

TERMS OF NEGOTIATION

Between

TE URI O HAU AND THE CROWN

## **Addendum to Te Uri O Hau Deeds of Mandate**

### **TE URI O HAU: PROPOSED SCOPE OF TREATY NEGOTIATIONS**

#### **Introduction**

This statement is an addendum to the Deeds of Mandate originally presented by Te Uri o Hau to the Crown. It names the head negotiators subsequently appointed by Te Uri o Hau, and outlines in more detail the scope of proposed negotiations with the Crown.

#### **Scope of Negotiations**

Te Uri o Hau seeks direct negotiations with the Crown towards the settlement of all historical Treaty of Waitangi claims of Te Uri o Hau.

#### **Appointed Negotiators**

At a hui of 29 August 1998, at Aotearoa marae, Otamatea, members of Te Uri o Hau agreed on representatives (the "agreed representatives") for Te Uri o te Wahapu o Kaipara (Wai 271) and the Otamatea Maori Trust Board (Wai 229) claims, and authorised them to appoint negotiators for the settlement of Te Uri o Hau claims. Subsequently, at hui of 21 September 1998 (Otamatea) and 17 January 1999 (Pouto), a set of head negotiators and supporting negotiators were appointed by the agreed representatives. The head negotiators comprise:

Mr Jimmy Connelly  
Mr Russell Kemp  
Sir Graham Latimer (Chair)  
Mr Morehu Kena  
Mr Rawson Wright  
Mr Harry Pomare  
Mr Tapihana Shelford (Minister)

The supporting negotiators will replace head negotiators if necessary due to illness or unforeseen circumstances.

The negotiators will report regularly to the agreed representatives. The agreed representatives will in turn report regularly on progress with the claim to Te Uri o Hau claimants and claim beneficiaries through newsletters and hui.

The negotiators will not have the authority to conclude a settlement with the Crown until they have presented the proposed settlement to Te Uri o Hau claim beneficiaries, and have received the ratification of claim beneficiaries through properly notified hui, and/or a postal ballot.

#### **Te Uri o Hau Claim Area**

##### *Core Te Uri o Hau Claim Area*

The core Te Uri o Hau claim area is the one for which evidence was presented at stage 1 of the Waitangi Tribunal hearings for the consolidated Kaipara hearings (Wai 674). The core area comprises the combined Wai 229 and Wai 271 claim areas, as shown on the attached map.

# Terms of Negotiation between the Crown and Te Uri o Hau

## Purpose of this Document

- 1 This document sets out the scope, objectives, and general procedures for the negotiations between the Crown and the mandated negotiators for Te Uri o Hau ("the Negotiators") for the settlement of all the Claims of Te Uri o Hau, and associated tribal groups, as described in paragraph 3 below.
- 2 This document records the stated intentions of the Crown and the Negotiators, including the intention to negotiate in good faith, but is made without prejudice, and does not create a legal relationship and is not legally binding.

## Te Uri o Hau Claims

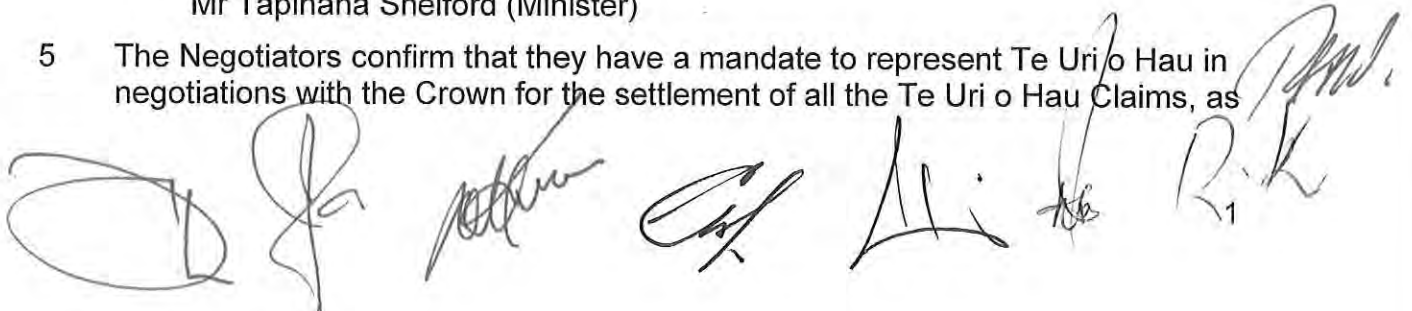
- 3 The "Te Uri o Hau Claims" cover any claims against the Crown (as described in Appendix One), and are referred to in the addendum to the Deeds of Mandate. The Claims include Wai 229, Wai 259, Wai 271, Wai 294, Wai 409, Wai 448, Wai 658, Wai 689, Wai 719, and Wai 721. The Te Uri o Hau Claims also include claims by tribal groups associated with Te Uri o Hau within the Te Uri o Hau claim area including: Ngati Rangī, Ngai Tahu, Ngati Mauku, Ngati Tahinga, Ngati Kauae, and Ngati Kaiwhare. The Te Uri o Hau Claims also include other Waitangi Tribunal claims, to the extent that those claims purport to represent Te Uri o Hau interests.

## Mandate to Negotiate

- 4 The Negotiators confirm that they have obtained a mandate to negotiate the settlement of the Te Uri o Hau Claims through the following process:
  - a a hui to obtain a Deed of Mandate for negotiations was advertised in the Public Notices of the New Zealand Herald, the Northern Advocate, and the Northland Times, two weeks prior to the hui;
  - b the hui was held on 29 August 1998 at Aotearoa marae, Otamatea. The hui appointed "agreed representatives" for Pouto claims (Wai 271 and associated claims). The hui also appointed the Otamatea Maori Trust Board as the agreed representative of the Otamatea claims (Wai 229 and associated claims). The agreed representatives were authorised to appoint negotiators for the claim.
  - c subsequently, at hui of 21 September 1998 (Otamatea) and 17 January 1999 (Pouto), the agreed representatives appointed Negotiators and supporting negotiators. The Negotiators comprise:

Mr Jimmy Connelly  
Mr Russell Kemp  
Sir Graham Latimer (Chair)  
Mr Morehu Kena  
Mr Rawson Wright  
Mr Harry Pomare  
Mr Tapihana Shelford (Minister)

- 5 The Negotiators confirm that they have a mandate to represent Te Uri o Hau in negotiations with the Crown for the settlement of all the Te Uri o Hau Claims, as

A series of handwritten signatures in black ink, corresponding to the names listed in the previous block. The signatures are written in a cursive style and are arranged horizontally across the bottom of the page.

set out in the attached Deeds of Mandate and Addendum to the Deeds of Mandate.

- 6 The Crown recognises the mandate of the Negotiators. If representation issues arise during negotiations, which cannot be resolved by agreement within Te Uri o Hau, the Crown will discuss further with the Negotiators on how to proceed.

### Background

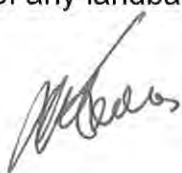
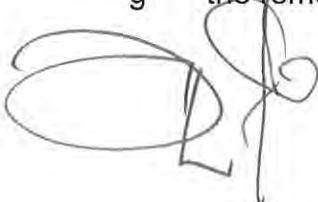
- 7 The broad nature of the Te Uri o Hau Claims are set out in Wai 229, registered with the Waitangi Tribunal on 5 August 1991, and in Wai 271, registered on 30 November 1991. These claims were heard by the Waitangi Tribunal at hearings in August and November 1997, as part of Stage 1 of the Kaipara consolidated hearings. Crown evidence was heard in April 1998, and closing submissions for claimants were addressed to the Tribunal in June 1998.
- 8 The Waitangi Tribunal will not report on the consolidated Kaipara claims until it has completed the Stage 3 hearing process, which is not expected to begin until late 2000 at the earliest.

### Objectives of the Negotiations

- 9 The Crown and the Negotiators agree that the objectives of the negotiations will be to:
- a negotiate a fair, comprehensive, final and durable settlement of all the Te Uri o Hau Claims;
  - b achieve a settlement that restores and enhances the mana and tino rangatiratanga of Te Uri o Hau, and will restore and enhance the honour of the Crown; and
  - c achieve a settlement that provides a platform for a new and ongoing relationship between Te Uri o Hau and the Crown based on the principles of the Treaty of Waitangi.

### Scope of Negotiations

- 10 The Negotiators and the Crown agree that the general scope of negotiations will include, but not necessarily be limited to:
- a the form of any Crown apology;
  - b the fiscal quantum for any redress. (If forestry land is returned, accumulated rentals owing to Te Uri o Hau will be paid on top of the fiscal quantum for redress);
  - c the nature of any other redress, such as redress relating to natural resources;
  - d implementation issues and other administrative actions that may be required to implement any settlement;
  - e the drafting of settlement legislation;
- and in doing so the settlement will enable:
- f settlement of all Te Uri o Hau Claims;
  - g the removal of any landbank in the claim area;



- h the removal of any resumptive memorials from the titles of land subject to the State Owned Enterprises Act 1986, the Railways Corporation Restructuring Act 1990 and Education Act 1989 in the claim area;
- i the removal of the jurisdiction of the courts, the Waitangi Tribunal, and any other judicial body or tribunal, to re-open the Te Uri o Hau Claims or other issues settled by the settlement; and,
- j the removal of application of the Crown Forest Assets Act 1989 in the claim area.

**Waive Other Avenues of Redress**

- 11 The Negotiators and the Crown agree that during these negotiations neither party will pursue or initiate, before any court or tribunal, any proceedings for redress covering all or part of the same subject matter as these negotiations.

**Procedural Matters**

- 12 The Negotiators and the Crown agree that:
- a negotiations will be on a "without prejudice" basis and will be conducted in good faith and in a spirit of co-operation;
  - b negotiations will be conducted in private and will remain confidential unless agreed otherwise (such as when consultation with third parties is necessary) or when the Crown is required to release information under the Official Information Act 1982;
  - c media statements concerning the negotiations will only be made when mutually agreed by both parties;
  - d the Negotiators and the Crown will each ensure regular and appropriate internal consultation procedures throughout the negotiations; and
  - e the Negotiators will report regularly to the Crown on the steps taken to consult and inform beneficiaries of the progress of the negotiations.
  - f The Negotiators and the Crown recognise that cross claim issues over redress assets need to be resolved before a Deed of Settlement can be concluded, and that redress may sometimes need to reflect the importance of an area or feature to other claimant groups.
- 13 The Negotiators and the Crown wish to negotiate in good faith to agree a Heads of Agreement in 1999, if possible.
- 14 The Negotiators will consult with neighbouring tribal groups, if their interests are likely to be affected, and especially with respect to any redress proposals concerning the Kaipara Harbour.

**Governance Structure for Settlement Assets**

- 15 The Negotiators and the Crown agree that an appropriate legal structure endorsed by Te Uri o Hau, which adequately represents all members of Te Uri o Hau, has transparent decision-making and dispute resolution processes, and is fully accountable to Te Uri o Hau, will need to be in place to receive settlement assets.

### Claimant Funding

- 16 The Negotiators and Crown note that the Crown makes a contribution to the negotiation costs of Te Uri o Hau, which is paid in instalments for the achievement of specified milestones in the negotiation process.
- 17 The Negotiators will provide the Crown with independently audited accounts for the claimant funding that it receives from the Crown, identifying that the funding has been spent on the negotiations. Invoices will be available for each instalment of funding received from the Crown.

### Ratification

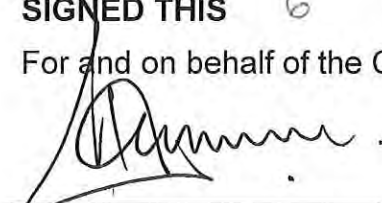
- 18 The Negotiators and the Crown acknowledge that this document does not bind either party to reach a settlement and that any agreement reached in negotiation discussions will not be binding until embodied in a Deed of Settlement and ratified by Te Uri o Hau and the Crown, and settlement legislation is enacted.

### Amendments

- 19 The Negotiators and the Crown acknowledge that it may be necessary to amend this document from time to time and agree that all amendments must be approved by both parties and recorded in writing.

SIGNED THIS 6 DAY OF August 1999

For and on behalf of the Crown:



Sir Douglas Graham KNZM, Minister in Charge of Treaty of Waitangi Negotiations

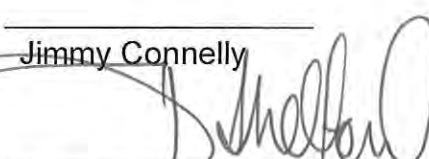
For and on behalf of the Negotiators:



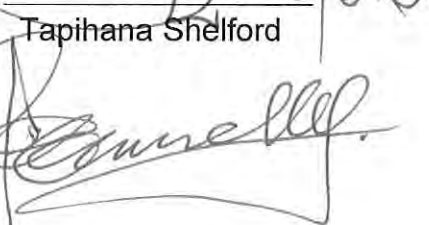
Sir Graham Latimer



Russell Kemp



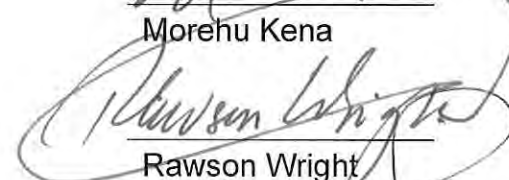
Jimmy Connelly



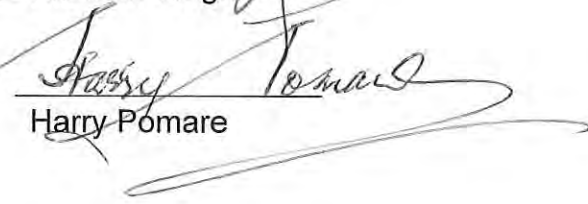
Tapihana Shelford



Morehu Kena



Rawson Wright



Harry Pomare

## **APPENDIX ONE: DEFINITION OF CLAIMS AS IT RELATES TO ABORIGINAL TITLE AND CUSTOMARY RIGHTS**

Below is an example of text used in previous Deeds of Settlements to demonstrate that the settlement covers all historical claims, but does not extinguish aboriginal title or customary rights:

### ***Definition of claims covered by the settlement***

*In this Deed of Settlement "claims of Iwi X" means all claims made at any time by, or on behalf of, all of Iwi X, or one or more individuals, marae or hapu, and:*

- a. founded on rights arising in or by the Treaty of Waitangi, the principles of the Treaty of Waitangi, statute, common law (including customary law and aboriginal title), fiduciary duty or otherwise; and*
- b. arising out of or relating to any loss of land, interests in land, water, rivers, harbours, coastal marine areas, minerals, forests or any natural and physical resource in the claim area of Iwi X, caused by acts or omissions by or on behalf of the Crown or by or under legislation, being a loss that occurred prior to 21 September 1992;*

*whether or not the claims have been researched, registered, or notified.*

### ***Aboriginal title and customary rights***

*The provision relating to the removal of the jurisdiction of the Courts, the Waitangi Tribunal and any other tribunal referred to in the Deed:*

- a. is not intended to prevent any claimant of Iwi X from pursuing claims against the Crown based on aboriginal title or customary rights which do not come within the definition of the claims of Iwi X or to prevent the Crown from disputing such claims or existence of such title or rights; but*
- b. is intended to prevent any claimant of Iwi X from pursuing claims against the Crown (including claims based on aboriginal title or customary right) if such claims come within the definition of the claims of Iwi X, such claims having been settled by this Deed; and*

*nothing in this Deed extinguishes any aboriginal title or customary rights that any claimant of Iwi X may have or constitutes or implies any acknowledgement or acceptance by the Crown that such title or rights exist either generally or in any particular case.*

### *The Extended Te Uri o Hau Claim Area*

The extended claim area supplements the core claim area with land blocks in which Te Uri o Hau asserts some interest, but not necessarily an exclusive interest. It includes (non-exhaustively) the following blocks in the Northern Wairoa area:

Ruarangi	Hungahungatoroa	Maungatawhiri
Waikiekie	Horehore	Mangarata
Okahu		

To the south the extended claim area includes the Oruawharo block, sold to the Crown in 1860.

### **Tribal Groups to Be Represented in Negotiations**

Te Uri o Hau beneficiaries are those who descend from Haumoewharangi and affiliate to Te Uri o Hau marae, in the North Kaipara region. Te Uri o Hau represents the interweaving of a number of hapu, and ancient tribal identities, such as Ngai Tahuhu, Ngati Rangi, Ngati Mauku, and Ngati Tahinga. Te Uri o Hau will represent the interests of these groups in negotiations to the extent that their interests fall within the extended Te Uri o Hau claim area.

### **Te Uri o Hau Marae**

The Te Uri o Hau marae are as follows:

Oturei	Waiotea	Te Pounga
Ripia	Parirau	Naumai
Waikaretu	Te Kowhai	Rawhitiara
Otamatea	Nga Tai Whakarongorua	Waiohau
Arapaoa	Oruawharo	

### **Claims to Kaipara Harbour**

Te Uri o Hau claims to the Kaipara Harbour will be the subject of the settlement negotiations, at the same time as the land claims. Te Uri o Hau will consult with other harbour claimants on appropriate approaches to redress for the harbour.

### **Specific Treaty of Waitangi Claims to be Included in an Overall Te Uri o Hau Settlement**

*Wai 229 (Otamatea Lands Claim)*

*WAI 259 (Tawhiri Pa claim)*

*Wai 271 (Pouto Peninsula Claim)*

*Wai 294 (Poutu Lands claim)*

*Wai 409 (Pouto 2E7B2 Block Claim)*

*Wai 448 (Tuhirangi Block claim)*

*Wai 658 (Wai-riri Whanau Trust claim)*

*Wai 689 (Pouto Topu A, 2F, 2E7A and 2E6 blocks)*

*Wai 721 (Kaipara Lands and Resources)*



*Wai 719 (Kaipara Land and Resources – Pirika Ngai Whanau claim)*

*Wai 106 (Kaipara Fisheries Claim)*

The claim Wai 106 has been lodged on behalf of the Southern Kaipara hapu, Te Taou, and will be addressed by the Crown in a separate Treaty settlement. However, to the extent that the claim includes Te Uri o Hau interests in the Kaipara Harbour, it will be included in an overall settlement of Te Uri o Hau claims.

*Wai 121 (Ngati Whatua Lands and Fisheries Claim), Wai 303 (Te Runanga o Ngati Whatua claim), Wai 468 (Ngapuhi Whanui Trust Claim)*

Wai 121, Wai 303, and Wai 468 are all umbrella Ngati Whatua claims. To the extent that they purport to represent Te Uri o Hau interests in the extended Te Uri o Hau claim area, they will be settled as part of an overall Te Uri o Hau settlement.

### **Claims Excluded from Te Uri o Hau Negotiations**

A number of claims may assert interests over the extended Te Uri o Hau claim area, or border the Te Uri o Hau claim area. These claims will not be settled as part of the proposed negotiations with Te Uri o Hau, but will be addressed by the Crown in separate Treaty settlements, as appropriate.

*Wai 632 (Te Roroa)*

*Wai 188 (Te Kuihi)*

*Wai 683 (Te Iwi o Te Parawhau claim)*

*Wai 688 (Nga Hapu o Whangarei)*

To the extent that Wai 688 purports to represent Te Uri o Hau interests, it will be included in the proposed negotiations.

*Wai 244 (Ngati Wai Trust Board)*

*Wai 532 (Pakiri – Ngati Wai claim)*

*Wai 312 (South Kaipara)*

Other South Kaipara claims associated with Wai 312 will also be excluded, to the extent that they do not purport to represent Te Uri o Hau interests.

*Wai 508 (Ngati Te Ata)*

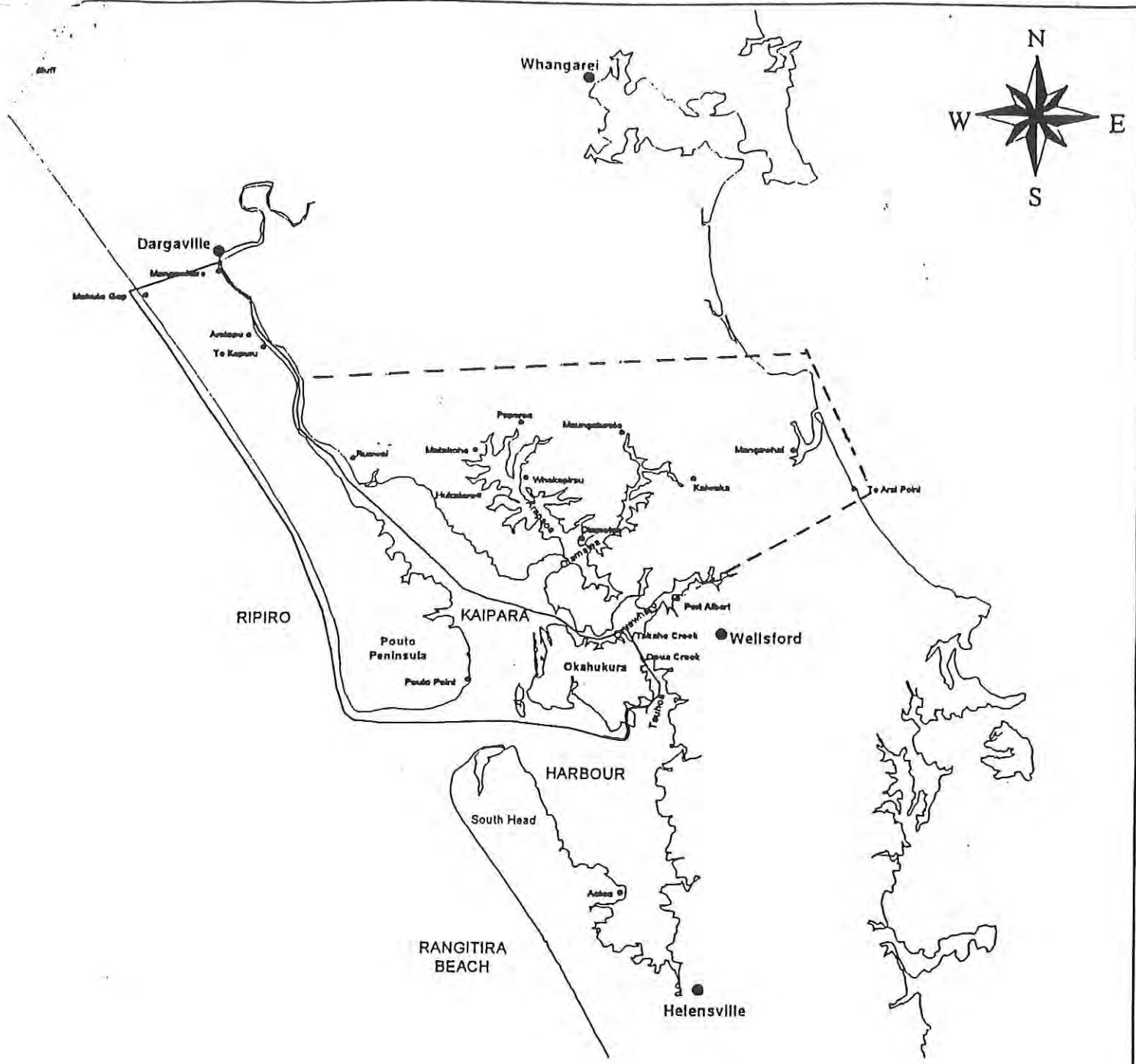
*Wai 470 (Kawerau a Maki)*

*Wai 697 (Te Kopuru Hospital (Maungarongo) claim)*

*Wai 720 (Marutuahu)*

### **Further Information**

For further information about the proposed negotiations, please contact the claim managers, Willie Wright (Pouto), or Esther Gray (Otamatea) at the Otamatea Maori Trust Board, 169 Hurndal Street, Maungaturoto, Phone/Fax: 09-431-8480.



<b>KEY:</b>	Core Te Uri o Hau Area
—————	Te Uri o Hau o te Wahapu o Kaipara (Wai 271)
- - - - -	Otamatea Maori Trust Board (Wai 229)
<b>V B</b>	Kakaraea Block and Moturemu Island is excluded from Wai 271 core area.