



Ngati Hineuru Iwi Incorporated

Quantum: Base Factors

16 November 2010

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1 Introduction

- 1.1 Thank you for your letter of 21 October 2010, which outlines the Crown's base factors that are taken into consideration when developing quantum. Thank you also for meeting with us on 22 October to further discuss this letter. We were initially surprised at the brevity of the OTS letter. However, the hui of 22 October was very helpful, especially the clarification that one of the key purposes of their letter was to highlight the key matters that we were to detail in our response, rather than for the Crown to detail its views on the specific matters.
- 1.2 The purpose of these submissions is to provide details about the relevant matters that will be assessed to develop a quantum figure for Ngati Hineuru, so that OTS is fully informed. We look forward to meeting with you on 19 November to discuss these submissions with you and your historians.
- 1.3 Specifically, these submissions will assess the Crown's quantum base factors as they apply to Ngati Hineuru, namely (as per the letter of 21 October):
 - a Amount of land lost through Treaty breaches
 - b Relative seriousness of the breaches (raupatu with loss of life regarded as the most serious)
- 1.4 Certain secondary factors will also be assessed including the size of the claimant group, that is, the population of Ngati Hineuru.
- 1.5 This paper will not address the special factors of the Ngati Hineuru claims. Given the importance of special factors to the Ngati Hineuru settlement, these will be presented in detail at the meeting with the Minister of 2 December arranged for this purpose.
- 1.6 For your ease of reference, we have summarised these submissions in the executive summary below.

2 Executive Summary

- 2.1 Details of the extraordinarily difficult experiences that were historically faced by Ngati Hineuru are assessed through these submissions. This executive summary highlights the key elements of the base and secondary quantum factors as they apply to Ngati Hineuru, in the order they appear within this submission.

Area of Interest and nature and extent of Overlapping Claimants

- 2.2 The Ngati Hineuru area of interest is very large and a preliminary calculation of our area has revealed that is approximately 358,000 ha. Our rohe extends through the Hawkes Bay and also to the north of the Hawkes Bay into the CNI and the Urewera districts. We acknowledge the existence of some overlapped interests towards our northernmost boundaries, and the core of our rohe is centred within the Te Haroto to Tarawera corridor.
- 2.3 We share boundaries, and at times have areas of overlap, with the various iwi and hapu that are located around our rohe. Our neighbours are comprised of select CNI iwi and hapu and various Kahungunu hapu. We enjoy positive relationships with many of our neighbours and have formalised these relationships with memoranda of understanding (**MOU**) with some, to provide for continuing positive engagement in the future.

Land loss suffered by Ngati Hineuru

- 2.4 Our once very large rohe has been reduced to effectively nothing through the effects of various Crown actions including through pre-emptive purchasing, raupatu, Native Land Court investigations of title and rehearings (for blocks both within and outside of the confiscation district) and Crown purchasing. We estimate that less than 1% of our original estate remains in the ownership of Ngati Hineuru today.

Severity of breaches endured by Ngati Hineuru

- 2.5 We have suffered the most severe of breaches as a result of the unwarranted bloodshed of our people at the hands of the Crown and through the subsequent confiscation of our lands. The loss of our lands has been one of the main contributors to the poverty and degraded health and wellbeing we still face within our rohe today.

Benchmarks

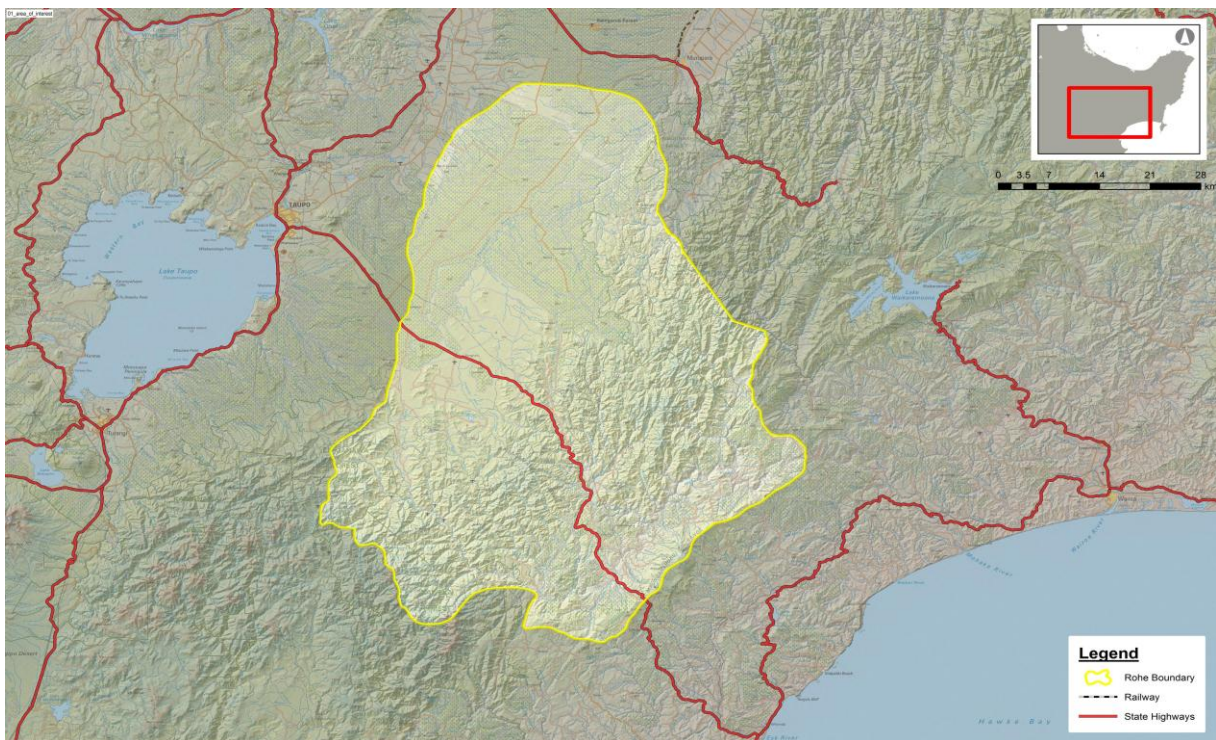
- 2.6 We consider Ngati Awa and Ngati Ruanui as appropriate benchmarks, based on the fact that they also suffered raupatu, and also because their greater population sizes than that of Ngati Hineuru is balanced out by their smaller areas of interest.

Ngati Hineuru population

- 2.7 We conservatively estimate our population as 6,000 at this point in time. This includes confirmed beneficiaries from our register and registrations that are awaiting final confirmation. We do not consider censuses as an appropriate tool to gauge the population of iwi and hapu. Censuses are inherently flawed in our view and do not take into account the unique factors historically faced by many Maori populations. In regard to the 1949 census, we consider it to have all the flaws that are exhibited by other censuses, as well as being outdated.

3 Ngati Hineuru: Area of interest

- 3.1 We note your advice in the letter of 21 October that the Crown has calculated the Ngati Hineuru claim area as amounting to 356,881 hectares. This closely aligns with our view set out below.
- 3.2 The Ngati Hineuru area of interest is very large, and extends across four Waitangi Tribunal Inquiry districts to date. Our interests in the CNI and the Urewera district have been evidenced in the respective Tribunal Inquiries, and our raupatu claims were heard, and reported on, through the Mohaka ki Ahuriri Inquiry. At this stage, we are maintaining involvement in the Taihape Inquiry to protect our south western interests as it is required.
- 3.3 Our traditional boundaries are described as within the watershed of the following rivers:
Ripia River to the conjunction with the Mohaka River, to Te Hoe River, to the Hautapu River, to Te Pukahunui Stream, to the Matakuhia Stream, to the Waipunga River, to the Okoeke Stream to the Tunamaro Stream and back to the Ripia River.
- 3.4 We included the latest indicative area of interest map in the materials that accompanied the presentation to the Minister on 13 August this year. Our preliminary calculation of this area has revealed that is approximately 358,000 ha. For your ease of reference, we have included a copy of this map below.



- 3.5 The Ngati Hineuru rohe includes lands at Tarawera, Tatarakina and Waitara within the confiscation boundary as set in 1867, lands in the Kaimanawa region as well as lands located to the north of the Hawkes Bay. The lands north of the Hawkes Bay provincial boundary include Heruiwi, Heruiwi 4, Kaingaroa 1 and 2, Runanga 1 and 2, Pohokura, Pukahunui and Whirinaki.

- 3.6 Ngati Hineuru has overlapping interests in the Kaingaroa and Whirinaki blocks which are located to the north of the confiscation line, and also had overlapping interests in the Pakaututu and Te Matai blocks adjoining Tarawera.
- 3.7 The core of the Ngati Hineuru rohe is within the Te Haroto to Tarawera corridor, which has always been recognised as an area belonging exclusively to Ngati Hineuru. Although, there were many other pa, kainga, cultivations, mahinga kai and urupa used in remembered history and since 1840 throughout the whole rohe – many of these places were listed by people in evidence given at Tribunal hearings.
- 3.8 The Ngati Hineuru area of interest, together with the wider history, is examined in detail in the wealth of research completed by Professor Richard Boast, as well as in mana whenua information provided by Pat Parsons, and a sites of significance inventory compiled by Hannah Boast. We intend to provide the OTS team, especially the OTS historians, with this research as soon as possible.

Overlapping interests

- 3.9 We share boundaries, and at times have areas of overlap, with the various iwi and hapu that are located around our rohe. This includes:
- a CNI iwi (Ngati Manawa, Ngati Whare and Ngai Tuhoë) towards the north where there are some areas of overlap
 - b Ngati Pahauwera to the north east where there has always been a traditionally accepted boundary
 - c The hapu represented by our large natural grouping partner (**LNG**), Maungaharuru-Tangitu Incorporated (**MTI**), to the east where there was a traditional boundary still accepted today
 - d Ngati Tuwharetoa to west - where there were some areas of overlap in the western parts of the Tauhara Middle and Tauhara South blocks. We do not accept that there are any areas of overlap extending beyond this zone
 - e The hapu represented by Mana Ahuriri Incorporated (**MAI**) to the south – where there was a traditional boundary still accepted today
- 3.10 We understand that a map was tabled at a meeting between our counsel and historian and your office on 7 October outlining inaccurate, or outdated, areas of overlap by other groups through various parts of our rohe. Originally, we were very concerned to see the extent of the purported overlaps, however OTS has since confirmed that the boundaries outlined on that map are not a reflection of the Crown's thinking and, accordingly, we were asked to disregard the map.
- 3.11 We have good relationships with many of our neighbours and have entered into memoranda of understanding (**MOU**) with some, to provide for continuing positive engagement in the future. At this stage, we have entered into a MOU with MTI to guide the LNG relationship, and with MTI and MAI to ensure all parties are clear about the respective areas of interests for Treaty settlement purposes. We are also currently working with Ngati Whare to develop a MOU with respect to the Whirinaki Forest Park. We intend that the MOU will recognise and provide for the interests of Ngati Hineuru, while preserving the co-management arrangement over the Whirinaki Forest Park currently included in the Ngati Whare Treaty settlement.

4 Land loss suffered by Ngati Hineuru

- 4.1 The extensive area of interest that we historically controlled has been whittled away through various Crown actions including through pre-emptive purchasing, raupatu, Native Land Court investigations of title and rehearings and Crown purchasing. The Crown breached many of its Treaty duties in its engagement with us during this time, particularly the duty of active protection. Rather than assisting Ngati Hineuru to protect its lands, we were stripped of our lands through confiscation, regrants of our lands to other people, and Crown purchasing for prices as cheaply as possible.
- 4.2 We now own very little land in our rohe and we estimate that less than 1% of our original estate remains in the ownership of Ngati Hineuru today. Also, some blocks in our area of interest that are in Maori ownership are not owned by Ngati Hineuru, instead these lands were returned to the wrong groups and continue to be held by those descendants. This includes the majority of the land in the Tarawera region.
- 4.3 In summary, the great majority of the Ngati Hineuru traditional lands have been lost.

5 Severity of breaches endured by Ngati Hineuru

- 5.1 In respect to this base factor, your letter of 21 October notes that the Crown considers breaches arising from confiscation pursuant to the New Zealand Settlements Act 1863 as being the most serious, and that the information collected indicates that Ngati Hineuru suffered raupatu.
- 5.2 What must be understood is that this raupatu, apart from the loss of land and its consequences, it included with it some of the worst of the behaviours that frequently accompanied raupatu:
- a Unjustified ambush of Ngati Hineuru at Petane and attack without warning of a peaceful community (including unarmed women and children) with subsequent deaths and injury at Petane and Oamaru, including Ngati Hineuru's chief Te Rangihiroa;
 - b Plunder and looting of Ngati Hineuru food and possessions (such as horses) and destruction and despoliation of Ngati Hineuru villages by Crown officials and troops, including says the Tribunal the "indiscriminate excesses" of the Whitmore expedition;
 - c Crown officials such as Whitmore utilised the situation for personal gain and to settle personal grievances;
 - d Interrogation of Ngati Hineuru people and children (such as the younger Te Rangihiroa) under duress by Crown officials and troops and "extraction" of confessions;
 - e Illegal seizure, incarceration and transportation to Wharekauri (Chatham Island) of Ngati Hineuru including women and children, without trial and the imprisonment there under extreme hardship and hard labour;
 - f Arbitrary execution of suspected rebels at Ngatapa (including removal of head of the other Ngati Hineuru chief, Nikora);
 - g Creation of roads to expedite troop movements and building of military redoubts and blockhouses and garrisoning of troops on Ngati Hineuru lands; and
 - h Violation of human rights and rights as British citizens.
- 5.3 A key matter which must be recognised here is that Ngati Hineuru did not merely suffer raupatu in its fullest form, but that the confusion and title disorder which followed raupatu continued on for another 70 years before the final land tenurial effects were concluded.
- 5.4 As has already been noted, Ngati Hineuru suffered a sequence of land loss and Crown prejudice which covered nearly every form of Treaty breach.

Pre-emptive purchase

- 5.5 The first Crown action to have a significant impact on Ngati Hineuru was the pre-emptive 1851 Ahuriri Purchase. Despite the protests made by a group of Ngati Hineuru led by their chief Te Rangihiroa at Tangoio, this transaction was concluded nevertheless. As our people remained aggrieved at the loss represented by this transaction the Crown, in 1859, provided an additional payment as compensation.

- 5.6 Through this purchase the Crown failed to adequately consult with us prior to purchase, and left us with no choice but to take the Crown's compensation payment, irrespective of whether the compensatory amount was a fair exchange for the land lost.

Raupatu

- 5.7 Through no fault of our own, Ngati Hineuru were brutally attacked by the Crown without any provocation at Oamaru in 1866. This attack was followed by the unjust and unwarranted capture and exile of our people to the Chatham Islands where they were held without trial. Of those who were not exiled, many were forced to flee their homes as government forces invaded our lands to destroy our kainga and take our property to punish us for the altercation at Oamaru that we did not cause.
- 5.8 Between 1867-1870 large tracts of our land was confiscated, at a time when many Ngati Hineuru people had not yet been able to return after the exile, or were still away from their homes as a result of being forcibly evicted. Through raupatu, the Crown acquired all of the lands from our rohe that are within the boundaries of the confiscation district, and retained the Waitara block and reserves at Te Haroto and Tarawera.
- 5.9 While the Crown returned the bulk of the Tarawera block, it was to members of Ngati Kahutapere (a Ngati Kahungunu group) instead of returning these lands to Ngati Hineuru. Ngati Hineuru were only ever returned the less valuable lands at Tatarakaia. With the loss of Tarawera to Ngati Kahutapere, we lost our critically important, and strategic, position on the Tarawera corridor.
- 5.10 We also faced additional issues in respect of Tarawera and Tatarakaia over the years based on the lack of security available over the titles. These blocks were subject to years of uncertainty about who could occupy the land based on the reinvestigation of title processes of the Land Court. These processes caused much upheaval until as late as the 1950s.

Native Land Court processes

Effects on blocks outside the confiscation district

- 5.11 Ngati Hineuru were involved in Land Court investigations of title and rehearings from 1872 to 1890, in order to protect their interests in those blocks outside of the confiscation district, which extend through the CNI and in the modern day Urewera Tribunal Inquiry district. The principle cases that Ngati Hineuru were involved in included Runanga 1, Heruiwi, Pukahunui, Pohokura, Heruiwi 4 and Whirinaki. Ultimately, we were awarded large interests in Runanga 1, Heruiwi 4, Pukahunui and Pohokura, however, we were only included in the ownership lists for Heruiwi 4 and Whirinaki. Our interests were not recognised as substantial in Heruiwi 4 and Whirinaki, which meant that our views about these lands were not afforded the weight they should have been.
- 5.12 While the Native Land Court did properly acknowledge and provide for our interests in certain blocks, we were significantly prejudiced in the proceedings relating to other, at times key, blocks.
- 5.13 A key issue in the region was the Court's inability to understand or apply tikanga or the histories, whakapapa and whanaungatanga relationships between the CNI groups. We were subsequently heavily penalised. For example, some of the rightful Ngati Hineuru owners were excluded for no reason by the Court from the list of owners of Runanga 1, simply because the Court could not understand the contextual circumstances.

Effects on blocks from within the confiscation district

- 5.14 Pakaututu and Te Matai, two land blocks from the part of our rohe that lies within the confiscation district, were also the subject of Native Land Court investigations. Despite our significant interests in Pakaututu, this block was investigated in 1869 – while we were either still in exile or alternatively still in hiding outside of the main centres. Effectively, these lands were confiscated from us, and then title was allocated through the Native Land Court to others, and not Ngati Hineuru. By the time we had returned and were able to engage in Native Land Court processes, these lands had passed into private ownership. Since then, the Crown acquired Pakaututu in 1962, and parts of these lands remain in Crown ownership.
- 5.15 Te Matai was subject to a title extinguishment (and reinvestigation process) also, however, it was over a much longer period of time. We continued pursuing recognition of our interests in these lands until the 1950s, when we could no longer afford to appeal the decision of the reinvestigation. By then we faced significant financial difficulties as a result of funding the proceedings associated with the Tarawera and Tataraka blocks as well as paying the costs of the reinvestigation proceedings itself.

General issues with Native Land Court processes

- 5.16 Our permission was not obtained before the Land Court was instituted to make decisions concerning our lands however, despite our hostility to this process, the Land Court was implemented nonetheless.
- 5.17 More often than not, Ngati Hineuru struggled to properly represent their interests simply due to a lack of funds. In addition to court and surveying costs, Ngati Hineuru were financially crippled as a result of participation in the New Zealand wars and we could not fund independent advice to assist our engagement in the Court. However, there was no option to opt out of the process as there was no other legal means available to process our lands to provide for full title over them. In the end, the titles obtained through the Court process often caused difficulties in themselves especially given their inability to provide for ownership that could also provide for the tikanga framework that had previously governed rights to land.

Crown purchasing

- 5.18 The Native Land Court title investigations were swiftly followed by the rapid loss of our lands through Crown purchases or through private sales. From 1880 until 1895 the Crown acquired 104,480 acres of Kaingaroa 1, 20,910 acres of Heruiwi 1, 5,500 acres from Pukahunui 1, 73,221 acres in Heruiwi and Heruiwi 4 (by 1962 the Crown had acquired all of our interests in Heruiwi 4) and 10,111 acres of Whirinaki 1.
- 5.19 With the loss of large areas of land we also lost the ability to develop a sound economic base to sustain Ngati Hineuru in the future and also did not make sufficient profits to properly develop our centre at Te Haroto which pushed us into a state of poverty.

Conclusion

- 5.20 The loss of our lands generally was a key contributor to the poverty and degraded health and wellbeing we continue to see in our people today. Through the raupatu period many of our people were killed or dispossessed from their lands and their possessions. The excessive bloodshed and force on the part of the Crown against our people before and after Omaranui was entirely unwarranted and devastating to the wider iwi. This was compounded by the confiscation (and other forms of Crown acquisition of our lands) and the benefits of those

lands, particularly the loss of our previously pivotal position through location on the Tarawera corridor.

- 5.21 Our attempts to rebuild ourselves at Te Haroto were successful for only a limited time. Eventually, by the 1920s and 1930s, we could not longer compete against the tenurial problems that we faced, for example as a result of the many hearings and petitions that arose as a result of the issues with the Tarawera and Tatarakainga blocks. The physical and spiritual health of our people plummeted due to underfunded and inadequate Maori healthcare facilities, underemployment, and because the state continued to close its eyes to our plight.
- 5.22 To this day, many of our people continue to live in a state of poverty without access to proper housing and healthcare. In addition to the physical effects of raupatu, many of our people have been forcibly stripped of their Ngati Hineuru identity as a result of shame in identifying with a group that is still wrongly tarnished with the name of 'rebels'. This discomfort to acknowledge an association to Ngati Hineuru has meant that some of our most precious taonga, including many of our customary practices and our true history, has been unfairly suppressed over the years. As a result, Ngati Hineuru iwi finds itself in a severely impoverished state across all facets and will require a level of recognition and restoration through the Treaty Settlement process to appropriately remedy these effects.

6 Benchmarks

- 6.1 We have detailed our arguments with respect to our appropriate benchmarking in the materials that accompanied our presentation to the Minister of 13 August. For your convenience however, we have summarised that information below.
- 6.2 OTS initially suggested that Ngati Tama and Nga Rauru might have been appropriate benchmarking possibilities. However, while those groups also suffered raupatu, our population and area of interest are much larger than either group.
- 6.3 In our view, Ngati Awa and Ngati Ruanui have set more appropriate benchmarks. Both groups have suffered from the effects of raupatu and their greater population sizes than that of Ngati Hineuru is balanced out by the fact that their area of interest is significantly less than ours.

7 Ngati Hineuru population

- 7.1 We understand that population is a secondary quantum factor, and we have conservatively estimated our registerable population as being approximately 6,000. This number includes 1,970 those who are confirmed beneficiaries on our register and also includes 3,500 provisional registrations that are awaiting final confirmation. Our potential population is likely to be closer to 10,000.
- 7.2 One issue we have faced in this process is that many of our people are based overseas and are more difficult to record in the short term. Although, we expect that, as the visibility of Ngati Hineuru grows, so will the number of beneficiaries to include those who may not yet have heard about our involvement in the Treaty Settlement process.
- 7.3 We have a dedicated registration team who is increasing these numbers by the day. We expect that we should have at least 5,000 on the register by AIP.
- 7.4 We were initially concerned at the reference to the 1949 census in the letter of 21 October. We were reassured to learn at the meeting of 22 October that OTS does not intend to use the figures of the 1949 census as the final population counts and references to this census were to highlight that population-related material is required within these submissions.
- 7.5 As we outlined in our materials of 13 August, censuses generally are not an appropriate tool to gauge the population of Ngati Hineuru. Censuses are notorious for incorrectly recording iwi or hapu numbers and furthermore, a key issue for our people is that Ngati Hineuru iwi has never been an option for selection in any census. Census data has forced whakapapa to be recorded inaccurately due to the limited options. As Ngati Hineuru is not currently an option for whakapapa, our people have elected to record a less strong connection that they may have with another, named, iwi for the sake of recording something.
- 7.6 We also cannot look to the notional population figures in the Māori Fisheries Act 2004 as Ngati Hineuru have never received the benefit of assets from a Fisheries Settlement. We expect that, given that Ngati Hineuru are not mentioned in the notional figures, we have been incorrectly subsumed into the Ngati Kahungunu or Ngati Tuwharetoa notional populations.
- 7.7 In addition to general census issues, Ngati Hineuru will be extremely underrepresented in the 1949 census as many of our people were seasonal workers and would have been inaccessible during census collection time. We also note that the 1949 census will be entirely inappropriate as a means to assess current day populations – this will be the case for Maori and the wider population of New Zealand.
- 7.8 A particular issue for Ngati Hineuru before and beyond 1949 is the discomfort for some of our people associated with acknowledging whakapapa to Ngati Hineuru based on the incorrect commonly held view that we were rebels. We will need time before the people of Ngati Hineuru have received the correct version of history that confirms that we were not rebels and that there is no shame in associating with Ngati Hineuru iwi. Until then however, we do not view the census as a useful population indicator of any sort.
- 7.9 We also seek acknowledgement for those whakapapa lines that were completed decimated through the unprovoked attacks faced by our people in our history. We feel that other groups have not had to endure the particularly oppressive raupatu-related history and the subsequent impoverishment that followed after raupatu. We conservatively estimate an actual population that would have been at least 10,000 had we not been the subject of these actions.

8 Next Steps

- 8.1 We are very pleased to have had this opportunity to present our quantum submissions to you, and to be able to discuss any queries you may have at the meeting of 19 November that has been scheduled for this purpose. We welcome any feedback you may have so that we are able to incorporate this feedback into our special factors presentation to the Minister on 2 December.
- 8.2 We trust that this material, and that material we present at our special factors presentation, will be of use in the Crown's processes to develop an appropriate quantum figure for Ngati Hineuru.
- 8.3 We look forward to receiving the Crown offer in the New Year including a quantum offer that is informed by base factors analysis within this submission and the special factors presentation of 2 December.