānanga where their ancestors would have learned tribal traditions such as karakia and kaitiakitanga.¹¹⁵ The

104. Transcript 4.1.11, p [537] (Tangiwai King, hearing week 5, Te Ihingārangi Marae, 8 May 2013).

105. Document A110 (Ngāia; Douglas), pp109, 319, 322.

106. Transcript 4.1.16, pp261–262 (Edward Wilson, Huirangi Tahana, hearing week 6, Aramiro Marae, 10 September 2013).

107. Document R3(d) (Tutemahurangi), p20.

108. These include but are not limited to: Te Miringa Te Kākara, Te Ahurei, Te Kahuwera, Pākuru a Te Rangikataua (otherwise known as Papa-o-rotu), Rangiatea, Hurakia, Tiroa, Kuranui, Te Kāhū Pōkere, and Whenuatupu: transcript 4.1.3, pp41–44 (Pakira Watene, Ngā Kōrero Tuku Iho hui 3, Poihākena Marae, 12 April 2010); doc A110 (Douglas), pp322, 325.

109. Document 1.17 (Pahi), p3.

110. Document 126 (Ngāti Mahuta site booklet), p5.

111. Transcript 4.1.3, p41 (Pakira Watene, Ngā Kōrero Tuku Iho hui 3, Poihākena Marae, 12 April 2010); doc A110 (Ngāia), p109; doc J11 (Ranga), p12.

112. Document 111, p13.

113. Document A110 (Ngāia), pp109–110.

114. Document A94 (Collins, Turner, and Kelly-Hepi Te Huia), p34.

115. Transcript 4.1.16, pp261–262 (Edward Wilson, Huirangi Tahana, hearing week 6, Aramiro Marae, 10 September 2013).

whare wānanga was established by Tūheitia in Waikaretu, however Māhanga later moved it to Whatawhata.¹¹⁶

The 'Ngāti Maniapoto Mana Motuhake' report, submitted by Miria Tauariki and others, named four whare wānanga (Rangiātea, Hurakia, Miringa Te Kākara, and Whenuatupu), in the inquiry district. Rangiātea was held as the most important and deemed the principal place of learning for Ngāti Maniapoto and Ngāti Raukawa tribes.¹¹⁷ Tāwhao and his son Tūrongo developed Rangiātea as a cultural, educational, economic, and political hub for their people.¹¹⁸ Situated near current-day Ōtorohanga, Rangiātea was named for a wāhi tapu in Hawaii.¹¹⁹

The claimants described Miringa Te Kākara (also known as Miria Te Kākara, see also chapter 21¹²⁰) near Tiroa as a widely renowned wānanga that attracted taura from across Aotearoa.¹²¹ Claimant counsel described Miringa Te Kākara as an incredible example of 'astronomical knowledge, astronomy alignment and scientific knowledge mixed with te taha wairua, mai i ngā whetu o te rangi'.¹²² Also known as the 'Cross-House', the marae took 10 years to complete.¹²³ Tohunga looked to the stars to determine where and when it was to be constructed to properly bind the whare with the stars and whenua.¹²⁴ The whare was named 'Te Whetū Mārama o Ngā Tau o Hinawa'; the bright stars of the years of Hinawa.¹²⁵ The marae itself had four entrance ways facing north, south, east, and west.¹²⁶ Passing through these entrances and exits indicated the stage of the taura's studies.¹²⁷ Construction of the whare wānanga, which involved no nails, was completed in 1853. It was destroyed by fire in 1982.¹²⁸

The claimants highlighted the reputation of Miringa Te Kākara among iwi beyond the inquiry district. Māori leaders such as Tāwhiao, Te Ua Haumēne, and Te Kooti Rikirangi were among those who frequented the wānanga.¹²⁹ Many tohunga and their families attended to receive the teachings of Pao Miere, astronomy, medicines, and ancestral knowledge such as genealogy.¹³⁰ Claimants

116. Document A94, pp34, 69-70, 71n.

117. Document A110 (Douglas), p337.

118. Document A110, p337; doc A83 (Te Hiko), p79; doc 113 (Manaia), p3.

119. Document A83, p 90.

120. Document A99 (Ellison, Greensill, Hamilton, Te Kanawa, and Rickard), p118; doc 12 (Crown), p18.

121. Document L18(a) (Crown), pp20-21; doc s40 (Peni), p5.

122. Transcript 4.1.11, p [24] (counsel for Wai 1309, hearing week 5, Te Ihingārangi Marae, 6 May 2013).

123. Transcript 4.1.11, pp [35], [48] (Piripi Crown, hearing week 5, Te Ihingārangi Marae, 6 May 2013).

124. Transcript 4.1.11, p [48] (Piripi Crown, hearing week 5, Te Ihingārangi Marae, 6 May 2013).

125. Transcript 4.1.11, p [48] (Piripi Crown, hearing week 5, Te Ihingārangi Marae, 6 May 2013).

126. Document s40, pp4-5; doc s40(d) (Peni), annex A.

127. Document s40, pp4-5; doc s40(d), annex A.

128. Transcript 4.1.11, p [73] (Piripi Crown, hearing week 5, Te Ihingārangi Marae, 6 May 2013).

129. Transcript 4.1.11, pp [69]-[71] (Piripi Crown, hearing week 5, Te Ihingārangi Marae, 6 May 2013); doc L18(a) (Crown), p21.

130. Transcript 4.1.11, p [47] (Piripi Crown, hearing week 5, Te Ihingārangi Marae, 6 May 2013); doc s40(d), annex A.

described the teachings of Pao Mīere (similar to, but distinct from Pai Mārire¹³¹) as strongly connected to Miringa Te Kākara.¹³² Claimant Hardie Peni told us that travellers from outside of Aotearoa came to learn at Miringa Te Kākara.¹³³

Miringa Te Kākara was also described as a house for women. Claimant Piripi Crown explained how men would go to war and it was unknown whether they would return – so women were to lead Miringa Te Kākara.¹³⁴ Women had a strong influence at the whare wānanga, being kaitiaki of whakapapa, mātauranga, and wairuatanga.¹³⁵ Mr Crown also expressed his hope to one day help rebuild the renowned whare, Miringa Te Kākara.¹³⁶

As seen above, whare wānanga were of great importance to the claimants. Each wānanga held a wealth of traditional knowledge, and was a place where future generations could learn the ways of their tūpuna.¹³⁷

From the 1830s, these traditional Māori forms of knowledge transmission existed in parallel to new, European, forms of passing on knowledge. We discuss the arrival of European forms of education to Te Rohe Pōtae in the next section.

24.3.2 The mission schools, 1840s–60

Methodist and Anglican missionaries were active in Te Rohe Pōtae from the 1830s. The Wesleyan Missionary Society (Methodist) opened missions at Kāwhia in 1834, and at Ahuahu (Te Waitere) and Whāingaroa in 1835. The Church Missionary Society (Anglican) opened its first station in the inquiry district at Mangapōuri, at the confluence of the Waipā and Pūniu Rivers, in 1834. In 1836, a dispute between the Wesleyan and Anglican Missionary Societies led to the temporary abandonment of these mission stations, but most later reopened. The Church Missionary Society (CMS) opened a further Anglican mission just north of the inquiry district, at Ōtāwhao in 1841. A Roman Catholic mission station was established nearby around 1844, at Rangiaowhia.¹³⁸

Māori were initially enthusiastic for the opportunities the mission schools offered to access European-style education, particularly the chance to gain literacy in their own language.¹³⁹ Travelling through the Thames and Waikato districts in 1840, CMS missionary and chief protector of aborigines George Clarke claimed

131. Transcript 4.1.11, pp [588]-[589] (Tilari John Wi, hearing week 5, Te Ihingārangi Marae, 9 May 2013).

132. Audrey Walker and Ron Cooke, *Waimiha: People of Character* (Waimiha: Waimiha Reunion 2001 Committee, 2001) (doc L5(c)), p13; doc L1 (Cuthbertson), p4.

133. These included visitors from Europe – Italy and Sweden, Africa and Asia: doc 640, p 5.

134. Transcript 4.1.11, pp [63]-[64] (Piripi Crown, hearing week 5, Te Ihingārangi Marae, 6 May 2013).

135. Document 12, pp 18-19.

136. Document L18(a) (Crown), p23.

137. Document A94, p 358.

138. Waitangi Tribunal, *Te Mana Whatu Ahuru: Report on Te Rohe Pōtae Claims: Pre-publication Version, Parts 1 and 11* (Wellington: Waitangi Tribunal, 2018), pp 117–118.

139. Document A27, p15.

to have discovered schools in almost all the Māori villages he visited.¹⁴⁰ However, Māori interest in these early mission schools was short-lived, probably due to their narrow focus on scriptural education, and many closed after just a few years.¹⁴¹

The church mission schools received a boost in 1847, with the passage of an education ordinance granting government funding to support an existing network of purpose-built mission schools, many of them with boarding facilities.¹⁴²

Six such mission schools operated in or near Te Rohe Pōtae in the period spanning from the 1840s to 1880.¹⁴³ While the earlier day schools had taught exclusively in Māori, mission schools funded under the 1847 ordinance were required to combine religious teachings with industrial training and instruction in the English language.¹⁴⁴

The first mission boarding school in the inquiry district was established by the Reverend John Morgan at Ōtāwhao in 1847, on the site of the earlier mission station.¹⁴⁵ By 1851, the Ōtāwhao school was reported to have 38 pupils and two Māori teachers.¹⁴⁶ Between 1850 and 1857, the boarding school's average roll ranged from 25 to 51 pupils.¹⁴⁷ At its peak in early 1860, the school's roll had 86 pupils.¹⁴⁸ Pupils at Ōtāwhao studied the English language, scripture, English history, writing, arithmetic, and geography. Along with these classroom subjects, students also learned sewing, knitting, spinning, and agriculture.¹⁴⁹ Shoe-making would later be added to the list of school activities.¹⁵⁰

The standard of education offered at Ōtāwhao appears to have been mixed, at best. In 1858, William Russell inspected the school and reported he was 'not very favourably impressed with the school as a place of learning', but approved of its 'industrial training' and its 'abundant' food.¹⁵¹ In 1860, things got worse, with the inspector describing one class as a 'perfect failure.'¹⁵² The poor scholastic performance was attributed to undue attention being placed on agricultural instruction and labour.¹⁵³ Despite these less than favourable reports, at least some local Māori viewed the Ōtāwhao school in positive terms. A letter in 1850 from George King Te Waru and John Baptist Kahawai to Queen Victoria expressed gratitude for the

140. John Barrington, *Government Policy and Maori Education 1840-1968* (Wellington: Crown Forestry Rental Trust, 2004), p 9.

141. Document A27, p15.

142. Document A27, p16.

143. Document A27, p16.

144. Document A27, p16.

145. Document A27, p42.

146. Document A27, p43.

147. While initially restricted to 'half-castes', by 1851 the school at Ōtāwhao had opened its roll to all Māori.

148. The figure of 60 pupils supplied by Christoffel is incorrect. The correct number is 86 pupils (made up of 67 Māori pupils, 17 'half-castes' and 2 Europeans): doc A27, p44; 'Reports on Native Schools', AJHR, 1860, E-8, p13.

149. Document A27, p43.

150. Document A27, p44.

151. 'Reports on Native Schools', AJHR, 1858, E-1, pp64, 65 (doc A27, p43).

152. 'Reports on Native Schools', AJHR, 1860, E-8, p13 (doc A27, p44).

153. Document A27, p44.

school at Ōtāwhao: 'But, O Queen! What we prize most are the schools for our children. Let Governor Grey continue founding schools for teaching our children, that they may live happily, and, as they grow up, become acquainted with useful employments.'¹⁵⁴

During the 1850s, the CMS received regular government grants for the Ōtāwhao school. Governor Grey himself personally supported the school through donations, including two horses, a plough, and a cart for the school's agricultural activities.¹⁵⁵ However, according to historian Kerry Howe, the mission school still struggled from lack of funding. It also had trouble in finding and retaining trained teachers, an issue which Howe attributed, at least in part, to Morgan's difficult personality.¹⁵⁶

French Catholic missionary Father Joseph Garavel operated a mission school at Rangiaowhia during the 1850s. According to his biographer, the school attracted 'generous help' from the Government.¹⁵⁷ The school had around 20 pupils until 1860, when it closed due to Garavel's removal and the outbreak of war in Taranaki.¹⁵⁸

Three further mission schools opened on the western harbours of the inquiry district during the 1840s and 1850s: Te Māhoe near the mouth of the Mōkau River in 1849, and on the Aotea and Kāwhia Harbours (late 1850s).¹⁵⁹ The fourth, located inland at Te Kōpua, on the Waipā River, opened around 1858.¹⁶⁰ The Wesleyan school at Te Kōpua received a good report when inspected by John Gorst in 1860, but the school closed in 1861, having been open for less than two years.¹⁶¹

Lack of funding initially restricted the Te Māhoe mission school to only three pupils, but in 1853 the school received a government grant of £65, which was spent on a new classroom and tools for rope-making.¹⁶² Rope-making was introduced as a revenue-generating scheme, but had little success. By 1858, the school had 17 pupils.¹⁶³ However, the school closed shortly afterwards, when the school's head missionary Cort Schnackenberg was transferred to oversee the new mission schools on the Kāwhia and Aotea Harbours.¹⁶⁴

Like the earlier village day schools, the mission boarding schools also proved short-lived. Funded on a per pupil basis, the schools struggled to remain financially

154. George King Te Waru to Queen Victoria, 1 October 1850 (doc A27, p43).

155. Document A27, p43.

156. Document A27, p43.

157. ER Simmons, 'Joseph Marie Garavel', in *The Dictionary of New Zealand Biography* (Wellington: Ministry for Culture and Heritage, <https://teara.govt.nz/en/biographies/1g2/garavel-joseph-marie>), accessed 10 December 2019; doc A27, p48.

158. Document A27, p48.

159. Document A27, pp45-46.

160. Document A27, p47.

161. Document A27, p47.

162. Document A27, p46.

163. Document A27, p46.

164. Document A27, p46.

viable in the face of fluctuating or falling rolls.¹⁶⁵ As inspector John Gorst put it in 1861, per capita funding ‘push[ed] a sinking school down.’¹⁶⁶

Rising support among Te Rohe Pōtae Māori for the Kingitanga also likely hastened the mission schools’ demise. Writing in 1862, school inspector Henry Taylor noted that the King movement had disallowed the children of followers to attend.¹⁶⁷ The next year Taylor wrote that the war was adversely affecting school attendance:

The present disturbed state of the country, and the hostility and mistrust with which the Natives regard the exertions [of the government] to promote their welfare, have alike combined to frustrate the good which the establishment of Schools was calculated to effect. Many children have either been prevented from entering or rashly withdrawn from our Schools, because the Schools were dependent upon Government for support, or because the Natives fancied the Government had some ulterior object beyond the welfare of their children in establishing Schools.¹⁶⁸

Rolls declined sharply, leading to school closures. The village of Ōtāwhao, a Kingitanga stronghold, saw its school roll drop from 86 pupils in February 1860 to just 20 later that year.¹⁶⁹

Only the Wesleyan schools at Kāwhia and Aotea remained open throughout much of the unrest in Te Rohe Pōtae, though their rolls too suffered. In the early 1870s, student numbers for Aotea ranged between 10 and 13 pupils. The school closed in 1876. Kāwhia, whose roll had declined from 24 pupils in 1861 to around a dozen in the mid-1870s, closed in 1880 after the death of Schnackenberg.¹⁷⁰ The closure of the school at Kāwhia brought the era of the mission schools in Te Rohe Pōtae to an end.

24.3.3 The State school system (1867–1969)

The Native Schools Act 1867 established a framework for a system of native schools that lasted for over a century.

Initially operated by the Native Department, control of the native schools was transferred to the Department of Education upon its creation in 1877. Free and compulsory primary education, introduced for the settler population under the Education Act 1877, was extended to include Māori in 1894.

The Native Schools Act 1867 did not compel Māori to attend school and, with active hostilities between the Crown and Māori ongoing, uptake of the new native schools was slow initially. By 1871, only around 13 native schools were in operation around the country.¹⁷¹ But over the next decade, numbers began to climb. In 1880,

165. Document A27, p52.

166. ‘Reports of Inspectors of Native Schools’, AJHR, 1862, E-4, p10; doc A27, p52.

167. Document A27, p49.

168. ‘Reports of Inspectors of Native Schools’, AJHR, 1863, E-9, p1; doc A27, p49.

169. Document A27, pp44, 47.

170. Document A27, p52.

171. Document A27, p21.

Native or Māori School	Years active
Waitetuna	1882–88
Te Kōpua	1886–1957 (closed during 1892–94, 1909, 1911, 1917–22)
Ōtorohanga	1890–94
Kāwhia	1895–1904
Raorao	1897–1904
Te Kūiti	1899–1904
Hauaroa	1902–08
Parawera	1902–69
Mangaorongo	1906–08
Ōpārure	1906–22
Rakaunui	1910–67 (closed during 1915–16, 1919, 1923)
Waimiha	1910–15
Tahāroa	1911–69 (closed 1919–20)
Moerangi / Kaharoa	1915–64
Makomako	1925–69

Table 24.1: Native and Māori schools in the Te Rohe Pōtae inquiry district

Sources: Document A27, pp 53, 62 (fig 5), 67, 73–74, 77, 80, 83; 'Native School at Waitetuna', *Waikato Times*, 28 September 1882; 'Waikato District News', *New Zealand Herald*, 21 October 1882.

57 native schools had 1,625 enrolled pupils.¹⁷² Attitudes among Māori to native schools varied between regions. To the north and east of the North Island, Māori enthusiasm for native schools was high. However, in areas such as Te Rohe Pōtae, Waikato, and Taranaki, Māori demand remained low.¹⁷³

Due to the enduring resistance of Te Rohe Pōtae Māori to government institutions, the first native school in the district, at Te Kōpua, did not open until 1886, 17 years after the passage of the 1867 Act.¹⁷⁴ Native schools were renamed Māori schools in 1947.

The dates of operation for all native and Māori schools within or near to the inquiry district are shown in table 24.1.

Some of the native schools in the inquiry district were short-lived. The Waitetuna Native School closed in 1888 due to poor attendance.¹⁷⁵ The Raorao Native School, opened in 1897, closed six years later after a period of teacher

172. Document A27, pp 21–22.

173. John Barrington, *Separate but Equal? Māori Schools and the Crown, 1867–1969* (Wellington: Victoria University Press, 2008), pp 28–29.

174. Document A27, pp 54, 63.

175. Document A27, p 53; 'Education: Native Schools', AJHR, 1889, E-2, p 1; 'Education: Native Schools', AJHR, 1883, E-2, p 1; 'Native School at Waitetuna', *Waikato Times*, 28 September 1882; 'Waikato District News', *New Zealand Herald*, 21 October 1882.

illness and low attendance.¹⁷⁶ The Mangaorongo Native School, located east of Ōtorohanga, opened in July 1905, but closed soon afterwards due to lack of pupils as many Mangaorongo Māori had reportedly moved to the timber township of Mōkai in the Waikato for work.¹⁷⁷ The school reopened again in 1906, but continued to have 'very poor' attendance until its permanent closure in 1908.¹⁷⁸ Waimiha Native School, which opened in 1910, closed its doors for good in 1915.¹⁷⁹

The most common reason for native school closures was their transfer to the general primary school system as Pākehā pupils outnumbered Māori on their rolls.

From 1877, the network of native schools centrally administered by the Department of Education existed in parallel to 'general' or 'board' schools, administered by regional education boards. Both Māori and Pākehā attended board schools.

The first general school in the inquiry district opened at Raglan in 1866.¹⁸⁰ In 1900, the number of general primary schools in the inquiry district had grown to eight, with new schools opening in the Raglan, Piopio, and Mōkau districts, and at Ōtorohanga and Poro-o-tarao, along the route of the new railway.¹⁸¹ By 1911, half of all Māori children nationally attended an education board school rather than a native school, and while we do not have specific figures for the inquiry district, it is likely that a significant proportion of Te Rohe Pōtāe Māori attended board rather than native schools.¹⁸²

As the settler population grew, native schools increasingly became general schools. Ōtorohanga Native School, opened in 1890, was transferred to the Auckland Education Board just four years later in 1894.¹⁸³ Kawhia Native School, opened in 1895, was transferred to the Auckland board in 1903. Te Kuiti Native School, opened in 1899, became a board school in 1905.¹⁸⁴ The Hauaroa Native School, opened in 1902, was transferred to the Auckland board in 1909.¹⁸⁵ Later transfers of native schools to board schools included Ōpārure (1922) and Kaharoa (1965).¹⁸⁶ Of the native schools established in the inquiry district between the 1880s and 1920s, only two – Makomako and Taharoa – remained Māori schools when the separate Māori system was amalgamated in 1969.¹⁸⁷

176. Document A27, p58; 'Education: Native Schools', AJHR, 1898, E-2, p.2.

177. Document A63 (Alexander), p386.

178. AJHR, 1908, E-2, p.4 (doc A27, pp 59-60).

179. Document A27, p61.

180. Document A27, p 53.

181. Raglan, Waitetuna, Te Mata, Otorohanga, Poro-o-tarao, Paemako (near Piopio), Mahocnu, and Mokau: 'Annual Report of the Minister of Education for 1900', AJHR, 1901, E-1, pp 18-20.

182. Colin McGeorge, 'Childhood's Sole Serious Business: The Long Haul to Full School Attendance', in NZJH, vol 40, no 1 (2006), p34; doc A27, p29, fig 2.

183. Document A27, p55.

184. Document A27, p58; 'Hon CH Mills: King Country Deputations', *Waikato Times*, 21 March 1905, p3.

185. Document A27, p59.

186. Document A27, pp 61, 79-80.

187. Document A63, p428.

The Native Schools Act 1867 required Māori communities to prove sufficient local demand for education, before the Government would invest funding for a school. To establish a school, the Act required 'a considerable number' of male Māori inhabitants of a district to petition the Government for a school.¹⁸⁸ A majority of locals were then required to meet and agree to contribute towards the school's construction and maintenance, and elect a school committee and chairman.¹⁸⁹ Only after these conditions had been satisfied, would the Government assist with funding.

The financial contributions expected of Māori changed over time. The 1867 Act specified that Māori communities wishing to have a native school established in their midst must 'contribute at least an acre of land for the school site, half the cost of the buildings and maintenance, a quarter of the teacher's salary and the price of school books.'¹⁹⁰ However, in 1871, the Government amended the Act, reducing the requirement on Māori communities to a contribution of land only. By the 1880s, the standard request of Māori had become three acres of land.¹⁹¹ However, in remote areas four or five acres were required to be gifted, to give space for a garden.¹⁹²

The expectation that Māori communities request native schools was motivated both by the self-help principles fundamental to the 1867 Act and a belief among Government officials that native schools would have little likelihood of success in communities where there was no Māori demand for them.¹⁹³ For instance, when the Crown's land purchase officer George Wilkinson wrote to suggest that the Education Department establish a school at Ōtorohanga, the Secretary for Education commented: 'Unless the want of a Native School is as felt as to lead the Natives interested to move in the first place, there would be small prospect of success.'¹⁹⁴ The Government viewed the willingness of Māori to gift a school site as a further sign of community support for a school. Hone Wetere had written to the Government in 1884 to request a school at Kāwhia.¹⁹⁵ Upon making further enquiries into a site offered by Ngāti Hikairo, Wilkinson recommended that the request be deferred until the Native Land Court could conduct a full investigation into its ownership, which was disputed.¹⁹⁶ Upon receiving Wilkinson's report, the inspector-general of schools commented:

No doubt it would be a very good thing to establish a school at Kawhia, but perhaps it would be best to wait until the Maori people make formal application, by sending names of parents and children, which they have been advised to do and have not

188. Document A27, p20; Native Schools Act 1867, s5.

189. Document A27, pp20-21.

190. Document A27, p21.

191. Document A27, pp86-87.

192. Barrington, *Separate But Equal?*, p 45.

193. Document A63, pp82-83.

194. Secretary for Education, file note, 10 September 1885 (doc A63, p 354).

195. Document A63, pp359-361.

196. Wilkinson to Secretary for Education, 14 October 1884 (doc A63, pp362-365).

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done. Even then it might be well to wait until they could show the earnestness of their desire by agreeing to give a site. Until we know that they would value a school, we may be doing more harm than good by pressing one on them.¹⁹⁷

24.3.3.1 *Native schools in Te Rohe Pōtae*

The first Māori request to establish a native school in the inquiry district was made in 1884, at Te Kōpua in the Waipā Valley. According to an account published at the time of Te Kopua School's 1937 jubilee, 'Messrs William Searancke, Walter Searancke and AS Ormsby' requested the school's establishment. Their request had at first encountered some opposition from local Māori, who, 'under their leader, Tawhiao, were still resentful of the treatment accorded them by the Pākehā during the Maori Wars'.¹⁹⁸ The Ormsbys and Searanckes were among a number of whānau who played a prominent role in local affairs in the inquiry district during the late nineteenth and early twentieth centuries.¹⁹⁹ According to the article, this opposition was 'gradually overcome' and a school committee elected, including Ormsby and the Searancke brothers.²⁰⁰

The request was quickly agreed to by the Education Department, and the Te Kopua Native School was established in 1886 at the site of the former Wesleyan mission school.²⁰¹

The Crown welcomed the Māori request for a school at Te Kōpua, and indeed, the spread of schools in Te Rohe Pōtae in the late nineteenth and early twentieth centuries, as a sign of thawing relations between the region's Māori and the Crown. James Pope, inspector of native schools, wrote:

After a long interval following the outbreak of the Waikato war, something is being done for the education of the Maoris of the so-called King-country. A new school has been established at Kopua with favourable prospects of success. It may be hoped that before many years have passed by other schools will be opened in this part of New Zealand.²⁰²

Writing in 1899, roughly 15 years after the first native school application in Te Rohe Pōtae, Pope reflected on the change in the region in relation to education:

One of the most remarkable signs of change in the attitude of the Maoris towards European civilisation is to be found in the extension of the area of country in which the Native inhabitants now desire schools. . . . [These] have been built, or, at least, asked for, in places that were practically inaccessible a few years ago.²⁰³

197. Inspector-general of schools to Secretary for Education, 17 November 1884 (doc A63, p 365).

198. 'School Jubilee, Te Kopua Gathering', *New Zealand Herald*, 8 February 1937, p 12.

199. For the Ormsby whānau, see pt 111, p 20.

200. 'School Jubilee, Te Kopua Gathering', *New Zealand Herald*, 8 February 1937, p 12.

201. Document A27, p 54.

202. 'Education: Native Schools', AJHR, 1887, E-2, p 3.

203. 'Education: Native Schools', AJHR 1899, E-2, p 15; doc A27, p 56.

Pope cited an application for a school at Parawera as particularly significant. He noted that it was 'a long time . . . residence of Tawhia' and its location was 'some seven miles from Kihikihi, and not very far from Orakau, where Rewi Maniapoto made his last stand against our overwhelming force.'²⁰⁴

However, despite Pope's optimism, resistance to the native schools persisted among Māori in the inquiry district. It was reported that King Tāwhia forbade children from attending the school at Te Kōpua after it was established in 1886, although it continued to enjoy a healthy attendance.²⁰⁵ In 1894, the Education Department received an application for a native school at Taumarunui. Before officials could visit the district to assess the site, the department received a letter opposing the application.²⁰⁶ The letter came from Ngatai Te Mamaku, Ngaru Piki, Taitua Te Uhi, and 'all the people of Taumarunui', and stated that schools were disallowed under the 'laws of the Māori special confederation' (a reference to the Kingitanga).²⁰⁷ Hakiha Tāwhiao, a local chief, offered land for a school site, but the tense circumstances saw the application halt.²⁰⁸ In forwarding a list of prospective pupils for a native school at Mangaorongo in 1902, the Ōtorohanga native agent noted: 'there are other children living in the vicinity whose names are not included in the list because their parents or guardians are not in favour, at present, of such an innovation as a school in their midst'.²⁰⁹

New native schools opened at Kāwhia (1895), Raorao (1897), and Te Kūiti (1899), and the department received a revived application for a native school in Taumarunui (1902). The school in Kāwhia, Pope noted, was the first in the area since 'the estrangement between the two races began in connection with the great Waikato war'.²¹⁰ He later observed that the school was 'standing, as it does, within a mile of the landing-place of the great Tainui canoe, among a people who but a very short time ago regarded everything European with either aversion or contempt'.²¹¹ The Kawhia Native School opened in 1895, following a request from local Māori earlier that year.²¹² The native school at Raorao also caught Pope's attention. It was, he wrote, 'a very interesting field for Native-school operations. It was for a long time near the very heart of Maoridom, and then the man who visited it did so with his life in his hand'.²¹³

Pope was enthusiastic about an 1896 school request from Te Kūiti Māori. 'This school is really in the King-country. It seems to have overcome the prejudice of the Maoris that are not yet Europeanized so far, that it is generally recognised, even

204. 'Education: Native Schools', AJHR, 1899, E-2, p 15; doc A27, p 57.

205. Document A27, p 54; Barrington, *Separate but Equal?*, p 46.

206. Document A27, p 55.

207. Ngatai Te Mamaku, Ngaru Piki, Taitua Te Uhi, and 'all the people of Taumarunui' to Education Department, 11 August 1894 (doc A27(a), vol 3, p 1057); doc A27, p 55.

208. Document A27, p 55.

209. Native agent to Secretary for Education, 19 December 1902 (doc A63, p 384).

210. 'Education: Native Schools', AJHR, 1897, E-2, p 5; doc A27, p 55.

211. 'Education: Native Schools', AJHR, 1899, E-2, p 6; doc A27, p 56.

212. Document A63, p 366.

213. 'Education: Native Schools', AJHR, 1898, E-2, p 2; doc A27, p 56.

by Maoris very conservative in other respects, that a school is certainly not a bad thing.²¹⁴ The Education Department appears to have been aware of the school's symbolic importance, and it opened its doors in March 1898, in what was a relatively quick response to the request.²¹⁵

As noted, a new application for a native school in Taumarunui was lodged in 1899, only five years after the previous application had been abandoned.²¹⁶ This time, the request was made by Te Marae Te Rangihinui and others from Ngāti Hauā, and supported by a local settler, Alexander Bell, who wanted a school for his children to attend.²¹⁷ Slow delivery of materials hindered the school's construction; it eventually opened at the start of 1902 (and was quickly renamed Hauaroa, after a local chief).

The native school at Ōtorohanga (1890) was opened following a May 1889 request from local Māori.²¹⁸ The inspector of native schools visited Ōtorohanga in July the same year to select a suitable site, which local chief Te Kanawa agreed to gift to the Crown.²¹⁹ The transfer of title over the two-acre site to the Crown was completed in 1889.²²⁰ The Crown's swift response appears to have been directly related to its land purchasing ambitions in the area. In recommending the Ōtorohanga school be established, the Native Minister wrote: 'No delay should be made in erecting this school, as it is important in the interest of furthering our land purchase negotiations that the Natives should see that the Government are earnest in their drive to help'.²²¹

However, the Crown was not always so responsive to Māori requests for a school.²²² On 1 June 1900, W Te Ao-o-Terangi and 48 others wrote to the Native Minister requesting that a 'Maori School' be established at Te Kōpua on the south side of Whāingaroa/Raglan Harbour, near Raglan (not to be confused with Te Kōpua of the existing Te Kōpua Native School, in the Waipā River valley).²²³ Complicating matters was the presence of a board school nearby in Raglan. Education officials were hesitant to establish a native school with a public school so close.

In further correspondence Te Ao-o-Terangi explained why Te Kōpua Māori wanted a native school. A tidal creek separated Te Kōpua from Raglan, and the ferry (paid for by the county council, and free for school children) was sometimes late. There were also no Māori adults at the public school to look after the Māori children, and no way of getting food to them during the day.²²⁴ He also noted the

214. 'Education: Native Schools', AJHR, 1899, E-2, p 6; doc A27, p 56.

215. Document A27, p 56.

216. Document A27, p 57.

217. Document A27, p 57.

218. Document A63, p354.

219. Document A63, pp354-356.

220. Document A63, p358.

221. Native Minister, file note, 1 August 1889 (doc A63, p 358).

222. Document A27, pp 102-106.

223. W Te Aoterangi and 48 others to Native Minister, 1 June 1900 (doc A27(a), vol 3, pp115-1152); doc A27, p102.

224. Document A27(a), vol 3, pp1159-1161; doc A27, pp102-103.

prejudice of the teacher at Raglan against Māori children at the school as a further reason for a separate native school.²²⁵ The Auckland Education Board opposed the request. After scoping the situation in 1901 native school inspector Harry Kirk also recommended no school due to its proximity to the public school, although admitting he thought it unlikely that the Te Kōpua children would attend the Raglan school 'in any numbers'.²²⁶

Under continued pressure from local Māori, Education Secretary George Hogben asked the board to reconsider its position.²²⁷ In mid-1903, three years after the initial request, the board agreed to establish a native school at Te Kōpua.²²⁸ Local Māori agreed to gift a school site. However, the site was on the Te Kōpua block, which had 88 owners with undefined shares.²²⁹ The complications of the land title system introduced under the native land system were such that the gifted land could not be confirmed without gaining the agreement of all 88 owners.²³⁰ To bypass this need for consent, the Education Department decided, on the advice of the chief native land purchase officer, to instead take the land under the Public Works Act.²³¹ The land was formally acquired for school purposes in 1904.²³²

The department wished to re-use the school house from the recently closed Raorao School. The quote for moving the building was not obtained until August 1905. The same month, William Bird, inspector of native schools, informed Hogben that Te Kōpua Māori were moving to the other side of the Raglan Harbour to occupy lands of theirs on which the lease had recently expired.²³³ The next month, the department, which had placed its plans for the Te Kōpua Native School on hold, received confirmation that Te Kōpua Māori were moving, although they still wished for the school to be built on the agreed site.²³⁴

There is no record in Education Department files on the final decision concerning the Te Kōpua school, but no school was built. In May 1913, Whare Paekau, who was living on the site of the proposed school, asked for the return of the land. It was not until 1923 that the Government finally issued an order in council revoking the 1904 taking, due to 'the said land no longer being required for the purpose for which it was taken'.²³⁵ From 1924, Te Kōpua children were able to access the Raglan School via a footbridge.²³⁶ According to claimant Marleina Te Kanawa, this 'denial of education' to the children of her grandparents' generation created

225. Document A63, p389.

226. Kirk, report, 19 September 1901 (doc A27, p103).

227. Document A27, p103.

228. Document A27, p103.

229. Document A63, p392.

230. For the native land court, see pt 11, ch 10.

231. Document A63, p392.

232. Document A63, p392. For a fuller discussion of public works legislation and takings in the inquiry district, see part IV, chapter 20.

233. Document A27, p104.

234. Document A27(a), vol 3, p 1218; doc A27, p 105.

235. *New Zealand Gazette*, 19 July 1923, no 56, p 2048 (doc A27, p 105).

236. Document M9(a) (Te Kanawa), p11.

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a whakamā over their lack of education that has been passed down to subsequent generations.²³⁷

At Moerangi (Kaharoa) on the Aotea Harbour, Ngāti Māhanga wrote to the Native Minister in 1910 to request a school, and offering three acres of their land as a site.²³⁸ They pointed out that the closest primary school at Waitetuna was ‘impassable to our children’ for much of the year, ‘owing to the bad state of the road in winter time.’²³⁹

A school inspector was sent to Moerangi in 1911. He reported that Ngāti Māhanga had formed a company of 200 or so to work the tribe’s land collectively. Around 50 had already settled on the land, and required a school for their children.²⁴⁰ However, he made no recommendation, due to what he saw as a lack of a settled population and the fact that the proposed site was awaiting partition by the Native Land Court.²⁴¹ In 1912, the court ordered that a school site of three acres be partitioned from the block, in the name of three Māori owners, including Tai Rakena.²⁴² Immediately after the court’s award, Tai Rakena wrote again to the inspector of native schools, asking him to expedite the school’s establishment.²⁴³

It was not until 1914 that the inspector returned to Kaharoa to investigate the possibility of a native school there. He found the Māori residents of Kaharoa ‘exceedingly anxious’ for a school to support their growing farming settlement, which now boasted a timber mill.²⁴⁴ Around a dozen children from the area attended the Waitetuna school ‘under difficult circumstances’ due to the poor condition of the road, which made it ‘out of the question for the very large number of smaller children to attend this school.’²⁴⁵ However, the Education Department, concerned at the impact on the Waitetuna public school if a new native school were established, would only agree to a temporary school.²⁴⁶ The temporary school opened in 1915 in church buildings provided by the local community.²⁴⁷ It was not until 1918 that a permanent school was opened on the site gifted by local Māori.²⁴⁸

Significant delays also followed Māori requests for a native school at Tahāroa. In 1904, an investigation on the merger of the Kāwhia public school with the Kawhia Native School had recommended the latter school’s closure. Part of the rationale for the school’s closure was that the Government planned to open a new native school across the harbour at Tahāroa.²⁴⁹ No progress had been made in opening the Tahāroa school in 1905, when Kāwhia Māori asked Native Minister Carroll to

237. Document M9(a), p 11.

238. Document A63, p409.

239. Tai Rakena to Native Minister, 7 September 1910 (doc A63, p409).

240. Document A63, p410.

241. Document A63, p411.

242. Document A63, pp411-412.

243. Document A63, p412.

244. Inspector Porteous to Secretary for Education, 16 May 1914 (doc A63, pp412-413).

245. Porteous to Secretary for Education, 16 May 1914 (doc A63, p413).

246. Document A63, p413.

247. Document A63, p414.

248. Document A63, p414.

249. ‘Kawhia School Matters’, *Waikato Times*, 27 February 1904, p 2.

look into the matter.²⁵⁰ The Taharoa Native School did not open until 1911, seven years after the Kāwhia school's closure.

At Makomako, on the Aotea Harbour, local Māori had requested a school in 1911. In 1913, Karamu Maihi wrote again, supplying the Department of Education with a list of pupils and the offer of a two-acre school site, which had already been set aside by the Native Land Court.²⁵¹ An inspector visited the community in 1914, where he observed '30 children, including several babies and a good number of children under school age'. He advised that the request for a school be deferred for a year.²⁵² In response to Maihi's objections to this further delay, the Education Department offered to provide a temporary school, if the local community could provide a temporary school building and teacher's residence.²⁵³

In 1915, Karamu Maihi wrote to inform the department that he had built a temporary schoolhouse for 12 children who were ready to enrol.²⁵⁴ However, the department advised that it was unable to assist, despite Maihi largely fulfilling its requirements of the previous year for a temporary school.²⁵⁵ In 1918, Maihi wrote to the Education Department to ask for the return of the land he had given for a school. He was advised that the land remained his, as the Crown had taken no steps to acquire it.²⁵⁶

In 1919, the local European postmaster wrote to the Native Minister supporting the application of local Māori for a school at Makomako, stating: 'The nearest schools to them are 6 to 8 miles distant at Ruapuke, and 10 to 12 miles at Kawhia. The only means of reaching either place is by tidal tracks covered by the sea for the greater part of the day, and dangerous to the health and lives of the children.'²⁵⁷

The same year, another Makomako resident, Maraea Edwards, petitioned the Education Department for a school. Her petition was signed by 13 parents and provided a list of 34 children who would attend the school.²⁵⁸ The department responded by stating that an inspector would only visit the district if local Māori agreed to 'give a suitable site of not less than five acres for school purposes'.²⁵⁹ No reply was received.

In 1921, a local doctor told the department that there were 'over 50 children' on the Moerangi block 'who don't go to school at all'.²⁶⁰ An inspector of schools visited the area in 1922. He wrote:

250. 'Mr Carroll at Kawhia', *Waikato Argus*, 10 March 1905, p3.

251. Document A63, p415.

252. Inspector Porteous to Secretary for Education, 3 June 1914 (doc A63, pp 415-416).

253. Document A63, pp 416-417.

254. Document A63, p418.

255. Document A63, p418.

256. Document A63, p418.

257. E W Buckeridge to Native Minister, 13 February 1919 (doc A63, pp 418-419).

258. Document A63, p419.

259. Director of education to M Edwards, 3 February 1920 (doc A63, p419).

260. Notes, unsigned and undated, ca August 1921 (doc A63, p419).

24.3.3.1

I proceeded to Aotea Harbour today and saw the principal Maoris concerned in the application for a Native School on the shores of that inlet. Since 1911 these people have been asking that a school be established there. The nearest schools are Kawhia, 12 miles distant, and Ruapuke, 10 miles distant. Only two of the children, two big children of 14 and 11 years, go to school, riding 7 miles over roads that are impassable at high tide. . . . There were 37 children [of school age], of whom I saw 25. I was unable to see the other 12 owing to the lack of time to go to their houses. However, I am quite satisfied that they are there.²⁶¹

The Makomako Native School eventually opened in 1925, on a school site gifted by local Māori.²⁶²

Not all native schools in the inquiry district were built upon Māori land. Te Kopua Native School in the Waipā Valley was built on the site of the former Wesleyan mission, leased to the Crown on a 21-year lease, renewed in 1907.²⁶³ The Raorao Native School, opened in 1897, was also built on land leased by the Crown from the Wesleyan Mission.²⁶⁴ The Kawhia Native School opened in 1895 in temporary premises before a permanent site for the school was obtained on Crown land in 1898.²⁶⁵

But in the majority of cases, Te Rohe Pōtae native schools were built on land gifted for the purpose by Māori. Te Kuiti Native School, opened in 1898, was built on a three-acre site gifted by local Māori.²⁶⁶ The land was transferred to the Auckland Education Board less than eight years later upon the Te Kūiti school's conversion to a public school.²⁶⁷ The Oparure Native School opened in 1906, on a three-acre site gifted for the purpose by Ruita Te Mihinga (or Mrs Lucy Josephs), for a nominal purchase price of five shillings.²⁶⁸ Moerangi (Kaharoa) Native School was built on three acres gifted by Ngāti Māhanga, for a nominal sum of £4.²⁶⁹

From 1900, it had become standard government practice to transfer gifted lands to Crown ownership using the Public Works Act.²⁷⁰ Five Te Rohe Pōtae native school sites were taken under the Public Works Act. They were Mangaorongo (1903), Te Kopua (1904 – for the Raglan school that was never built), Rakaunui (1909), Taharoa (1910), and Makomako (1923). No compensation was paid for any of the sites.²⁷¹ We provide more detail on these public works takings below.

261. Inspector Henderson to director of education, 9 May 1922 (doc A63, p 420).

262. Document A63, p420.

263. Document A63, p352. A new four-acre site acquired for the school in 1949 was on Crown-owned land.

264. Document A63, pp382–383.

265. Document A63, p373.

266. Document A63, pp378–379.

267. Document A63, pp379–380.

268. Document A63, pp398–399.

269. This sum was said to be to cover the owners' costs and accommodation in travelling from Waitetuna to Whatawhata to complete the legal arrangements for the land's transfer to the Education Department: doc A63, pp409, 414.

270. Document A63, p85.

271. Document A63, p351.

At Te Kōpua (Kāwhia Harbour), the school site that Māori had agreed to gift was located on the Te Kopua block, which had 88 named owners with undefined shares.²⁷² The school site was formally taken under the Public Works Act in 1904, a Lands Department official having advised ‘the only way I can suggest is to take the land under the P/W Act’.²⁷³ The Rakaunui Native School, opened in 1907, was likewise built on a site gifted for the purpose by local Māori.²⁷⁴ The site, located on the Awaroa A3 block, had 42 owners and Lands Department officials advised that the land be taken under the Public Works Act as ‘a deed of transfer [requiring the signature of all owners] is almost an impossibility’.²⁷⁵ The school site and road access to the site were taken under the Public Works Act in 1909.²⁷⁶ Taharoa Native School was opened in 1910, after local Māori agreed to give land for the school.²⁷⁷ A four-acre site was taken for native school purposes under the Public Works Act later that year.²⁷⁸

Makomako Native School was also established on a site gifted by local Māori, after two Māori land owners, Mrs Ruku (Kumeto) and Mr Jack (Moeparu) Tuawhenua Taurira agreed to provide four acres for a school site. However, their agreement was ‘with the proviso that if the latter at some future date no longer requires it for school purposes it shall revert to the present owners or their heirs’.²⁷⁹ The site, on the Moerangi 3D2 block, was found, after survey, to have seven owners. The department appears to have taken no steps to contact the remaining owners, and the land was taken under the Public Works Act in 1923.²⁸⁰

In the view of researcher David Alexander, the Crown’s expectation that Māori would provide a site for a school was ‘discriminatory’, as the same request was not made of Pākehā communities.²⁸¹ When a general school was planned, the Education Department would check to see whether there was Crown-owned land in the region on which the school would be built. If there was no suitable Crown land available, a site would be purchased from private landowners.²⁸² By contrast, Alexander wrote:

When Maori communities asked for a school, the Crown responded that a site had to be offered first, without even a suggestion that there might be an alternative. Throughout the rest of the nineteenth century, and during the first decades of the twentieth century, the Crown would not countenance any deviation from its requirement that the site had to be provided at no financial cost to the Crown.²⁸³

272. Document A63, pp 391–392.

273. Chief land purchase officer to Secretary for Education, 17 December 1903 (doc A63, p392).

274. Document A63, p406.

275. Chief land purchase officer to Secretary for Education, 27 August 1907 (doc A63, p406).

276. Document A63, p407.

277. Document A63, p407.

278. Document A63, pp 408–409.

279. Inspector Henderson to director of education, 13 November 1922 (doc A63, pp 422–423).

280. Document A63, p424.

281. Document A63, pp 83–84.

282. Document A63, pp 83–84.

283. Document A63, pp 83–84.

Study: Return of Surplus Native School Land in the Early Twentieth Century – Mangaorongo Native School

In 1902, Mangaorongo Māori wrote to native agent George Wilkinson, asking for a school at Mangaorongo, and listing more than 30 children who would attend. They invited the Government to send an inspector to select a site, and asked that the school be built as soon as possible.¹ Wilkinson forwarded their letter to the Ministry of Education, and wrote in support that Mangaorongo was a 'populous and permanent settlement'.² Māori agreed to gift a site of three acres, which was formally taken under public works legislation in 1903.³ It was almost two years, however, until the school opened. When it did – in July 1905 – just 15 children enrolled.⁴ Wilkinson reported that in the time it had taken to open the school, many Māori families in the area had relocated to Mōkai in the Waikato to seek jobs in the timber industry.⁵ The school closed for good in 1908.⁶

In 1911, the Auckland Education Board granted permission for the building to be used for a part-time school. Both Māori and Pākehā attended the school, but Māori complained that the teacher 'did not concern himself' with their children. The part-time school closed in 1916 when the teacher enlisted to fight in the First World War and was not replaced.⁷

In 1926, an education official reported that Māori at Mangaorongo were eager to have the school reopened, and had offered to assist with the repair of the school

1. Document A63, p384; doc A63(a), vol 4, pp 1876–1879.

2. George Wilkinson to Secretary of Education, 23 August 1902 (doc A63, p384).

3. Document A63, p386.

4. Document A63, p386; doc A63(a), vol 4, p1896.

5. Document A63, p386.

6. Document A63, p386.

7. Document A63, pp 3 & 6-387; file note, 15 January 1927 (doc A63(a), vol 4, p 1908); Thomas Porteous, Education Department, to Mr Bell, 22 November 1926 (doc A63(a), vol 4, pp 1903–1904).

However, in the view of Dr Christoffel, the distinctions between general and native schools with regard to financial contributions are not so clear cut.²⁸⁴ The 1877 Education Act, which governed the running of general primary schools, gave education boards powers to lease or purchase school sites, but left it to the boards' discretion how much funding for a school's establishment would be met by the boards themselves, and how much local communities would be required to make up the difference.²⁸⁵

284. Document A27, pp 87–89.

285. Education Act 1877, s75.

building, which was by then 'in need of serious restoration'.⁸ The report identified 27 prospective pupils (22 of whom were Māori) permanently settled near the school. However, inspector of native schools John Porteous advised against the school's reopening 'in view of the past history of the school'. He also ordered that a Māori family who had been living in the school house for some time be made to 'vacate the buildings [and] refrain from trespassing on what is Government property'.⁹ The school building was removed in 1928, for reuse at the Rangiata Public School. However, the Crown retained ownership of the land.¹⁰

In 1949, with the school site having lain vacant for some 20 years, the education board considered disposing of the land, but decided against it, in case it was 'required for school purposes' in future.¹¹ In 1955, Tamihana Manaia, an adjoining landowner, approached the Crown with an offer to buy or rent the former school site. Confusion on the part of the education authorities over the correct legal process for disposing of the land created long delays, however, and nothing appears to have come of Manaia's request.¹² In 1960, another neighbouring Māori landowner approached the Crown to purchase the land. The Education Department was finally prompted into action: in November 1962 the former Mangaorongo Native School site was ordered to be re-vested in Māori ownership and included in the title to Rangitoto A151.¹³

8. GM Henderson to director of education, 6 June 1926 (doc A63(a), vol 4, pp1900–1901).

9. Thomas Porteous, Education Department, to Mr Bell, 22 November 1926 (doc A63(a), vol 4, pp1904–1905).

10. Document A63, p309.

11. Document A63, p309; GH Shorland, secretary, Auckland Education Board, to district superintendent of education, Newmarket, 19 October 1949 (doc A63(a), vol 4, p1909).

12. Document A63, p310.

13. *Pt Rangitoto A151* (1962) Otorohanga MB 85, p166 (doc A63(a), vol 7, p3723); ML 7432 (doc A92, ML-plan folder).

Christoffel cited a number of occasions whereby education boards decided not to wholly fund the establishment, expansion, or running of general schools in Te Rohe Pōtae, and communities made up the shortfall. In 1903, residents of the mostly Pākehā railway settlement of Mangapehi requested a school from the Auckland Education Board.²⁸⁶ The board agreed to provide only a teacher, leaving the community to supply the building and a site (the latter was donated by local Māori). Later, when the roll outgrew the school, the Auckland Education Board built a new one on a new site purchased from the family of Wehi Ringitanga, but

286. Document A27, p87.

again the community contributed: 'The grounds were fenced, ploughed, pumiced and levelled by the local residents, who had to also bear the cost of this work.'²⁸⁷

In another example, a new school was established in 1908 at Honoikiwi, northwest of Ōtorohanga, on a site purchased by the Crown, but the buildings were paid for with a £5 levy on local settler families and half that amount for settlers without families. Similarly the Ruakuri school, near Waitomo, was opened in 1912 in a cottage on land owned by a local farmer. Later the Education Department agreed to fully fund the school and granted part (although not all) of the money required to build a larger school building, still on private land.²⁸⁸

This expectation that communities would, on occasion, partially meet the costs of establishing new schools continued under a new Education Act in 1914.²⁸⁹ The Paraketu School (1920) was built using volunteer labour on a site donated by a local farmer.²⁹⁰ Christoffel wrote that the requirement that communities provide a school site and building before the Crown would commit funding occurred more often in rural areas 'where the viability of a school might be uncertain'. In such cases, Christoffel wrote, 'education authorities preferred to push some of the financial risk onto the local community'.²⁹¹

24.3.3.2 Māori pupils in the State school system in Te Rohe Pōtae

Any discussion of Māori access to primary schooling over the first half of the twentieth century must account for the increasing numbers of Māori pupils who attended general or board primary schools over this period. As noted earlier, by 1911, the numbers of Māori children enrolled at board primary schools, had already surpassed those at native schools, and this trend continued. Unfortunately, the principal research report relied upon in this inquiry, Dr Christoffel's report on 'The Provision of Education Services to Māori in Te Rohe Pōtae, 1840–2010', included little information on Māori attendance at general or board primary schools, despite the author's admission that 'a significant proportion of Māori within the inquiry district would have attended such schools'.²⁹² As a result, we have relied upon other secondary sources to flesh out this chapter's account of the provision of general primary schooling in the district.

Despite the 1877 Education Act's introduction of 'free, compulsory, and secular' primary school education for the settler population, primary school attendance was far from universal even among Pākehā children during the latter decades of the nineteenth century, with school enrolment rates in remote and sparsely populated rural regions particularly poor. By the turn of the century, however, most Pākehā children attended primary school. In 1900, 89.1 per cent of Pākehā males and 87.9 per cent of Pākehā females in the age group five to 15 years were enrolled

287. Mangapehi School Jubilee Committee, *Mangapehi School Diamond Jubilee, 1904–1964* (Mangapehi: Mangapehi School Jubilee Committee, 1964), p 9 (doc A27, pp 87–88).

288. Document A27, p 88.

289. Document A27, p 88.

290. Document A27, p 88.

291. Document A27, p 89.

292. Document A27, pp 7–8.

in school. By 1910, Pākehā enrolment rates had risen to 92.8 per cent for boys and 90.3 per cent for girls.²⁹³

Enrolment rates were even lower among Māori. From 1894, Māori children were legally required to attend school, but only if there was a native school nearby. Yet, in 1900, just 51.4 per cent of Māori boys and 43.3 per cent of Māori girls aged 5–15 years were enrolled in school.²⁹⁴ Under the School Attendance Act 1901, which applied to Māori and Pākehā, all children aged 14 and under were required to attend school. However, children under 10 were exempt if they lived more than two miles from a school, while older children were exempt if they lived more than three miles away.²⁹⁵ By 1910, Māori school enrolment rates had risen to 76.4 per cent of Māori boys and 66.7 per cent of Māori girls.²⁹⁶ By 1926, Pākehā school enrolment rates among the 5–15-year age group had reached 99 per cent. The same year, 82.4 per cent of Māori in this age group were enrolled in school (including State primary, native, mission, and Māori denominational boarding schools).²⁹⁷

In an era before reliable vehicle or public transport, providing primary schools within walking or riding distance of all families with school-aged children was a significant undertaking for the Crown. In a largely rural country, historian Logan Moss noted the introduction of compulsory education led to a proliferation of small rural schools. Of the 2,214 public schools open in 1912, 61 per cent were sole-teacher schools. A decade later, there were 2,550 schools, 60 per cent of which had a single teacher.²⁹⁸

As a stop-gap measure, the Government introduced 'household' and 'part-time' schools to educate children in remote rural areas, where the minimum attendance to run a permanent full-time school could not be guaranteed.²⁹⁹ Household schools were operated in private residences, and teachers boarded with local families.³⁰⁰ Part-time schools were where a pair of schools shared a teacher, who travelled between the schools teaching a few days at a time.³⁰¹ There remained a need for such part-time schools as late as the 1920s, when the Auckland Education Board proposed that itinerant teachers be employed to travel between families in remote districts so that 'the children would receive some education'.³⁰² While part-time schools were relatively common in Māori communities, we do not have any

293. McGeorge, 'Childhood's Sole Serious Business', p 34.

294. McGeorge, 'Childhood's Sole Serious Business', p 34.

295. McGeorge, 'Childhood's Sole Serious Business', p 32.

296. McGeorge, 'Childhood's Sole Serious Business', p 34.

297. Department of Education, 'Education: Native Education', AJHR, 1927, E-3, pp2, 16, 18; Department of Education, 'Education: Primary Education', AJHR, 1927, E-2, p2; Ian Pool, *Te Iwi Maori: A New Zealand Population; Past, Present & Projected* (Auckland: Auckland University Press, 1991), p 121; 'Maori and Half-Caste Population', *New Zealand Official Yearbook 1927*; 'Ages of the Population', *New Zealand Official Yearbook 1936*.

298. Logan Moss, 'Boarding the School Bus', NZJH, vol 40, no 1 (2006), p 57.

299. Barrington, *Separate but Equal?*, pp 47–48.

300. McGeorge, 'Childhood's Sole Serious Business', pp 27–28.

301. McGeorge, 'Childhood's Sole Serious Business', pp 27–28.

302. 'Itinerant Teachers', *King Country Chronicle*, 14 August 1920, p 5.

evidence on whether any of the native schools in Te Rohe Pōtae were set up on this basis.³⁰³

One solution to the problem of educating children in rural areas was to transport children to the schools. The Government provided all primary school students with free rail passes from 1895.³⁰⁴ By 1922, the Government was spending £11,942 annually on subsidies for rail transport.³⁰⁵ It is likely that some Te Rohe Pōtae Māori living in the proximity of the railway line were able to benefit from this free railway passes scheme, although we have no specific evidence that they did so.

Education officials were open about the deficiencies of the small, country schools which proliferated following the passage of the 1877 Act.³⁰⁶ As a 1912 commission on education noted, small schools were uneconomic to run and many lacked modern facilities and basic necessities like heating, sanitary arrangements, and drinking water.³⁰⁷ The inferior nature of the education on offer to the rural children who attended such schools was also openly acknowledged. At a 1910 general conference on education, inspectors highlighted the educational disadvantages suffered by children at small schools, due to the difficulties of attracting and retaining qualified staff in remote areas.³⁰⁸ For this reason, the 1912 commission strongly endorsed a policy of consolidation: that is, closing small schools and transporting children to larger, central schools, where their educational needs could be more effectively met, at greater efficiency to the Government.³⁰⁹

Education boards had gained the authority to arrange transport for children to and from school in 1904.³¹⁰ However, the Auckland board did not immediately take up its new powers. In 1907, it noted that insufficient government funding and the poor quality of many of the roads in its outlying settlements made it impractical to arrange school transport for rural children.³¹¹ Improving the quality of education for children living in remote rural areas of its district became an increasing priority for the Auckland board by the 1920s. During 1924, the board spent £4,389 transporting children to schools and £896 on board for pupils who were required to live away from home to attend school.³¹²

The advent of school buses from the 1920s, and improvements to rural roads, made the closure of small schools and the transporting of school children to larger schools by road feasible for the first time. The first New Zealand experiment in school consolidation took place in the inquiry district in 1924, when schools at

303. Barrington, *Separate but Equal?*, p47.

304. Susan Butterworth, *The Department of Education 1877–1989: A Guide to its Development* (Wellington: Learning Media, 1993), p25.

305. Moss, 'Boarding the School Bus', p57.

306. Moss, 'Boarding the School Bus', p57.

307. Moss, 'Boarding the School Bus', p58.

308. Ian Cumming, *A Glorious Enterprise: A History of the Auckland Education Board 1857–1957* (Auckland: Whitcomb and Tombs, 1959), p351.

309. Cumming, *A Glorious Enterprise*, p387.

310. Cumming, *A Glorious Enterprise*, p311.

311. Cumming, *A Glorious Enterprise*, p338.

312. Cumming, *A Glorious Enterprise*, p471.

Arapae, Te Mapara, and Paemata were closed, and school bus transport arranged to a central school at Piopio.³¹³ By 1936, 121 small schools nationally had been closed and consolidated into larger schools, and 9,643 children travelled to school by bus daily.³¹⁴ By 1940, 415 small schools across the country had been closed as a result of consolidations.³¹⁵ Peter Fraser, Minister of Education and later Labour Prime Minister, was a strong supporter of consolidation policy, stating in a 1936 speech:

With the coming of the tar-sealed road and the motor-car, the village smithy, and often even the village church, have gone and business and pleasure are concentrating more and more in populous centres, where expert aid of all kinds is available. Yet the little school persists, a social relic of primitive days. We may well ask: has not the time and the opportunity come to take the children to the school and not the school to the children; and should residents in some rural areas tolerate an inferior educational service for their children any more than they would tolerate an inferior medical service?³¹⁶

With the growing use of school buses to transport children, government spending on school transport and board increased from £34,750 in 1921–22 to £99,500 in 1931–32.³¹⁷ By 1946–47, the department was spending over 7 per cent of its budget, or £546,000, on school transport alone.³¹⁸

From the 1920s, improvements to road infrastructure, and the conversion of existing dirt tracks into metalled roads, eased the isolation of rural communities by making road transport faster and more reliable. However, as seen in chapter 19 on local government, demand for district roads was driven by the Pākehā ratepayers who controlled local authorities, and to meet the needs of Pākehā settlers, not Māori land-owners.³¹⁹ As seen in chapter 10 on the Native Land Court, the court's ad hoc approach to the partitioning of Māori title, resulted in some Māori-owned blocks in the inquiry district being entirely 'landlocked', without road access at all.³²⁰

Complaints at the difficulties that Māori pupils in the inquiry district encountered accessing schooling began in the early 1900s and continued well into the century. At the opening ceremony for the Oparure Native School in 1906, '[s]everal prominent natives' were said to have welcomed the school's opening but noted that 'in the absence of suitable roads they failed to see how they could send a great number of the children to the school.'³²¹ Similarly, in 1924, the headmaster of the

313. Moss, 'Boarding the School Bus', p68.

314. Moss, 'Boarding the School Bus', p70.

315. Moss, 'Boarding the School Bus', p70.

316. Peter Fraser, speech notes, circa 20 April 1936 (Moss, 'Boarding the School Bus', p70).

317. Butterworth, *The Department of Education, 1877–1989*, p31.

318. Butterworth, *The Department of Education, 1877–1989*, p38.

319. Waitangi Tribunal, *Te Mana Whatu Ahuru, Part 1V*, pp121–122.

320. Waitangi Tribunal, *Te Mana Whatu Ahuru, Parts 1 and 11*, pp 1238–1241.

321. 'Oparure Native School; Opening Ceremony', *Waikato Times*, 27 March 1906, p 3.

24.3.3.2

Te Kūiti school noted that the education board's truant officer had recently sent warnings to 'about 14 native children who had never attended school'. He noted that the children 'lived in a kainga some miles from Te Kuiti, but had no proper road', and suggested that bus transport be arranged to bring them to school.³²²

The claimants in this inquiry attested to the difficulties they experienced accessing local schools. Loui Ru Reihana Rangitaawa was born at Kāwhia in 1930. Both blocks of whānau land Mr Rangitaawa's family lived on were landlocked, and he and his siblings did not attend school at all in their early years. As a result, Mr Rangitaawa's father was threatened with fines by the education board. It was not until Mr Rangitaawa was nine and a half years old that his family moved to Kinohaku and he was able to attend the Kinohaku 2 primary school.³²³

A stark example of barriers to access occurred at Tahāroa. As seen above, Tahāroa Native School finally opened its doors in 1911, after repeated requests from local Māori for a school. It was not until 1968 that central government finally agreed to fund road access to the school. Before this, children living on the coastal headland could only access the school by way of a dirt track.³²⁴ Evidence provided to the Native Minister in 1938 suggested that the lack of road access to the school was a deterrent to Māori owners utilising their lands:

There are a great many Natives who are owners here but who are now living on sustenance and relief in the Waikato and Auckland districts who say they will come back on to their land when there is a school and road, as this northern end of Tahāroa is too far away from the school and the track is not safe in the winter for the one family that could go to the Tahāroa school.³²⁵

A further example raised by the claimants is that of Te Kōpua Native School in the Waipā River Valley (not to be confused with the planned native school that was never built at Te Kōpua, on the Kāwhia Harbour). The Te Kōpua Native School was established in 1886 near the Waipā River. Pupils from both sides of the river attended the school. Safety concerns over children crossing the river were raised as early as the 1890s. An 1896 inspector's report noted that a swing bridge was needed to ensure safe passage for the pupils to school: 'It is the practice for several pupils to cross in a canoe, with great risk at times.'³²⁶ The Crown took no action and the school closed in 1916. When the school re-opened in 1922, students were still crossing the river by canoe. In 1932, the school was forced to close when the Waipā River flooded.³²⁷ In 1945, a visiting inspector again raised the possibility of a bridge to cross the river, but no action was taken. A new site for the Te Kōpua Māori school was acquired in 1949, on Crown-owned land.³²⁸ The school opened

322. 'Te Kuiti School', *King Country Chronicle*, 2 August 1924, p 5.

323. Document 04 (Rangitaawa), pp 1-2.

324. Document A24 (Luiten), pp 384, 405.

325. J Gibbons to Native Minister, 31 March 1938 (doc A24, p 390).

326. 'Education: Native Schools', AJHR, 1897, E-2, p 5; doc A27, pp 106-107.

327. Document A27, p 107.

328. Document A27, p 108; doc A63, p 352.

on its new site in 1953. A bridge remained unbuilt when the school closed its doors for good in 1956.³²⁹

Even close proximity to a school, or reliable school transport to reach a school, did not guarantee uninterrupted access to education. As Simon and Smith wrote, poor weather, sickness, and families travelling for work all disrupted Māori school attendance.³³⁰ Children in rural areas were often part of the agricultural workforce and girls were sometimes kept away from school to help at home. These informal barriers often had big implications for Māori access to and experiences of education. As Ngāti Rōrā claimant Dr Wharehuia Hemara's research demonstrates, the need of Māori whānau to travel to attend lengthy Native Land Court sittings also led to disruptions in schooling. He cited a 1902 report by Ōtorohanga native school inspector James Pope, which noted that the 'Native Land Court work is interfering with the Natives' and appeared to suggest that, as a result of the disruptions it caused, 'a good many children have left the district'.³³¹ Until the 1920s and 1930s, most whānau Māori lived rural subsistence lifestyles, heavily reliant on small farms and seasonal work. The reliance of such farms on family labour, and the need of whānau to shift for seasonal work such as fencing and road-making, made Māori children particularly vulnerable to such interruptions in schooling.³³² The impact of the seasonal migrations of Māori whānau for work was seen at Mangaorongo, in 1905, when the mass departure of Māori whānau to the Waikato timber township of Mōkai led to the permanent closure of the Mangaorongo Native School.³³³

In addition, as seen in the previous chapter, the extreme poverty experienced by many Te Rohe Pōtae Māori communities by the turn of the twentieth century likely formed a further barrier to their children's ability to access schooling. Overcrowding and poor standards of housing in Māori communities rendered them particularly vulnerable to outbreaks of infectious diseases such as measles and diphtheria, interrupting school attendance.³³⁴ Poverty could form a barrier to schooling in other ways. In 1930, the local newspaper reported that local Māori at Makomako were 'too poor to provide sufficient food and clothing for their children'.³³⁵ In 1937, the Maniapoto Maori Association praised the Government's supply of free school materials to pupils of native schools noting that many parents 'living in poor circumstances . . . in a large number of instances withdrew their children from school far too early owing to their inability to purchase the books and other things required'.³³⁶

329. Document A27, pp108–109.

330. Judith Simon and Linda Tuhiwai Smith, eds, *A Civilising Mission? Perceptions and Representations of the New Zealand Native Schools System* (Auckland: Auckland University Press, 2001), p65.

331. Document S11 (Hemara), pp29–30.

332. Anderson, Binney, and Harris, *Tangata Whenua*, pp340, 352.

333. Document A63, p386.

334. McGeorge, 'Childhood's Sole Serious Business', pp30–31.

335. *Kawhia Settler*, 1930 (doc A27, p80).

336. 'Maori Education', *King Country Chronicle*, 8 November 1937, p4.

24.3.4

In other cases, Te Rohe Pōtae Māori children experienced disruptions to schooling when schools closed for long periods. The Te Kōpua school in Waipā was closed for unknown reasons between 1892 and 1894, during 1909 due to difficulty finding a teacher, and again in 1911 due to 'insufficient attendance'. The school closure in 1916 was intended to be permanent, but it reopened in 1922 due to local pressure.³³⁷ Taharoa Native School was closed between 1919 and 1920 for unknown reasons.³³⁸

School closure due to high staff turnover was a particular issue in the more remote and sparsely populated regions of the inquiry district. Rakaunui Native School, opened in 1910, was forced to close in 1915, 1919, and 1923 because it did not have a teacher.³³⁹ During 1936, the school had three teachers, and between August 1938 and February 1939 the school had four head teachers.³⁴⁰ This trend continued throughout the Second World War (a common occurrence for schools during that time) and through to the 1950s. Makomako had nine teachers over a period of 18 years from 1949 to 1967.³⁴¹ Kaharoa was another school affected by a succession of departing staff. While not as extreme as Rakaunui, the seven teachers in around 15 or so years prompted a parent in October 1942 to write to the Education Department complaining about the 'large number of teachers that have been in and out of here in a comparatively short space of time.'³⁴²

24.3.4 Tribunal analysis and findings

For much of the nineteenth century, the Crown played a limited role in the provision of education. But with the passage of the Education Act 1877, the provision of free, secular, and compulsory primary education to citizens came to be regarded as a core function of government. After the lifting of the aukati, State education began to make inroads into the inquiry district in the form of native schools for Māori pupils and general primary schools for the settler population. Māori pupils could (and did) attend both types of school. Indeed, by 1911, over half of Māori pupils nationally were enrolled in board schools rather than native schools.

We accept the Crown's contention that it has no absolute Treaty duty to provide education to its citizens. The Crown's main Treaty duties concerning the provision of access to education arise from article 3 of the Treaty, which promised Māori all the rights and privileges of British citizens. From 1877, we consider that these rights and privileges of citizenship included a basic primary school education provided free of cost to the pupil. As previously noted in this report, we draw a distinction between the Crown's Treaty duty to provide equal standards of a particular core service (in this case education) to Māori and non-Māori, and its Treaty duty to take all reasonable steps to address disparities in outcomes between Māori and non-Māori, where they exist. This might include extra resourcing to

337. Document A27, pp 61–62.

338. Document A27, p 62.

339. Document A27, p 71.

340. Document A27, p 71.

341. Document A27, pp 81–83.

342. Mrs P Dunlop to Education Department, 13 October 1942 (doc A27, p 79).

remove barriers to Māori accessing services, whether they be geographical, economic, or cultural.

The extension of free and secular primary school education for all citizens was a formidable task, involving significant government effort and investment over many decades. The Crown's task was particularly difficult in rural districts with remote and scattered populations like Te Rohe Pōtae.

We do not have specific data on the attendance rates of Te Rohe Pōtae Māori in the inquiry district during the first half of the twentieth century. However, we are aware of no reason why Māori in the inquiry district would have departed from national trends in Māori enrolment rates over this period. As noted above, these show that by 1900, most Pākehā children had access to a basic primary education, and by 1910, the vast majority of Pākehā children attended school. Māori school enrolment rates lagged behind however, with just 51 per cent of Māori boys and 43 per cent of Māori girls aged five to 14 enrolled in school in 1900.³⁴³ By 1926, Māori enrolment rates, although vastly improved from the turn of the century, were still well behind those of the settler population at 82.4 per cent for all Māori in this age group, compared with 94.8 per cent for Pākehā.³⁴⁴

Below we consider some of the potential barriers to Te Rohe Pōtae Māori accessing a basic primary school education (whether at a native or general primary school) during the first half of the twentieth century.

The first potential barrier examined was the burden placed upon Māori communities to provide land on which a native school could be established. The native school system's founding legislation had placed a number of requirements on Māori communities wishing to have a school established in their midst. As outlined in section 24.3.3.1, these included the expectations that Māori communities formally petition the Government for a school, and 'gift' a site for the school.

It was, in our view, entirely reasonable for the Crown to await Māori requests for a native school before it invested public resources into a school's establishment, and we do not accept the claimants' argument in this respect. Given the enduring resistance of Te Rohe Pōtae Māori to the presence of government institutions in their midst, fears that government schools might not be welcomed by Māori were very real. The Crown was also warranted in requesting of Māori communities some form of proof that sufficient community support existed to make a school's establishment worthwhile. However, while the Crown was evidently willing to consider European forms of political mobilisation such as petitions, it did not appear to take into account tikanga-based measures when considering Māori community demand for schools. Providing a school building and a teacher represented a significant Crown investment, while the requirement that Māori ask for a school positively contributed to a community's sense of ownership over a school, a crucial ingredient in their success.³⁴⁵

343. McGeorge, 'Childhood's Sole Serious Business', p 34.

344. Cumming, *A Glorious Enterprise*, p 387.

345. Anderson, Binney, and Harris, *Tangata Whenua*, p 294.

We now consider whether an equal burden was placed on Pākehā communities who wished to have a school established in their community. As Christoffel's research makes clear, the distinction between native and board schools in terms of community contributions was not clear cut. In some cases, both Pākehā and Māori landowners donated sites to ensure the establishment of a general primary school in their area. As Christoffel noted, such requests appear to have occurred most commonly in sparsely populated rural areas or where questions existed over a school's viability. Under the 1877 Act, education boards could require Pākehā communities to contribute to a school's establishment in land, labour, or funds. The ability to make local communities contribute to the establishment and running of remote schools continued to a lesser degree under section 54(6)(a) of the 1914 Act, which allowed education boards, when schools had average yearly rolls of less than nine children, to require parents to subsidise the presence of a teacher, either with funding or by supplying lodgings.

For board schools, the expectation that local communities donate their land, labour, or other resources to a school's establishment was, however, largely dependent upon the discretion of the education board. As we noted in chapter 20, the expectation that Māori 'gift' land for native schools was far from discretionary or optional. It was instead very near to compulsory.³⁴⁶ On only one occasion in the inquiry district, that of the Kāwhia school, was a native school built on Crown land.

The expectation that Māori communities gift land applied regardless of whether the school was located in a closely settled or remote area. It applied regardless of whether an equally suitable or even more suitable site existed on Crown land. It gave no regard to whether local landowners were in a position to gift land, or to the impact that the gifting might have on existing tribal land holdings. For this reason, we consider the requirement on Māori to gift land for native schools to be discriminatory, and to have placed unfair obstacles in front of Te Rohe Pōtae Māori seeking education for their children. Regarding acquisition of school sites, we find that:

- ▶ By requiring Māori to 'gift' land for schools without exploring alternative options, the Crown acted inconsistently with the principal of partnership, and the duty inherent in this partnership to actively protect Māori rights, interests, and taonga.
- ▶ By not imposing the same requirement to gift land for school sites on Pākehā, the Crown acted inconsistently with the principle of equity.

A further potential barrier to Māori access to schooling was when long delays occurred following Māori requests for schools. In some cases, the Crown acted upon Māori requests for schools with relative speed, opening a native school within one or two years from the first request from Māori. In others, Māori requests for education languished for many years, or even decades. As we have observed, however, the speed with which the Crown responded to such requests appears to be

346. Waitangi Tribunal, *Te Mana Whatu Ahuru, Part IV*, p149.

directly correlated to the Government's political and land-purchasing ambitions in the area.

Native schools at Te Kōpua (Waipā), Raoroa, Te Kūiti, and Parawera all opened within what might be viewed as a reasonable timeframe (around two years) of the first request from Māori.³⁴⁷ The delay between the second request for a school at Taumarunui in 1899 and the school's opening in early 1902 was due to the slow delivery of building materials.³⁴⁸

Elsewhere in Te Rohe Pōtae, however, Māori requests for schools met with lengthy delays. It took until 1925, 14 years after it had been requested by local Māori, for the Government to establish a school at Makomako.³⁴⁹ The Moerangi (Kaharoa) Native School, first requested in 1910, did not open its doors until 1918.³⁵⁰ Planning to establish a school at Tahāroa, on the Kāwhia Harbour, began as early as 1904, but the school at Tahāroa was not opened until 1911.³⁵¹ Despite the Crown's initial reluctance to fund a school, all three of these native schools proved to be among the most long-lived in the inquiry district, with Kaharoa shutting its doors in 1964, and both Tahāroa and Makomako remaining open at the time the Māori school system was integrated with the board system in 1969.³⁵² We find these long delays in establishing native schools, in spite of repeated requests from Māori, to be inconsistent with the Crown's duty of active protection and the principle of equity.

Other potential barriers to Te Rohe Pōtae Māori access to primary schooling surveyed in this chapter include the isolation and poverty of Māori communities, lack of road access to Māori communities, title issues such as landlocked lands, and school closures due to outbreaks of infectious diseases or lack of a teacher. While some of these barriers were not unique to Māori, our findings in previous chapters show that Te Rohe Pōtae Māori experienced them more acutely, frequently for reasons resulting from earlier Crown Treaty breaches.

The issue of poor road access to Māori communities, as we have seen in chapter 19, stemmed from the dominance of local authorities (who built local roads) by Pākehā ratepayers. The landlocked nature of some Māori blocks stemmed from issues with the native title system, discussed in chapter 10. As we have found, a range of Crown actions and policies led to the extreme poverty of Te Rohe Pōtae Māori communities in the first half of the twentieth century. This poverty increased the chances of Māori pupils being absent due to infectious diseases, of being unable to afford clothing or books for school, or of disruptions to schooling as entire whānau migrated to find work.

From the turn of the twentieth century, compulsory primary education became a reality for most Pākehā New Zealanders. From 1910, the vast majority of settler children had access to basic primary schooling. Yet, Māori school enrolment rates

347. Document A27, p67.

348. Document A27, p 57.

349. Document A63, pp414-415; doc A27, p80.

350. Document A63, pp409, 414.

351. 'Mr Carroll at Kawhia', *Waikato Argus*, 10 March 1905, p3.

352. Document A27, pp75-83.

lagged well behind. As seen in claimant evidence presented to this inquiry, some Te Rohe Pōtae Māori were denied access to education well into the 1920s and beyond. Lengthy government delays in establishing a native school at Makomako meant that between 34 and 50 Māori pupils were without any schooling until 1925.³⁵³ Claimant Loui Rangitaawa, born in 1930, told us that he was prevented from attending any school until he was nine and a half, due to the landlocked nature of his whānau land.³⁵⁴ In these cases, and whenever Te Rohe Pōtae Māori were denied access to basic primary schooling, or found their access to schooling impeded, shortened, or interrupted, and where Māori can be shown to have suffered such disadvantages to a greater extent than Pākehā, we find the Crown in breach of its duty of active protection, and the principle of equity.

With respect to the quality of education on offer in rural schools, education officials openly acknowledged the inferior standards of education offered by the small, sole-teacher, country schools which had proliferated following the 1877 Act. Remote country schools were difficult to staff and uneconomic to run, and in this respect Pākehā children at such schools probably faced many of the same disadvantages as Māori pupils of some of the more remote native schools in the inquiry district. Although undesirable, the Crown initially had little feasible alternative to such small, country schools.

By the beginning of the interwar period, however, the situation had begun to change. The availability of reliable road transport, with the introduction of school buses in the 1920s, and improvements to the standards of rural roads, offered a solution to the issue of small, poor quality, country schools by making possible the transportation of rural children to larger, central schools. Once it was within the Crown's grasp to address the barriers that Māori pupils in rural areas encountered in gaining access to quality education, the Crown was obliged to take active measures to address such inequities. Where it did not, we find the Crown to have acted inconsistently with the duty of active protection and the principle of equity.

A further matter considered in this section is the taking of gifted school sites under the Public Works Act. In chapter 20, we set out the Treaty standards against which we measure the Crown's conduct in applying public works legislation in the inquiry district. These include the requirement that the Crown consider all feasible alternatives to permanent alienation before proceeding with a public works taking. While, strictly, such takings were 'giftings' using the public works legislation as the formal mechanism to transfer ownership, such giftings were far from voluntary. In reality, they verged on compulsory.

In following the necessary steps to petition for a school, and then providing a site, Te Rohe Pōtae Māori amply demonstrated their long-term commitment to education. It was reasonable for the Crown to expect some security of tenure in return for its investment in school buildings and improvements. Yet we see no reason why it needed to obtain permanent title over Māori-owned land to do so. After all, in the case of the two mission-owned native school sites at Te Kōpua and

353. Document A63, p419; doc A27, p61.

354. Document O4, pp1-2.

Raorao, the Government was happy to invest in a native school on the assurance of long-term leases from the Wesleyan Church Mission, rather than gaining permanent title. We see no reason why the Crown could not have negotiated similar leaseholds with the Te Rohe Pōtae Māori communities who requested native schools, and whose educational needs such schools were intended to serve.

The Crown's insistence on permanent alienation of 'gifted' native school sites (as opposed to negotiating a leasehold or similar arrangement) created further issues when native schools were converted to general schools, or closed their doors for good. In the case of native schools transferred to general primary schools, the Education Department simply assumed ownership of the school site. When sites became surplus to educational needs, prior giftings were acknowledged in that the Government recognised its obligation to return the land to its former owners at no charge. However, as we saw in the case of the Mangaorongo native school, the reluctance of education authorities to return school sites, and administrative confusion over the correct process for doing so, meant it could take many years, even decades, before former school sites were returned to Māori.

The Crown's use of permanent alienation as a first rather than last resort in respect to public works takings of Māori land, as we found in chapter 20, was inconsistent with the Treaty guarantee of tino rangatiratanga, the principle of partnership, and the Crown's duty of active protection. When the Crown failed to return such lands as soon as they became surplus, at minimum cost and inconvenience to their former owners, we find the Crown's actions to be further inconsistent with the aforementioned principles and duties.

24.4 DID THE CROWN ENSURE TE ROHE PŌTAE MĀORI HAD ACCESS TO QUALITY SECONDARY EDUCATION IN THE PERIOD 1840 TO 1970?

24.4.1 Māori secondary school participation at the national level

During the nineteenth century, few New Zealanders attended secondary school, which was reserved for a small, wealthy elite. By the middle of the twentieth century, almost all New Zealanders leaving primary school went on to some form of secondary education.³⁵⁵

Between 1900 and 1930 alone, the number of pupils enrolled in some form of post-primary education increased from around 3,000 to over 30,000.³⁵⁶ In 1917, approximately 37 per cent of pupils leaving primary school went on to some form of secondary education. By 1932, over half of primary school leavers continued to secondary school. By 1947, the figure was 85 per cent.³⁵⁷ New secondary schools opened across the country to meet the demand. In 1900, there were 25 public secondary schools in New Zealand; by 1930 there were 44.³⁵⁸ In 1900, there were 13 district high schools (fee-paying secondary departments attached to existing pri-

355. Document A27, p150.

356. Document A27, p149.

357. Document A27, pp149, 150, fig6.

358. Document A27, p149.

mary schools). By 1930, there were 81 such schools nationally.³⁵⁹ The first technical high school, offering technical and vocational courses, opened in 1902. By 1930, there were 22 such schools around the country.³⁶⁰

The growth of secondary schooling over the first half of the twentieth century was accompanied by increasing government regulation of, and investment in, secondary education. From 1901 the Government required all secondary schools and district high schools (secondary departments attached to State primary schools) to provide a certain number of free places.³⁶¹ From 1903, all children passing a proficiency examination (equivalent to the final year of primary school) were eligible for a free place at a secondary school. To cope with increased demand for high school places, education boards gained powers to open new secondary schools the same year.³⁶² By 1914, 80 per cent of those who attended secondary school did so as free-place holders.³⁶³ Under the Education Act 1914, communities seeking to have a secondary school established in their midst had to have at least 60 students with proficiency. For a district high school, 20 students with proficiency were required.³⁶⁴

The denominational Māori boarding schools, which offered Māori pupils an academic-style education, also expanded in number and size in the early twentieth century. In 1900, there were four boarding colleges offering private tuition to Māori students: Te Aute College (Te Hauke, rural Hawke's Bay) and St Stephen's School (at Bombay, south of Auckland) for Māori boys, and Hukarere Girls' College and St Joseph's Māori Girls' College (in Napier and Greenmeadows) for Māori girls.³⁶⁵ By 1915, there were 10 such schools in existence.³⁶⁶ From the 1880s, the Government offered scholarships to the Māori boarding schools to the most able Māori graduates of the native school system; in 1904, the scholarship scheme was extended to Māori pupils who completed standard v at general primary schools.³⁶⁷ The scholarship scheme remained in place until at least the 1950s.³⁶⁸

Increased participation in secondary education in this period was also driven by wider changes in the employment market and a growing expectation that pupils entering the workforce would have completed some form of post-primary education. By the 1920s, historian Erik Olssen wrote, the proficiency certificate

359. Document A27, pp 149, 182.

360. Document A27, p 149.

361. Document A27, p 148.

362. Cumming, *A Glorious Enterprise*, p 335.

363. Butterworth, *The Department of Education, 1877-1989*, p 24.

364. Education Act 1914, s88.

365. Document A27, p 151.

366. These were Te Aute College, Hukarere Girls' School, St Joseph's Convent School, St Stephen's School, Otaki College (Wellington), Hikurangi Boys' College (Wellington), Turakina Māori Girls' School (Whanganui), Waerenga-a-hika College (Gisborne), Victoria Girls' School (Auckland), Te Waipounamu Girls' School (Canterbury): 'Education: Native Schools', AJHR, 1915, E-3, p 9.

367. Barrington, *Separate but Equal?*, p 141; doc A27, pp 158-159.

368. Document A27, p 161.

had become the 'major determinant of occupational opportunity'.³⁶⁹ Proficiency became the gateway into the expanding white collar workforce. For those who did not gain proficiency, employment options were limited: labouring and farming for boys, and domestic service for girls.³⁷⁰

It is difficult to know the extent of Māori participation in the democratisation of secondary education over the first half of the twentieth century. The Education Department did not collect separate statistics on Māori attendance at public secondary schools until 1948.³⁷¹ Christoffel's analysis, based on proficiency data and annual reports on Māori enrolments at Māori boarding schools, suggests that, while Māori initially participated in the early twentieth century expansion of secondary education, Māori enrolments in post-primary education plateaued, and even fell, during the interwar period. They did not begin to recover again until after 1937, when the Government abolished the proficiency examination and introduced free secondary education for all.³⁷²

The lack of change in Māori secondary school participation rates over the interwar period is striking when viewed alongside the rapid increase in secondary education among non-Māori over the same period. In 1916, Māori and non-Māori were enrolled in secondary education at similar rates, at around 10 per 1,000 of the population. Ten years later, in 1925, Māori enrolment rates remained unchanged, while Pākehā enrolments were over 15 in 1,000 in the population. A decade on, in 1935, the differences were even more stark: just seven in 1,000 of the Māori population were enrolled in secondary education, compared with 21 in 1,000 of non-Māori.³⁷³

Over the first half of the twentieth century, the proportion of Māori pupils attending public secondary schools rather than the private Māori boarding schools also increased. At the turn of the century virtually no Māori were enrolled in general secondary schools. Between 1920 and 1930, Māori denominational schools still accounted for most Māori secondary school enrolments. In 1920, 474 Māori pupils were enrolled in Māori boarding schools. Between 1925 and 1930, the number of Māori pupils at the Māori secondary schools remained virtually unchanged, at 536 and 535 pupils respectively. However, by 1935, Māori enrolments at the Māori boarding colleges had fallen to 313 pupils, a decline that Christoffel attributed to depression-era cuts in funding for scholarships to the Māori schools.³⁷⁴

Christoffel's research suggested that few, if any, Māori attended public secondary schools at the turn of the century. Māori enrolments at public secondary schools remained low in 1925, at an estimated 171 pupils, and increased steadily during the 1930s. In 1940, an estimated 819 Māori pupils were enrolled in public secondary schools (compared to 419 in Māori boarding schools), and in 1948,

369. Eric Olssen, 'Towards a New Society', in Geoffrey W Rice, ed, *The Oxford History of New Zealand*, 2nd ed (Auckland: Oxford University Press, 1981), p277.

370. Olssen, 'Towards a New Society', p277.

371. Document A27, p152.

372. Document A27, pp 149-150.

373. Document A27, p157.

374. Document A27, p33.

the number of Māori pupils enrolled in public secondary schools reached 2,287 (alongside 8,756 Māori pupils enrolled in Māori boarding schools).³⁷⁵ Thus, by 1948, government secondary schools accounted for 73 per cent of Māori secondary school enrolments.³⁷⁶ This increase in the proportion of Māori attending public secondary schools can be attributed to the far greater number of places available in the public secondary schools (as opposed to the Māori boarding schools, which both were denominational and had limited numbers of places available), as well as to the Government's 1936 abolition of the proficiency examination.

By the end of the Second World War, when the Government first began collecting official data on Māori secondary school enrolments, the gap between Māori and non-Māori secondary school attendance was significant. In 1940, only 41 per cent of Māori primary school leavers went on to secondary education of any form, compared to 64 per cent of children nationally.³⁷⁷ By a decade later, in 1949, the situation had improved, with 63 per cent of Māori primary school pupils going on to secondary education. Over the same period, however, secondary school attendance rates among the general population had reached 88 per cent.³⁷⁸

It was not until the late 1950s that the proportion of Māori attending secondary school came close to that of non-Māori. Secondary school attendance rates from 1959 show that, by that stage, some form of secondary schooling was a near-universal experience for all New Zealanders, with 93 per cent of Māori attending secondary school, just marginally beneath the 1955 national population average of 95 per cent.³⁷⁹

As participation in secondary education became close to universal in the post-Second World War period, the markers of educational achievement and post-school achievement shifted. In the interwar decades, mere achievement of a free secondary school place was sufficient to grant entry to many jobs. From the 1950s and 1960s, the length of time that pupils spent at secondary school, and the qualifications they achieved while there, became increasingly important determinants of an individual's future work prospects.

In 1944, the Government had increased the school-leaving age to 15.³⁸⁰ In 1955, roughly half of all secondary school pupils left school after two years or less of secondary education.³⁸¹ Māori were over-represented among early school leavers. Commenting on this trend in 1956 in its annual report, the Department of Education said: 'Head teachers of Maori schools frequently express concern at the

375. Document A27, p154.

376. Document A27, p152.

377. Document A27, p161.

378. Document A27, p161.

379. Document A27, pp150, 162.

380. Nancy Swarbrick, 'Primary and Secondary Education', *Te Aia – The Encyclopedia of New Zealand*, <https://teara.govt.nz/en/primary-and-secondary-education>, accessed 2 April 2020; Butterworth, *The Department of Education*, p 36.

381. Document A27, p150.

large number of promising pupils who leave post-primary school before they have completed even two years, and drift into seasonal and unskilled occupations.³⁸²

Māori secondary school students also lagged behind their non-Māori counterparts when it came to qualifications. The Government introduced the School Certificate exam, held in the third year of high school, in 1946. By 1960, less than 5 per cent of Māori left school with at least School Certificate, compared with 30 per cent of non-Māori.³⁸³ These figures steadily improved over the decade, but remained well behind that of Pākehā. In 1966, 15 per cent of Māori passed School Certificate, at the same time as the percentage of non-Māori achieving the qualification increased to 52 per cent.³⁸⁴

24.4.2 Māori secondary participation in the inquiry district

The following section considers the situation for Māori living in our inquiry district. As with primary-level education, a range of factors influenced whether Te Rohe Pōtae Māori were able to access secondary education, and the nature and quality of the education available.

The first was the availability of suitable schools within reasonable travelling distance from Te Rohe Pōtae settlements. Secondary schooling arrived relatively late to Te Rohe Pōtae. In 1900, there were no secondary schools in or near the inquiry district. In the early twentieth century, Te Rohe Pōtae Māori students wishing to gain an education beyond primary school were required to board outside of the district, usually in Auckland or New Plymouth, or at one of the Māori denominational colleges.³⁸⁵

Secondary schooling became available within the inquiry district with the addition of a secondary department to the Te Kūiti primary school in 1914.³⁸⁶ By the mid-1920s, district high schools had also opened in Taumarunui, Te Awamutu, Piopio, and Ōtorohanga.³⁸⁷ At Raglan and Kāwhia, district high schools opened in 1938 and 1949 respectively. However, some areas of the inquiry district were judged too remote or sparsely populated for even a district high school. A 1935 visit by the chairman of the Taranaki Education Board, Mr JA Valentine, to inspect the site of a proposed district high school for Mōkau, resulted in no action, because there were less than 20 prospective pupils eligible to attend.³⁸⁸

Te Awamutu College, the first full secondary school near to the inquiry district opened in 1947.³⁸⁹ By the 1950s, Te Rohe Pōtae residents could choose from four full secondary schools within or near the inquiry district (Te Awamutu, Taumarunui, Te Kūiti, and Ōtorohanga) and three district high schools (Raglan,

382. 'Report of the Minister of Education for 1955', AJHR, 1956, E-1, p32.

383. Document A27, pp166-167.

384. Document A27, p167.

385. Document A27, pp151, 162.

386. Document A27, p163.

387. Document A27, p163.

388. 'To be Borne in Mind; High School for Mokau', *King Country Chronicle*, 27 August 1935, p5.

389. Document A27, p164.

Kāwhia, and Piopio).³⁹⁰ Despite the growing availability of secondary schools in the inquiry district, it was still relatively common for Te Rohe Pōtae Māori pupils to board away from home during the 1950s and 1960s if they did not live close to a school. Claimant Hemaima Rauputu's father was sent to New Plymouth Boys' High School as a boarding student after he finished his schooling at Mahoenui Primary School.³⁹¹ Of four pupils at the Makomako Māori school completing their final year in 1966, 'one would [try for] a Māori scholarship and do correspondence if unsuccessful, one had been accepted for New Plymouth Boys High School, one for Hamilton Boys [High School], and one for Fairfield College in Hamilton, where he would board with an uncle'.³⁹²

The district high schools, the only form of secondary education in the inquiry district prior to 1947, shared similar shortcomings with the small country primary schools discussed earlier. The size of district high school secondary departments, with one or two teachers, practically limited the variety of subjects they could offer beyond their core curriculum. As with small country primary schools, education officials openly acknowledged that the standard of education offered in district high schools was inferior to that in the larger secondary schools. In 1937, the Department of Education's annual report described the district high schools as

in general, seriously handicapped by inadequate staffing. This, of course, is due to the small roll number of the secondary department. Seventy-five per cent of the schools have only one or two teachers, yet the subjects demanded by the pupils may cover so wide a range that two, three or even four teachers may not among themselves possess the necessary specialized knowledge.³⁹³

For this reason, Christoffel concluded that Te Rohe Pōtae Māori who progressed on to secondary school before the 1950s (already a clear minority in this period) were 'probably disadvantaged with respect to access to quality secondary education'.³⁹⁴

From the 1950s and 1960s onwards, Christoffel wrote – with four full secondary schools available in or near the inquiry district, as well as the three remaining district high schools – the quality of secondary education available to Te Rohe Pōtae Māori was 'greatly improved'.³⁹⁵ However, as noted earlier, these improved standards of secondary education were only available to those Māori who actually reached secondary school, which in the 1940s represented only around 40 per cent of Māori primary school leavers and in the 1950s only around 60 per cent.³⁹⁶

In section 24.3, we discussed some of the barriers that Te Rohe Pōtae Māori faced in accessing primary education, including distance, cost, and the poverty of

390. Document A27, p164.

391. Transcript 4.1.15(a), p354 (Hemaima Rauputu, hearing week 10, Maniaroa Marac, 4 March 2014).

392. Document A27, pp 165–166.

393. 'Education: Primary and Post-Primary Education', AJHR, 1937-8, E-2, p p4-5.

394. Document A27, p165.

395. Document A27, p165.

396. Document A27, p161.

Māori communities. Similar barriers applied in the case of secondary education, if not to an even greater extent, because of the distances involved. The cost of travel could be the deciding factor on whether eligible Māori pupils went on to secondary school. Mere Tai-Hauāuru Gilmore told the Tribunal she left school at 15 to help her mother on the farm and look after younger siblings.³⁹⁷ She said it was very expensive to go to school in Hamilton, Te Awamutu, or the South Island, so she stayed home instead.

Marleina Te Kanawa's mother did attend high school in the 1930s, but found herself the only Māori there because, 'my people couldn't afford to educate their children at high school'.³⁹⁸ Even then, she started school two months late because her kuia had to barter kūmara to buy her gym dress and shoes.³⁹⁹ Claimant Rangianiwaniwa Pehikino travelled by school bus from Waimiha to attend secondary school at Taumarunui. Travel to and from school was a 'long slog' and she received many poor reports for 'lack of attendance'. She left school before the end of the fifth form.⁴⁰⁰

However, the greatest barrier to Te Rohe Pōtae Māori progressing to secondary school (at least prior to 1937) was low Māori achievement rates in the primary school system. As noted above, Māori primary school leavers nationally achieved proficiency at around two-thirds of the rate of non-Māori in 1925, about half the rate of non-Māori in 1930, and approximately one-third of the rate of non-Māori in 1935.⁴⁰¹ While we do not have district-specific figures, it is likely that these national patterns were repeated in Te Rohe Pōtae. At a 1937 meeting of the Maniapoto Maori Association, it was claimed that 95 per cent of King Country Māori left school without gaining proficiency.⁴⁰²

Tangiwai King, who was born in 1931, left primary school at 14, and recalled it was a common experience for Māori from her area to finish their education after primary school. 'My school days ended at Tuakau at 14. I didn't go to secondary school, I finished in Standard 6. There were six in my family and none of us got proficiency. Lots of families where I grew up were the same.'⁴⁰³ She later attended Waikato University as a second-chance learner in her sixties.⁴⁰⁴ John Henry only started school at eight or nine, and left for good when he was 14, when his father took him out of school 'to help on the land'. He did not complete standard vi.⁴⁰⁵

397. Submission N16(a) ('Tai-Hauāuru Gilmore), p7.

398. Document M9(a), p12.

399. Document M9(a), p12.

400. Transcript 4.1.11, p[107] (Rangianiwaniwa Pehikino, hearing week 5, Te Ihingārangi Marac, 6 May 2013).

401. Document A27, p157.

402. 'Maori Education; King Country Penalised; Native School Scholarships', *King Country Chronicle*, 8 November 1937, p4.

403. Submission 4.1.11, pp[541]-[542] (Tangiwai King, hearing week 5, Te Ihingārangi Marac, 8 May 2013).

404. Submission 4.1.11, p[544].

405. Submission 4.1.13, p403 (John Henry, hearing week 8, Te Kotahitanga Marac, 5 November 2013).

24.4.3 Tribunal analysis and findings

Over the first half of the twentieth century, secondary education was transformed from a minority experience, reserved for a small, wealthy elite, to close to a universal experience for New Zealand children. The Government did not collect data on Māori secondary school attendance until 1948, making it difficult to assess the extent to which Māori participated in the mass expansion of public secondary education between the wars. However, government data on the rates that Māori primary school leavers achieved proficiency certificates, making them eligible for a free secondary place – suggest that Māori participation rates in secondary education were well below those of Pākehā.

The Government's funding of scholarships to the denominational Māori secondary schools was an important step towards assisting some of the most able Māori students to receive a secondary education. However, the Māori denominational schools accommodated only a small minority of Māori pupils leaving primary school. In addition, cut backs in government funding for Māori scholarships during the Depression meant that fewer Māori pupils were able to access such scholarships.

By the 1920s, the proficiency certificate – which granted a child free entry to secondary school – had come to be seen as the 'major determinant of occupational opportunity', and the gateway into skilled work and an expanding white-collar workforce. Those who did not achieve proficiency found their employment options severely constrained: farming or labouring for boys, and domestic service for girls. As we have seen in this section, the vast majority of Te Rohe Pōtae Māori leaving primary school in the interwar decades did so without gaining proficiency.

In the previous chapter, we described the marginal economic position that Te Rohe Pōtae Māori occupied in the regional economy. Landlessness and the confinement of most Māori to low-paid labouring and agricultural work, often seasonal, left Māori particularly vulnerable to periods of economic downturn, as occurred during the Depression of the late 1920s and early 1930s. Low Māori achievement at the primary school level was symptomatic of and compounded these existing issues, trapping Te Rohe Pōtae Māori in a cycle of low-paid, insecure work and, ultimately, poverty.

The low rates at which Māori pupils achieved proficiency during the first half of the twentieth century shaped the life chances not only of individuals and whānau but of entire Māori communities. As we have seen, Government approvals of requests for new district high schools or secondary schools required communities to prove they could supply sufficient prospective pupils with proficiency to justify a school's establishment (20 pupils in the case of district high schools and 60 for secondary schools). Given the extremely low rates of Māori pupils who gained proficiency, it is unsurprising therefore, that all of the district high schools in the inquiry district were located in areas of Pākehā settlement. Thus, those Te Rohe Pōtae Māori who managed, against the odds, to gain a Government-funded secondary place, may nevertheless have found themselves excluded from secondary education, due to a lack of nearby schools and inability to pay for board or transport to access schools elsewhere.

We find that Te Rohe Pōtae Māori were largely excluded from participation in the mass expansion of secondary education during the first half of the twentieth century, and that this exclusion can be attributed directly to Crown actions or policies. The factors that prevented Te Rohe Pōtae Māori accessing secondary schooling partly stemmed from existing Treaty breaches. These include the Crown's failure to take active measures to address the geographical and economic barriers that disrupted the schooling of Māori pupils, or prevented their access to education altogether, in breach of the principle of equity. In addition, the Crown's failure, prior to 1937, to remove a major barrier (proficiency) to Māori progressing to post-primary school, presented an additional breach of the Crown's duty of active protection and the Treaty principle of equity.

The Government's abolition of the proficiency examination in 1937, and its introduction of free secondary education to all New Zealanders was a major turning point in Government policy, and significantly improved the chances of Māori reaching secondary school. As Christoffel noted, access to secondary education in the inquiry district improved greatly after the Second World War. Yet, significant gaps persisted in secondary school participation rates between Māori and non-Māori nationally well into the second half of the century. In 1940, when the Government first started collecting statistics on Māori secondary enrolments, only 41 per cent of Māori primary school leavers went on to secondary education, compared with a national rate of 64 per cent.⁴⁰⁶ It was not until the late 1950s that Māori secondary school attendance rates came close to equalling those of Pākehā.⁴⁰⁷

24.5 HAS THE CROWN ENSURED TE ROHE PŌTAE MĀORI HAVE ACCESS TO QUALITY EDUCATION IN THE POST-1970 PERIOD?

This section brings the chapter's analysis of the Crown's provision of education to Te Rohe Pōtae Māori up to the present day. Notable features of this period include the increasing popularity of early childhood education (ECE), the near-universal experience of secondary education, the expansion of tertiary education, and from the 1980s, the growth of Māori educational providers offering Māori-medium education. In 1998, Te Puni Kōkiri's *Closing the Gaps* report described 'increased participation of Māori at all levels of the education system' as one of 'the most striking features of Māori development' over the previous decade.⁴⁰⁸

Nevertheless, disparities in educational achievement between Māori and non-Māori persisted, and these gaps continued to have significant influence over Māori social outcomes. As *Closing the Gaps* put it:

406. Document A27, p161.

407. Document A27, p162.

408. Te Puni Kōkiri, *Progress Towards Closing Social and Economic Gaps Between Māori and Non-Māori: A Report to the Minister of Māori Affairs* (Wellington: Te Puni Kōkiri, 1998), p6.

24.5.1

disparities persist between Māori and non-Māori for most indicators of educational status . . . Compared to non-Māori, Māori are less likely to attend early childhood education, are less likely to remain to senior levels of secondary school, and are less likely to undertake formal tertiary training, particularly in universities.⁴⁰⁹

The post-1970s period has also seen significant changes to the administration of education in New Zealand. The Education Act 1989 abolished the Department of Education and the regional education boards, and delegated many of their powers to local school boards of trustees. The 1989 Act replaced the old Department of Education with a new streamlined Ministry of Education while delegating many of the department's former functions to new Crown agencies, such as the New Zealand Qualifications Authority and Education Review Office.

24.5.1 Early childhood education

Participation in early childhood education may be measured by the number of children in the pre-school age group enrolled in early childhood services at any one time, or by the percentages of children entering primary school who have previously attended some form of early childhood education. As with other forms of education, New Zealanders' participation rates in early childhood education increased markedly from the 1950s. In 1950, only 7 per cent of three and four year-olds were enrolled in early childhood education.⁴¹⁰ By 1973, 46 per cent of all New Zealanders in this age group received some form of pre-school education.⁴¹¹ By 2011, almost all New Zealand children entering primary school had participated in some form of early childhood education, and these trends have continued in the present day.⁴¹²

Government oversight and funding of the early childhood sector has increased substantially since the 1970s.⁴¹³ From 1989, all forms of early childhood service came under the control of the newly formed Ministry of Education. From 1996, all early childhood centres have been required to deliver a single early childhood curriculum, *Te Whāriki*.⁴¹⁴ From 2010, the Government offered 20 free hours pre-school education to all three- and four-year-olds.⁴¹⁵

The increasing diversity of educational providers offering early childhood education and care is a further feature of the post-1970 period. In 1944, early childhood provision in New Zealand was limited to 49 government-subsidised

409. Te Puni Kōkiri, *Progress Towards Closing Social and Economic Gaps*, 1998, p 6.

410. Kerry Pollock, 'Early Childhood Education and Care', *Te Ara - the Encyclopedia of New Zealand*, Ministry for Culture and Heritage, <https://tearagovt.nz/en/early-childhood-education-and-care/page-2>, published 20 June 2012.

411. Helen May, *Politics in the Playground: The World of Early Childhood in Aotearoa New Zealand*, rev ed (Dunedin: Otago University Press, 2019), p 112.

412. Document A88 (Robinson), p69.

413. May, *Politics in the Playground*, p1.

414. Pollock, 'Early Childhood Education and Care', <https://teara.govt.nz/en/early-childhood-education-and-care/page-3>, accessed 18 February 2020.

415. Pollock, 'Early Childhood Education and Care', <https://teara.govt.nz/en/early-childhood-education-and-care/page-3>, accessed 18 February 2020.

free kindergartens, attended by 2,301 children aged three and four. By 2017, there were 202,772 children aged from birth to five years of age attending 5,527 early childhood services.⁴¹⁶

In particular, significant growth has occurred in the number of private centres offering full-day care to children. In 1972, childcare centres made up just 5.6 per cent of the enrolments of three- to five-year-olds in early childhood services.⁴¹⁷ Of 4,653 licensed ECE providers in 2019, providers offering 'education and care' (a category encompassing all centre-based services other than playcentres, kōhanga reo, and kindergartens) accounted for 57 per cent of ECE services, and 68 per cent of ECE attendance among 0–4-year-olds.⁴¹⁸

One of the most remarkable changes in early childhood education in this period emerged out of Māori initiatives. Kōhanga reo (language nests) aim to restore te reo Māori to the centre of whānau life, by delivering Māori-medium education to pre-school children.⁴¹⁹ Whānau are central to the kōhanga model, with skilled older speakers passing on their knowledge to their tamariki and mokopuna.⁴²⁰

The first kōhanga reo opened in Wainuiomata in 1982 and the movement then spread rapidly across the country. It peaked in 1993, when 809 kōhanga reo were in operation across New Zealand, catering to more than 14,000 enrolments. This meant that, by 1993, more than half of all Māori pre-schoolers who were enrolled in early childhood education were in kōhanga reo.⁴²¹ After peaking in the 1990s, enrolments in kōhanga reo fell proportionately in the subsequent decade and a half. In 2009, there were 464 kōhanga reo with 9,288 children enrolled, plus 277 attending puna reo (parent-led playgroups in which te reo Māori is used as much as possible).⁴²² In 2019, there were 444 kōhanga reo and 40 puna reo nationwide, with a total of 9,565 children enrolled.⁴²³ The same year, kōhanga reo accounted for just 17 per cent of Māori enrolments in early childhood centres, while the 'education and care' sector accounted for 60 per cent of Māori enrolments.⁴²⁴

Reporting in 2011, the Waitangi Tribunal's *Ko Aotearoa Tēnei* report attributed this decline in the proportion of whānau Māori enrolling their tamariki into kōhanga reo to a number of factors, including increasing numbers of Māori parents seeking full-day care for their children, the decline in the number of older

416. May, *Politics in the Playground*, p 3.

417. David Barney, *Who Gets to Preschool: The Availability of Preschool Education in New Zealand* (Wellington: New Zealand Council for Educational Research, 1975), p 48.

418. Ministry of Education, 'Early Childhood Education Census 2019: Licensed ECE Services in 2019', https://www.educationcounts.govt.nz/_data/assets/pdf_file/0004/196573/Licensed-ECE-services-in-2019.pdf, accessed 23 January 2020.

419. Document A27, p 40; Waitangi Tribunal, *Matua Rautia*, p 15.

420. Waitangi Tribunal, *Matua Rautia*, p 2.

421. Waitangi Tribunal, *Matua Rautia*, pp 15–19.

422. Waitangi Tribunal, *Matua Rautia*, p 74; Waitangi Tribunal, *Ko Aotearoa Tēnei*, vol 2, p 408.

423. Ministry of Education, 'Early Childhood Education: Services', <https://www.educationcounts.govt.nz/statistics/early-childhood-education/services>, accessed 3 February 2020.

424. Ministry of Education, 'Early Childhood Education Census 2019: Attendance at Licensed ECE Services in 2019', https://www.educationcounts.govt.nz/_data/assets/pdf_file/0011/196562/Attendance-at-licensed-ECE-services-in-2019.pdf, accessed 3 February 2020.

Māori speakers able to assist at kōhanga, a lack of qualified teachers, increasing compliance pressures from government, and a lack of Crown targets for increasing enrolments at kōhanga reo.⁴²⁵

In 2013, *Matua Rautia*, the Waitangi Tribunal's report into an urgent claim concerning kōhanga reo agreed. It found that kōhanga had struggled under a Crown funding and regulatory model fundamentally incompatible to their kaupapa. The Tribunal urged the Crown to work in partnership with Māori to develop a more sustainable funding model and licencing criteria for kōhanga reo to preserve the movement's critical role in language revitalisation into the future.⁴²⁶

Māori participation rates in early childhood education have risen significantly since the 1970s. When the Government first started collecting official statistics on Māori pre-school attendance rates, in 1968, approximately 15 per cent of Māori children attended either a kindergarten or a playcentre (compared to 32 per cent of non-Māori).⁴²⁷ In 1982, 30 per cent of Māori new entrants had participated in early childhood education prior to entering primary school, compared with 41 per cent of non-Māori.⁴²⁸

Attendance rates improved over the 1990s. In 1991, 35.3 per cent of Māori children aged 0–4 years were enrolled in some form of early childhood service. By 1997, Māori pre-school enrolment rates had reached 40.5 per cent. However, despite increasing participation rates over the 1990s, tamariki Māori were still significantly less likely to be enrolled in early childhood education than their non-Māori counterparts. Thus between 1991 and 1997, the percentage of non-Māori 0–4-year-olds enrolled in some form of early childhood education rose from 47 per cent to 63.5 per cent.⁴²⁹

By the time of hearings for this inquiry, the gaps in participation in ECE between Māori and non-Māori were closing but still remain. In 2011, 95 per cent of tamariki Māori entering primary school had previously attended some form of ECE, compared to a national average of 99 per cent.⁴³⁰ A similar picture emerges from the inquiry district. A 2009 educational survey commissioned by the Maniapoto Māori Trust Board found that just 58 per cent of tamariki Māori aged 0–4 in its rohe were enrolled in some form of ECE service at the time of survey, as compared with 64 per cent of all pre-school children nationally, and 68 per cent of non-Māori nationally.⁴³¹

425. Waitangi Tribunal, *Ko Aotearoa Tēnei: A Report into Claims Concerning New Zealand Law and Policy Affecting Māori Culture and Identity*, *Te 'āunata Tuarua*, 2 vols (Wellington: Legislation Direct, 2011), vol 2, p408.

426. Waitangi Tribunal, *Matua Rautia*, see chapter 11.

427. Barney, *Who Gets to Preschool?*, p277.

428. Russell Bishop and Ted Glynn, *Culture Counts: Changing Power Relations in Education* (London: Zed Books, 2003), p74.

429. Te Puni Kōkiri, *Progress Towards Closing Social and Economic Gaps*, 2000, p10.

430. Document A88, p69.

431. Natasha Willison-Reardon, 'Maniapoto Māori Trust Board: Maniapoto Environmental Scan Report (Te Kūiti: Maniapoto Māori Trust Board, 2009) (doc s4(c)) (Eketone), pp24–25.

Based on data from the 2011 census, Dr Helen Robinson reported that Te Rohe Pōtae Māori participated in early childhood education at rates below the national average, with some areas of the inquiry district faring particularly poorly. In the Waikato district, around 85 per cent of Māori children entering primary school had previously attended some form of early childhood education. This compared to Pākehā participation rates for the same district of around 98 per cent (and national participation rates of 99 per cent for Pākehā and 90 per cent for Māori).⁴³²

In the Ōtorohanga district, in 2011, only 85 per cent of Māori new entrants had participated in prior early childhood education, compared with Pākehā participation rates of 100 per cent.⁴³³ Rates of participation in the Waitomo district were low among both Māori and Pākehā in 2011, with 82 per cent of Māori and 85 per cent of Pākehā participating in ECE before entering school.⁴³⁴

There are a number of known barriers to participation in early childhood education. A 2007 report commissioned by the Ministry of Education attributed lower Māori participation in early childhood education to high waiting lists in some centres, cost, lack of transport, lack of choice, and lack of cultural responsiveness to Māori.⁴³⁵ The Maniapoto Māori Trust Board's 2009 education survey supported these findings. It pointed to cost and lack of spaces in existing providers as barriers to Māori participation in early childhood education, as well as limited centre opening hours, lack of bilingual options, or personal reasons such as negative past experiences.⁴³⁶

We turn first to the issue of lack of early childhood spaces. In her research for this inquiry, Dr Robinson pointed to a shortage of early childhood centres as a likely explanation for low participation rates among Waitomo preschoolers (a shortage which impacts both Māori and Pākehā children living in the area).⁴³⁷ In 2010, there were only 10 registered early childhood centres in the Waitomo district, meaning there was one centre for every 77 children under five and one for every 40 Māori children under five. This compared to a national average of one ECE provider for every 64 children under five and one for every 15 Māori children under five.⁴³⁸

The Maniapoto Māori Trust Board's 2009 survey, which covered Ōtorohanga, Hanganaki, Waitomo, and Te Kūiti found that 80 tamariki were then on waiting lists for early education providers.⁴³⁹ In Te Kūiti, which had a population of 348 tamariki in the 0–4-year age group in 2009 (more than 50 per cent of whom were

432. Document A88, p 69.

433. Document A88, p69.

434. Document A88, p 69.

435. Robyn Dixon, Dr Deborah Widowson, Patricia Meagher-Lundberg, Dr Airini McMurchy-Pilkington, and Dr Colleen McMurchy Pilkington, *Evaluation of Promoting Early Childhood Education (ECE) Participation Project* (Wellington: Ministry of Education, 2007), <https://www.educationcounts.govt.nz/publications/ECE/11760>, p32.

436. Document A88, p70.

437. Document A88, p69.

438. Document A88, p 69.

439. Document s4(c), p27.

Māori), there were four early childhood providers, with a total of 190 full day places.⁴⁴⁰ The board predicted this shortage of early childhood providers would worsen in future due to the younger age structure and higher birth rate of the Māori population.⁴⁴¹

As well as the availability of ECE centres or spaces, cost is a significant barrier to Te Rohe Pōtae Māori accessing ECE care. Te Puni Kōkiri's 2000 *Closing the Gaps* report identified low income as a potential barrier to accessing early childhood services for whānau Māori.⁴⁴² Most childcare centres in the inquiry district charge attendance fees, and the cost of childcare likely presents a major obstacle to attendance in an area where, on average, Māori earn \$14,000 annually less than Pākehā.⁴⁴³

Moving on to the availability of bilingual options in the inquiry district, in 2009 there were 18 kōhanga reo located in or near to the inquiry district.⁴⁴⁴ At the time of the Tribunal's hearings into the kōhanga reo claims in 2012, there were a total of 16 kōhanga reo operating in or near to the inquiry district.⁴⁴⁵ In addition, claimants told us of at least three puna reo (Māori language playgroups) that were operating in the district, along with Te Pukeiti Early Childhood Centre, which catered specifically for the education in te reo of Ngāti Maniapoto pre-schoolers.⁴⁴⁶

Maps produced for the Tribunal's 2013 *Matua Rautia* report on kōhanga reo show seven kōhanga within the inquiry district, located at Tahāroa, Raglan (two centres), Ōtorohanga, Te Kūiti (two centres), Piopio, and a further nine located just outside the inquiry district boundaries at Taumarunui (seven centres) and Te Awamutu (two centres).⁴⁴⁷

Claimants spoke of the key role played by kōhanga reo in educating Māori children in their area. Hirere Moana described the kōhanga reo in the Maniapoto region as a 'precious treasure amongst us'.⁴⁴⁸ Yet, coverage of bilingual early childhood education is uneven across the inquiry district. While the northern and central areas of the inquiry district are relatively well-catered-for, others are not, particularly around the western harbours. The lack of access to Māori-medium options in some areas of the inquiry district is likely to be a contributing factor behind non-participation in early childhood education among some Te Rohe Pōtae whānau.⁴⁴⁹

Claimant Hemaima Rauputu gave us an insight into the challenges that come with the shortage of appropriate early childhood education services in some parts

440. Document s4(c), p27. Note that this figure did not include part-day places in kindergartens.

441. Document s4(c), p32.

442. Te Puni Kōkiri, *Progress Towards Closing Social and Economic Gaps*, 2000, p7.

443. Document s4(c), p32.

444. Document s4(c), p23.

445. Waitangi Tribunal, *Matua Rautia*, pxxi.

446. Transcript 4.1.21, pp775-776 (Hirere Moana, hearing week 12, Oparure Marac, 7 May 2014); doc s27(a) (Moana), p16.

447. Waitangi Tribunal, *Matua Rautia*, pxxi.

448. Transcript 4.1.21, p775 (Hirere Moana, hearing week 12, Oparure Marac, 7 May 2014).

449. Document A88, p70.

of the district. Although she no longer lived in Mōkau, as a parent of pre-school children she was conscious of the lack of a kōhanga reo there.⁴⁵⁰ The nearest kōhanga reo was at Piopio, more than 50 kilometres away.⁴⁵¹ Amiria Te Ao Marama Ratu-Le Bas spoke of the lack of bilingual options in Kāwhia. Expecting a child at the time of our hearings, she was concerned that the local kōhanga reo had closed, leaving the area without Māori-medium options at the preschool level.⁴⁵²

The Maniapoto Māori Trust Board's research has pointed to the lack of culturally appropriate services for tamariki Māori as a factor in lower Māori education rates in early childhood education in the area.⁴⁵³ Excluding kōhanga reo, most of the teachers in the 59 other early childhood education providers in the rohe were Pākehā, despite the significant numbers of tamariki Māori attending such services. In the board's view, this increases the risk that such services 'may be lacking in Māori cultural competency and the ability to provide culturally appropriate ECE services'.⁴⁵⁴

Thus, while some areas of the inquiry district are relatively well-catered-for in terms of ECE provision, in others, Te Rohe Pōtae whānau wishing to enrol their tamariki in ECE face long waiting lists for a small number of places. The options for those wishing to enrol their tamariki in kōhanga reo or other Māori-medium services are even slimmer.

24.5.2 Primary and post-primary schools

24.5.2.1 *The national picture*

By the 1970s, almost all New Zealand children leaving primary school went on to attend some form of secondary education.⁴⁵⁵ However, despite near-universal participation in secondary education in this period, significant disparities persisted between Māori and non-Māori across almost all key educational indicators.

At the school level, educational achievement is measured by a range of indicators, including number of suspensions and expulsions, qualifications gained, the number of years students remain at secondary school, and destinations of school leavers.⁴⁵⁶

Participation in the senior levels of secondary school is recognised as an important educational indicator. Typically pupils who leave secondary school before the age of 16 or 17 years have limited options for employment or higher education.⁴⁵⁷ School retention rates for Māori (measured by the number of students who were still in secondary school at age 16) improved over the 1980s and

450. Transcript 4.1.15(a), p372 (Hemaima Rauputu, hearing week 10, Maniaroa Marae, 4 March 2014).

451. Transcript 4.1.15(a), p372 (Hemaima Rauputu, hearing week 10, Maniaroa Marae, 4 March 2014).

452. Document N12 (Ratu-Le Bas), p5.

453. Document S4(c), p31.

454. Document S4(c), pp 23, 31.

455. Document A27, pp 150, 162.

456. Te Puni Kōkiri, *Progress Towards Closing Social and Economic Gaps*, 2000, p15.

457. Te Puni Kōkiri, *Progress Towards Closing Social and Economic Gaps*, 2000, p17.

1990s. Between 1984 and 1994, the number of Māori who remained in school at age 16 increased from 48.8 per cent to 72.4 per cent, an increase which can be partly explained by the Government's raising of the school leaving age to 16 years in 1989.⁴⁵⁸ Between 1993 and 2000, Māori retention rates remained more or less static.⁴⁵⁹ In 2009, only 68 per cent of Māori remained at secondary school at age 17, compared with a national average of 79 per cent. In 2018, 70.6 per cent of Māori 17-year-olds were at secondary school, compared with a national average of 82 per cent.⁴⁶⁰

Similar patterns can be seen in the qualifications of school leavers. Few Māori leaving secondary school during the 1960s received School Certificate. By 1976, the numbers of Māori students leaving secondary school with School Certificate or higher had grown to 30 per cent.⁴⁶¹ The same year, the rate of non-Māori students in this category reached to 69 per cent.⁴⁶² In 1981, 8 per cent of Māori left school with University Entrance or higher, compared to the non-Māori rate of 34 per cent, while non-Māori were still four times more likely than Māori to leave school with higher-level qualifications.⁴⁶³

Similar trends continued into the 1980s and 1990s. Between 1977 and 1997, the likelihood of Māori students leaving secondary school with no qualifications at all fell from 68.5 per cent to 37.7 per cent.⁴⁶⁴ However, despite such improved achievement rates, Māori school leavers were still significantly more likely than non-Māori to leave school without a qualification. In 1977, under 30 per cent of non-Māori left school without qualifications. By 1997, the figure was less than 15 per cent.⁴⁶⁵ In 2009, just 63 per cent of Māori left school with at least an NCEA level 1 qualification, compared with over 85 per cent of European/Pākehā, and a national average of over 80 per cent. By 2018, the figures were around 79 per cent for Māori, compared to around 92 per cent of Pākehā/Europeans and a national average of 89 per cent.⁴⁶⁶

High suspension, expulsion, and exclusion rates (stand-downs) are linked to a range of negative educational outcomes, including poor educational achievement and youth offending.⁴⁶⁷ The first *Closing the Gaps* report in 1998 showed that Māori were stood down from school at far higher rates than non-Māori. In 1997, Māori made up 41.7 per cent of primary and secondary students suspended or

458. Te Puni Kōkiri, *Progress Towards Closing Social and Economic Gaps*, 2000, p 11.

459. Te Puni Kōkiri, *Progress Towards Closing Social and Economic Gaps*, 2000, p 11.

460. Ministry of Education, 'Retention of Students in Senior Secondary Schools', <https://www.educationcounts.govt.nz/statistics/indicators/main/student-engagement-participation/1955>, accessed 23 January 2020.

461. Document A27, p 38.

462. Document A27, p 38.

463. Document A27, p 38.

464. Te Puni Kōkiri, *Progress Towards Closing Social and Economic Gaps*, 2000, p 11.

465. Te Puni Kōkiri, *Progress Towards Closing Social and Economic Gaps*, 2000, p 11.

466. Ministry of Education, 'School Leavers with NCEA Level 1 or Above', <https://www.educationcounts.govt.nz/statistics/indicators/main/education-and-learning-outcomes/28788>, accessed 23 January 2020.

467. Te Puni Kōkiri, *Progress Towards Closing Social and Economic Gaps*, 2000, p 16.

expelled from school, despite consisting of just 19.8 per cent of the overall population of primary and secondary students.⁴⁶⁸ The over-representation of Māori in numbers of stand-downs from school continues into the present day. Current Ministry of Education data indicates that in 2018, Māori were stood down from primary or secondary schools at a population rate of 44.3 per thousand, compared to the national population average of 25.5 per thousand, and a rate for Pākehā New Zealanders of 20.9 per thousand.⁴⁶⁹

Measured by destination of school leavers, Māori achievement rates are also beneath those of non-Māori. Only 52.6 per cent of Māori who left school between 2011 and 2017 were in some form of tertiary education a year after leaving school. This compares with 63.6 per cent of Pākehā, and a national average of 63.4 per cent.⁴⁷⁰ We acknowledge however, that some school leavers may go straight into work or industry-based learning, while others may proceed on to tertiary education at a later point in their lives, and that the decision of individuals to delay tertiary education is not necessarily a sign of negative outcomes. A significant exception to these negative educational statistics for Māori overall is in Māori pupils attending some form of Māori-medium education. The first kura kaupapa (Māori immersion primary school) were established during the 1980s, to cater for the first wave of graduates from kōhanga reo. By 1998, 59 kura kaupapa were operating around the country.⁴⁷¹

The number of mainstream schools offering some form of Māori-medium option also expanded, reaching 396 (excluding kura kaupapa) in 1999.⁴⁷² At its peak in 1999, 30,793 students (including 18.6 per cent of all Māori school students) were enrolled in Māori-medium education.⁴⁷³ However, the percentage of Māori students enrolled in such schools declined during the first decade of the 2000s. In 2009, 15.2 per cent of Māori students were enrolled in Māori-medium education, across 394 schools.⁴⁷⁴ Most of these enrolments were clustered in primary school levels, with rates of enrolment in Māori-medium education falling off steeply as students entered secondary school.⁴⁷⁵ By 2014, there were 282 schools offering Māori-medium education, with a total of 17,713 pupils. In recent years, this downwards trend has shown signs of reversing. In 2019, 21,489 students were enrolled in a total of 290 schools offering Māori-medium education.⁴⁷⁶

468. Te Puni Kōkiri, *Progress Towards Closing Social and Economic Gaps*, 2000, p10.

469. Ministry of Education, 'Stand-downs, Suspensions, Exclusions and Expulsions from School', <https://www.educationcounts.govt.nz/statistics/indicators/data/student-engagement-participation/stand-downs-suspensions-exclusions-expulsions>, accessed 23 January 2020.

470. Ministry of Education, 'School Leaver Destinations', <https://www.educationcounts.govt.nz/statistics/indicators/main/education-and-learning-outcomes/1907>, accessed 23 January 2020.

471. Waitangi Tribunal, *Ko Aotearoa Tēnei: Te Taumata Tuarua*, vol 2, p398.

472. Waitangi Tribunal, *Ko Aotearoa Tēnei: Te Taumata Tuarua*, vol 2, p398.

473. Waitangi Tribunal, *Ko Aotearoa Tēnei: Te Taumata Tuarua*, vol 2, p399.

474. Waitangi Tribunal, *Ko Aotearoa Tēnei: Te Taumata Tuarua*, vol 2, p417.

475. Waitangi Tribunal, *Ko Aotearoa Tēnei: Te Taumata Tuarua*, vol 2, p417.

476. Ministry of Education, 'Māori Language in Education', <https://www.educationcounts.govt.nz/statistics/maori-education/maori-in-schooling/6040>, accessed 3 February 2020.

As noted in the Tribunal's *Ko Aotearoa Tēnei* report, released in 2011, Māori-medium schools produce more favourable NCEA results for Māori, as well as much lower rates of truancy, suspensions, and expulsions.⁴⁷⁷ Recent Ministry of Education data shows that approximately 88 per cent of Māori school leavers attending Māori-medium education leave school with at least an NCEA level 1 qualification, close to the national average of 89 per cent of school leavers. This compares with under 79.6 per cent of Māori school leavers attending English-medium schools.⁴⁷⁸

Māori-medium education also performs better for Māori students in terms of school retention. In 2009, around 73 per cent of Māori attending Māori-medium education remained at secondary school at age 17, compared to just 62.5 of Māori attending English-medium schools. Retention rates for Māori-medium schools at age 17 were still well beneath the national average of 79 per cent. In 2018, the figures were 77 per cent for Māori at Māori-medium schools and 71 per cent for Māori attending English-medium schools, compared to a national average of around 83 per cent.⁴⁷⁹

The only measure where Māori-medium education does not significantly outperform English-medium education in its results for Māori appears to be in the destination of school leavers. In the cohort of students leaving school in 2017, 51.1 per cent of Māori-medium students were enrolled in some form of tertiary education a year after leaving school, just marginally higher than the rates for Māori school-leavers from English-medium schools, at 49.8 per cent, but significantly beneath the total rate for school leavers of 61.2 per cent. However, those students in Māori-medium education who do go on to tertiary education directly after leaving school were more likely than those leaving English-medium education to enrol in tertiary study at degree level, at 19 per cent and 14 per cent respectively.⁴⁸⁰

There are some welcoming signs of a revival in uptake of Māori students enrolled in Māori-immersion classes since our hearings finished for this inquiry. In 2014, 17,713 students, mostly Māori, were enrolled in some form of Māori-immersion education. By 2019, this number had increased by almost a thousand, to 21,489.⁴⁸¹ In 2014, 147,523 students were studying the Māori language at English-medium schools. By 2019, this number had increased to 179,810.⁴⁸² However, as at 2019, this

477. Waitangi Tribunal, *Ko Aotearoa Tēnei: Te Taunata Tuarua*, vol 2, p427.

478. Ministry of Education, 'School Leavers with NCEA Level 1 or above', <https://www.educationcounts.govt.nz/statistics/indicators/main/education-and-learning-outcomes/28788>, accessed 23 January 2020.

479. Ministry of Education, 'Retention of Students in Senior Secondary Schools', <https://www.educationcounts.govt.nz/statistics/indicators/main/student-engagement-participation/1955>, accessed 23 January 2020.

480. Ministry for Education, 'School Leaver Destinations', <https://www.educationcounts.govt.nz/statistics/indicators/main/education-and-learning-outcomes/1907>, accessed 23 January 2020.

481. Ministry of Education, 'Māori Language in Education', <https://www.educationcounts.govt.nz/statistics/maori-education/maori-in-schooling/6040>, accessed 4 February 2020.

482. Ministry of Education, 'Māori Language in Education', <https://www.educationcounts.govt.nz/statistics/maori-education/maori-in-schooling/6040>, accessed 4 February 2020.

left 615,333 students (or 75.6 per cent of the total school population) who are not enrolled in any form of Māori language education.⁴⁸³

24.5.2.2 *Schooling in the inquiry district*

We turn now to primary and post-primary schooling in the inquiry district. In 2009, there were 42 State primary schools located in or near Te Rohe Pōtae.⁴⁸⁴ Around 2,500 children attended secondary school in or near the inquiry district at the time of hearings. Schools providing secondary education in the area include the Raglan Area School (360 pupils), Te Awamutu College (212 pupils), Ōtorohanga College (408 pupils), Te Kūiti High School (424 pupils), Te Wharekura o Ōpārure (85 pupils), Piopio College (1,129 pupils), and Taumarunui High School (321 pupils).⁴⁸⁵ Of these, Māori pupils made up about 60 per cent of the school population at three schools, and close to half the school roll at two schools. All pupils at Te Wharekura o Ōpārure were Māori at the time of our hearings. The only school where Māori made up a minority of the student population was at Piopio College, where Māori pupils were 30 per cent of the roll.⁴⁸⁶

All of the secondary schools in the inquiry district teach te reo Māori as a subject.⁴⁸⁷ Both Raglan Area School and Taumarunui High School offer level 1 Māori-medium classes (in which 85–100 per cent of all content is in te reo), Piopio College and Raglan Area School both have level 4 Māori-medium classes (in which 12–30 per cent of content is taught in te reo).⁴⁸⁸ Te Wharekura o Ōpārure is the only kura kaupapa within the inquiry district, although a number of schools offer rumaki or immersion units. Students within the inquiry district also attend kura kaupapa at Taumarunui and Te Awamutu.⁴⁸⁹ Te Kūiti School, a mainstream primary school, also offers some reorua (bilingual) classes.⁴⁹⁰

As with kōhanga reo, Māori parents and communities were the driving force behind the establishment of Māori-medium schools in the inquiry district. Claimant Marleina Te Kanawa recalled how in 1989 a delegation from Raglan approached the local primary school to ask for a rumaki unit to be established to cater for graduates of the Raglan kōhanga reo. The rumaki unit now has four classes with 76 students, and according to Ms Te Kanawa, the achievement rates of the students attending the rumaki unit are substantially higher than those in the rest of the school.⁴⁹¹

Claimant Leslie Koroheke trained as a teacher in the 1970s, and went on to attend a year-long bilingual education course at Waikato University in 1989. In

483. Ministry of Education, 'Māori Language in Education', <https://www.educationcounts.govt.nz/statistics/maori-education/maori-in-schooling/6040>, accessed 4 February 2020.

484. Document s4(c), p34.

485. Document A88, p78.

486. Document A88, p78.

487. Document A88, p79.

488. Document A88, p79.

489. Transcript 4.1.11, p [485] (Leslie Koroheke, hearing week 5, Teihingārangi Marae, 8 May 2013).

490. Transcript 4.1.21, p843 (Hircrc Moana, hearing week 12, Oparure Marae, 7 May 2014).

491. Document M9 (Te Kanawa), p14.

1990, he was involved in setting up the total immersion unit at Ōpā rure School. Ōpā rure became a full immersion school in 1991, and in 1992 became the first State school to be granted kura kaupapa Māori status.⁴⁹² It later became a wharekura, an all-ages school run under Te Wharekura principles. Ms Moana told us that prior to the Ōpārure school's conversion to a wharekura, some parents had moved elsewhere so that their children could continue their full-immersion education at the secondary school level; the school's opening has meant that such whānau could remain in the district.

Kei roto i taku tuhinga, kei te nēkenēke haere a tātou whānau ki wāhi kē, te kimi tētahi kura mō a rātou tamariki, nā te mea he kura tuatahi tā mātou i taua wā. Just a few primary, primary level. Ko te hiahia o te whānau kia haere tonu a rātou tamariki, kia ako tonu i raro i ngā mātāpono i ngā āhuatanga Māori. I nēke ētahi ki Rāhui Pōkeka ki tērā wharekura, Rākau Mangamanga. I wehe ngetahi atu ki ngetahi atu wāhi kē, ki Pōneke. Engari ko te nuinga o ngā tamariki, ka mutu rātou i te kura, ka haere rātou ki ngā kura tuarua auraki. Heoi, ko te hiahia o te whānau he pupuri tonu i a rātou tamariki i raro i a tātou kaupapa Māori, mātāuranga Māori. Koira te hiahia o ngā mātua i taua wā.

Our children, our families [were] moving to other districts to find appropriate schools for their children because at the time we were only a primary school, and the desire of the whānau was that their children carry on their schooling under the principles of the Māori way of thinking. Some children moved to Huntly at Te Rākau Mangamanga. Some left too, for other schools. Some went all the way to Wellington, but most of the children, they would finish primary school and then they would go on to main stream schools, but the desire of the whānau was to hold fast to their children under the Māori immersion schools. That was the desire of the parents of the time.⁴⁹³

Outside of Te Wharekura o Ōpā rure, options for whānau seeking full-immersion Māori education at the secondary level are few and far between. Marleina Te Kanawa informed us that pupils of the Raglan Area School immersion unit must travel to Hamilton to continue their Māori-medium education, meaning that this option is restricted to those whānau who can afford the travel costs.⁴⁹⁴ Ngā Purapura o Te Aroha, a kura run under Wharekura principles at Te Awamutu, attracts students from as far south as Waimiha, Hangatiki, Te Kūiti, Waitomo, and Ōtorohanga. Pupils are brought by their parents to Benneydale to be bussed to Te Awamutu, an hour trip one way.⁴⁹⁵

Ms Rauputu, who now lives in Huntly, expressed her frustration at the fact that there were no kura kaupapa or wharekura in the vicinity of Mōkau, with Piopio

492. Document 1.21 (Korohēke), p 2.

493. Transcript 4.1.21, p824 (Hirere Moana, hearing week 12, Oparure Marae, 7 May 2014). Tribunal translation.

494. Document 19, p 15.

495. Transcript 4.1.21, p 844 (Hirere Moana, hearing week 12, Oparure Marae, 7 May 2014).

College the only secondary schooling option for children in the rohe.⁴⁹⁶ If she was living in the area, this would mean that her children would need to travel for one hour to Te Kūiti to attend the wharekura there.⁴⁹⁷ She spoke of the ‘very limited’ access to quality education generally in Te Rohe Pōtae, and a ‘gross lack of access to Māori-medium education’ in particular.⁴⁹⁸ She told us that some of her people wish to return home, but are deterred from doing so due to the lack of quality Māori-medium education there.⁴⁹⁹ A downside of this is that children attending kura kaupapa Māori outside the district do not learn about the language and traditions of Maniapoto.⁵⁰⁰

As claimant Hemaima Rauputu has put it:

Ahakoia kua whakatuwhera ētahi kura Māori, Kōhanga Reo, Kura Kaupapa, Whare Kura, Whare Takiura ki roto o Maniapoto, he ruarua noa iho. Nā te iti o wēnei kura, nā te pakupaku hoki o ngā rauemi, kāre i te koinga te mātauranga ka whāngai e ngā kaiako ki ngā tauira. E hāngai ana ki iwi kē atu, kei raro a Maniapoto e puta ana i roto i tēnei tīmona o āhuatanga. Karekau he wāhi e āhei ana te whāngai atu ēnei mātauranga ki ō mātou tamariki mokopuna ka tika. He maha hoki te hunga nō te kāinga kua whakaritea kia tuku atu o rātou tamariki ki ngā kura kei rohe kē atu. Ā i te mea he pai ake ērā kura, yeah. Ki roto i te horopaki, kua whai wāhi rawa ake ki aua kura ki te whai oranga mō ngā tauira. Hāngai ana ki ngā kura o roto Maniapoto. Ko ngā tauira puta mai i aua kura ka eke ki runga ake i ngā tauira ka puta mai i te kāinga. Kātahi ko te rarururu ko tēnā. Ko te āhuatanga kaha whakapōrearea i au, karekau tēnei momo puna mātauranga ki te wā kāinga. Nō reiraka riro ō mātou tamariki ki rohe kē atu, ki iwi kē atu aha ko wai. Ko te rarururu o tērā, kāre ō mātou tamariki i te tipu ake ki te wā kāinga. Kāhore i te tipu ake ki roto ake i ō rātou ake Maniapototanga. Kia mōhio mai te mātinini he reo, he kawa, he tikanga ake tā Maniapoto, te tac te ako ki waho o Maniapoto. Ki te kore e huri te kei ō te waka, ka nemeha noa atu ēnei taonga i a mātou.⁵⁰¹

Although there is now Māori medium education available within Maniapoto, Kōhanga, Kura Kaupapa and others, Maniapoto has only very few and therefore access to quality education is still very limited. Maniapoto in comparison to other areas are therefore disadvantaged when it comes to quality Māori medium education for our children. We do not have places where we can pass on this knowledge to our

496. Transcript 4.1.15(a), pp358, 371 (Hemaima Rauputu, hearing week 10, Maniaroa Marae, 4 March 2014).

497. Transcript 4.1.15(a), p 374 (Hemaima Rauputu, hearing week 10, Maniaroa Marae, 4 March 2014).

498. Transcript 4.1.15(a), pp357, 358 (Hemaima Rauputu, hearing week 10, Maniaroa Marae, 4 March 2014).

499. Transcript 4.1.15(a), p358 (Hemaima Rauputu, hearing week 10, Maniaroa Marae, 4 March 2014).

500. Transcript 4.1.15(a), pp357–358 (Hemaima Rauputu, hearing week 10, Maniaroa Marae, 4 March 2014).

501. Transcript 4.1.15(a), pp357–358 (Hemaima Rauputu, hearing week 10, Maniaroa Marae, 4 March 2014).

children. Many of our people are sending their children to kura and Whare Kura in other areas, as those schools have high success rates. Those kura have high success rates unlike the schools in Maniapoto. They excel unlike the students here at home and that is a grave problem for us. And it's unfortunate that we don't have kura of this quality so they have to go to other areas to be taught. The problem with that is, our children are missing out on an education focused around their Maniapoto identity. So that people will know that Maniapoto has its own language and identity. If we do not correct this, our treasures will be gone.⁵⁰²

24.5.3 Tertiary education

The tertiary education sector, including universities, polytechnics, and wānanga, as well as private training establishments, has expanded massively since the 1970s. In 1965, 51,613 students nationwide were enrolled in tertiary education. In 2018, enrolments in New Zealand tertiary institutions reached 340,315.⁵⁰³

One of the most remarkable educational innovatives in the tertiary sector during the 1990s and 2000s has been the growing place of wānanga (Māori tertiary institutions).⁵⁰⁴ Ngāti Maniapoto played a leading part in the creation of what has become one of the major players in the sector, Te Wānanga o Aotearoa. Indeed, Maniapoto have been described as the wānanga's 'founding people'.⁵⁰⁵ The wānanga was established in Te Awamutu in 1983, as the Waipa Kokiri Arts Centre.⁵⁰⁶ During 1988, the wānanga, then known as the Aotearoa Institute, opened new campuses in Hamilton and Manukau.⁵⁰⁷ Te Wānanga o Aotearoa was granted full wānanga status in 1993, meaning it could access government funding. By 2000, the wānanga had branches throughout the North Island, including in Te Kūiti.⁵⁰⁸ Wānanga classes and outreach services are also available at Kāwhia and Tāumarunui.⁵⁰⁹

Claimant Lorraine Anderson worked for the Maniapoto Māori Trust Board at Te Kūiti and later as campus director at Te Wānanga o Aotearoa in Te Awamutu.⁵¹⁰ She told us of the close involvement of Ngāti Maniapoto leaders in decision-making and governance at Te Wānanga o Aotearoa in the earlier stages of its growth.⁵¹¹ She also discussed the many innovative learning methods that had been

502. Transcript 4.1.15(a), pp357–358 (Hemaima Rauputu, hearing week 10, Maniaroa Marae, 4 March 2014).

503. Ministry of Education, 'Statistics: Tertiary Education: Participation – Provider Based Enrolments', <https://www.educationcounts.govt.nz/statistics/tertiary-education/participation>, accessed 5 March 2020.

504. Document A27, p222; Waitangi Tribunal, *Ko Aotearoa Tēnei: Te 'āumata Tuarua*, vol 2, p400.

505. Waitangi Tribunal, *The Report on the Aotearoa Institute Claim Concerning Te Wānanga o Aotearoa* (Wellington: Legislation Direct, 2005), p 1.

506. Document A27, p40.

507. Document A27, p40.

508. Document A27, p41.

509. Document s41 (Anderson), p 5.

510. Document s41, pp3–5.

511. Document s41, pp3–6.

developed or adapted by Ngāti Maniapoto educators and piloted in classes or marae-based learning services in the district, before spreading throughout the country.⁵¹² Examples included the Te Ara Reo Māori programme, which had since taught thousands of te reo Māori learners around the country.⁵¹³

Nationally, the success of the wānanga movement has driven a massive growth of Māori enrolment at the tertiary level, to the point where Māori were, by the time of our hearings, more likely to be enrolled in tertiary education than any other ethnicity. By 2009, national Māori participation rates in tertiary education, at 17.1 per cent, was higher than for all other ethnicities, including Pākehā (at 11.4 per cent). This was a dramatic turnaround from the previous decade, when 7.2 per cent of Māori had a tertiary-level education.⁵¹⁴ That year, 23,190 Māori students were enrolled at wānanga around the country (with wānanga accounting for a total of 37,675 domestic student enrolments). The same year 15,120 of the 154,845 domestic students enrolled at universities were Māori, while Māori made up 32,520 of 178,580 domestic students enrolled at polytechnics and institutes of technology.⁵¹⁵ These high participation rates continued in 2018, when 12.8 per cent of the Māori population was enrolled in tertiary study, compared with 8.7 per cent of Pākehā and a population average of 8.6 per cent.⁵¹⁶ That year saw 20,510 Māori enrolled in wānanga (out of a total domestic student body of 37,675 enrolled at wānanga), 16,775 Māori enrolled at universities (out of a total domestic student population of 143,690), and 27,340 Māori students enrolled at polytechnics and institutes of technology (out of a total of 115,765 domestic students enrolled at such institutions).⁵¹⁷

These innovations by wānanga helped improve tertiary participation by Māori people in this period, not only in the inquiry district but across the country.⁵¹⁸ One of the wānanga's greatest successes has been in attracting 'second chance' learners back into education.⁵¹⁹ However, it should be noted that many of these enrolments were clustered in level 3 to 6 qualifications (typically certificates or diplomas), rather than level 7 (bachelor's degree) or above. Despite growing Māori participation in tertiary education, Māori were still, in 2006, less than half as likely as non-Māori to hold a degree.⁵²⁰ In 2016, 13 per cent of Māori held degrees at bachelor's level or higher (compared to a population average of 25 per cent). By the

512. Documents 41, pp6–8.

513. Document 41, pp6–7.

514. Document A88, p81.

515. Ministry of Education, 'Statistical Tables: Provider-based Enrolments', <https://www.educationcounts.govt.nz/statistics/tertiary-education/participation>, accessed 6 May 2020.

516. Ministry of Education, 'Statistics: Tertiary Education: Participation – Participation Rates', <https://www.educationcounts.govt.nz/statistics/tertiary-education/participation>, accessed 5 March 2020.

517. Ministry of Education, 'Statistical Tables: Provider-based enrolments', <https://www.educationcounts.govt.nz/statistics/tertiary-education/participation>, accessed 6 May 2020.

518. Waitangi Tribunal, *Ko Aotearoa Tēnei: Te Taumata Tuarua*, vol 2, p400.

519. Waitangi Tribunal, *Report on the Aotearoa Institute Claim Concerning Te Wānanga o Aotearoa*, ppvii, 2.

520. Document A88, pp71–72.

same year, the percentage of Māori holding tertiary qualifications at Levels 6 and below had surpassed that of the general population (at 27 per cent and 26 per cent respectively).⁵²¹ The Maniapoto Māori Trust Board's 2009 survey of education in its rohe suggests that most Ngāti Maniapoto who were enrolled at study at tertiary level were doing so at Te Wānanga o Aotearoa.⁵²² As elsewhere, most of this study has been concentrated in sub-degree qualifications.⁵²³

24.5.4 Tribunal analysis and findings

The expansion of mass State education in New Zealand, begun in the first half of the twentieth century, continued during the second half of that century. By the end of the 1960s, virtually all New Zealanders, Māori and Pākehā, have had access to free primary and secondary education at a State school. From the 1970s, participation rates in State-subsidised early childhood education grew exponentially, and more New Zealanders than ever before went on to tertiary study.

We turn first to the Crown's provision of education for Te Rohe Pōtae Māori in the 0–5-year age group. Access to quality early childhood education is now widely acknowledged as an important determinant of educational achievement at the school level, and better social outcomes beyond school. While the Crown provides substantial subsidies to support the early childhood sector, its approach to the planning of early childhood provision has been largely hands-off. Initially monopolised by the voluntary community sector, fee-charging private providers now dominate the provision of early childhood care. As a result, the provision of early childhood education is still highly variable across different parts of the country. Coverage in some rural areas, including parts of the inquiry district, is particularly poor.

While Māori participation in this area has improved markedly since the 1970s, significant barriers still remain to Māori, including Te Rohe Pōtae Māori, in accessing early childhood care. These include the cost of attendance fees at private centres, lack of available centres, or lack of spaces in existing centres. These barriers mean that not all Te Rohe Pōtae Māori who wish to access early childhood care for their children are currently able to do so. Options for bilingual or Māori-medium early childhood education within the inquiry district are even more limited. Lack of bilingual and culturally appropriate early childcare services may deter some Te Rohe Pōtae Māori whānau from accessing early childhood education altogether, while others have moved out of the district in order to access such services.

Given its growing awareness of the importance of early childhood education to later educational and social outcomes, we find the gaps in quality early childhood education within the inquiry district to be unacceptable in Treaty terms. As we have noted in earlier sections, the Crown is required to address barriers that may

521. Ministry of Education, 'Statistics: Tertiary Education: Retention and Achievement – Educational Attainment of the Population', https://www.educationcounts.govt.nz/statistics/tertiary-education/retention_and_achievement, accessed 5 March 2020.

522. Document s4(c), p 65.

523. Document s4(c), p 69.

prevent Māori accessing education at the same levels as other groups in the population. This may be through removing cost barriers to Māori whānau attending existing services, working with the community and the private sector to ensure current gaps in coverage or shortages of places are addressed. Where it fails to do so, the Crown is acting inconsistently with the Treaty principle of equity, its obligation to establish a partnership grounded in good faith and ongoing dialogue, and the duty to actively protect Māori rights, interests, and taonga.

In relation to the availability of kōhanga and other Māori-medium pre-school options within the inquiry district, we find that many Te Rohe Pōtae Māori whānau who wish to access such services for their tamariki are currently unable to do so due to lack of available centres. The Treaty principle of options, deriving from articles 2 and 3, gives Māori the right to ‘choose their own social and cultural path’, or as the Tribunal put it in its *Te Tau Ihu* report, ‘to continue their tikanga and way of life largely as it was, to assimilate to the new society and economy, or to combine elements of both and walk in two worlds.’⁵²⁴ We find the Crown’s lack of provision of bilingual or Māori-medium options for early childhood care in the inquiry district to be in breach of the principles of options and equity, and the duty of active protection.

Māori participation and achievement at the primary and secondary school levels have improved vastly since the 1970s. However, despite such improvements, non-Māori continue to outperform Māori within the mainstream school system in almost every educational measure. On average, Māori students leave school earlier than their non-Māori counterparts, are more likely to leave without qualifications, are less likely to go directly from school into tertiary study, and are more likely to be suspended or expelled during their time at school. A notable exception to these patterns of poor Māori achievement is in the Māori-medium sector, where Māori consistently outperform their counterparts in English-medium schools. However, Māori-medium schooling is not available to all whānau in the inquiry district who seek this option for their tamariki. As for the early childhood sector, we find the current gaps in provision of Māori-medium options within the inquiry district to be actions of the Crown inconsistent with the principle of partnership, and in breach of the Crown’s duty to treat Māori equitably and equally relative to other parts of the population.

We make no finding concerning the Crown’s provision of tertiary education options in the inquiry district as we have received insufficient evidence on this topic to do so.

24.6 DID THE CROWN CONSULT TE ROHE PŌTAE MĀORI ON IMPORTANT DECISIONS TO DO WITH THEIR EDUCATION?

24.6.1 Consultation at the primary school level

The Education Act 1877 gave general school committees authority over ‘the management of educational matters within the school district’, subject to the board’s

524. Waitangi Tribunal, *Te Tau Ihu*, vol 1, pp4–5.

oversight.⁵²⁵ This included the powers to control school funds and responsibilities for property maintenance.⁵²⁶ School committees could opt whether to enforce the compulsory attendance clauses of the Act.⁵²⁷ The Education Act 1914 removed the existing powers of school committees to appoint teachers.⁵²⁸ School committees could also vote in elections for the regional education boards.⁵²⁹

The Native Schools Act 1867 set out several avenues for Māori input into native schools. To request a native school, Māori communities had to first form a school committee. Such committees were in charge of 'the general management of the school'.⁵³⁰ Christoffel argued that, in reality, the responsibilities of native school committees were nowhere near this. Instead, committees' duties were generally reduced to enforcing attendance and providing a point of communication between teachers and parents.⁵³¹ Over time, it also became expected that native school committees would supply firewood.⁵³² A 1920 overview of the native schools system published in the *King Country Chronicle* claimed: 'Native school committees are formed, but have not much authority, their chief duty seeming to be the provision of fuel, etc.'⁵³³

It should be noted that similar descriptions were sometimes made of general school committees, especially in rural areas. According to historian Susan Butterworth, many general primary school committees struggled to exercise the powers bestowed on them under education legislation, and 'tended more and more to surrender these burdens to the boards, leaving themselves with the mundane tasks of organising the cleaning, heating, and minor maintenance of their schools'.⁵³⁴ However, regardless of whether they exercised them, general school committees had far wider formal powers available to them than did native school committees.

While their formal powers were limited, native school committees still found ways to involve themselves in schools' running. Native school committees could serve important roles as intermediaries between the school, teachers, and the community.⁵³⁵ For instance, log books for Kawhia School in 1895 record the teacher asking the chairman of the school committee to request women from the village to refrain from visiting the school so often, and '[correcting] children with their own hand'.⁵³⁶

525. Education Act 1877, s74.

526. Document A27, p25.

527. Butterworth, *The Department of Education, 1877-1989*, p12.

528. Butterworth, *The Department of Education, 1877-1989*, p27.

529. Education Act 1877, s13.

530. Document A27, p25.

531. Document A27, p25; Barrington, *Separate but Equal?*, p73.

532. Document A27, p90.

533. 'Native Schools; Good Work Being Done', *King Country Chronicle*, 10 June 1920, p5.

534. Butterworth, *The Department of Education*, p13.

535. Judith Simon, ed, *Ngā Kura Māori: The Native Schools System, 1867-1969* (Auckland: Auckland University Press, 1998), p23.

536. Kawhia Native School log book 1895-1897, entries for 19 June and 25 August 1895 (doc A27, pp91-92).

Elsewhere in New Zealand, native school committees were in some cases able to use their position and influence to get a teacher replaced, although Christoffel noted that no evidence could be found of this in Te Rohe Pōtae.⁵³⁷ The log books for the Tahāroa school describe an instance where one disgruntled committee member wrote to the education board to ask that a teacher be removed (only to be reassured by the committee chairman that they were satisfied with the teacher).⁵³⁸

Native school committees were also crucial in fostering a sense of Māori community ownership over schools, and in integrating the native school into the cultural life of their local communities.⁵³⁹ Soon after Raorao School opened in 1897 the teachers found the school requisitioned for community purposes. In September that year, the school was closed for 'a Maori meeting and feast', and in March 1899, the school building was used for a feast and entertaining King Mahuta.⁵⁴⁰ At Tahāroa, the May school holidays were shifted in 1919, 1922, and 1923 to accommodate 'special Maori meetings at Kawhia'.⁵⁴¹ Emily Churton, a teacher at Te Kopua Native School during the 1920s, recorded that the local community took part in school picnics, usually with a hangi, and established monthly school dances.⁵⁴² In 1959, the committee requested the head teacher of Taharua Native School close the school at midday for the tangi of Mrs Whitiora, 'one of the oldest residents and grandmother and great grandmother of many of the pupils'.⁵⁴³ However, in other cases, Te Rohe Pōtae Māori children were punished for participating in the cultural activities of their communities. Ngāti Rōrā claimant Dr Wharehuia Hemara provided the Tribunal with several examples of this practice, including threats of expulsion for pupils absent due to attending the Poukai, and 'bad marks' for children who were absent due to a tangi.⁵⁴⁴

While native school committees came under the direct control of the Education Department, control over general school committees resided in regional education boards, which also provided the link between schools and the central Department of Education. The boards, elected by school committees, had wide powers to establish and maintain public schools in their district, to appoint or remove teachers, purchase or rent school sites, manage district education funds, and establish scholarships. They also oversaw the activities of school committees. From 1905, the boards also controlled school transport.⁵⁴⁵

The provisions of the 1877 Act did not apply to Māori and there was no specific provision for Māori representation on regional education boards.⁵⁴⁶ This lack of

537. Document A27, p91.

538. Document A27, p75.

539. Document A27, p92.

540. Raorao School log book 1898–1902, entries for 1–2 September 1898 (doc A27, p140).

541. 'Notes on the History of Taharua Maori School', 1959 (doc A27, p140).

542. Document A27, p65.

543. Head teacher, Taharua Maori School, to Education Department, 9 November 1959 (doc A27, pp 139–140).

544. Document S11, p42.

545. Ian Cumming and Alan Cumming, *History of State Education in New Zealand 1840 – 1975* (Wellington: Pitman Publishing New Zealand Ltd, 1978), p155.

546. Education Act 1877, part 11.

legislative provision for Māori representation on education boards continued under revised Education Acts of 1914 and 1967, despite the fact that, from 1909, over half of Māori attended general primary rather than native schools. It continued even after 1969, when all remaining Māori schools came under board control.⁵⁴⁷

Māori were eligible to be elected to regional education boards, just as non-Māori were. We do not know how many, if any, Māori were voted onto regional education boards, though it seems unlikely that any Te Rohe Pōtae Māori, or indeed any Māori, became members of the Auckland board, at least before the late 1950s. A comprehensive history of the Auckland board's first century, published in 1959, makes no explicit mention of Māori board members.⁵⁴⁸ A 1920 article on King Country native schools claimed that direct control of native schools by the Department of Education was 'due, partly, to the fact that native representatives seldom hold a position on the boards'.⁵⁴⁹ The Auckland board's first significant move towards catering for the needs of its Māori pupils came in 1956, when it established a Māori education committee.⁵⁵⁰

The lack of provision for Māori representation on the Auckland Education Board for much of its history was despite the case that the board's district accounted for the greatest proportion of Māori pupils of any board in the country. By 1927, of the 7,000 Māori pupils attending general primary schools nationwide, over half were within the Auckland Education Board's district alone.⁵⁵¹ In 1936, of 10,534 Māori pupils enrolled in public schools around the country, 5,946 were in the Auckland board's district.⁵⁵² Given the lack of Māori representation on the education boards, it is hard to see how Te Rohe Pōtae Māori could have had any meaningful input into their children's education in this period.

A specific instance raised by the claimants of what they allege is the Crown's failure to seek Te Rohe Pōtae Māori input on educational matters impacting their tamariki, concerns the decisions to transfer native schools to the control of regional education boards.⁵⁵³

The first transfer of a native school in the inquiry district was that of the Otorohanga Native School. Opened in 1890, the number of 'European' students (including Europeans and those classed as 'between half-caste and European') increased to two-thirds of the roll by 1893.⁵⁵⁴ The Otorohanga Native School was transferred to the Auckland Education Board in 1894.⁵⁵⁵

547. Document A27, p36.

548. For lists of individual board members from the 1870s to the 1950s, see Cumming, *A Glorious Enterprise*, pp110–111, 202, 338, 373, 395, 461–462, 568–569, 624–625, 662, 673–675.

549. 'Native Schools; Good Work Being Done', *King Country Chronicle*, 10 June 1920, p5.

550. Cumming, *A Glorious Enterprise*, p 677.

551. Cumming, *A Glorious Enterprise*, p474.

552. Cumming, *A Glorious Enterprise*, p585.

553. Submission 3.4.104, p21.

554. AJHR, 1893, E-2, p16 (doc A27, p55).

555. Document A27, p55.

By the time of its 1899 opening, half the Te Kuiti Native School's roll was European. By 1903, 45 of 64 students on the school's roll were European. The Te Kuiti Native School was transferred to the education board in 1905. Many of the Māori pupils from the Te Kuiti Native School appear to have moved to the Oparure Native School, opened in 1906. Seventeen years later, Oparure too was transferred to board control.⁵⁵⁶ The Hauaroa (Taumarunui) Native School was transferred to the board in 1909, the year after the railway opened.⁵⁵⁷

The department's practice on the transfer of native schools evolved over the period examined in this chapter. The Native Schools Code 1880 had specified that transfers should take place once an inspector was satisfied that 'all the children in a native school district' had made sufficient progress in English.⁵⁵⁸ The 1905 transfer of the Te Kuiti Native School to the Auckland Education Board appears to have been in reaction to a public petition from Pākehā residents.⁵⁵⁹

But by 1909, it had become official departmental policy to transfer native schools over to education boards as soon as Pākehā pupils became a majority. The department's annual report on education for 1909 stated: 'The policy of the Department is that, when the preponderating majority of the children in attendance at a Native school consists of Europeans, the school shall be handed over to the control of the Board of Education for the district.'⁵⁶⁰ Another departmental policy that emerged around the turn of the century was that a native school and a general primary school should not exist in the same locality.⁵⁶¹ Christoffel found no evidence of consultation with Māori over these policies at the national level, nor any attempt to publicise them.⁵⁶²

From 1909, Pākehā could be elected to native school committees, or appointed by the Minister of Education at a rate of one to every 10 Pākehā children on the school roll.⁵⁶³ According to historian John Barrington, on some occasions Pākehā members of native school committees used their influence on school boards to push to have the school transferred to the education board, even where Māori parents were opposed. We do not know whether this occurred in the case of Te Rohe Pōtae native schools, however.⁵⁶⁴

In the case of most of the Te Rohe Pōtae school closures cited above, we do not know the views of the Māori community on the transfers of former native schools to the board. But in the case of two schools in the inquiry district, Māori communities objected strongly to such transfers. These were the Kawhia Native School, transferred to the Auckland Education Board in 1903, and the Hauaroa Native

556. Document A27, pp58, 59.

557. Document A27, p 59.

558. 'Native Schools Code 1880'. AJHR, 1880, H-1F, p6 (doc A27, pp93-94).

559. Document A27, p58; 'King Country Deputations', *Waikato Times*, 21 March 1905, p3.

560. 'Education: Native Schools', AJHR, 1909, E-3, p11; doc A27, p94.

561. Document A27, p97.

562. Document A27, p97.

563. Barrington, *Separate but Equal?*, p121.

564. Barrington, *Separate but Equal?*, p127.

School in Taumarunui, which became a board school in 1909.⁵⁶⁵ We provide some background on these schools and the transfer process below.

It had been suggested in 1885 that a general school be built at Kāwhia, but a native school was opened instead in 1895. Kawhia Native School quickly became crowded, and a general school opened in 1902 to relieve pressure on the roll. The recommendation that the schools amalgamate came after an inspection in 1903, and the Education Department decided to proceed with it.⁵⁶⁶ Kawhia Native School was transferred to the Auckland Education Board by the end of 1903.

Local Māori strongly opposed the transfer, although the available evidence does not state upon what grounds.⁵⁶⁷ An October 1903 meeting between the Kawhia Native School Committee and local Māori resulted in a resolution, passed unanimously, that 'objected very strongly and stated that all the Maoris of the District were determined to oppose the transfer by every means in their power'.⁵⁶⁸ They agreed to send telegrams to Wellington voicing their opposition.

Despite the protest, the Education Department offered the native school to the Auckland Education Board; the offer was accepted in October 1903.⁵⁶⁹ The head teacher recorded in his log book that local Māori 'and many pakehas' were 'bitterly opposed' to the transfer. Another public meeting was held in February 1904 in further protest.⁵⁷⁰ The merger, which had already taken place, was the subject of an investigation by Native School Inspector Mulgan in 1904.

His report noted that the Kawhia Native School had 41 pupils on its roll, and an average attendance of about 33. Around half of these children were from Ngāti Mahuta and lived at Tahāroa on the other side of the harbour, where another 20 or 30 other Māori children lived and did not attend any school. Mulgan wrote:

If it still be thought advisable to maintain a native school, this (Taharoa) is where it should be placed. There are 53 children on the roll of the Kawhia School (European), and a good many younger ones growing up, so that this number is likely to increase steadily. That is to say, the number of European children belonging to the place, even now exceeds, by a considerable margin, the number of native children – a difference which is certain to become more pronounced as the years pass.⁵⁷¹

Mulgan recommended that the amalgamation proceed, predicting that the present Māori objections would 'speedily disappear' once the benefits of the merger became evident to them.⁵⁷² But as noted above, it would not be for a further seven years before the proposed native school at Tahāroa would open its doors to pupils.

565. Document A27, pp 96, 101-102.

566. Document A27, pp 94-96.

567. Document A27, p 95.

568. Kawhia Native School log book, entry of 8 October 1903 (doc A27, p 95).

569. Document A27, p 95.

570. Kawhia Native School log book, entry of 18 December 1903 (doc A27, p 96).

571. 'Kawhia School Matters', *Waikato Times*, 27 February 1904, p 2.

572. 'Kawhia School Matters', *Waikato Times*, 27 February 1904, p 2.

Hauaroa (Taumarunui) Native School opened at the beginning of 1902 and became a general school at the beginning of 1909. The school suffered from overcrowding almost immediately after it opened. In March 1902, the native school committee requested that it be extended.⁵⁷³ Further population growth following the completion of the North Island main trunk railway as far as Taumarunui in 1903 placed more pressure on the school. However, the Auckland Education Board deferred its decision on a request – supported by Te Warahi Te Whiutahi, the chairman of the Hauaroa Native School Committee – that a general school be established in the township.⁵⁷⁴

In 1907, following a 1906 petition calling for the Education Department to address the issue of overcrowding at the Hauaroa school, the Education Minister George Fowlds visited Taumarunui. He informed residents that the Hauaroa Native School would be transferred to the education board if it experienced a significant increase in Pākehā students on its roll. This in turn prompted a petition from Te Marae Rongomatane and 108 others opposing Hauaroa Native School becoming a general school.⁵⁷⁵

Some Pākehā parents also opposed the transfer of the Hauaroa Native School, as they did not wish their children to attend school alongside Māori. Around this time, public claims by an Auckland Education Board member that Māori children at Taumarunui were unclean and a health risk to Pākehā students attracted the criticism of both Māori leaders and the Minister of Education.⁵⁷⁶

Despite community objections, the Hauaroa Native School was transferred to the Auckland Education Board in 1909. By that time Pākehā students on the roll outnumbered Māori students by 57 to 49.⁵⁷⁷

Oparure Native School, opened on gifted land in 1904, was transferred to the Auckland Education Board in 1923 after European pupils outnumbered Māori on its roll.⁵⁷⁸ Local Māori objected, stating that the school should remain open 'upon the conditions for which the land was given by Te Mihinga, namely for a Maori school for the children of Oparure and for other children.'⁵⁷⁹ Their appeal was rejected by the Department of Education on the grounds that it was departmental policy to automatically transfer such schools:

as it becomes apparent that a community once Maori has, by process of civilisation, or by the advent of Europeans in superior numbers, advanced beyond the stage at which the need for a school of special character has largely ceased to exist, it is the custom to invite the Education Board of the district to take over the administration of any such school, and hence the decision for the transfer to the Education Board of the Oparure Native School, which has now become more European than Maori, with

573. Document A27, pp97–98, 101–102.

574. Document A27, p98.

575. Document A27, p100.

576. 'Undeserved Reflections', *New Zealand Times*, 21 August 1908, p6.

577. Document A27, p101.

578. Document A63, p401.

579. Atutahi Porokoru and 46 others to director of education, 7 August 1923 (doc A63, p401).

every indication of becoming increasingly so. It is not anticipated that the interests of the Maoris will suffer in any way through the change that it has been found necessary to make in the management of the school.⁵⁸⁰

In the end, the Education Department's decision regarding individual schools appears to have come down to a pure numbers game. Such central government decisions took no account of the circumstances behind the school's establishment, or the wishes of Māori communities. The department was unwilling to countenance the prospect that native and board schools might coexist in a single community, and assumed that native schools would inevitably give way to board schools once a European population had been established in an area. Indeed, as the above quote suggests, the department welcomed the replacement of native schools by board schools as a sign of Māori advancement and 'civilisation'.

Only two Te Rohe Pōtae Māori schools remained open by the time the Māori school system was amalgamated in 1969. There had been calls for the abolition of the Māori school system from almost as soon as it was established, and these continued throughout the first half of the twentieth century. In 1955, the Government established a National Committee on Maori Education (later the National Advisory Committee on Maori Education). The committee, which had a majority Māori membership, agreed that the 'basic educational needs of Maori and Pakeha are identical' and that all schools should cater for both Māori and Pākehā students.⁵⁸¹

In 1966, the advisory committee recommended that all Māori schools be transferred to the control of education boards in 1969. But the committee noted that 'the general feeling of the Maori people' was against the immediate abolition of the schools, and that parents and school committee should be 'fully consulted and informed' before any school was transferred to education boards.⁵⁸² We do not know if the Māori communities at Tahāroa and Makomako were specifically consulted prior to their schools' transfer to the Auckland Education Board in 1969.⁵⁸³

24.6.2 Consultation at the secondary school level

We have received little specific evidence on Te Rohe Pōtae Māori input into secondary schooling prior to the 1970s. The secondary schools established during the nineteenth century were private institutions, outside of the education board system. Of the various types of secondary school, only district high schools came under board control under the 1877 Act.

The nineteenth-century secondary colleges were controlled by boards of governors whose powers were set out under individual Acts of Parliament. Under the 1914 Act, secondary schools came under the control of governing bodies made up of three education board appointees, three members elected by parents, and

580. Director of education to Atutahi Porokoru, 17 August 1923 (doc A63, pp 407-402).

581. AJHR, 1956, I-1, pp29-30 (doc A27, p35).

582. Document A27, p36; AJHR, 1956, I-1, pp29-30 (doc A27, p35).

583. Document A27, p36.

several other appointees.⁵⁸⁴ Under the Education Act 1964, secondary schools were controlled by boards of governors of between nine and 11 members, of whom five had to be elected by the parents of school pupils.⁵⁸⁵ As with the education boards themselves, neither the 1914 or 1964 legislation made specific provision for Māori representation on secondary school governing boards.

Central government and education board oversight of the secondary school system increased from the 1900s. For example, the Education Act 1914 gave the Minister of Education (with board approval) powers to open and close secondary, technical, or district high schools.⁵⁸⁶ Overall, however, secondary schools in this period enjoyed greater powers and freedom from government intervention than their primary or native school counterparts. Powers extended to secondary school governing boards included the ability to purchase or take land under the Public Works Act, and to set courses of study, subject to Education Department approval.⁵⁸⁷

24.6.3 Consultation after *Tomorrow's Schools*

The *Tomorrow's Schools* policy, introduced in 1989, significantly changed the way that schools and the wider education system operates. The new policy followed from the report of a 1988 taskforce into education, commonly known as the *Picot Report*. Under new legislation, the Education Act 1989, schools became self-managing under elected boards of trustees, although they were still required to follow national curriculum guidelines set by the Government. Local control was at the heart of the *Tomorrow's Schools* policy, which gave parents and communities a greater say in school governance. Elected boards of trustees formed the link between the school and communities, as well as governing the school.

The 1989 Act abolished the regional education boards (whose powers had, in any case, diminished greatly over time) and split the former Department of Education into the policy-focused Ministry of Education, the Education Review Office, which monitors school performance, and the New Zealand Qualifications Authority, which oversees the national qualification system.⁵⁸⁸ The Ministry of Education is the lead agency overseeing education in New Zealand, and administers the Education Act 1989, which remains in place to the present day.

In contrast to other legislation of its era, the Education Act 1989 contains no separate Treaty clause.⁵⁸⁹ However, the Act did make some meaningful provision for Māori interests. Since 1989, school boards have had a statutory requirement to 'take all reasonable steps to discover and consider the views and concerns of Māori communities living in the geographical area the school serves' in developing school charters.⁵⁹⁰ In turn, school charters must include a statement of how

584. Education Act 1914, s 90.

585. Education Act 1964, s 51.

586. Education Act 1914, ss 87–88.

587. Education Act 1914, ss 91–92.

588. Waitangi Tribunal, *Ko Aotearoa Tēnei, Te Taumata Tuarua*, vol 2, p 542.

589. Waitangi Tribunal, *Ko Aotearoa Tēnei, Te Taumata Tuarua*, vol 2, p 546.

590. Education Act 1989, s 60A.

the board will develop ‘policies and practices that reflect New Zealand’s cultural diversity and the unique position of the Māori culture’ and ensure that ‘all reasonable steps [are taken] to ensure that instruction in tikanga Māori (Māori culture) and te reo Māori (the Māori language) for full-time students whose parents ask for it.’⁵⁹¹ A number of amendments have been made to the Act since 1989 which reference the Treaty of Waitangi. First, section 181, added in 1991, requires the council of a tertiary institution to acknowledge the principles of the Treaty of Waitangi. Secondly, schedule 21, inserted in 2015, requires the Minister to consider a candidate’s understanding of the principle of partnership under the Treaty of Waitangi when making appointments to the Education Council. Finally, in 2017 part 1AA was inserted, which requires one of the objectives of a system of education to be to instil in every child and young person an appreciation of the importance of the Treaty of Waitangi and te reo Māori. There is, however, no requirement that boards of trustees appoint Māori members, or that Māori representation on school boards reflect the composition of the student body.

The Ministry of Education acknowledges the importance of ‘[a]ctive participation by Māori parents in planning, development and delivery of education services’ as essential to ensuring that schooling is ‘appropriate and effective’ for Māori students, and that Māori representation on school boards is a key mechanism for such participation.⁵⁹² However, up to the present day, Māori remain less likely than non-Māori to have a fair level of representation on school boards.

According to Ministry of Education data from 2017, the proportion of schools with a ‘fair level’ of Māori representation on their board (measured by the number of Māori students at the school and the number of positions on the board) increased between 1997 and 2017 from 31.5 per cent in 1998 to 41.6 per cent in 2017. While an improvement, this leaves 58.4 per cent of schools where Māori are not fairly represented on school boards.⁵⁹³

While we do not have district-specific data, it is highly likely that Māori underrepresentation on education boards is also a feature of the schooling system within Te Rohe Pōtae.

24.6.4 Tribunal analysis and findings

The basic system of educational administration for primary schools established by the Education Act 1877 remained in place for over a century. The 1877 Act did not, initially, apply to Māori, and it made no specific provision for Māori representation in the make-up of school committees or regional education boards. This lack of provision for Māori representation continued under the Education Act 1914, despite the fact that, by that time, more Māori pupils attended board schools than

591. Education Act 1989, s63.

592. Ministry of Education, ‘Māori Parent Representation on the Boards of Trustees’, <https://www.educationcounts.govt.nz/statistics/indicators/main/quality-education-provider/Maori-Parent-Representation-on-the-Boards-of-Trustees>, accessed 3 February 2020.

593. Ministry of Education, ‘Māori Parent Representation on the Boards of Trustees’, <https://www.educationcounts.govt.nz/statistics/indicators/main/quality-education-provider/Maori-Parent-Representation-on-the-Boards-of-Trustees>, accessed 3 February 2020.

they did native schools. The same lack of representation also applied to district high schools, which came under the 1877 Act, and to the separate secondary school system.

Prior to 1989, the avenues for Te Rohe Pōtae Māori to provide input into their children's education were limited. Native school committees had few formal powers, even though the informal power they could wield in isolated, Māori communities was sometimes substantial. The powers awarded to public school committees were far broader, but even they were dwarfed in comparison to the control over educational affairs in each region given to elected education boards.

For much of the twentieth century, education boards had extensive powers over education in their district. They could open or close schools and appoint new teachers or remove existing ones. They controlled educational funds and property in their districts, and could buy, lease, or sell school sites and compulsorily acquire land under the Public Works Act. Transfers of native schools to the education boards, while guided by central government policy, occurred at board discretion. From 1904, they controlled school transport, a key factor in the ability, or otherwise, of rural communities to overcome the educational disadvantages of isolation.

While Te Rohe Pōtae Māori, in theory, had the same opportunities to be appointed onto regional education boards as Pākēhā, we are not aware of any Māori members on the Auckland board. The absence of separate provision for Māori representation on education boards is likely to have left educational interests of the significant proportion of Te Rohe Pōtae Māori children who attended board primary schools, at the very least significantly underrepresented, if not entirely unrepresented. This lack of provision for Māori representation at the committee and board level continued when the Government passed a new Education Act in 1964, and after the amalgamation of the Māori schools in 1969.

The passage of the Education Act 1989 brought some welcome changes in terms of Māori input into education. While the 1989 Act contains no separate Treaty clause, subsequent amendments now require the education system to seek to instil an appreciation for the Treaty in all students and acknowledge the Treaty in specific circumstances. These provisions, it is important to note, have not ameliorated an ongoing lack of Māori opportunities to participate equitably in decision-making within the education system. While Māori representation on boards is steadily improving, data collected by the Ministry of Education shows that close to 60 per cent of schools do not have 'fair' Māori representation on their boards.⁵⁹⁴

In chapter 9, we described Te Ōhāki Tapu as the attempt by Te Rohe Pōtae Māori to give practical effect to the Treaty relationship within their territory. Te Rohe Pōtae Māori mana whakahaere, which we found Te Rohe Pōtae Māori rangatira could have reasonably expected would follow from the 1880s negotiations, included 'means by which Te Rohe Pōtae Māori could have authority over matters

594. Ministry of Education, 'Māori Parent Representation on the Boards of Trustees', <https://www.educationcounts.govt.nz/statistics/indicators/main/quality-education-provider/Maori-Parent-Representation-on-the-Boards-of-Trustees>, accessed 3 February 2020.

of importance to the well-being (economic, social, cultural) of their people.⁵⁹⁵ We consider that education falls into this category.

Education is critical to the economic, social, and cultural well-being of Te Rohe Pōtae Māori. Yet for the first century of its existence, the State schooling system was governed by Pākehā-dominated school boards with no specific provision for Māori representation. Important matters such as the closure of individual native schools and their transfer to the education board, and the taking of Māori land for public works, took place without meaningful Māori input. This was a far cry from the mana whakahaere over their affairs envisaged by Te Rohe Pōtae rangatira when they agreed to lift the aukati and allow the Crown into Te Rohe Pōtae.

Regarding consultation with Te Rohe Pōtae Māori on important decisions relating to education, we thus find that the Crown failed to comply with its Treaty obligations in two key respects:

- ▶ By not ensuring Te Rohe Pōtae Māori had the equal opportunities for input into their children's education as Pākehā, the Crown's conduct was inconsistent with the principle of equity.
- ▶ By failing to ensure Māori representation in local and regional administration of the State education system, the Crown did not comply with the guarantee of rangatiratanga extended to Te Rohe Pōtae Māori under article 2 of the Treaty and given local expression by the Te Ōhākī Tapu agreements, nor with the principle of partnership, defined by good faith and subject to regular dialogue, and the associated duty of active protection.

24.7 WHAT WERE THE INTENDED OUTCOMES OF THE CROWN'S EDUCATION SYSTEM IN TE ROHE PŌTAE AND DID IT SUCCEED?

This section discusses what Māori children learned in the classrooms of Te Rohe Pōtae. It covers both intent – the intended outcomes of the Crown's education system – and practice – what actually happened in schools in the inquiry district. The distinction is an important one. For a variety of reasons, including, but not limited to, school size, resourcing, and teacher quality, official policies issued at the central government level did not always translate into practice on the ground.

While the decisions to open or close individual schools, appoint and dismiss teachers, and control school property were under the control of education boards, what was taught in primary schools was set by national curricula issued by the central Department of Education. The first national curriculum for education board schools was issued in 1877. It offered reading and writing, arithmetic, grammar, history and geography, science, drawing, and sewing and needle work for girls, in six standards.⁵⁹⁶

The Department of Education's 1880 Code for Native Schools had four standards and taught fewer subjects than education board primary schools (history,

595. Waitangi Tribunal, *Te Mana Whatu Ahuru, Parts 1 and 11*, p1064.

596. J.L. Ewing, *The Development of the New Zealand Primary School Curriculum, 1877–1970* (Wellington: New Zealand Council for Educational Research, 1970), pp 1, 4.

science, and grammar were omitted).⁵⁹⁷ The department issued a revised code in 1897, adding standards V and VI, in line with education board schools.⁵⁹⁸ Further revisions to the code, in 1909, 1915, and 1931, were designed to bring the native school syllabus into greater alignment with what was taught in the board-controlled schools.⁵⁹⁹ A new syllabus for primary schools, issued in 1904, introduced new subjects such as nature study and handwork (manual study) to the primary school curriculum.⁶⁰⁰ Native schools adopted the 1904 curriculum from 1909.⁶⁰¹ From 1929, native and education board schools were expected to follow the same syllabus, although native schools retained some distinctive features, including, from 1931, some elements of Māori culture.⁶⁰²

24.7.1 Assimilating Māori?

Assimilating and ‘civilising’ Māori were among the foremost goals of the native school system from its nineteenth-century origins.⁶⁰³ Officials connected with the native school system frequently expressed goals such as ‘Europeanisation’, ‘assimilation’, and ‘civilisation’ with reference to Māori schooling.⁶⁰⁴ In 1887, James Pope, author of the 1880 Native Schools Code, and inspector of native schools from 1885 to 1903, described the native schools as ‘not merely schools, but also civilising agencies and centres for spreading European ideas and habits amongst the Natives.’⁶⁰⁵ Thirty years later, native school inspector Douglas Ball, described the native schools as having ‘a very important civilizing influence on the Native race.’⁶⁰⁶

As the 1880 code made clear, the Government believed that Pākehā native school teachers would exert a civilising influence through their mere presence in Māori communities.⁶⁰⁷ The 1880 code specified that the ideal appointees to native schools would be a married couple, who together would showcase ideals of European domesticity.⁶⁰⁸ Teachers’ residences, the code stated, would be supplied with a garden ‘enclosed with a neat picket fence’ which the teacher would be expected to maintain ‘constantly in good order, and to make it, if possible, the

597. Ewing, *The Development of the New Zealand Primary School Curriculum, 1877–1970*, p 8.

598. McGeorge, ‘Childhood’s Sole Serious Business’, pp 35–36; Barrington, *Separate but Equal?*, p 64.

599. Simon and Smith, eds, *A Civilising Mission?*, p 110.

600. Ewing, *The Development of the New Zealand Primary School Curriculum*, pp 104–105.

601. Document A27, p 176.

602. McGeorge, ‘Childhood’s Sole Serious Business’, p 36.

603. Simon and Smith, eds, *A Civilising Mission?*, pp 7–8.

604. Document A27, p 126.

605. Barrington, *Separate but Equal?*, p 90.

606. N R McKenzie, ‘The Educability of the Maori’, in Patrick M Jackson, ed, *Maori and Education, or, The Education of Natives in New Zealand and its Dependencies* (Wellington: Ferguson and Osborn, 1931), p 206 (doc A27, p 126).

607. Document A27, p 128.

608. Document A27, p 128.

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model garden of the village'.⁶⁰⁹ A circular sent to all native school teachers in 1880 further instructed:

Besides giving due attention to the school instruction of the children, teachers will be expected to exercise a beneficial influence on the Natives, old and young; to show by their own conduct that it is possible to live a useful and blameless life, and in smaller matters, by their dress, in their houses, and by their manners and habits at home and abroad, to set the Maoris an example that they may advantageously imitate.⁶¹⁰

This belief that native school teachers represented a civilising influence in Māori communities endured well into the twentieth century. In the 1930s, for instance when inspector of native schools Douglas Ball wrote:

The Native-school teachers, husband and wife, besides the ordinary school duties, have had to set a high standard of living. They have had the health and well-being of their little community largely in their own hands, and in many cases have been the respected and loved advisors of old and young in all matters Pakeha.⁶¹¹

In 1960, the *Report on Department of Maori Affairs*, better known as the Hunn Report (see chapter 18 for a full discussion of this document) described the school as 'the nursery of integration,' noting that 'children mix naturally where their less adaptable elders stand apart'.⁶¹² Since the nineteenth-century, governments had sought to assimilate and civilise Māori primarily through the teaching of the English language in school settings. While early mission schools had taught exclusively in Māori, under the 1847 Education Ordinance, the mission boarding schools were eligible for government funding only if they provided some instruction in English.⁶¹³ The Native Schools Act 1858 specified that mission schools funded under the Act must include '[i]nstruction in the English language and in the ordinary subjects of primary English education'.⁶¹⁴ This emphasis on teaching the English language to Māori pupils continued under the 1867 Act. It required that 'The English language and the ordinary subjects of primary English education are taught by a competent teacher, and that instruction is carried on in the English language as far as practicable'.⁶¹⁵

Supporters of the 1867 Native Education Bill cited a number of justifications for this emphasis on teaching the English language to Māori. Some members of Parliament believed that Māori was an inferior language and a barrier to higher thought and civilisation. As one member put it, Māori was a language 'imperfect

609. 'The Native Schools Code', AJHR, 1880, H-1F, p 1.

610. 'The Native Schools Code', AJHR, 1880, H-1F, p 7.

611. N R McKenzie, 'The Educability of the Maori', p 206 (doc A27, p 126).

612. Hunn, *Report on Department of Maori Affairs*, p 25.

613. Barrington, *Separate but Equal?*, p 19.

614. Native Schools Act 1858, s 9.

615. Barrington, *Separate but Equal?*, p 21.

as a medium of thought' and that Māori could only be fully 'civilised' by means of a 'perfect language' such as English.⁶¹⁶

Fluency in English was also seen as crucial to the ability of Māori to exercise their newly gained rights of citizenship. It was no coincidence that the legislation setting up the native school system was passed the same year as the Maori Representation Act 1867, which created the four Māori seats of Parliament and granted suffrage to all adult Māori men.⁶¹⁷ Other members believed that teaching English would improve the position of Māori in society, or prevent future conflict between the races.⁶¹⁸

The first inspector of native schools, James Pope, placed a similar stress on the importance of English-language instruction in Māori education. In 1888, he wrote: 'The work of teaching the Maoris to speak, write, and understand English is in importance second only to that of making them acquainted with European customs and ways of thinking, as so fitting them for becoming orderly and law-abiding citizens.'⁶¹⁹

Pope's successor, William Bird, inspector of native schools from 1903 to 1916, and chief inspector of primary schools from 1926, was similarly emphatic about the importance of English language teaching.⁶²⁰ These attitudes continued into the interwar years. In 1925, inspector of native schools John Porteous wrote on the teaching of English in the native school system:

The subject, particularly oral English, is so all-important that it demands the utmost attention of the teachers. They must recognise that the work of teaching the Maori children to speak, write, and understand English, and thus by means of the acquired language become acquainted with European customs and ways of thinking, constitutes probably the principal reason for the existence of Native Schools.⁶²¹

While the teaching of English to Māori pupils remained a constant throughout the history of the native schools system, teaching methods changed considerably over the period, particularly in regard to the extent the Māori language was relied upon to teach English. The 1858 Act did not specify which language was to be used to teach in schools, but Christoffel noted that government reports from this time make it clear that reading and writing was generally taught in Māori.⁶²² The Native Schools Act 1867 strengthened the English provisions: 'No school shall receive any grant unless . . . the English language and the ordinary subjects of primary English

616. Henry Carleton, 10 September 1867, NZPD, vol 2, p863 (Barrington, *Separate but Equal?*, p20).

617. Barrington, *Separate but Equal?*, p19.

618. Barrington, *Separate but Equal?*, p20.

619. 'Education: Native Education', AJHR, 1888, E-2, p9.

620. Document A27, p123.

621. AJHR, 1925, E-3, p3; Simon and Smith, eds, *A Civilising Mission?*, p167.

622. Document A27, p113.

education are taught by a competent teacher and the instruction is carried on in the English language as far as practicable.⁶²³

The Native Schools Code 1880 stated that a knowledge of the Māori language was not necessary for native school teachers, and instructed that teachers must 'in all cases' use English to teach the senior classes. However, to progress up the pay scale, teachers were required to sit an examination based on Williams' *First Lessons in Maori* and to translate a passage from the Māori bible, among other exercises.⁶²⁴ The 1880 code also conceded that in the junior classes it may be necessary to use the Māori language 'for the purpose of making the children acquainted with the meanings of English words and sentences'. But it stressed that the teacher's overall aim 'should be to dispense with the use of Maori as soon as possible'.⁶²⁵ In 1884, Pope, who was himself fluent in Māori, described the best teacher of Māori pupils as one who spoke Māori fluently but 'had sufficient self-control never to use it in conversing with the children or in any other way than as a language for translation into English'.⁶²⁶ However, in his inspection reports he sometimes instructed teachers they needed to gain more knowledge of the Māori language and use it more.⁶²⁷

By the turn of the century, however, official attitudes were hardening against the use of te reo in schools as a means of teaching English.⁶²⁸ The 'direct' or immersion method of second language teaching, which gained popularity from the turn of the twentieth century, held that the best way to learn a language was to be immersed in it.⁶²⁹ In 1902, the Education Department produced a booklet circulated to all native schools advocating the immersion method for teaching 'children who speak another language in their own homes'.⁶³⁰

Both Pope and Bird advocated for immersion teaching methods. Towards the end of his tenure, Pope wrote that, 'Year by year and almost day by day it has become more certain that the best and only way of learning conversational English is through conversation itself'.⁶³¹ In his first report after taking over from Pope in 1904, Bird indicated his plan to introduce the 'direct method' of teaching English across the native school system.⁶³² In 1906, he commented: 'There are many schools in which this habit is regularly practised, and it is very encouraging to hear the young Maori children calling to one another in English as they chase each other about the playground'.⁶³³

However, the Education Department appears to have stopped short of issuing a blanket ban against the use of te reo in schools. A 23-page booklet issued by

623. Native Schools Act 1867, s21.

624. Barrington, *Separate but Equal?*, p42.

625. 'The Native Schools Code', A]HR, 1880, H-1F, p1.

626. A]HR, 1882, E-2, p7 (Barrington, *Separate but Equal?*, p60).

627. Barrington, *Separate but Equal?*, p 61.

628. Document A27, pp 116-118.

629. Simon and Smith, eds, *A Civilising Mission?*, p165.

630. Department of Education, 'Rough Notes on the Teaching of English to Children who Speak Another Language in their Own Homes', 1902, pp 1-2 (doc A27, p116).

631. 'Education: Native Schools', A]HR, 1903, E-2, p18.

632. Simon and Smith, eds, *A Civilising Mission?*, p165.

633. 'Education: Native Schools', A]HR, 1906, E-2, p12.

the department in 1917 outlined to native school teachers how to utilise the 'direct or natural method' for teaching English. The booklet advised to avoid interaction in Māori in the classroom, 'if you can help it'.⁶³⁴ However, if the children did not understand instructions, 'no harm will be done by telling them in Maori'.⁶³⁵

The continued use of Māori on school grounds was observed in a number of Te Rohe Pōtae schools during the 1920s and 1930s. In 1932, inspector Tom Fletcher, commenting on the 'poor' standard of English oral expression at the Kaharoa Native School, stated 'the children speak in Maori to no small extent in the playground, and this practice should be stopped'.⁶³⁶ In 1929, Tuteao Te Uira, a member of the Taharoa School Committee wrote to Bird to complain at the use of Māori within the school grounds:

The schoolmasters' jurisdiction lies within the boundaries of the school. Any child coming within that boundary he must teach. I suggest that he should not allow Maori children coming within this boundary to speak the Maori language. I have observed that our children are given to speaking Maori within this boundary and even in the school house.⁶³⁷

However, while some native school teachers appear to have been willing to overlook the speaking of the Māori language on school grounds, or at least were unable to prevent it, others took a more punitive approach, punishing pupils caught speaking Māori in class or on school grounds.

The punishment of Māori pupils for speaking te reo is one area where practice in schools appears to have diverged from official Government policy. Historians have found no official policy or regulations forbidding the use of te reo in schools, or directing teachers to punish pupils who spoke Māori.⁶³⁸ There is little reference in native school log books of students being physically punished for speaking te reo.⁶³⁹ However, school log books do make references to the use of punishments such as detention for pupils who broke the rule of speaking English at all times.⁶⁴⁰

However, in its *Report on the Te Reo Maori Claim* of 1986, and in many reports since, the Tribunal has documented the widespread use of physical punishment for speaking Māori in New Zealand schools during the first half of the twentieth century.⁶⁴¹ The Tribunal concluded in its report that 'it was clearly at least a practice widely followed that during the first quarter of this century Maori children

634. Simon, ed, *Ngā Kura Māori*, p81; doc A27, pp 117–118.

635. Simon, ed, *Ngā Kura Māori*, p81; doc A27, p118.

636. Inspection report, Kaharoa Native School, 15 March 1932 (doc A27, p119).

637. 'Tuteao 'Te Uira to William Bird (translated), 18 November 1929 (doc A27, p120).

638. Simon and Smith, eds, *A Civilising Mission?*, pp166–167.

639. Native school teachers were required to record any corporal punishment delivered and the offence in school log books: Barrington, *Separate but Equal?*, p63.

640. Barrington, *Separate but Equal?*, p 63.

641. Waitangi Tribunal, *Report of the Waitangi Tribunal on the 'Te Reo Maori Claim* (Wellington: Brooker's, 1986), p9.

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were forbidden to speak Maori in school, even in the playground, and that they were punished if they did so.⁶⁴²

The Tribunal's conclusions are backed up by historians of the native school system Judith Simon and Linda Tuhiwai Smith. In their oral history of the native schools, Simon and Smith found widespread evidence of the use of punishment for speaking te reo in native schools, but also, evidence that teachers' attitudes and responses towards the use of te reo differed widely among schools:

Testimonies ranged from those describing situations where policies of English language only were severely enforced through to those where the use of te reo Māori, although never a major language for communication or instruction, was tolerated, and even encouraged, albeit to a limited degree.⁶⁴³

Several of Simon and Smith's interviewees recalled being punished for speaking te reo Māori at Te Rohe Pōtae native schools, including Te Kopua and Taharoa, during the 1930s and 1940s.⁶⁴⁴

This variety of experiences, within both the native and the public school systems, is also borne out by evidence presented to us in this inquiry. Numerous claimants have spoken of their or their parents' or grandparents' experiences of being punished by teachers for speaking te reo.⁶⁴⁵ Claimant Peggy Willison, who attended Taharoa Native School and Kinohaku No 2 School around the mid-twentieth century, remembers getting hit with a ruler for speaking Māori.⁶⁴⁶ Her cousin fared worse, she said. He struggled with English and was repeatedly strapped for it.⁶⁴⁷ Mere Tai-Hauāuru Gilmore told us of her experience from her school days in Oparau Primary School in the 1940s:

The teachers never allowed us to speak Māori at school. This was very difficult for me because te reo Māori was my first language, my true, original language. We would whisper amongst ourselves in Māori outside of the classroom. However, I remember a few times when I would speak Māori to one of my relations in the classroom and the teacher would get angry and strap me with a belt. Once I was beaten, the teacher would make me sit under this big picture of a Pākehā man. At the time I didn't know who the man in the picture was, but I now know it was King George.⁶⁴⁸

Ngahau Cunningham, who attended Oparure School around the 1940s, recalled the school's headmaster would physically reprimand students for speaking te reo:

642. Waitangi Tribunal, *Report on the Te Reo Maori Claim*, p 9.

643. Simon and Smith, eds, *A Civilising Mission?*, p 141.

644. Simon and Smith, eds, *A Civilising Mission?*, pp 145, 154-155.

645. For instance, see doc 16 (Willison); doc 117; doc M11 (Wilson); doc M8(a) (Paekau); doc N16(a); doc N38(a) (Cunningham); doc O16 (Henare).

646. Document 16, p 4.

647. Document 16, p 4.

648. Document N16(a), pp 6-7.

The Headmaster stands out for me because if he caught children speaking te reo Māori he would really reprimand them. For example, I remember that he had a ruler which he flicked children he caught speaking te reo Māori across the head or ears. He would also say to us, 'Do not speak like that in the class room'. I remember this really put me off speaking te reo Māori from an early age as I thought why would I bother learning or knowing te reo if it got me and others into trouble for speaking it. Not only did it put me off speaking te reo, it also ceased my interest in the tradition.⁶⁴⁹

Ngaraima Turner-Nankivell learned at school that Māori was an inferior language. 'You had to put your identity and culture aside while you were at school', Ms Turner-Nankivell said.⁶⁵⁰ George Searancke made a point that was backed up by several claimants: not only were Māori punished for speaking te reo but Pākehā children were encouraged to report any use of the language. 'Our schools made sure that we were only Maori in colour', Mr Searancke said.⁶⁵¹

Some claimants have more positive memories of their time in native schools. Robert Korohēke grew up with his grandmother speaking Māori as his first language. He attended Hangatiki Primary School and was not punished for speaking Māori. When he went on to high school the principal at Hangatiki advocated on his parent's behalf for him to be in the academic stream with Māori instead of French as his language choice.⁶⁵²

John Hōne Arama Tata Henry was born and raised in Kāwhia, before moving to Ōtorohanga with his family in the 1950s. He remembers enjoying Rakaunui Native School 'because they were more free with the reo'. However, although Māori was permitted in the playground 'once you were in, you had to speak Pākehā'. His teachers 'didn't growl you or strap you . . . but encouraged you to learn'.⁶⁵³ Mr Henry's experiences of education changed, however, when he moved to the Hauturu Primary School. There, he was forbidden to speak Māori on school grounds, despite knowing little English.⁶⁵⁴ Mr Henry remembers being extensively punished at Hauturu School, with one of the Pākehā teachers being particularly harsh on the Māori pupils. On one occasion he was strapped 18 times in a single day: six for not doing chores, and 12 more for speaking te reo Māori.⁶⁵⁵ His father later visited the teacher in question and threatened him with the stock whip if he did not stop strapping his son.⁶⁵⁶

Many Māori parents were supportive of their children learning to speak English in schools. It is unsurprising that Te Rohe Pōtae Māori parents wished their children to learn English. As Pākehā settlement of the inquiry district progressed,

649. Document s22 (Cunningham), p3.

650. Document s45 (Turner-Nankivell), p 6.

651. Document p25 (Searancke), para 18.

652. Document s36 (Korohēke), p11.

653. Transcript 4.113, pp 382, 402 (John Henry, hearing week 8, Te Kotahitanga Marae, 5 November 2013).

654. Transcript 4.113, p402.

655. Transcript 4.113, p404.

656. Transcript 4.113, p404.

some knowledge of English became indispensable. In correspondence over a prospective native school at Hauturu, near Kāwhia, in 1907, Māori were said to be 'particularly anxious to have a school, as they are now feeling the drawbacks of not knowing the English language.'⁶⁵⁷ Similarly, at the Oparure Native School prizegiving in 1907, the chairman of the school committee, Huirau Te Tamahana, and the Reverend Harris, the Anglican missionary at Te Kūiti, urged the children 'to learn all they could, and so be able, in a few years, to read and write, and transact business for their parents, who were not able to go to any school and learn for themselves.'⁶⁵⁸ However, a wish among Māori parents that their children learn English was not the same as a view that they should stop speaking te reo.

As historians Simon and Smith have noted, some Māori parents did support a ban on speaking te reo in schools, likely in the belief that banning the Māori language was the most effective means of Māori learning English. However, as those authors noted, it is still 'highly unlikely' that even Māori parents who supported such a ban ever conceived that the survival of the language would come under threat as a result. 'Rather', they wrote, 'it is probable that they expected their children to become bilingual.'⁶⁵⁹

24.7.2 The place of Māori culture and language in the school system

In the 1920s, Māori leaders such as Āpirana Ngata and the Young Maori Party, concerned at the erosion of Māori arts and literature, launched a comprehensive set of initiatives aimed at the regeneration of traditional Māori art forms. Among other changes, their advocacy led to a gradual weakening of the Department of Education's previously hardline stance against the teaching of Māori language and culture in public schools.⁶⁶⁰ At the same time, overseas educational ideas promoting greater tolerance of cultural difference gained support among New Zealand education officials.

Inspector of native schools in the 1930s Douglas Ball, wrote critically of what he regarded as his predecessors' 'ruthless' policy of assimilation, carried out without any regard to Māori culture or communities.⁶⁶¹ Instead, in 1934, he instructed native school teachers:

It is very desirable that the system of Native School education should not only fit the Maori child to take his place in the community, but that it should also preserve the best in Maori cultures, mythology, arts and crafts, and develop the special gifts and talents for which the race is so richly endowed.⁶⁶²

The introduction of elements of Māori culture into the curriculum was not

657. G Whitcombe to Secretary for Education, 10 February 1934 (doc A63, p405).

658. 'Oparure', *King Country Chronicle*, 20 December 1907, p3.

659. Simon and Smith, eds, *A Civilising Mission?*, p165.

660. Simon and Smith, eds, *A Civilising Mission?*, pp191–192; doc A27, p133.

661. Document A27, p133; Barrington, *Separate but Equal?*, p93.

662. 'Memorandum for Headteachers of all Native Schools: Suggested Curriculum for Native Schools for 1934', 19 January 1934 (Simon and Smith, eds, *A Civilising Mission?*, p115).

without difficulty. An initial problem was the Depression and restricted resourcing; schools found it hard obtaining tools and materials.⁶⁶³ A second problem was that the teachers, mostly Pākehā, lacked sufficient knowledge about Māori culture to teach it. A program that sought local Māori assistance, 'chiefly in connection with Maori crafts', to teach cultural activities at the schools exposed a tragic reality for Māoridom: many Māori and Māori districts had lost the knowledge of Māori arts, crafts, history, and culture.⁶⁶⁴ 'Refresher courses' of Māori culture were held for teachers in the 1930s – Āpirana Ngata, Tutere Wirepa, Hera Rogers, and Ani Warbrick being notable instructors in Māori history, carving, tāniko, tukutuku, flax-plaiting, and poi.⁶⁶⁵

The inclusion of Māori arts in the native school curriculum likely had an uneven effect across schools in the inquiry district. Based on native school log books and inspection reports, Paul Christoffel concluded that Māori cultural activities only had a minor impact in Te Rohe Pōtae native schools during the 1930s and 1940s. For example, inspection reports from Taharoa Native School contained one mention of 'exceptionally good work' in native materials in 1931, but no further references to Māori cultural activities at the school for the rest of that decade.⁶⁶⁶ At Rakaunui, cultural activities did not make an appearance in inspection reports until 1935, when native crafts and 'mat work' were mentioned.⁶⁶⁷ At Makomako and Kaharoa Schools, cultural activities were first mentioned in 1936 and 1939 respectively. These included poi, song, haka, piupiu weaving, flax weaving, and tāniko work, and Māori history was also taught.

The teaching of Māori culture in native schools became more common from the 1950s and 1960s. A 1958 inspection by Inspector Stafford of Rakaunui heaped praise on the Māori welcome, action songs, games, and tāniko work. The following year the school formed a poi team, and in 1960 part of the school was painted in Māori designs.⁶⁶⁸ Makomako Native School, after a brief burst in cultural activities following their introduction in 1936, seems to have neglected that part of the curriculum for many years. The neglect was evidently addressed – albeit after several decades – with the school winning kapa haka competitions at the local field days from 1960 to 1962.⁶⁶⁹

Not all Māori parents were in favour of their children learning Māori arts and crafts in the school environment. Christoffel cited an annual meeting for Kaharoa Native School in 1941 during which the 'householders' passed a resolution 'dispensing with any Maori teaching, and wish[ing] that no encouragement be given to Maori action songs, hakas, and Maori singing in general'.⁶⁷⁰ At Taharoa, the acting head teacher felt that 'their children must first become proficient in European

663. Document A27, p134.

664. 'Education: Native Schools', AJHR, 1935, E-3, p3 (doc A27, p134).

665. Barrington, *Separate but Equal?*, pp 186-187.

666. Document A27, p137.

667. Rakaunui Native School inspection reports, 11 April and 30 September 1935 (doc A27, p 137).

668. Document A27, pp 137-138.

669. Document A27, p138.

670. RO Bathurst to Education Department, 17 July 1941 (doc A27, p135).

ways and ideas before attempting in the way of Maori expression at all'.⁶⁷¹ The situation was resolved after parents met with the school inspector during his visit that year. The inspector convinced the parents to allow the introduction of Māori culture into the curriculum, with a community representative aiding the school in its change.⁶⁷² This dispensation seems consistent with a broader shift occurring at the time away from earlier expectations of complete 'assimilation' and towards a new policy of 'integration'. As defined by Jack Hunn in his 1960 *Report on Department of Maori Affairs*, 'integration' departed from 'assimilation' in its ambition to 'combine (not fuse) the Maori and pakeha elements to form one nation wherein Maori culture remains distinct'. A degree of continuing difference between Māori and Pākehā ways of life was central to the integration model, already regarded by Hunn 'the obvious trend and also the conventional expression of policy'.⁶⁷³

Despite this willingness to encourage some aspects of Māori culture, the overwhelming impression we have from claimants who attended school within the inquiry district is that Māori culture and language was either unevenly taught or entirely absent from their schooling. Leslie Koroheke, who attended Hangatiki Primary School in the 1940s and 1950s recalls that, aside from the occasional volunteer coming to the school to teach Māori songs and haka, he had no Māori teachers and did 'nothing that was Māori at school'.⁶⁷⁴ For Maria Rehu, the small amount of Māori culture she learned at high school was too little, too late. Ms Rehu said that Māori culture barely featured in her primary school years. High school was different, but by then the damage had been done: 'At Taumarunui High School, there were Maori teachers teaching kapa haka and te reo. But by that stage I felt it was too late for me to even try and so I didn't'.⁶⁷⁵ Ms Rehu concluded: 'There was a time when my knowledge of tikanga Māori was badly affected by assimilation. No thanks to the education system'. It was only through her own efforts that she was able to reconnect to her people and culture.⁶⁷⁶

As is clear to us from the testimony of claimants, it is unlikely that any number of poi or haka lessons delivered in schools could have altered the profoundly Pākehā orientation of the school system. Not only were these narrow aspects of Māori arts and culture unevenly taught in the district's schools, the existing knowledge and culture that Te Rohe Pōtae Māori pupils brought with them to school had no value in the school system. As Mr Koroheke reflected to us:

Going into school we knew a lot about nature. We went eeling with my grandmother. She would call them taniwha and warn us not to go in the river . . . kei reira te taniwha. . . . As kids, we had all this knowledge about eeling and birding, fishing and baits and times of the year, but the Pākehā education system didn't allow us to bring

671. RO Bathurst to Education Department, 17 July 1941 (doc A27, p135).

672. Document A27, p135.

673. Jack Kent Hunn, *Report on Department of Maori Affairs* (Wellington: Government Printer, 1960), p 15.

674. Document L11, p8.

675. Document L16, paras 38–39.

676. Transcript 4.1.11, p [519] (Maria Rehu, hearing week 5, Te Ihingārangi Marae, 8 May 2013).

our knowledge into the classroom. For example my knowledge on eeling, I never talked or wrote about it. I didn't think of the things we knew about nature as science back then, it was just part of your life. As children we wouldn't have understood it as relating to education, but now I see that it was science.⁶⁷⁷

For some claimants, this lack of Māori language, history, and perspectives in their Pākehā schooling led to a profound sense of inferiority as Māori, and in some cases, disengagement from education altogether. Connie Tuapiki told the Tribunal:

For a long time, the school curriculum only contained Paakehaa education. It took away Te Reo Maaori and its tikanga from that part of our everyday learning, making it of secondary importance. We were denied our own Maaori knowledge, history and stories. For example, at Kinohaku School, we learnt about English history and were told that Maaori used to be uncivilised rebels and cannibals. This enhanced our feeling of inferiority.⁶⁷⁸

Tangiwai King recalls being quiet and well-behaved at school, but that she could not relate to the lessons she received there:

The teacher would read to us but I did not want to whakarongo. . . . I think they should have had the Māori stories back then. They would have got more progress with the children. I couldn't understand the Pākehā ones. . . . The teachers never talked about Māori. We did not learn how the Māori came to New Zealand. We did not learn about Māoridom. It was out-of-bounds. I didn't hear of Pōtatau or Rewi Maniapoto until I was in my 20s.⁶⁷⁹

In some Te Rohe Pōtae schools, the belief in Māori cultural inferiority that underpinned the native school system's goals of assimilating and civilising Māori took the form of overt racism. Maria Rehu remembers her schooling in the 1960s as a humiliating and degrading experience. There were no Māori teachers at her school, and Māori pupils like herself were victimised by the Pākehā teachers. She and her Māori classmates were singled out at school assemblies because they couldn't afford shoes.⁶⁸⁰ She noticed that her teachers showed favouritism towards her Pākehā classmates.⁶⁸¹ Physical punishments and strapping were frequent, and Ms Rehu's experience of school was a 'fearful' one.⁶⁸²

Peggy Nelson was born in 1956 and attended Koromatua Primary School in Hamilton. She and her sisters were the only Māori children at the school, and she remembers going to class as 'a horrible experience'. She and her sisters were forced

677. Document 1.11, p8.

678. Document 18 (Tuapiki), p10.

679. Transcript 4.1.11, p [538] (Tangiwai King, hearing week 5, Te Ihingārangi Marae, 8 May 2013).

680. Transcript 4.1.11, p [511].

681. Transcript 4.1.11, p [514].

682. Transcript 4.1.11, p [515] (Maria Rehu, hearing week 5, Te Ihingārangi Marae, 8 May 2013).

24.7.2

to sit on the floor instead of at a desk next to the Pākehā students, and to swim in the opposite side of the pool to the other students. Such treatment ‘reinforced in our minds that we were not equal to the Pākehā.’⁶⁸³ Peggy Willison attended Kinohaku No 2 Primary school in the 1950s and 1960s. She remembers that the teachers at Kinohaku No 2 School treated Māori students differently and they ‘were not allowed to be [them]selves.’⁶⁸⁴

As with the use of punishment for speaking te reo, negative experiences of schooling were not universal among claimants in this inquiry. Rangianiwaniwa Pehikino grew up at Waimiha.⁶⁸⁵ She enjoyed her primary schooling, a positive experience she attributes to the fact that the legendary Māori educator Pembroke (Pem) Bird and his whānau were teaching at the school at that time.⁶⁸⁶ Claimant John Henare recalled positive early experiences at Rakaunui Native School, where the ‘teachers didn’t growl you or strap you’ but instead ‘encouraged you to learn’. One Māori teacher at the school spoke Māori to him and he remembers her as not putting him down when he made mistakes but teaching ‘[w]ith aroha’ in the way his parents and grandparents did.⁶⁸⁷ However, as noted above, after moving to Hauturu Primary his impressions of education changed:

at Hauturu Primary School, there was the thought of being under the hammer. I was so uptight all the time that it was difficult to learn. I did not feel respected at Hauturu. The teachers always took the word of the Pākehā over the Māori children. I was not the only one who used to get in trouble. There were about four or five of us cousins. We were picked on all the time. Māori was my first language. I knew very little English when I started school at Hauturu Primary. Going to school was hard and it put me off learning. The Māori kids were all in the same boat with our language problem.⁶⁸⁸

Even more insidious was the power of low teacher expectations and their role in shaping Māori pupils’ self-belief. Several claimants told us that the school system taught them they were ‘dumb’. Marleina Hine Kahukura Te Kanawa attended school in the 1950s and 1960s and said that Māori entered school with lowered expectations. ‘Māori were never expected to be on par with their Pākehā counterparts and teachers tended to be patronising and expected less of us.’⁶⁸⁹ Tangiwai King recalled that: ‘When I was at school I heard teachers call Māori kids “dumb”’. It made such an impression on her that, when she herself became a teacher, ‘I vowed never to use it myself.’⁶⁹⁰ Peggy Nelson remembers she and

683. Transcript 4.1.12, p630 (Peggy Nelson, hearing week 7, Waipapa Marae, 9 October 2013).

684. Document16, p4.

685. Transcript 4.1.11, p [106].

686. Transcript 4.1.11, p [107].

687. Transcript 4.1.13, pp402, 404 (John Henry, hearing week 8, Te Kotahitanga Marae, 5 November 2013).

688. Transcript 4.1.13, p402 (John Henry, hearing week 8, Te Kotahitanga Marae, 5 November 2013).

689. Document 19(a), p13.

690. Transcript 4.1.11, p[540] (Tangiwai King, hearing week 5, Te Ihingārangi Marae, 8 May 2013).

her sisters being treated differently from other pupils at her Hamilton primary school because they were Māori: 'We were treated differently. We were thought of as being dumber than the Pākehā kids and we were made to feel that way. If we had trouble understanding anything the teachers would not help us if we asked for help. So we ended up not asking for help at all.'⁶⁹¹

Glennis Rawiri said that Māori were treated as academically inferior, and were only valued for what they could achieve on the sports field.⁶⁹² As Karoha Mako, who attended school in Te Rohe Pōtae in the 1960s, put it,

Our biggest battle has been trying to get over the stigma that we were exposed to when we were at school. If someone tells you you're dumb, treats you like you're dumb, you're going to think you're dumb. And when you're dumb you get dumb jobs. And when you have a dumb job, you have dumb prospects.⁶⁹³

John Henare spoke of the debilitating effect school had on him and fellow Māori from his time at school in the 1960s and 1970s:

Hauturu School was not a nice place and so I did not do too well there. In the end I didn't care about education and I couldn't wait to leave. All the Maori kids were like that. We would leave in Standard 6 and not think anything of it. We thought we were one up on those that stayed at school but as it turned out, they were the ones who had one up on us.⁶⁹⁴

24.7.3 A working-class education?

The early twentieth century was a time of major educational reform in New Zealand, and internationally. A new primary school syllabus, issued in 1904, represented a major overhaul of the existing curriculum, and the first systematic attempt to introduce the ideas of the international 'new education' movement to New Zealand. Centred in Britain and the United States, the new education stressed child-centred and practical learning, informed by the developing disciplines of child development and psychology.⁶⁹⁵ The 1904 syllabus introduced new subjects such as nature study, and manual classes (handwork) to the primary school curriculum, which was adopted by the native schools in 1909.⁶⁹⁶ Proponents of the new education advocated that education should be more locally and practically orientated and relevant to the day-to-day lives of pupils.⁶⁹⁷

This increasing emphasis on activity-based and practical education was apparent in New Zealand primary schools from the 1910s. In 1912, the Education

691. Transcript 4.112, p630 (Peggy Nelson, hearing week 7, Waipapa Marae, 9 October 2013).

692. Document R4 (Rawiri), p7.

693. Document N8, p3.

694. Document O16, p26.

695. Ewing, *The Development of the New Zealand Primary School Curriculum*, pp 87-88.

696. Ewing, *The Development of the New Zealand Primary School Curriculum*, pp104-105; doc A27, p 176; Barrington, *Separate but Equal?*, p103.

697. Document A27, p174.

Department reported that two-thirds of primary schools ran manual classes.⁶⁹⁸ In 1929, the department strengthened the manual component within the curriculum, schools going so far to employ touring agriculture specialists to supervise the teaching of agriculture and basic science. In 1930, a report of a parliamentary committee on education called for greater emphasis on agricultural instruction across the school system.⁶⁹⁹ In 1938, the Education Department was reporting that '[e]lementary handwork' was taught in 'practically' every school in New Zealand.⁷⁰⁰

Similar ideas were promoted within the native school system, which as noted above, adopted the 1904 syllabus from 1909. The main difference between the native and the general schools in terms of the promotion of manual subjects appears to have been one of emphasis rather than substance. While the department promoted the teaching of manual, domestic, and agricultural subjects across the school system, officials believed that such subjects had particular relevance to the native schools. For instance, a 1900 tour of the native schools by George Hogben, Education Secretary and author of the 1904 syllabus, convinced him that 'the plea for manual training and technical instruction, and in general, for the greater use of concrete methods in teaching, has a peculiar force in reference to our Native schools'.⁷⁰¹ In 1929, director of education T B Strong instructed senior inspector of native schools John Porteous to emphasise the teaching of agriculture at native schools more. 'Instruction in elementary agriculture', he wrote, 'is of much more importance to the native race than to the Pakeha'.⁷⁰²

Regardless of their popularity among education officials, Christoffel concluded that 'manual activities remained peripheral to the main purpose of primary schools, whether general or "native"', and most teachers spent the majority of their time on core subjects and English language teaching.⁷⁰³ Only a small percentage of native schools were offering girls instruction in homecraft by the 1920s.⁷⁰⁴ Examining 1920s inspection reports for native schools within the inquiry district, Christoffel found very little mention of practical activities such as handcraft and agriculture.⁷⁰⁵ Instead, the native school inspection reports focused almost exclusively on the core subjects of English – reading, writing, and oral expression – and arithmetic.⁷⁰⁶ Christoffel concluded:

This confirms the picture from the Education Department's annual reports that the department, in all primary schools, gave supreme importance to literacy and

698. Document A27, pp 175–176.

699. Simon and Smith, eds, *A Civilising Mission?*, p n 4; Barrington, *Separate but Equal?*, p 108.

700. *New Zealand Official Yearbook 1938*, p 173 (doc A27, p 176).

701. Department of Education 'Education', AJHR, 1:1-1, p xviii. .

702. Director of education, memorandum to senior inspector, native schools, 22 March 1929 (Simon and Smith, eds, *A Civilising Mission?*, p 114).

703. Document A27, p 176.

704. Barrington, *Separate but Equal?*, p 108.

705. Document A27, p 177.

706. Document A27, p 181.

numeracy, while other subjects were consigned very much to the background. Hogben's 1904 curriculum reforms may have increased the amount of manual training conducted in primary schools, but these activities never gained the prominence that he may have hoped, even after further reforms in 1929.⁷⁰⁷

Native schools, which usually had one teacher, sometimes two, were particularly likely to struggle to implement these new ideas. For sole-charge teachers to teach the central subjects of reading, written and oral English, and arithmetic, as well as handcraft, painting, cooking, sewing, woodwork, and agriculture was a tall order. In addition, the equipment required for these extra activities was expensive, and was not always provided for by the Education Department. Agriculture was the exception as most rural schools had gardens.⁷⁰⁸

The same movement towards practical, manual, and domestic education at work in the primary schools at this time was at work in the secondary schools. District high schools, the only secondary option on offer in the inquiry district until 1947, had a strong agricultural focus, reflecting their rural locations. In addition to the core curriculum subjects such as English, predominantly rural district high schools offered subjects like agriculture, metalwork, and woodwork for boys, and housekeeping for girls.⁷⁰⁹ As a rule, education officials displayed more enthusiasm for agricultural courses than parents did. However, Minister of Education Christopher Parr complained in 1925 that: 'For some reason parents in agricultural districts are often much averse from their children taking an agricultural course.'⁷¹⁰ Christoffel noted that, over time, district high schools sought to broaden their curricula, as a response to such criticisms from rural parents.⁷¹¹

Practical subjects such as science, woodwork, and cookery were increasingly on offer in New Zealand's secondary schools from the early decades of the twentieth century. In 1914, the Education Department noted: 'It is gratifying to note the increasing attention given in many of the schools to instruction in subjects bearing on rural pursuits and on the home.'⁷¹² From 1917, the Government made domestic education compulsory for girls attending secondary schools. By 1928, 91 per cent of girls in secondary schools were taking domestic science, while 43 per cent took needlework, and 30 per cent took cooking.⁷¹³

Even the Māori denominational schools, which traditionally followed a more academic curriculum, were not immune from these educational trends and government pressures.⁷¹⁴ During the Royal Commission on the Tē Aute and Wanganui School Trusts in 1906, Hogben pushed for the addition of woodwork and agricul-

707. Document A27, p181.

708. Document A27, p180.

709. Document A27, p183.

710. Parr, 9 July 1924, NZPD, vol 203, p327 (Barrington, *Separate but Equal?*, p164); doc A27, p188.

711. Document A27, p164.

712. AJHR, 1914, E-1, p42 (doc A27, p182).

713. Document A27, pp 182-183.

714. Document A27, p151.

ture to Te Aute's largely academic curriculum, in preference to subjects such as Latin.⁷¹⁵ His views gained the support of the Māori witnesses who appeared before the commission.⁷¹⁶ The Māori schools subsequently expanded their curriculum to include subjects such as domestic work for girls and agriculture and woodwork for boys.⁷¹⁷

However, it is unclear the extent to which these pressures to modify the denominational schools' traditional academic curriculum were actually successful. As in the secondary schools, practical courses were unpopular with Te Aute students. In 1930, after only 13 out of 46 new Te Aute students enrolled in the school's agriculture course, Te Aute principal Ernest Loten complained 'a Maori parent is exactly the same as a European . . . when I suggest an agricultural course they want their boy to take Matriculation [university entrance].'⁷¹⁸

Falling rolls during the Depression years led the Māori boarding schools to cut back even further on activities such as manual and agriculture. In 1936, Douglas Ball described the curriculum of the Māori boarding schools as 'almost purely academic'.⁷¹⁹ In 1939, education officials criticised 'the almost complete abandonment of practical, technical and agricultural training' within the Māori boarding schools.⁷²⁰

24.7.4 From Hunn to *Closing the Gaps*: 1960s to the 2000s

From the 1940s, Māori migration from remote tribal communities to New Zealand's towns and cities exposed significant disparities between Māori and non-Māori across a range of social and economic areas, including in education. The Government had begun paying closer attention to how Māori were faring in the State education system during the 1940s, when it started collecting separate data on Māori pupils. During the 1940s too, the Government's official policy towards Māori shifted from assimilation to integration.

As previously discussed in chapter 16, the clearest articulation of the Government's integration policy was Hunn's 1961 *Report on Department of Maori Affairs*. The Hunn report, as it was known, was a 'stock-taking' of Māori social and economic conditions, at the height of Māori urbanisation.⁷²¹ It found troubling levels of disadvantage among Māori across a range of areas, including health, housing, and crime rates. For Hunn, education was critical to the successful integration of Māori into modern Pākehā society. Education, he wrote, was 'the one thing, more than any other, that will pave the way to further progress in housing, health, employment, and acculturation'.⁷²² Since the 1960s, all New Zealand

715. Document A27, p183.

716. Document A27, p184.

717. Document A27, pp185–186.

718. Report of interview between Loten and Minister of Education, 27 November 1930 (Barrington, *Separate but Equal?*, p165); doc A27, p188.

719. AJHR, 1936, E-3, p5 (doc A27, p188).

720. AJHR, 1939, E-3, p5 (doc A27, pp188–189).

721. Anderson, Binney, and Harris, *Tāngata Whenua*, pp400–404.

722. Hunn, *Report on Department of Maori Affairs*, p22.

governments have expressed varying levels of commitment to the aim of 'closing the gaps' between Māori and non-Māori through raising Māori achievement in the education system.

Several of the Hunn report's key recommendations concerning education were adopted by the Government. These included the establishment of a Māori Education Foundation, to be funded by Māori organisations, bequests, and 'unclaimed monies' held by the Māori Trustee, to provide scholarships to support Māori students into secondary and tertiary education, and the gradual abolition of the native schools.⁷²³

During the 1960s and 1970s, the predominant explanation for lack of Māori educational attainment in the mainstream education system was 'deficit theory'. In education, 'deficit theory' or 'cultural deficit theory' is the notion that some learners enter the education system at an inherent disadvantage to others, whether due to language, cultural differences, or their home background. While often sympathetic towards Māori learners, such deficit explanations tend to blame underachievement on the learner or external factors such as their home environment rather than the deficiencies of the educational system itself. In the 1960s it was argued that so-called 'Māori English' was a limited form of English that hindered Māori cognitive development.⁷²⁴

Cultural deficit theory remained popular in the 1970s, although low Māori achievement rates were more likely in this period to be attributed to the low socio-economic backgrounds from which many Māori pupils came, than any unmet cultural or educational needs of Māori pupils. In 1971, the 'Hill' report into preschool education claimed:

There is no body of evidence to suggest a set of educationally-significant circumstances peculiar to Maori children. On the other hand, there is evidence in support of the view that social setting has an impact on children's cognitive development. Those who come from homes which do not transmit the varied cultural patterns, experiences, and verbal skills which are characteristic of New Zealand society, commonly have difficulty in profiting from the educational opportunities. All children from such homes, Maori and non-Maori, are likely to encounter 'problems'.⁷²⁵

Claimant Marleina Te Kanawa told the Tribunal that 'cultural deficit' thinking was still very prevalent when she trained as a teacher during the 1970s. She was told to 'to expect that Māori would generally enter school at least 2 years behind their Pākehā counterpart'. This type of thinking, she stated, had had 'an enormous impact' on Māori student achievement at the time.⁷²⁶

723. Hunn, *Report on Department of Maori Affairs*, pp 11, 66, 72–73.

724. Simon and Smith, eds, *A Civilising Mission?*, p 169.

725. Committee of Inquiry into Pre-School Education, *Report (Hill Report)* (Wellington: Department of Education, 1971), pp 21–23, 31, 64–65 (Barney, *Who Gets to Preschool*, p 182).

726. Document M9(a), p 13.

By the 1980s, cultural deficit thinking was beginning to be challenged by 'cultural difference' theory, which suggested that Māori children had a different 'cultural capital' which should be valued as an advantage rather than a disadvantage.⁷²⁷ From the 1980s, pressure from Māori to make the school system more bicultural led to the introduction of aspects of Māori culture into mainstream school programmes. The Taha Maori programme, an initiative of the Department of Education during the early 1980s, aimed to incorporate 'Maori perspectives' into 'all aspects of school organisation and curriculum'.⁷²⁸

The release of Te Puni Kōkiri's *Closing the Gaps* reports over the late 1990s and early 2000s represented a further milestone in Government policy towards Māori education. Te Puni Kōkiri's reports pointed to evidence of marked 'gaps' between Māori and non-Māori across all socio-economic indicators. Low Māori achievement in education, the report found, was the precursor to poor Māori outcomes in employment, housing, and health:

The outcomes of education for Māori affect their opportunities in employment and income, with flow-on effects in housing, criminal justice, and health. Educational attainment directly influences access to employment and determines the level of income that can be obtained. Income resulting from employment impacts on individual and family resources, determining for many Māori how, and where, they are able to live. The social and economic disadvantages that arise from a lack of educational attainment also influence the likelihood of criminal offending and family instability.⁷²⁹

In 1999, in the wake of the release of the first *Closing the Gaps* report, the Ministry of Education released its *Māori Education Strategy*. Part of the Government's wider *Closing the Gaps* package, the strategy included a range of targeted education initiatives aimed at improving outcomes and building capacity within Māori and Pasifika communities.⁷³⁰ These included raising the quality of mainstream education for Māori, supporting the growth of high quality kaupapa Māori education, and supporting 'greater Māori involvement and authority in education'.⁷³¹ The strategy was republished in 2005, to 'reaffirm the Ministry of Education's commitment to Māori education'.⁷³²

727. May, *Politics in the Playground*, p 97.

728. Bishop and Glynn, *Culture Counts*, p 41.

729. Te Puni Kōkiri, *Progress Towards Closing Social and Economic Gaps*, 2000, p15.

730. Dixon, Widdowson, Meagher-Lundberg, McMurchy-Pilkington, and McMurchy-Pilkington, *Evaluation of Promoting Early Childhood Education (ECE) Participation Project*, p 13.

731. Ministry of Education, 'First Māori Education Strategy: About the First Strategy', <https://www.education.govt.nz/our-work/overall-strategies-and-policies/ka-hikitia-accelerating-success-2013-2017/ka-hikitia-history/first-maori-education-strategy/>, accessed 4 February 2020.

732. Ministry of Education, 'First Māori Education Strategy: About the First Strategy', <https://www.education.govt.nz/our-work/overall-strategies-and-policies/ka-hikitia-accelerating-success-2013-2017/ka-hikitia-history/first-maori-education-strategy/>, accessed 4 February 2020.

24.7.5 *Ka Hikitia*: a Māori potential approach

In 2008, the Ministry of Education released its *Ka Hikitia – Managing for Success* policy.⁷³³ In 2013, this was followed by the ministry's release of the second phase of its Māori education policy. *Ka Hikitia: Accelerating Success*, the ministry's Māori education strategy between 2013 and 2017, has as its guiding principle 'Māori enjoying and achieving education success as Māori'.⁷³⁴ *Ka Hikitia* is aimed at helping Māori students 'grow into confident, successful, culturally intelligent, bilingual adults who will make a positive contribution to New Zealand'.⁷³⁵ The Treaty of Waitangi is identified as one of 'guiding principles' of the strategy.⁷³⁶ Another key principle guiding *Ka Hikitia* is the 'Māori potential approach', summarised as follows:

A core principle of *Ka Hikitia – Accelerating Success 2013–2017* is that all Māori students have the potential to excel and be successful. Students who are expected to achieve and who have high (but not unrealistic) expectations of themselves are more likely to succeed. Education sector professionals can hold lower expectations for Māori students and this can be detrimental to their learning and achievement. Students, parents, whānau, hapū, iwi, Māori organisations, communities, peers, and education and vocational training sector professionals must share high expectations for Māori students to achieve. Sometimes this means challenging longstanding beliefs and stereotypes.⁷³⁷

Five key focus areas identified by the ministry for targeted investment are as follows:

- ▶ Focus Area 1: 'Māori language in education': 'All Māori students have access to high quality Māori language in education';
- ▶ Focus Area 2: 'Early learning': 'All Māori students participate in high quality early learning';
- ▶ Focus Area 3: 'Primary and secondary education': 'All Māori students have strong literacy, numeracy and language skills. All Māori students achieve at least NCEA Level 2 or an equivalent qualification';
- ▶ Focus Area 4: 'Tertiary education': Māori succeed at higher levels of tertiary education; and;

733. Ministry of Education, 'Ka Hikitia Timeline', <https://www.education.govt.nz/our-work/over-all-strategies-and-policies/ka-hikitia-accelerating-success-2013-2017/ka-hikitia-history/ka-hikitia-timeline/>, accessed 4 February 2020.

734. Ministry of Education, *Ka Hikitia: The Māori Education Strategy, Accelerating Success 2013–2017* (Wellington: Ministry of Education, 2013), p 7.

735. Ministry of Education, *Ka Hikitia*, p 6.

736. Ministry of Education, *Ka Hikitia*, p 14.

737. Ministry of Education, *Ka Hikitia*, p 15.

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- ▶ Focus Area 5: 'Organisational success': 'The performance of the Ministry of Education, ERO, and education sector agencies creates the conditions for Māori students to enjoy and achieve education success as Māori.'⁷³⁸

We return to these five focus areas in the next Treaty analysis section.

24.7.6 Tribunal analysis and findings

When Te Rohe Pōtae Māori children entered the school system, they brought with them their own language, culture, and forms of knowledge. Claimant John Henry recalled to us his rural childhood, growing up on the marae amongst his elders and extended whānau, and immersed in mātauranga Māori:

I could talk about our chiefs and the things they did or our waka and where they sailed and that is what I liked to talk about. . . . I knew about Science, Māori Science. I knew about the seasons, the moon and the pull of the tides. There were many things that the old people taught us about the bush and how to live off the land. We were shown which plants to use for different illnesses. We were taught to make certain rongoā and I was proud of my abilities. My grandmother taught me to be observant about the weather. She would say that the world was changing, and I would ask her how. She said that it was warming up and she made me notice that the kids were going swimming in August. My grandmother's lessons made me look around. Most of the teachers never gave us a chance to show them what we knew about the bush, the weather, or the sea. Our Māori knowledge of the world was never talked about.⁷³⁹

However, as Mr Henry's evidence suggests, this existing mātauranga Māori that Māori pupils brought with them to school was accorded no value within the Pākehā school system.

In section 24.7.1, we found that 'civilising' Māori and assimilating them into European ways were foremost among the aims of the native school system, from its nineteenth-century founding to its closure just over a century later. We noted, however, that the extent to which the broadly assimilative goals of the school system were enforced varied over time, and between individual schools and teachers.

Throughout the native school system's history, the main vehicle for civilising and assimilating Māori was through the teaching of English to Māori-speaking pupils. The teaching of the English language to Māori school pupils was not, of course, in itself inconsistent with the partnership of the Treaty. As Pākehā settlement of the inquiry district progressed, it is entirely understandable that many Māori parents wished their children to learn English, and that the public school system should cater for this demand. What was not in keeping with the Treaty partnership was when the teaching of English and aspects of European culture to

⁷³⁸ Ministry of Education, *Ka Hikitia*, p12.

⁷³⁹ Transcript 4.1.13, pp403–404 (John Henry, hearing week 8, 'Te Kotahitanga Marac, 5 November 2013).

Māori students came at the direct cost of denigrating and suppressing their own language and culture.

When Te Rohe Pōtae Māori children entered the school system, whether native or board-controlled, during the first half of the twentieth century, they were taught that the language, culture, and mātauranga Māori that they brought with them to school were, at worst, inferior, or at best, irrelevant to them in the modern world. This belief in Māori cultural inferiority had a profound impact upon the self belief and educational experiences of Te Rohe Pōtae Māori school children. Looking back on her experiences at Waimiha Primary School in the 1960s, Maria Rehu has little doubt of the education system's assimilative intent: 'I want to talk about assimilation. To me it means making people of different races and cultures conform to the culture and values of those in power. . . . So when I look back on my education, I am convinced that this is what was taking place in my classrooms.'⁷⁴⁰ While individual experiences may have varied, we have no doubt that the underlying object of the native school system in this period was profoundly assimilative.

In the worst cases, Māori children were physically punished for speaking their own language. Evidence of the occurrence of such punishment is widespread, both in Te Rohe Pōtae and beyond the inquiry district. The Crown has denied that the punishment of Māori pupils for speaking te reo was ever official Government policy.⁷⁴¹ If not the subject of official policy, there must have at the very least been widespread silent approval of the practice among education officials, as we have seen no evidence that the department took measures to discipline teachers for the practice, despite its prevalence. The impacts of the Crown's long-standing assimilationist policy towards Māori language and culture were both profound and long lasting. Māori students were taught to believe that their culture was inferior, and were subjected to racist treatment at the hands of teachers and other students. Māori pupils internalised such low expectations and the belief that they were 'dumb'. For many, the effects of this early disengagement from education have been life long. For generations, Māori students came to believe it was themselves or their family backgrounds rather than the Pākehā system that was at fault.

In this and previous inquiries the Crown has argued that it is sufficient to provide an equal education to Māori and Pākehā students. In our view, providing Māori with equal access to an education system exclusively designed to cater for the needs of Pākehā is not sufficient. Māori had the right to expect an education system that met their needs and the Crown had a Treaty duty to provide it. We find that the overwhelmingly monocultural and monolingual character of the education system (itself a product of the Crown's earlier failure to ensure meaningful Māori input into education) posed a considerable cultural barrier to Te Rohe Pōtae Māori gaining a quality education. As such, we find the Crown's conduct was inconsistent with the principle of equity in the manner it dealt with Māori relative to Pākehā and other populations in the inquiry district.

740. Transcript 4.1.11, p [517] (Maria Rehu, hearing week 5, Te Ihingārangi Marae, 8 May 2013).

741. Submission 3.4.286, p17.

In section 23.7.3 we considered whether the Crown's education system was intended to confine Te Rohe Pōtae Māori to working-class occupations, through a focus on manual and practical education. On this question, we note the Tribunal's earlier findings in the 1999 *Wananga Capital Establishment Report*, an urgent inquiry into government funding of wānanga, in which the Tribunal heard evidence from Dr Judith Simon, historian of the native schools system.⁷⁴² The Tribunal concluded that 'the seeds of Maori underachievement in the modern education system were sown by some of the past education policies outlined in Dr Simon's evidence'.⁷⁴³ A central part of Simon's argument was that a feature of native schools 'was the limitation of the curriculum, designed to restrict Maori to working-class employment'.⁷⁴⁴

We received a contrasting view in this inquiry from Dr Christoffel. He argued that an increased emphasis on manual and agricultural education was not confined to the native schools or Māori pupils, but apparent across the primary and secondary school curricula. We agree with Dr Christoffel that the increased promotion of manual, practical, and agricultural education over the twentieth century was not unique to native schools, although it does seem to have been more strongly emphasised in reference to Māori education. As director of education T B Strong put it in 1931, 'in the system of native education in New Zealand, we should provide fully a type of education that will lead the lad to become a good farmer, and the girl a good farmer's wife'.⁷⁴⁵ It is uncertain whether such attitudes stemmed from the overwhelming rural nature of the Māori population at the time, or other factors.

Regardless, Christoffel's examination of native school log books from the first half of the century led him to conclude that manual and agricultural education occupied a peripheral role in the classrooms of Te Rohe Pōtae native schools, which remained focused on the core subjects such as English and numeracy, at least according to the teachers who completed the log books. For this reason, we make no finding of breach in respect of the claimants' allegations in this respect. However, we observe that Te Rohe Pōtae Māori were already effectively relegated to low-paid and insecure employment, as a result of the Crown's failure to remove barriers to Māori achievement in the school system.

With the mass migration of Māori into towns and cities after the Second World War, lingering Māori disadvantage across a range of social indicators, including education, became increasingly apparent to New Zealand Governments. In the wake of the 1961 Hunn report, the Government established the Maori Education Foundation to channel funding from Māori organisations and the Māori Trustee into scholarships for individual Māori students at the secondary and tertiary levels. The 1980s represented a further shift in Government policy, away from cultural

742. Waitangi Tribunal, *Wananga Capital Establishment Report*.

743. Waitangi Tribunal, *Wananga Capital Establishment Report*, p10.

744. Waitangi Tribunal, *Wananga Capital Establishment Report*, p7.

745. T B Strong, 'The Education of South Sea Island Natives', in P M Jackson, ed. *Maori and Education: Or the Education of Natives of New Zealand and its Dependencies* (Wellington: Ferguson and Osborn, 1931), p192 (Simon and Smith, eds, *A Civilising Mission?*, p114).

deficit explanations of Māori educational under-achievement, towards a greater incorporation of Māori culture and perspectives into the mainstream school system. At the same time, the Crown provided financial support for kaupapa Māori educational initiatives such as kōhanga reo, kura kaupapa, and wānanga.

As seen in section 24.7.5, the Ministry of Education's current Māori education strategy *Ka Hikitia* identifies five key focus areas for targeted investment in respect to Māori education. We evaluate the Crown's performance in Te Rohe Pōtae against these five indicators below.

- ▶ *Focus area 1 – Māori language in education:* 'All Māori students have access to high quality Māori language in education'. In relation to the first of the Crown's focus areas: 'Māori language in education', we acknowledge that all children within the inquiry district have access to some Māori language education at secondary school, if not at primary level. However, for those whānau seeking kaupapa Māori or Māori-medium education, options are far more limited. Some children are forced to travel long distances to access kaupapa Māori schooling options, while some Te Rohe Pōtae whānau have even moved outside the district so their children can attend Māori-medium education. We have heard many positive stories from claimants on the positive impacts that kaupapa Māori education has had in the inquiry district.⁷⁴⁶ Demand for Māori-medium options in the inquiry district is growing. The Maniapoto Māori Trust Board's 2009 survey found that participation in kura kaupapa and wharekura by Te Rohe Pōtae Māori was growing, at a time when it was dropping at other secondary schools.⁷⁴⁷ Yet, as we have seen in earlier sections, Māori-medium options are not evenly available across the inquiry district. As previously noted, we find the lack of access to kaupapa Māori educational options in some parts of the inquiry district to be inconsistent with the principle of options—that is, the right of Māori to choose to engage with colonial society or follow customary paths—and the Crown's aforementioned obligation to ensure the equitable treatment of Māori.

As previously noted, we find the lack of access to kaupapa Māori educational options in some parts of the inquiry district to be inconsistent with the duty of active protection and the Treaty principles of equity and options.

- ▶ *Focus area 2 – early learning:* 'All Māori students participate in high quality early learning'. As we saw in section 24.5.1, while Te Rohe Pōtae Māori participation in early childhood education is growing, tamariki Māori living in the inquiry district are still less likely than non-Māori nationally or tamariki Māori living elsewhere in the country to access early childhood education. Participation rates are particularly low in some parts of the inquiry district. Distance, lack of centres, lack of spaces in existing centres, and cost are all contributing factors to these low rates of early childhood participation among Te Rohe Pōtae Māori. The obstacles are even greater for those whānau wishing to enrol their children into kōhanga reo. As found previously, we find

746. Document M9(a), p 14.

747. Document S4(c), p54.

the continuing inaccessibility of early childhood care, particularly Māori language options, to some Te Rohe Pōtae whānau to be in breach of the Crown's duty of active protection, and the Treaty principles of equity and options.

- *Focus area 3 – 'Primary and Secondary Education':* 'All Māori students have strong literacy, numeracy and language skills. All Māori students achieve at least NCEA level 2 or an equivalent qualification'. As discussed in section 24.5.2.2, Dr Robinson's research points to a clear pattern of Te Rohe Pōtae Māori low achievement at secondary level.⁷⁴⁸ Ministry of Education data from 2010 shows that Māori in Te Rohe Pōtae and adjacent districts were less likely than non-Māori in the same area to achieve NCEA levels 1 to 2 (years 11 and 12).⁷⁴⁹ Similarly, Maniapoto Māori Trust Board research found that the NCEA level 1 completion rate by Ngāti Maniapoto rangatahi was 18 per cent lower than the national rate for Māori.⁷⁵⁰ While Māori performed less well than non-Māori attending secondary schools in the region, Robinson noted that achievement across most Te Rohe Pōtae secondary schools was lower than the national average for their decile, for both Māori and students generally.⁷⁵¹ This educational disadvantage was also reflected in the qualifications achieved by Te Rohe Pōtae Māori students. Although the proportion of Te Rohe Pōtae Māori who had no qualifications went down between 1996 and 2001, it was still significantly higher than non-Māori in the district.⁷⁵² Similarly, the proportion of Te Rohe Pōtae Māori who had a post-school qualification continued to be below that of non-Māori.⁷⁵³

More recent Ministry of Education data shows that 25 per cent of Māori school leavers in the Ngāti Maniapoto rohe in 2018 left school without a level 1 NCEA qualification, while 16.5 per cent left with a level 1 NCEA qualification. Of the remaining Māori school leavers in the Te Rohe Pōtae rohe, 36.4 per cent did so with a level 2 NCEA qualification, while 22 per cent left with an NCEA level 3 qualification or higher.⁷⁵⁴ This data points to achievement rates below the national average for both Māori and non-Māori. In 2018, national figures for Māori achievement at NCEA level show that 17.9 per cent of Māori left school without an NCEA qualification, 13.7 per cent of Māori left with NCEA level 1, 31.2 per cent of Māori left with NCEA level 2, while 37.1 per cent left with an NCEA level 3 qualification or above.⁷⁵⁵ This compares to a national average of 11.18 per cent for all school leavers without an NCEA qualification,

748. Document A88, p77.

749. Document A88, p79.

750. Document s4(c), pp 38–39.

751. Document A88, p79.

752. Document A146 (Hearn), p593.

753. Document A146, pp593–594.

754. Ministry of Education, 'Te Mataaho-a-Iwi: Education Dashboard', <https://www.education-counts.govt.nz/statistics/maori-education/te-mataaho-a-iwi-education-dashboard>, accessed 17 March 2020.

755. Ministry of Education, 'Te Mataaho-a-Iwi: Education Dashboard', <https://www.education-counts.govt.nz/statistics/maori-education/te-mataaho-a-iwi-education-dashboard>, accessed 17 March 2020.

9.38 per cent for school leavers with an NCEA level 1 qualification, 25.7 per cent for school leavers with an NCEA level 2 qualification, and 53.72 per cent for school leavers achieving level 3 NCEA or higher.⁷⁵⁶ These figures suggest that the Crown is still well behind in its goal of all Māori school leavers achieving at least NCEA level 2, both in Te Rohe Pōtae and nationally.

- ▶ *Focus area 4 – tertiary education:* ‘Māori succeed at higher levels of tertiary education’. We have not made findings on the Crown’s provision of tertiary education in Te Rohe Pōtae. Nevertheless, we note that the latest evidence available to us suggests that Te Rohe Pōtae Māori tertiary enrolments remained clustered towards lower-level, rather than degree, qualifications.⁷⁵⁷
- ▶ *Focus area 5 – organisational success:* ‘The performance of the Ministry of Education, ER, and education sector agencies creates the conditions for Māori students to enjoy and achieve education success as Māori.’⁷⁵⁸ In respect of this focus area, we note that, while considerable progress has been made, Māori continue to be under-represented on the majority of school boards nationally, Te Rohe Pōtae Māori pupils still leave school with fewer qualifications than the national average, and kaupapa Māori options are not available to all whānau in the inquiry district who seek them.

Thus, while the Government’s goals for Māori education in *Ka Hikitia* are ambitious and commendable, the evidence from Te Rohe Pōtae suggests that the Crown is still some way from meeting them in this inquiry district.

24.8 WHAT HAS BEEN THE CROWN’S ROLE IN THE HISTORICAL DECLINE AND SURVIVAL OF TE REO MĀORI?

24.8.1 Long-term trends in te reo usage

The decline of te reo fluency among Māori over the twentieth century is indisputable.

In 1913, 90 per cent of Māori schoolchildren spoke te reo Māori as an ‘ordinary means of communication’.⁷⁵⁹ By 1953, only 26 per cent of Māori children were speaking Māori as a first language in the home. By 1975, the figure was just 5 per cent.⁷⁶⁰ Richard Benton, who carried out a survey of 6,470 Māori families in the North Island between 1973 and 1979 on their use of te reo, concluded that approximately 18 per cent of all Māori spoke Māori fluently. But in only a minority of Māori households (170 out of 4,090 homes with resident children) was the youngest child in the household fluent in te reo. Benton concluded in 1991: ‘It was clear that Maori was, by the 1970s, playing only a very marginal role in the upbringing of Maori children, and that, if nature were left to take its course, Maori would

756. Ministry of Education, ‘Senior School Attainment – School Leavers’, <https://www.educationcounts.govt.nz/statistics/schooling/senior-student-attainment/school-leavers>, accessed 17 March 2020.

757. Document s4(c), p 69.

758. Ministry of Education, *Ka Hikitia*, p 12.

759. Waitangi Tribunal, *Ko Aotearoa Tēnei: Tē Taumata Tuarua*, vol 2, pp393–394.

760. Waitangi Tribunal, *Te Reo Māori Report*, p10.

be a language without native speakers with the passing of the present generation of Maori-speaking parents.⁷⁶¹ The growing realisation among Māori that the language was in serious threat of extinction led, during the 1970s, to a range of initiatives aimed at revitalising the reo.

Calls among Māori for the protection and promotion of te reo Māori were not new. Māori politicians and tribal leaders had been calling for the teaching of te reo as a subject in primary schools since at least the interwar decades. Within the inquiry district, a 1936 meeting of 41 Ngāti Maniapoto elders resolved to call for the teaching of the Māori language in the school syllabus, noting that such a step was necessary 'if the Maori language were to be effectively kept alive'.⁷⁶² The Māori Women's Welfare League advocated for the teaching of te reo Māori in schools from its first conference in 1951.⁷⁶³

But by the 1970s, amidst a climate of renewed political activism, Māori calls for the protection and revitalisation of te reo Māori gained momentum. Groups such as Ngā Tamatoa renewed the campaign for the teaching of te reo in schools. In 1972, the group, along with other Māori language activists, delivered a 30,000-signature Māori language petition to Parliament, calling for Māori culture and language to be taught in all New Zealand schools.⁷⁶⁴ Later petitions in 1978 and 1981 called for the establishment of a Māori television production unit, and for Māori to be made an official language of New Zealand.⁷⁶⁵

The establishment of Te Wānanga o Raukawa, the first Māori tertiary institution, in 1981, and the opening of the first kōhanga reo the following year, were significant milestones in a grassroots Māori initiative to revitalise te reo and restore it to first language status in Māori homes.⁷⁶⁶ Yet, in its *Report on the Te Reo Maori Claim* of 1986, the Waitangi Tribunal warned that significant Crown action was required to ensure the survival of the language.⁷⁶⁷ In 1987, the Government enacted the Maori Language Act, giving te reo Māori the status of an official language, and establishing the Māori Language Commission (now known as Te Taura Whiri i te Reo Māori) to promote te reo as a living language.⁷⁶⁸ In 1993, the Crown established Te Māngai Pāho to fund Māori-language broadcasting. The State-funded Māori Television Service went to air in 2004.⁷⁶⁹

In 1997, the Government introduced its *Māori Language Strategy*, to coordinate existing efforts in language revitalisation.⁷⁷⁰ A revised *Māori Language Strategy*

761. Richard Benton, *The Maori Language – Dying or Reviving?* (1991; reprinted Wellington: New Zealand Council for Educational Research, 1997), pp5, 12, 29 (Waitangi Tribunal, *Ko Aotearoa Tēnei: Te Taumata Tuarua*, vol 2, pp 394-395).

762. 'Interests of the Maori; Conference in Te Kuiti', *King Country Chronicle*, 22 August 1936, p.4.

763. Anderson, Binney, and Harris, *Tangata Whenua*, pp 408-409.

764. Anderson, Binney, and Harris, *Tangata Whenua*, p.418; Waitangi Tribunal, *Ko Aotearoa Tēnei: Te Taumata Tuarua*, vol 2, p.395.

765. Waitangi Tribunal, *Ko Aotearoa Tēnei: Te Taumata Tuarua*, vol 2, p.395.

766. Waitangi Tribunal, *Ko Aotearoa Tēnei: Te Taumata Tuarua*, vol 2, p.396.

767. Waitangi Tribunal, *Ko Aotearoa Tēnei: Te Taumata Tuarua*, vol 2, p.396.

768. Waitangi Tribunal, *Ko Aotearoa Tēnei: Te Taumata Tuarua*, vol 2, p.398.

769. Waitangi Tribunal, *Ko Aotearoa Tēnei: Te Taumata Tuarua*, vol 2, pp 401-402.

770. Waitangi Tribunal, *Ko Aotearoa Tēnei: Te Taumata Tuarua*, vol 2, p.404.

was jointly issued by Te Puni Kōkiri and Te Taura Whiri in 2003.⁷⁷¹ The overall vision of the strategy is the restoration of te reo Māori to common use among Māori whānau and communities in the next generation: 'By 2028, the Māori language will be widely spoken by Māori. In particular, the Māori language will be in common use within Māori whānau, homes and communities. All New Zealanders will appreciate the value of the Māori language to New Zealand society.'⁷⁷² By 2006, annual State funding towards the support and promotion of te reo Māori had grown to approximately \$226.8 million (of which the education sector accounts for around \$142.3 million of expenditure annually).⁷⁷³

In 2010, the Waitangi Tribunal undertook a national stocktake of te reo Māori in its *Ko Aotearoa Tēnei* (Wai 262 report).⁷⁷⁴ The Tribunal concluded that during the 1980s and 1990s, there was a genuine revival of te reo Māori, credited to the large number of younger speakers who had been through the Māori-medium education system with the support of an older generation of fluent speakers. But from 1994 to 1999, the movement entered a renewed decline. Census results from 1996, 2001, and 2006 showed that, while overall numbers of te reo speakers had grown (from 129,033 in 1996 to 131,610 in 2006), the percentage of te reo speakers in the Māori population fell, from 25 per cent of the population in 1996 to 23.7 per cent in 2006. Troublingly, census figures showed a drop in Māori speakers in younger age groups (under 20 years) as well as a continuing decline in fluent older speakers (aged over 40).⁷⁷⁵ On current trends, the Tribunal predicted:

over the next 15 to 20 years the te reo speaking proportion of the Māori population will decline further, even as the absolute number of speakers continues to slowly climb. And despite the higher numbers of te reo speakers likely to be found in, say 2026, they are likely to be less fluent than speakers now, given the relatively few older native speakers who will still be alive.⁷⁷⁶

In the midst of this overall decline in te reo, the Tribunal described the future prospects of tribal dialects over the next 20 years as 'bleak' as the generations of fluent native speakers pass.⁷⁷⁷ More recent census data suggests that prediction appears to be playing out. According to 2013 census data, the proportion of Māori able to converse in te reo Māori decreased to 21.3 per cent.⁷⁷⁸

The Wai 262 Tribunal identified a number of underlying causes behind this overall decline in te reo Māori. Among these were both causes internal to the

771. Waitangi Tribunal, *Ko Aotearoa Tēnei: Te Taumata Tuarua*, vol 2, p404.

772. Waitangi Tribunal, *Ko Aotearoa Tēnei: Te Taumata Tuarua*, vol 2, p405.

773. Waitangi Tribunal, *Ko Aotearoa Tēnei: Te Taumata Tuarua*, vol 2, p407.

774. Waitangi Tribunal, *Ko Aotearoa Tēnei: Te Taumata Tuarua*, vol 2, p407.

775. Waitangi Tribunal, *Ko Aotearoa Tēnei: Te Taumata Tuarua*, vol 2, pp 436-437, 439.

776. Waitangi Tribunal, *Ko Aotearoa Tēnei: Te Taumata Tuarua*, vol 2, p440.

777. Waitangi Tribunal, *Ko Aotearoa Tēnei: Te Taumata Tuarua*, vol 2, p440.

778. Statistics NZ, 'NZ Progress Indicators', http://archive.stats.govt.nz/brows_e_f_r_stats/snapshots-of-nz/nz-progress-indicators/Home/Social/speakers-of-te-reo-maori.aspx, accessed 9 February 2020.

movement itself and causes that might be attributable to Crown policy. These included the ‘ongoing loss of older native speakers who have spearheaded the revival movement’, lack of supply of quality teachers, ‘excessive regulation and centralised control’ of Māori-medium education, and ‘an ongoing lack of educational resources needed to teach the full curriculum in te reo Māori.’⁷⁷⁹

However, foremost among the Tribunal’s criticisms was the Crown’s failure to adequately capitalise upon the energy of the revitalisation movement during the 1980s and 1990s. It was not waning Māori interest in language revitalisation that ultimately led to declining enrolments in Māori-medium education, the Tribunal found, but the fact that Māori demand for such education vastly exceeded supply:

It was the failure of Government supply that accounted for the eventual decline in student numbers and not the failure of the language movement. Indeed, buoyed by that movement, Māori demand swelled to meet the Māori medium education supply and soon outstripped it. In short, there clearly existed an enormous and enthusiastic market with no apparent ceiling in the 1990s; the bureaucratic failure to capitalise on that represents a major opportunity squandered.⁷⁸⁰

The Wai 262 Tribunal reiterated the Crown’s obligation to protect te reo Māori as a taonga ‘of paramount importance to Māori.’⁷⁸¹ In addition, the Tribunal found that tribal dialects must be considered ‘iwi taonga’, as te reo itself is a taonga for all Māori.⁷⁸² To fulfil its Treaty obligation towards te reo, the Tribunal found, the Crown must first adopt a ‘genuine partnership’ approach with Māori by providing proper support and resourcing to Māori-led initiatives for language revitalisation. Secondly, the Crown must become a Māori-speaking government. Thirdly, it must develop a transparent and coherent vision and policy for the Māori language. Fourthly, it must invest appropriate resources to ensure that such policies can be implemented and have their desired outcomes.⁷⁸³ The Tribunal found that the Treaty also bestows obligations upon Māori. These are to choose to use te reo, most importantly, in the home, to take full advantage of the opportunities on offer to learn or listen to te reo, and participate and contribute to community-based movements such as kōhanga and kura.⁷⁸⁴

Following the Wai 262 Tribunal, the Crown introduced new legislation: Te Ture mō Te Reo Māori 2016. The purpose of the Act is to support the revitalisation of te reo Māori through partnership between the Crown and iwi and Māori, who are represented by Te Mātāwai (an independent entity established by the legislation to promote the use of te reo). The Act requires the Crown to issue a Maihi Karauna strategy (a new Māori language strategy developed by the Crown) and for Te Mātāwai to develop and approve a Maihi Māori strategy (a new Māori language

779. Waitangi Tribunal, *Ko Aotearoa Tēnei: Te Taumata Tuarua*, vol 2, p440.

780. Waitangi Tribunal, *Ko Aotearoa Tēnei: Te Taumata Tuarua*, vol 2, p458.

781. Waitangi Tribunal, *Ko Aotearoa Tēnei: Te Taumata Tuarua*, vol 2, p443.

782. Waitangi Tribunal, *Ko Aotearoa Tēnei: Te Taumata Tuarua*, vol 2, p442.

783. Waitangi Tribunal, *Ko Aotearoa Tēnei: Te Taumata Tuarua*, vol 2, pp443–452.

784. Waitangi Tribunal, *Ko Aotearoa Tēnei: Te Taumata Tuarua*, vol 2, pp452–453.

strategy developed by and for Māori).⁷⁸⁵ The Maihi Karauna 2019–2023 sets out the shared vision for the Crown and Te Mātāwai:

It is vital that the Maihi Karauna and the Maihi Māori work together in concert. They therefore have a shared vision, Kia Mauri Ora te Reo. This reflects that the Māori language is a living language. This state of 'mauriora' will be reached when whānau are acquiring te reo Māori as their first language through intergenerational transmission.⁷⁸⁶

While included for context, the Tribunal will not make any specific findings in relation to the Te Ture mō Te Reo Māori Act as the claimants have not had the opportunity to make submissions on it.

The contemporary te reo fluency situation in this inquiry district will now be addressed briefly. In 2006, just over 25 per cent of Te Rohe Pōtae Māori were fluent in the Māori language, with fluency defined as 'able to hold a conversation about everyday things in te reo Māori'.⁷⁸⁷ This is slightly higher than the reported fluency rates among Māori of 23.3 per cent nationally for that year.⁷⁸⁸ Te Rohe Pōtae iwi also had higher rates of te reo Māori fluency than Māori generally. For Ngāti Maniapoto and Ngāti Raukawa (Waikato), 26.7 per cent reported that they could speak fluent te reo, compared with 23.3 per cent of Māori. For Waikato and Tainui, the numbers were 32.7 per cent and 27.5 per cent respectively.⁷⁸⁹ However, as with Māori generally, rates of fluency were higher among Māori over the age of 64 than among Māori of younger age groups.⁷⁹⁰

However, such official figures at the national and regional levels can obscure local and whānau realities. Claimant Hemaima Rauputu estimated that the number of speakers would be much lower.⁷⁹¹ Ms Rauputu's kuia was a fluent speaker of te reo and in her later life made a concerted effort to pass on the language and traditions to her mokopuna. However, 'very few' of her whānau now speak the language.⁷⁹² Of 59 descendants of whānau who were living at Te Kōpua in the 1900s only five can now speak Māori.⁷⁹³

As the claimants stressed in their submissions, there remains significant work to do to revitalise te reo Māori in the inquiry district, while the Maniapoto dialect is at immediate peril of extinction. To bring te reo, and the Maniapoto dialect, back

785. 'Te Ture mō Te Reo Māori 2016, s3.

786. 'Te Puni Kōkiri, *Maihi Karauna: The Crown's Strategy for Māori Language Revitalisation, 2019–2023* (Wellington: Te Puni Kōkiri, 2019), p9.

787. Document A88, p82.

788. Document A88, p82.

789. Document A88, p84.

790. Document A88, p84.

791. Transcript 4.1.15(a), p352 (Hemaima Rauputu, hearing week 10, Maniaroa Marae, 4 March 2014).

792. Transcript 4.1.15(a), p 355 (Hemaima Rauputu, hearing week 10, Maniaroa Marae, 4 March 2014).

793. Document M9(a), p14.

from the brink will require a concerted effort from government and Te Rohe Pōtae Māori.

24.8.2 Tribunal analysis and findings

As we have seen in earlier sections, the teaching of the English language to Māori pupils was amongst the foremost goals of the native school system, from its establishment in 1867 to its closure over a century later. The extent to which te reo Māori was actively suppressed within the school system as an accompaniment to this English-language teaching varied over time, and between different schools and teachers. But the banning of te reo Māori, and the punishment of pupils for speaking it, was certainly common-place within schools in the inquiry district.

In 1986, the Te Reo Māori Tribunal attributed the decline in te reo Māori speaking to the negative experiences of earlier generations of being punished for speaking their own language in schools.⁷⁹⁴ This conclusion is also borne out by claimant evidence to this inquiry, discussed previously in section 24.7.2. Claimant testimony in this inquiry attests not only to the widespread use of punishment for speaking te reo in Te Rohe Pōtae schools, which occurred as late as the 1940s, but also to the effect that the practice had on the willingness of Māori parents to use te reo with their children.

Edward Wilson's mother and uncle both spoke of receiving punishment for speaking Māori at school. Edward said it had put his mother off speaking Māori and he did not discover she knew te reo until 1995.⁷⁹⁵ Rolande Paekau told us: 'Te Reo Maori was never something that was encouraged during my upbringing, due to the fact that my mum was strapped at school for speaking the reo once. She believed it was never in my best interest to know our own language.'⁷⁹⁶

Hirere Moana attended Benneydale Area School between 1980 and 1985. She recalled how her father's desire for her to become 'fluent and informed in Pākehā education' arose out of 'the issues and impacts he endured as a child and our elders being smacked for speaking the language.'⁷⁹⁷ Although fluent in te reo, her father 'did not converse or speak in front' of her or her siblings in Māori.⁷⁹⁸ However, the language was 'instilled' within her by her mother, a teacher of Māori and 'bastion' of language revitalisation whose 'wish was that her children be well versed and confident in the language and culture.'⁷⁹⁹

The Crown's suppression of te reo within the State education system, was not, of course, the only factor in the language's decline over the twentieth century. Widespread Māori land alienation over the late nineteenth and twentieth centuries, as described in parts I to IV, led to the fragmentation or scattering of previously wholly or predominantly Māori-speaking Te Rohe Pōtae communities. This process of te reo loss occurred at different paces in different parts of the inquiry

794. Waitangi Tribunal, *Report on the Te Reo Maori Claim*, p10.

795. Document M11, pp5-6.

796. Document M8(a), para 50.

797. Transcript 4.1.21, pp769-770 (Hirere Moana, hearing week 12, Oparure Marae, 7 May 2014).

798. Transcript 4.1.21, p771 (Hirere Moana, hearing week 12, Oparure Marae, 7 May 2014).

799. Transcript 4.1.21, p770 (Hirere Moana, hearing week 12, Oparure Marae, 7 May 2014).

district. Māori communities in close proximity to major European settlements tended to lose their te reo fluency earlier than those in areas more isolated from Pākehā.⁸⁰⁰ Leslie Koroheke recalled how his te reo-speaking parents, born in 1909 and 1914, were assimilated relatively early. He attributes this to many Pākehā families living in the Hangatiki region and the tourist trade:

Both my mother and father spoke Māori but they only spoke Māori in front of us when they did not want us to understand or when they were alone at nights. They didn't bother about passing all the old world knowledge down to us. It wasn't a part of their world anymore. Looking back, those things were signs of assimilation. We were brought up in the same house as my grandmother until I was ten, but she didn't pass that old world knowledge down either. My grandmother was fluent in Māori but we were not, so she used to communicate to us in broken English. There was a time when she used to talk to us non-stop in Māori. I remember her asking me to do something one day and I just looked at her. I couldn't understand what she was saying. I remember it painfully well. I remember the hurt in her eyes. I remember the anger she spoke with because she knew I understood the word 'Pokokohua' [a strong curse]. That marked the time that she gave up talking to me in Māori. Now every time I think back to her, I feel her hurt and sorrow. That is the biggest reason that I resent my education.⁸⁰¹

By contrast, pupils at the Taharoa Maori School remained bilingual in the 1950s, with Māori the first language spoken in all homes, and with some elderly residents unable to speak English. The physical isolation of the community, only accessible by horse and boat, meant little day-to-day communication with Pākehā. However, with the building of a road in the 1960s and the development of the ironsands industry, rates of te reo speaking in the area began to decline.⁸⁰²

The mass migration of Māori into urban areas led to the further fragmentation of Te Rohe Pōtae speech communities. In New Zealand's towns and cities, Māori families could find themselves as a single te reo-speaking family in the midst of a dominant English-speaking community. Urban migration both brought Māori into daily interactions with Pākehā and placed intense pressure on them to fit in with the dominant Pākehā culture and language.⁸⁰³

As we noted in the previous chapter, Māori migration into urban centres in the post-Second World War period cannot be seen in isolation from wider Crown actions and policies. Likewise, the decisions of Māori parents to speak English, rather than te reo Māori, to their tamariki cannot be separated from the Crown's suppression of Māori language and culture through the school system. For this reason, we agree with previous Tribunals that the Crown's failure to protect te reo Māori as a taonga was inconsistent with its obligations under article 2 of the Treaty

800. Simon and Smith, eds, *A Civilising Mission?*, p172.

801. Document L13, p3.

802. Simon and Smith, eds, *A Civilising Mission?*, p172.

803. Anderson, Binney, and Harris, *Tangata Whenua*, p452.

and the Crown's duty to actively protect the Māori rights enshrined in that article. We find that this breach also applies to te reo o Maniapoto, an iwi taonga.

Another key question for us to determine here is how the Crown responded when it first knew that the survival of te reo Māori was under threat. Government reports suggest that the Crown was aware of declining rates of Māori speaking in the home by at least the 1950s.⁸⁰⁴ In 1957, the Education Department reported a decreasing number of Māori new entrants with no knowledge of English. The following year, the department noted that 'fewer and fewer' Māori children were starting school without some English-speaking ability.⁸⁰⁵ However, rather than expressing concern at this observation, the department greeted it as a positive sign of Māori integration into Pākehā society: 'This follows the steadily increasing integration of the Maori adult into the economic life of the country. He becomes more competent and more confident in his knowledge and use of English through his occupational contacts and tends to use it more habitually in his own family circle.'⁸⁰⁶

Throughout the 1950s and 1960s, government officials and politicians – although noting the evidence of a decline in Māori-speaking rates – saw the preservation of te reo as a matter of individual choice, rather than a government responsibility. Minister of Maori Affairs Ernest Corbett, stated in 1956 that the preservation of te reo "was up to each member of the race" and if the children of Māori leaders could not speak te reo it was not the Government's fault.⁸⁰⁷ The 1960 Hunn report also recorded declining rates of Māori speakers, but claimed it was for 'the Maoris themselves' to decide whether to preserve such 'relics' of 'ancient life' such as te reo:

Integration . . . implies some continuation of Maori culture. Much of it, though, has already departed and only the fittest elements (worthiest of preservation) have survived the onset of civilisation. Language, arts and crafts, and the institutions of the marae are the chief relics. Only the Maoris themselves can decide whether these features of their ancient life are, in fact, to be kept alive; and, in the final analysis, it is entirely a matter of individual choice. Every Maori who can no longer speak the language, perform the haka or poi, or take his place on the marae, makes it just so much harder for these remnants of Maori culture to be perpetuated.⁸⁰⁸

The 1962 report by the Royal Commission into Education stated that 'the ultimate future of the Maori language lies not with the intervening European, nor with institutions such as the school, but entirely with the Maori himself, in the

804. Document A27, p124.

805. 'Education: Annual Report of the Minister of Education for 1957', AJHR, 1958, E-1, p38 (doc A27, p124).

806. 'Education: Annual Report of the Minister of Education for 1956', AJHR, 1957, E-1, p37 (doc A27, p124).

807. Waitangi Tribunal, *Ko Aotearoa Tēnei: Te Taumata Tuarua*, vol 2, p453.

808. Hunn, *Report on Department of Maori Affairs*, p15.

Maori home and the habits of the Maori family'.⁸⁰⁹ Thus, while governments of the 1960s were aware that the Māori language was in an increasingly poor state, they viewed responsibility for its revival as down to individuals, not the State.⁸¹⁰

Over the past 40 years, the Crown has invested considerable resources into efforts to revitalise the Māori language, and we commend its efforts to do so. Unfortunately, those efforts have not yet been enough to arrest the language's decline. The school system is not the only factor in the historical decline of te reo (although it has played a significant part). But it has a central role in its revival, if the future survival of the language is to be secured.

The 1986 te reo Māori Tribunal called for the Crown to 'ensure that all children who wish to learn Maori be able to do so from an early age and with financial support from the State'.⁸¹¹ We repeat this finding here. For the Crown's education system to be Treaty-compliant, full Māori-immersion pathways, from kōhanga to wānanga, should be available to all Te Rohe Pōtae whānau who wish to access them.

24.9 PREJUDICE

When Te Rohe Pōtae rangatira entered into negotiations with the Crown during the 1880s, and eventually agreed to lift their aukati, they did so in the expectation that their mana whakahaere over their affairs would be protected. In chapter 8, we found that the Te Ōhāki Tapu negotiations gave rise to an expectation that Te Rohe Pōtae would continue to enjoy the 'means by which Te Rohe Pōtae Māori could have authority over matters of importance to the well-being (economic, social, cultural) of their people'.⁸¹² As noted earlier, we consider education to fall into this category.

With the establishment of the first native schools in the inquiry district from the 1890s, and the opening of primary schools to cater for the growing settler population, access to a basic State-funded education was increasingly within the reach of Te Rohe Pōtae Māori from the early decades of the twentieth century. However, coverage remained uneven across the inquiry district. In some cases Māori requests for schools met with long delays. Poor road access to Māori communities, land-locked lands, and poverty all impacted the ability of some Te Rohe Pōtae Māori to access a basic primary school education well into the interwar decades. Where this occurred, Te Rohe Pōtae Māori found their schooling cut short or interrupted, or were denied schooling altogether, severely limiting their future prospects for employment and further education.

809. Royal Commission on Education in New Zealand (The Currie Commission), *Report of the Royal Commission on Education in New Zealand* (Wellington: Government Printer, 1962), p417 (Barrington, *Separate but Equal?*, p269).

810. Barrington, *Separate but Equal?*, pp268-269.

811. Waitangi Tribunal, *Report on the Te Reo Maori Claim*, p51 (Waitangi Tribunal, *Ko Aotearoa Tēnei: Te Taumata Tuarua*, vol 2, p461).

812. Waitangi Tribunal, *Te Mana Whiatu Ahuru, Part 11*, p1064.

The negative social and economic impacts of low educational achievement on individuals and communities are now widely recognised. In one respect, low rates of Māori achievement in education are just one aspect of the poor social outcomes flowing from earlier serious Crown Treaty breaches. These include the Crown's large-scale acquisition of Māori land, and its failure to recognise and provide for Te Rohe Pōtae Māori mana whakahaere following the lifting of the aukati. In other respects, low educational attainment is, in itself, a direct cause of prejudice, through entrenching poverty and disadvantage in other areas. Leaving school early without qualifications, for instance, vastly limits an individual's potential earning ability, in turn making them more vulnerable to poor health and substandard housing. But on the other hand, education also presents the opportunity to break out of cycles of social and economic disadvantage.

Many Te Rohe Pōtae Māori who presented evidence in this inquiry have had profoundly negative experiences of education. Mātauranga Māori was accorded no value in the Pākehā education system. Some Te Rohe Pōtae Māori were forbidden from speaking their own language at school, at the threat of physical punishment, or faced prejudice at the hands of Pākehā teachers. Over time, many Te Rohe Pōtae Māori came to internalise the belief that their language and culture were inferior, or that they were 'dumb'. The overwhelmingly Pākehā orientation of the Crown's education system for much of the twentieth century was, in part, a product of the prejudice stemming from another failure of the Crown to fulfil its Treaty obligations: not providing for meaningful Māori input into their education through fair representation on school governance bodies and at the district level. But the cultural barriers to education presented by the monocultural nature of the school system itself also led to further prejudice. For many Te Rohe Pōtae Māori, experiences in the district's State schools turned them off education for a lifetime. The individual, whānau, and community costs of such alienation from the education system have been high: Te Rohe Pōtae Māori remain a highly disadvantaged group within their own rohe today.

Māori educational outcomes have improved greatly over the second half of the twentieth century. Yet, Te Rohe Pōtae Māori continue to lag behind their contemporaries according to almost all educational measures. An exception is in the kaupapa Māori system, where Māori student achievement rates are markedly higher. Te Rohe Pōtae Māori students suffer prejudice both through the Crown's failure to address the root causes of Māori under-achievement in the mainstream school system and from the inaccessibility of Māori-medium alternatives in some parts of the inquiry district.

In respect of te reo Māori and the Maniapoto dialect, we find that the Crown's suppression of te reo Māori in schools during the first half of the twentieth century was a major factor in the decisions of Te Rohe Pōtae whānau to stop speaking te reo to their children, and did not comply with Crown's Treaty obligations. Te Rohe Pōtae Māori have suffered prejudice through declining knowledge of te reo Māori, a taonga for Māori, and particularly through the loss of the Maniapoto dialect, an iwi taonga.

24.10 SUMMARY OF FINDINGS

In this chapter, we have found many of the Crown's actions and omissions in respect of education to be inconsistent with the principle of partnership, the duty of active protection inherent in that partnership, and the principle of equity. In particular, we found the Crown did not uphold its Treaty obligations:

- ▶ in requiring Māori communities to 'gift' land for native schools, when the same standards were not applied to Pākehā communities and without considering alternatives;
- ▶ in using permanent alienation to gain title over such sites (as opposed to alternative arrangements such as leaseholds) and failing to prevent undue delays in returning surplus school sites to their former Māori owners;
- ▶ in ignoring long delays, relative to other communities, following Te Rohe Pōtae Māori requests for local schools;
- ▶ in not actively seeking to ameliorate barriers Te Rohe Pōtae Māori faced in attempting to access quality early childhood and primary education;
- ▶ in failing to address the poor achievement rates at primary school which for the first half of the twentieth century effectively excluded most Te Rohe Pōtae Māori from secondary education;
- ▶ in failing to ensure that all Te Rohe Pōtae whānau who wish to access Māori-medium education have been and are currently able to do so;
- ▶ in historically suppressing te reo Māori within the native and board school systems, a pattern of discrimination contributing in major part to a marked decline in the usage of the language; and
- ▶ in failing to ensure Te Rohe Pōtae Māori had avenues for input into their children's education or fair representation at the local school, district, and national levels.

We also found that the Crown acted inconsistently with the principle of options by:

- ▶ failing to ensure the availability of Māori-medium and kaupapa educational options across the inquiry district.

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Dated at Wellington this 8th day of June 2020



Deputy Chief Judge Caren Fox, presiding officer



John Baird, member



Dr Aroha Harris, member



Professor Sir Hirini Mead KNZM, member



Professor William Te Rangiuā (Pou) Temara, member



