Draft Historical account: Te Rarawa Post meeting 13 September 2011

This historical account provides the context for the Crown's acknowledgements of and apology for its historical Treaty breaches against Te Rarawa.

Introduction

Traditionally, Te Rarawa hapu were part of a dynamic iwi society with organised social, cultural, political and economic systems. Te Rarawa life centred on the Hokianga, Whangape and Owhata Harbours, Te Oneroa-a-Tohe, Tangonge and areas lying inland to the Maungataniwha ranges.

Te Rarawa's traditional systems of land tenure were based on mana tupuna (ancestral right) and ahikaroa (continuous occupation). These systems could accommodate multiple and overlapping interests and were responsive to complex and fluid customary land usages. Hapu held land rights. Rangatira controlled land use, provided for whanau and hapu and protected the resources for future generations. Whanau exercised use rights from occupation. Establishing and maintaining relationships were a key factor in this system. Outsiders could only enjoy rights given by the rangatira including land usage. Such rights depended on ongoing occupation and conformity to local tikanga.[1] Permanent alienation outside the hapu or iwi by means of commercial transactions was not part of Maori custom.

From the early 1800s Te Rarawa began to foster relationships with European sawyers, traders and missionaries. Te Rarawa wanted to expand their economic activities and take advantage of developing technological opportunities and allowed a number of these settlers to live on their land.[2] During the 1820s the Hokianga Harbour became an important hub for the export of kauri timber and trade in pork, potatoes and flax. In the following decade ship building became a key industry. Similarly, the Kaitaia district became an important area for

[1] Waitangi Tribunal, *Muriwhenua Land Report*, pp. 24-25.
[2] R. Daamen, 'Exploratory Report on Wai 128 filed by Dame Whina Cooper on behalf of Te Rarawa ki Hokianga, July 1993', Wai 128, Doc A1, p. 17.

early settlement and missionary activity. Te Rarawa extended hospitality to the new arrivals, many of whom intermarried with Mäori, but expected them to adhere to tikanga.

Pre Treaty Land Transactions

As part of increasing trading opportunities Te Rarawa rangatira entered into over 20 land transactions with Päkehä before the Treaty was signed.[3] These transactions were clustered around the Kaitaia plains, and the coastal fringe of the northern Hokianga Harbour along to the western arm of the Mangamuka River.

Although these transactions exposed Te Rarawa hapu to British ideas of land ownership, Te Rarawa maintained their traditional approach towards land dealings with an expectation of ongoing rights and obligations.[4] Many of the transactions were marked by continuing Maori occupation, cultivations and other usage. Some of the land deeds expressly provided for such usage and in some cases the Pakeha buyer made additional payments, over time, for the land.

He Whakaputanga and Te Tiriti o Waitangi

By the 1830s political engagement between Te Rarawa and the British Crown had begun. Te Rarawa supported the idea of Maori taking a united approach to engagement with British officials.

At that time the British Government was receiving reports of growing interest by rival powers and of unlawful behaviour of British subjects in New Zealand. In 1831 some Northern Maori chiefs petitioned the King of England for protection against foreign intrusion and the misbehaviour of British subjects in New Zealand.[5] Te Rarawa consider this began a process that lead to a relationship with the first British Resident, James Busby and the additional British Resident at the Hokianga, the selection of a national flag and the formal signing in 1835 of He Whakaputanga o te Rangatiratanga o Nu Tireni (the Declaration of Independence). Te Rarawa rangatira Papahia, Te Huhu, Te Morenga and Panakareao were among those who signed the Declaration.

Te Rarawa maintain that the intention of He Whakaputanga was to establish a confederacy to lead the Iwi in a new relationship with the British Crown. The signatories of He Whakaputanga o te Rangatiratanga o Nu Tireni declared that the territories of the United Tribes were an independent state, and asked the British King for protection against intrusion by other powers. Later, the first leaders approached to sign Te Tiriti o Waitangi were the members of the confederation of the United Tribes

In 1839, the British Government authorised Captain William Hobson, “to treat with the Aborigines of New Zealand for the recognition of Her Majesty’s sovereign authority over the

[3] Te Uira Associates, Te Rarawa Historical Overview Report, August 2004, pp. 60-61.

[4] Waitangi Tribunal, *Muriwhenua Land Report*, p. 108. Stirling also notes that several Parliamentary Select Committees during the 1830s had discussed Maori views about land transactions. Stirling notes that very few claims were disallowed due to Maori opposition. In Northland, only seven claims were disallowed due to Maori opposition, none of which are identifiable to the Te Rarawa area of interest. Maori objections to claims or their boundaries were not accepted by Commissioner Bell, and he did not record the actual nature of the objections made, Stirling and Towers, Part1: Historical Overview, pp. 430-431, 676, 1052.

[5] Don Loveridge, New Zealand and the Crown, pp. 44, 45

whole or any part of those islands which they may be willing to place under Her Majesty's dominion".[6]

The resulting documents, Te Tiriti o Waitangi and the Treaty of Waitangi, were first debated on 5 February 1840 and signed by Mäori and British representatives the next day.[7] Te Rarawa rangatira expressed their desire to have land sales and trade regulated and for misdemeanours to be controlled (kawanatanga), but understood they would retain their tino rangatiratanga. The tension between these understandings was captured by Te Rarawa rangatira,Nopera Panakareao, when he later said: 'the shadow of the land goes to Queen Victoria, but the substance remains to us'. The divergent understandings of Maori and Crown officials about how the imposition of British law and authority would impact on the exercise of tino rangatiratanga has been a source of debate since 1840.

While some Te Rarawa signed Te Tiriti at Waitangi, most signed at Mangungu, in Hokianga on the 12th February and Kaitaia on the 28th April 1840.[8] Some 2000-3000 Mäori including representatives of Te Rarawa hapu, gathered at Mangungu on the southern Hokianga harbour on 12 February 1840, to meet with Hobson and his officials to discuss the treaty. Although Mäori support for the treaty was not unanimous more than 30 rangatira signed it following a day of speeches and debate.[9]

At Kaitaia on 28 April 1840 officials assured Mäori that a Governor would better control Päkehä settlers, prevent Māori from being cheated in the sale of their land and introduce the blessings of regular government and British laws and institutions. They also assured them that the Queen would not interfere with native laws or customs. Te Rarawa and all the chiefs present, led by Panakareao, then signed the treaty.[10]

Te Rarawa rangatira who signed Te Tiriti o Waitangi, the Mäori version, included Panakareao, Ereonora, Hakitara, Te Toko, Papahia, Takiri, Wiremu Tana, Te Tai, Wiremu Patene, Matenga Paerata, Puhipi Te Ripi, Rawiri, Whiti, Hua, Te Uruti, Pangari, Pero, Himona Tangata, Matiu Huhu, Wiremu Wirehana, Rimu, Wiremu Ngarae, Rapiti Rehurehu, Tamati Mutawa, Poau and Te Reti.

Te Rarawa regard Te Tiriti o Waitangi as the cornerstone document upon which New Zealand's constitutional arrangements rest.

Land Claims Commission

Before signing Te Tiriti o Waitangi Governor Hobson promised that the Crown would inquire into pre-Treaty transactions between Maori and settlers, and return any lands unjustly held. The Crown subsequently set up a Land Claims Commission for this purpose. The Commissioners were to inquire into claims made by Europeans and could only recommend a land grant where they decided a permanent alienation had taken place.[11] The Commissioners could recommend land grants to successful claimants to a maximum of

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[6] Normanby to Hobson, Despatch # 39/1 of 14 August 1839, at BPP 1840 [238] pp. 37-42 No. 16, cited in Stokes, 'A Review of the Evidence', p. 161 and T. Lindsay Buick, *The Treaty of Waitangi: How New Zealand Became a British Colony*, 3rd edn, New Plymouth, 1936, p. 72.

[7] Claudia Orange, *The Treaty of Waitangi*, 1997 reprint, p. 62.

[8] Miria Simpson, *Ngä Tohu o Te Tiriti: Making a Mark*, 1990, pp. 8, 14 and 15.

[9] Miria *Ngā Tohu o te Tiriti Making a Mark. The signatories to the Treaty of Waitangi* (1990) pp 22-29. It appears that 36 rangatira signed the Treaty at "Hokianga" on 12 February 1840 and that 30 signed at "Waimate and Hokianga" on 15 February 1840. .

[10] Stokes, 'A Review of the Evidence', pp. 188-196.

[11] Stokes, 'A Review of the Evidence', pp. 247-248; Don Loveridge, 'The New Zealand Land Claims Act of 1840', pp. 50-6 and D Moore, B Rigby, M Russell, 'Old Land Claims', Waitangi Tribunal Rangahaua Whanui series, 1997, pp. 14-17.

2,560 acres to ensure settlers did not become owners of large areas of land. If the land involved in any transaction was greater than the area the Crown granted, it was the Crown's policy to retain the balance as 'surplus land'.[12] This policy has been a deeply felt grievance for Te Rarawa that continues today.

The process aimed to provide valid pre-treaty transactions with a title recognisable in British law. Crown grants assigned permanent ownership to individuals with absolute rights to transfer ownership of the land and its resources. The grants would replace any arrangements which Mäori and Päkehä had made at the time of the transaction. While the Land Claims Commission could consider the impact of any ongoing arrangements particularly where they might invalidate the claim, it was not set up to determine customary ownership of any lands transacted. It rarely considered whether the Mäori parties to any transaction were the rightful owners.

In many cases the Crown offered successful claimants the opportunity to exchange their grant for a cash equivalent if they acquired Crown land elsewhere (scrip), such as in Auckland, with its better business and employment prospects. In return the Crown would take over their claims and retain the land as surplus. In all instances scrip was paid out for unsurveyed claims. The Crown applied this approach heavily in the northern Hokianga, because of its valuable timber resources which government officials were eager to secure. Often nothing actually changed on the ground and many Maori continued to occupy and use land because claimants had taken up their scrip land elsewhere.[13]

Appointment of a second commission

Problems implementing the first commission's recommendations soon arose. The grants simply stated the entitlement of the grantee to a specified number of acres within a vaguely described area.[14] Most grants remained unsurveyed and boundary descriptions within deeds were often inadequate. The grant itself and any lands deemed to be surplus lands of the Crown were not defined.

The Crown's exchanges of claims for scrip had been made in the absence of clear evidence of the actual extent of the areas claimed. The actual area of these claims was often smaller than that estimated within the deeds. The Crown was left with a deficit between the area for which it had paid scrip and the actual area it was able to secure and no way of recovering the difference.

For many years following the Commission, Maori continued to occupy and use some of these lands and the resources as they had always done. Some of those living on the land had not been involved in the transactions involving the land and there was confusion amongst Maori and settler communities about who held rights in certain areas. Te Rarawa

[12] Stokes, 'A Review of the Evidence', p. 266; D Moore et al, 'Old Land Claims', pp. 68-63.
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[14] Waitangi Tribunal, Muriwhenua Land Report, p. 131.

hapu continued to occupy land which they believed was theirs and this led to rising tension between hapu and grantees.

These issues prompted another round of inquiry under a second commission in 1857. This time, the Land Claims Commissioner, Francis Dillon Bell, was to define the original transactions by survey and distinguish between Crown granted areas and lands claimed by the Crown under its surplus lands policy.[15] In this regard the role of Maori witnesses was to give evidence on boundary issues and the location and size of reserves.[16] Bell did not reinvestigate the original transaction or claims which had been exchanged for scrip. In order to encourage the surveying and rehearing of the claims Bell was empowered to grant claimants land in excess of the 2,560 acres restriction to cover the costs of surveys they incurred.

Kaitaia District

Before the Treaty was signed an estimated 22,000 acres of land in the fertile Kaitaia district were transacted for around £1,154. The prominent Te Rarawa rangatira Panakareao led most of these transactions which included the Awanui, Okiore, Waiokai, Kerekere, Ohotu, Otararau, Tangonge and Pukepoto Deeds. These transactions were mainly with missionaries from the Church Missionary Society (CMS) and their support workers.[17]

In February 1843, Commissioner Godfrey proceeded to hear seven claims within the Kaitaia area, predominantly from missionaries. According to Godfrey, Panakareao and other chiefs declared at the outset of his Kaitaia hearings that they would acknowledge the land transactions around Kaitaia but their hapu would resume any lands not granted to the claimants. In addition, they would not transact any more lands or allow any future interference by the Government.[18] Governor Fitzroy in 1843 had reportedly promised to return surplus lands to Maori, a promise he reiterated to northern Maori in September 1844.[19] Governor Grey later repudiated this promise.

Godfrey recommended that Crown grants be issued, in most cases for a specific land area and repeating any joint occupancy or other special clauses which were in the original deeds.[20] Governor Fitzroy subsequently issued most of the recommended grants, but in two cases granted more land than Godfrey recommended.

The second commission examined the Kaitaia cases at Mangonui from 1857 to 1859.[21] As a result of Bell's inquiry, the Crown cancelled and reissued a number of grants, ignored any arrangements made to recognise joint occupancy, and increased the amount of land granted to settlers. The Crown also retained more land as surplus mainly as a result of surveys made

[15] Waitangi Tribunal, Muriwhenua Land Report, p. 131.
[16] Waitangi Tribunal, Muriwhenua Land Report, p. 131.
[17] Waitangi Tribunal, Muriwhenua Land Report, pp. 60-61.
[18] Stokes, A review of the Evidence, Vol I, p. 251
[19] Stirling and Towers, p.p. 653-655.
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for the purposes of the second commission..[22] The amount of land set aside from the transactions for Maori was correspondingly diminished as illustrated in the following cases.

Otararau

In 1835 the Reverend Joseph Matthews entered into a transaction for the Otararau block, which bordered on Lake Tangonge, from Panakareao and four others. Between 1835 and 1842 Matthews made a series of payments for the block which was estimated to contain about 2,000 acres.

The Otararau block, which included Waiokai, was investigated by the first Land Claims Commission in 1843. Matthews claimed 700 acres in each of the blocks. Panakareao endorsed the transactions and Godfrey recommended the award of 1,400 acres for the two blocks and a Crown grant was issued. During this time local hapu continued to use and occupy this area.

The block had been surveyed and shown to contain 1,855 acres by the time of the second commission in 1857. Matthews requested that an area of low swampy land (later found to contain 685 acres), adjacent to Lake Tangonge, be cut off for the local hapu. Matthews was subsequently awarded 1,170 acres in the Otararau block. The Crown retained the remaining 685 acres as surplus lands, and it became known as the Tangonge block.[23] This land is now part of the Sweetwater farm.

The Pukepoto hapu were not aware that the Crown claimed the 685 acres under its “surplus lands” policy[24] and continued to use the lake and surrounding wetlands to catch eels, snare birds or use other resources. The Crown’s claim to ownership of the land only became clear in the 1890s, when Timoti Puhipi unsuccessfully claimed royalties for kauri gum extracted from the Tangonge block.[25] In 1893 Puhipi and others (including Matthews) petitioned parliament about the ownership of the block and the Native Affairs Committee recommended an inquiry.[26] The Surveyor-General advised that this could potentially threaten the Crown title to surplus lands and there was no inquiry. [27]

There were further petitions in 1894 and 1906. The 1906 petition was referred to the Houston Commission in 1907, which heard evidence from the petitioners at Kaitaia and concluded that Rev Matthews had promised to return Tangonge land to Maori, and that it should not have been considered as “surplus land”. The Commission recommended that the land be vested in the Maori owners.[28] The Crown did not implement the Commission’s recommendation.

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[22] Stirling and Towers, p.p. 653-655.

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A further petition in 1924 was investigated by the Native Land Court at Ahipara in February 1925. The Court thought it probable that Matthews had promised to return the Tangonge land to Maori, but considered he did not have any legal authority to do so. MacCormick did not make specific recommendations but suggested the Crown make some concession to the petitioners.

In 1927 the Sim Commission also considered the matter in response to a further petition.[29] It concluded that the petitioners had failed to establish that Matthews had agreed to give the land back to them.[30] In 1939 the Native Affairs Committee recommended that another petition concerning the Tangonge lands be referred for inquiry.[31] This did not happen until the Myers Commission (Surplus Lands Commission) was established in 1946. The Myers Commission agreed with the conclusions of the MacCormick and Sim Commissioners.[32] This led to the establishment of the Tai Tokerau Maori Trust Board to administer an award of compensation for the benefit of all the iwi of Tai Tokerau.

In the 1930s and 1940s a number of whanau continued to live on the Tangonge block in the belief that it was Maori land. Meanwhile the Crown had issued occupation licences for much of the block and the licence holders complained about the Maori 'squatters'. The Department of Lands and Survey decided not to evict the Maori families, but asked the Native Department to report on the conditions in which the families were living to see whether they could be moved off because of the poor living conditions.[33] The remaining families were not finally removed from the land until the 1960s.[34]

Awanui

From 1837-39 the 13,684 acre Awanui block was transacted between Panakareao and others and a settler H Southee, who was married to Ati, daughter of rangatira, Ruanui. A 1839 deed stated that the land was for Southee and his children forever but preserved cultivation rights on the banks of the river for local hapu, 'from one generation to another.'[35]

The claim was investigated by the first commission in 1843. The Maori signatories supported Southee's claim but emphasised that the area along the Awanui River was reserved for them. A Crown grant of 2,560 acres was issued to Maxwell, who had bought part of Southee's claim. Two traders were awarded scrip for debts owed to them by Southee who then received a Crown grant for 186 acres.[36]

In 1855 Maxwell told local Maori to abandon their cultivations along the Awanui River bank claiming the land was his. The issue was referred to Land Commissioner Bell in 1857, who recommended that 200 acres be set aside for Maori. Maxwell was granted 5,124 acres

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32 C. Geiringer, p. 228; 'Report of the Royal Commission to Inquire into Surplus Lands', AJHR 1948, G-8. Stirling does not mention the Tangonge block in his section on the Sim Commission.

33 Armstrong and Stirling, p. 412.

34 Waitangi Tribunal, *Muriwhenua Land Report*, p. 161

35 OLC 1/875-877, pp. 1843-1847, cited in Waitangi Tribunal, *Muriwhenua Land Report*, p. 70.

36 Armstrong and Stirling, pp. 166-167.

(including 2,538 for surveys and fees). Maori were awarded the 200-acre reserve, but a second reserve of 200 acres recommended for the rangatira Puhipi was never created. The Crown retained 8,360 acres of surplus.[37]

Okiore

In 1839 CMS surgeon Dr Samuel H Ford, Panakareao and 13 others negotiated a transaction for an estimated 3,000 acres at Okiore. The Okiore deed excluded the village of Te Kokopu and included a 'joint occupancy' clause to preserve Maori cultivation rights along the banks of the Awanui River.[38]

The first commission recommended a grant of 1,357 acres with the proviso that it exclude 'the Banks of the River Awanui and any other cultivation grounds for the Natives that the Protector of Aborigines may think proper to reserve out of this grant'. Governor Fitzroy issued 1,357 acres of scrip in July 1845. The scrip was not accepted and the land was later surveyed and found to contain 8,280 acres.

In August 1860 the second commission ordered a grant of 2,627 acres, being the 1,357 acres awarded by the first commission plus survey allowances of 1,270 acres. The Commission also set aside 132-acres for Maori, which became known as the Matarau Native Reserve. The Commission agreed to make a further reserve within the block "if asked to do so and if it was recommended by [the Resident Magistrate] Mr White".[39] No further reserve was established. Bell later recorded that no such request was made. The Crown retained the surplus area of 5,653 acres.

Hokianga Old Land Claims[40]

Commissioner Richmond inquired into a number of the northern Hokianga claims in 1843. The claims involved some 90,000 acres on the northern side of the Hokianga harbour up to Mangamuka River, which were transacted for £1,957.[41] Local rangatira entered into transactions with settlers over land at Te Mata, Punehu, Ohopa, Whanganamu, Motuti, Motukauri, Motukaraka, Kohukohu, Rahurahu, Mangataipa, Horohoro, and Moturata. The Catholic Church was associated with land acquisition at Totara Point and also acquired land at Purakau and Rongotea in the North Hokianga.[42] A number of Crown grants were made

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[37] Ibid, pp. 167-168.

[38] See Figure 18(a) from Waitangi Tribunal, *Muriwhenua Land Report*, p. 62 citing the Okiore Deed from HH Turton (ed), *Maori deeds of old private land purchases in New Zealand from the year 1815 to 1840 with pre-emptive and other claims*, NZ Government, Wgtn, 1877-1883.

[39] Stokes, A review of the Evidence, Vol II, pp. 520-521

[40] See Anthony Patete Memo one who used a number of sources to complete an earlier draft of the Hokianga claims. Stirling and Towers, Part1: Historical Overview and Part 2: Hokianga Scrip Claims, Claim Studies, Appendices and Bibliography; Rose Daamen, 'Exploratory Report on Wai 128 filed by Dame Whina Cooper on behalf of Te Rarawa ki Hokianga, July 1993', Wai 128, Doc A1, D Armstrong and B Stirling, 'Surplus Lands. Policy and Practice: 1840-1950', Wai 45 #J2, 1995; P Berghan, 'Block Research Narratives Related to Old Land Claims completed for the Crown Forestry Rental Trust's Northland Research Assistance Projects', June 2005; *AJHR* 1862, D-10; *AJHR* 1863,D-14; *AJHR* 1878, H-26; *AJHR* 1881, C-1; Foreshore and Seabed title research courtesy of Beverly Murray, Ministry of Justice, Wgtn.

[41] Anthony Patete memo 1, table 3, p. 18

[42] Stirling notes that pre-Treaty transactions in the Hokianga proper broadly followed a similar approach by Maori to their ongoing rights to land transacted, and similar motives for entering into transactions, to other claim areas, Stirling and Towers, Part1: Historical Overview, pp. 117-118. Also Daamen, pp. 27-33.

but most of the Commissioners' recommendations were dealt with using scrip. Many claims were not dealt with to the satisfaction of either the Maori or the settler parties.

Hokianga Maori saw the second Commission as a chance to assert the rights they believed they had retained. They continued to occupy and cultivate much of the land involved, including some of the 'scrip lands' claimed by the Crown and initially co-operated with the second Commission when it commenced in 1857 and helped identify the poorly defined scrip claims. They appeared before the Bell commission to secure their interests but the Commission did not find in their favour.[43] They expected the surveys to mitigate any boundary quarrels and induce Pakeha to settle in the Hokianga. Difficulties and extensive delays with surveying, however, soon presented themselves.

The Crown regarded lands for which it had paid 'scrip', to be Crown land. Much of this was unsurveyed and the Crown became concerned it had paid out more to settlers in scrip than there was land involved in the original transactions. In late 1858, as part of with Bell's commission, the Crown undertook a comprehensive survey of the Hokianga scrip lands to reconcile the estimated acreage claimed and scrip paid out.[44]

The surveys were overseen by a Native Department interpreter, who had grown up in the Hokianga and was related to a claimant to significant Hokianga lands.[45] In some cases the Crown official involved himself in the survey process in excess of his authority.[46] In other cases, he simply dismissed boundary disputes by Māori and insisted Māori strictly adhere to the boundary findings of the first commission.[47] In other instances he disregarded some of the findings of the first commission where 'such action would benefit the Crown including the survey of several claims that had been disallowed by the first Commission.'[48]

Motukaraka

The Motukaraka transaction, which was the largest in the northern Hokianga, occurred in 1831 between Thomas McDonnell and Taonui, Whatiia and others. McDonnell claimed an area of 80 square miles (50,000 acres) of land at Motukaraka for goods worth £134 at Sydney prices. The land was transacted without the knowledge of hapu living on it and this led to considerable dispute over the right of the parties to enter into the transaction. It was reputedly motivated by a dispute between Ngati Here and the wider Ngai Tupoto hapu.

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[43] Stirling and Towers, p. 1062.

[44] Bell held hui in Hokianga with rangatira to define claims and their boundaries. Unable to complete all the claims during his stay, he asked rangatira to complete the work on their own. Many of the claims defined at the hui and submitted by rangatira were private claims rather than the scrip claims Bell was to pursue later that year.

[45] Rigby et al, 'Old Land Claims', p. 128. While the Auckland Provincial Government were to pay for the surveying carried out by Clarke, Bell wanted an officer of central government with experience in dealing with Maori to accompany Clarke. This was because provincial governments had little to do with Maori affairs which remained the domain of central government. The officer was to be an interpreter with the intention that he would avert disputes between the surveyor and Maori that might arise from misunderstandings. Bell appointed White due to White's previous work with Bell, see Stirling and Towers, Part 2: Hokianga Scrip Claims, Claim Studies, Appendices and Bibliography p. 1129.

[46] B Rigby et al, 'Old Land Claims', pp. 131, 136, 143. Rigby et al note that White 'wrongfully assumed the powers of an assistant commissioner', in the collection of evidence and surveying 'on the basis of his determination that the original transaction had been an equitable one'; Stirling and Towers, Part1: Historical Overview, p. 800.

[47] Rigby et al, 'Old Land Claims', pp. 128, 133, 136, -144

[48] Rigby et al, 'Old Land Claims', pp. 143-144.

Commissioner Richmond investigated McDonnell's Motukaraka claim in 1843.[49] Taonui confirmed the transaction but his right to sell the land was strongly opposed by many Ngati Here; a section of the Ngai Tupoto hapu living on the block. Lead by Hua, Te Uruti and others they did not accept his right to sell[50] though they did concede that Whatiia had mana whenua and had agreed to the sale of Motukaraka Point of around 200 acres despite the fact that they were living on the land.[51]

The First Commission decided that McDonnell had made a valid purchase and recommended the maximum Crown grant of 2,560 acres with one restriction.[52] Because Taonui's right to sell Motukaraka land was disputed, Richmond specified that 2,560 acres was to be granted "provided there is that quantity included in the boundaries stated in this Report." Governor Fitzroy confirmed Richmond's recommendation on 16 January 1846, and a Crown grant was issued on 1 February 1846 for 2,560 acres within the boundaries Richmond identified in his report.[53] The boundaries Richmond stipulated were those put forth by Ngati Here and only corresponded to the Motukaraka Point, of 200 acres.[54]

McDonnell did not accept the first commission's recommendations which restricted the total allowable grant to 2,560 acres across all of his claims in the Hokinaga including Motukaraka.[55] For their part Ngai Tupoto/Ngati Here living on Motukaraka continued to deny Taonui's right to sell Motukaraka land and only affirmed McDonnell's purchase of the Motukaraka Point.[56]

In August 1858, following a new investigation by Commissioner Bell, McDonnell officially relinquished his claim on Motukaraka in exchange for scrip and Motukaraka Island in the Hokianga Harbour.[57] Ngai Tupoto/Ngati Here continued to occupy the land, tending to their gardens and exporting spars.[58]

Commissioner Bell visited the Motukaraka area in March 1858 and informed Ngai Tupoto/Ngati Here that McDonnell's purchase was now the property of the government.[59] Hapu members and Commissioner Bell walked the boundaries of McDonnell's purchase. Survey documents from 1858 noted McDonnell's purchase only covered the Motukaraka Point which was consistent with the hapu view.[60]

Those living on the land sought to have areas reserved to protect their homes. This was denied and Motukaraka Point was put up for auction. Ngati Here were forced to purchase

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[49] Marian Horan, 'Motukaraka Research Report', 2004, pp. 3-4.
[50] Ibid, pp. 8-10.
[51] Ibid, p. 7.
[52] Ibid, pp 4, 6.
[53] *New Zealand Government Gazette Province of New Ulster*, vol. 2, no 26, Thursday 6 December 1849, p. 38. See also Marian Horan, Motukaraka document bank, item 1a.
[54] Marian Horan, Motukaraka document bank, items 1a and 6, pp. 9-10. Commissioner Bell noted in his 1857 report that 'Taonui and Waka Nene' had continued 'to affirm McDonnell's title to even larger boundaries than Commissioner Richmond awarded, while others have been all along equally determined to restrict those boundaries within much smaller limits.' According to Stirling and Te Rarawa Hstoriacl overview rpt, This area was just 67 acres when surveyed by Hite in 1859, Stirling, Part 1: Historical Overview, p. 877 – check Horan footnote.
[55] Horan, pp. 5-6
[56] Horan, Motukaraka document bank, items 5, 6 and 7.
[57] Marian Horan, 'Motukaraka Research Report', 2004, pp. 14-15.
[58] Stirling, Part 1: Historical Overview, pp. 877-878.
[59] Marian Horan, 'Motukaraka Research Report', 2004, pp. 15-18.
[60] Marian Horan, Motukaraka document bank, item 10. Note also that Ngai Tupoto also noted that McDonnell only covered the Motukaraka Point – see document bank, item 8.

the land to safe guard their homes and marae, through settler Christopher Harris, husband of Ngahuia.[61]

In the late 1870s, the Crown began asserting ownership to the balance of the 2,560 acres of Motukaraka land under its surplus land policy. It tried to survey the land but stopped after protest from local Maori.[62] Local hapu member, Rihi Hare Maika was arrested for the removal of survey pegs and there were threats against the surveyors. In the early 1880s Nui Hare of Ngai Tupoto sought a land title investigation through the Native Land Court, but was unsuccessful.[63]

At this time the Crown wanted to establish a Special Village Settlement on Motukaraka lands, to encourage settlers to the area.[64] Continued Ngai Tupoto protest delayed the survey of the land until the mid-1880s.[65] During the subdivision process they sought to have a number of areas set aside for their use, including several urupa, cultivations and papakainga and reportedly agreed to a series of reservations.[66] However, the surveyors reduced the size of most requests. The Crown granted wahi tapu to Ngai Tupoto at no cost. The reservation of cultivation and papakainga areas, however, involved an exchange of lands with three acres given up for every acre reserved because the land at Motukaraka was considered to be excellent quality.[67] In total 127 acres at Omarakura and 45 acres at Waerou were transferred to the Crown to safeguard homes and gardens. The reserves that were set aside were in the name of individuals on behalf of the hapu. Several of the reserves were subsequently alienated.

In later years Ngai Tupoto petitioned parliament in relation to these events. Hone Hare and 44 others of Ngai Tupoto, petitioned in 1926. The Sim Commission considered the petition but dismissed it in 1927 without investigation. A further petition in 1938, from George Marriner on behalf of G. J. Harris and 96 others referred to the Myers Commission, was equally unsuccessful.[68]

Kohukohu

Land involved in a pre-treaty transaction was on occasion onsold by the settler involved to another settler, often without the knowledge and authority of the relevant hapu. The original Kohukohu transaction concerned an allocation of land by Ihutai rangatira to the first Pakeha resident at Kohukohu, David Clarke. Clarke married a daughter of Wharepapa but drowned in 1831. At some point Tarewarewa, Wharepapa and others also transacted some land at Kohukohu with Frederick Maning.[69] Maning sold the claim to Dr Adolphus Ross, and Rev. Nathaniel Turner of the Wesleyan Mission in 1838 who sold small portions of it to G. F. Russell in 1839 and to another settler. Turner sold the remainder to Mathew Marriner two years later.[70]

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[61] Marian Horan, 'Motukaraka Research Report', p. 20.

[62] Ibid, p. 19. There was some suggestion the Crown prepared to purchase the block in the late 1870s and then uncovered its 'tangled' history and decided to assert the surplus interest – more follow up needed.

[63] Susan Butterworth, 'Case Studies in Northern Hokianga Land Alienation', August 2003, p. 40, fn 79.

[64] Marian Horan, 'Motukaraka Research Report', 2004, p. 19.

[65] Ibid, p. 22.

[66] Horan, p. 24

[67] Ibid, p. 23.

[68] Stirling, Part 1: Historical Overview, pp. 989-990; Te Uira Associates, 'Te Rarawa Historical Overview Report: Volume One of Two, Working Draft' A Report commission by Te Runanga o Te Rarawa, August 2004, p. 49.

[69] Stirling and Towers, p. 121, p. 388.

[70] Stirling and Towers, p. 388.

When the first commission heard Mariner's claim Wharepapa disputed the transaction alleging Marriner had not paid the full price. He also denied that the original transaction was a permanent alienation and sought to have land reserved.[71] Tarewarewa and his hapu denied the right of Wharepapa to allocate the land involved in the original transaction.[72] The Commission considered that Tarewarewa and his hapu had stronger interests than Wharepapa to the land involved in the two overlapping transactions.[73] It upheld Mariner's claim and recommended a grant which Marriner exchanged for £950 of "scrip". In recognition of Wharepapa's interests the Commission recommended that a portion of land be reserved for Te Ihutai located between the Waihoehoe stream and Mariner's house.[74] .

The second Commission reheard the claim at Kohukohu in 1858. Wharepapa continued to dispute Mariner's claim. Bell determined Mariner's claim to be 815 acres, but one quarter of that area was to be reserved for chief Wharepapa, his grandson Hori Karaka (George Clarke) and Ihutai and located between the Waihoehoe stream and Mariner's house.[75] However the Crown did not grant any land to Wharepapa, Hori Karaka, or the resident hapu. The Crown's survey of the land included 53 acres for Russell and Gundry's respective claims, despite the fact that these transactions had not been identified at the first Commission.[76]

In 1859 Wharepapa's ongoing dispute threatened to disrupt the survey of the Crown's scrip interest. The surveyor offered to survey a small piece for Hori Karaka, if he allowed the surveyor to finish his work.[77] Karaka refused and would not allow the survey without his grandfather's and the Ihutai interests also being cut out. Nothing further happened until 1883.[78]

In 1883 the Crown surveyed out 570 acres to cover its interest but did not define the land that was supposed to be reserved for Wharepapa, Hori Karaka and Ihutai.[79] In 1884 the error was revealed and special legislation was required to fix the problem. The Native Promises and Contract Act 1888 empowered the Native Land Court to determine interests in two areas to be set aside from the Marriner claims.

Mangamuka River Claims

A number of old land claims had been confirmed by the Richmond Commission along the upper reaches of the Hokianga Harbour between Te Karae block and the Mangamuka River in 1843. These included Mangataipa, Moturata, Horohoro and Rahurahu.

As part of the Bell Commission from 1858 a surveyor, accompanied by interpreter White, commenced surveys along the Mangamuka River. These claims commonly involved large inaccuracies in the estimated areas involved, Crown payment in scrip of an inflated amount, and the failure of the Crown agents to adhere to the instructions of Commissioner Bell.

The Mangataipa claim by Cassidy was estimated to be 1500 acres. During the Richmond Commission in 1843, two witnesses involved in the Mangataipa transaction gave evidence in support of Cassidy's claim. Commissioner Richmond recommended an award of 299 acres.

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[71] Stirling and Towers, pp. 388, 392, 393
[72] Stirling and Towers, p. 120.
[73] Stirling and Towers, pp. 387, 394.
[74] Stirling and Towers, p. 395, 1288.
[75] Stirling andTowers, p. 1287.
[76] Stirling and Towers, p. 1289.
[77] Stirling and Towers, p. 1287
[78] Stirling and Towers, p. 121
[79] Stirling and Towers, p. 1290.

An amended award was approved and gazetted in September 1843 for 1053 acres which was paid by way of £1053 scrip.[80]

On survey in 1858, Mangataipa was found to contain 105 acres. Rangatira Te Otene and Wiremu Patene had sought a 40 acre reserve for land that was being used for houses, gardens and an urupa, offering to exchange land adjacent. Bell had instructed White to take care to reserve homes and gardens, but White reduced the area to six acres of wahi tapu, in exchange for land elsewhere.

Robert Hunt's Moturata claim involved 3,000 acres. At the Commission hearing "Tarro" acknowledged the original transaction and payments made. A second witness, "Matte", referred to a further payment to extend the boundary and a dispute about the extension of the boundary to Mangataipa. The Commission recommended an award of 480 acres which was approved but later extended to 2,260 acres. Hunt received scrip worth £2,260.[81]

When the area was surveyed in 1858 it was found to be 533 acres. The claim was disputed by Wiremu Patene, Te Otene and Mohi and they maintained that Hunt had not followed through with payment. White, acting outside of his authority, rejected these claims as they were not raised at the Commission and failed to adhere to the boundaries that had been agreed by Bell. Wiremu Patene, Mohi Tawhai and other rangatira had sought to retain the land through exchange but White overrode their request.

The Richmond Commission heard Denis Cochrane's claims for 1000 and 500 acres respectively at "Raurau" [Rahurahu]. "Etiro" and "Epuna" testified before the commission in support of the transaction which they originally entered into with Thomas McDonnell and G.F. Russell. It recommended an award of 275 acres conditional upon settling one of the boundaries. The award was later approved but subsequently amended to include an extra 725 acres.[82] Two hundred acres of the claim was to be in the name of his half-caste daughter. Cochrane applied for and received £800 in scrip for the balance of the land minus the 200 acres.[83]

During the Bell Commission there was Maori opposition to the survey with some doubt over the rights of those who were party to the transactions. Rangatira Wiremu Patene, Hohepa Otene, Wi Hopihona Tahua, Ngairo Whare Toetoe, and Rapana Te Waha had agreed to the boundaries but only to an area of 200 acres for the whole claim.[84] The surveyor later returned to Rahurahu in connection with a survey of an adjacent land claim (Horohoro).[85]

At Horohoro, claims were made on behalf of the children of the late Thomas Mitchell. "Matti" and "Kirou" acknowledged the original transaction and payments made. Commissioner Richmond recommended an award of 276 acres which was subsequently approved. There is no evidence of any grant being issued.[86]

Mitchell never surveyed the claim or raised the matter under the 1856 Land Claims Settlement Act so the land reverted to Maori. Not to let the matter stand White surveyed the boundaries during the Bell Commission as he interpreted them taking in 271 acres and without any authority assumed ownership for the Crown.[87]

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[80] Berghan Block narratives, p. 50.
[81] Berghan, pp. 158-159
[82] Berghan, p. 99
[83] Stirling and Towers, pp. 1152, 1224.
[84] Stirling and Towers, p. 1225.
[85] Stirling and Towers, p. 1228.
[86] Berghan, pp. 489-490
[87] Stirling and Towers, p. 1229

Outcome of Second Commission process

As a result of the Bell Commission the Crown granted a total of 16,966 acres around the Kaitaia district and retained 15,966 acres as "surplus". It set aside a total of 1,143 acres in four reserves for Maori. These reserves, in addition to the £1,541 received from the original transactions represented the benefit Te Rarawa received for a total of 34,075 acres.[88]

The new Crown grants fundamentally altered the nature of the transactions between Te Rarawa rangatira and Europeans in the 1830s around the Kaitaia district. Many of those transactions, including the Awanui, Okiore, Ohotu and Pukepoto deeds, had provided for Māori communities to continue living on and using the resources of the land.[89] In other cases such as the Kaitaia-Kerekere block Māori occupation, cultivation and traditional usage continued unabated anyway.[90] The new grants were unconditional and did not carry on these provisions from the original deeds.

In the northern Hokianga Bell's Commission resulted in the Crown paying out £7,765 in scrip to settlers of the 90,000 acres claimed and retaining around 5,563 acres in surplus and scrip survey.[91] The Crown granted just 526 acres to Maori.[92] Only one reserve of six acres was granted along Mangamuka River in the northern Hokianga despite requests for more.

"Half-caste claims"

The Bell Commission finished before resolving all claims, including "half-caste claims". These were the claims of children who had a Māori mother and Pakeha father. In the northern Hokianga district one such claim was made for 29.5 acres at Punehu.[93] Despite several attempts to have the Punehu claims resolved, the Native Land Court declared in 1880 that the claim had lapsed and the land was deemed to be Crown land.[94]

The Court also considered a claim for 100 acres at Paraoanui (Parawanui). It was claimed that in 1859 Ngai Tupoto gifted about 100 acres to Makareta Kaneri (Gundry), by then a widow, to support her and her children. After initially declaring that the claim had lapsed, the Native Land Court awarded Pairama Te Tihi and Ngai Tupoto the land in March 1882. The Crown, however, asserted ownership and the court award was overturned in favour of the Crown. Eventually, the Crown set aside 14 acres at Paraoanui for the "half-castes".[95]

Pre 1865 purchases

[88] Anthony Patete tables in Memo 1, p. 14-

[89] Ibid p. 63 and p. 70. Stokes, 'A Review of the Evidence', p. 123.

[90] Ibid, p. 153.

[91] Stirling calculated around 546 acres in Hokianga proper was requested by Maori as reserves from scrip surveys out of an area of over 15,000 acres surveyed by White, Stirling . Part 2: Hokianga Scrip Claims, Claim Studies, Appendices and Bibliography, p. 1298.

[93] Stirling notes that the schedule of outstanding claims in the Hokianga proper appeared to be 'in error in some cases', Stirling, Part 2: Hokianga Scrip Claims, Claim Studies, Appendices and Bibliography, p. 1320.

[94] Ibid, pp. 1328-1330, 1333-1334.

[95] Ibid, pp. 1332-1333, 140-1342

The Crown began a large scale land purchasing programme in the far north from 1858. The aim of the programme was to extinguish customary land title and secure Crown ownership for the purpose of opening up Maori lands for European settlement.

The Crown also intended to set aside for Maori part of the land purchased under a new tenure for Maori use. Governor Gore Browne noted in 1857 the Crown's intention in the Far North "to acquire large tracts of land by purchase from the Natives, out of which blocks, varying in extent from 100 to 2,000 acres, should be reconveyed under Crown grants to the principal Chiefs upon the extinction of the tribal title, such blocks consisting not only of cultivable but also of forest land, in order to secure to them a continued revenue."[96]

The Crown actively pursued its purchasing programme around the Kaitaia area. Through a series of purchases from 1858 to 1863 the Crown acquired over 150,000 acres in the far north including Muriwhenua South, Kaiawe, Ahipara, Kokohuia and Maungataniwha blocks.[97] This gave the Crown control of a substantial area of land in which Te Rarawa had interests and almost all remaining Māori land North of Kaitaia. It also had the effect of restricting legal ownership of Te Rarawa landholdings in the Kaitaia area to the Pukepoto area, which was largely low-lying swampy land.[98]

It was Crown policy at this time to pay low prices for Māori land and on-sell it for high prices, with the profits subsidising immigration and financing infrastructure in the colony. The Crown generally promoted the idea that proximity to Pakeha settlement and opportunities for economic development were the principal benefits for Māori from land transactions. For their part, Te Rarawa rangatira continued to look for opportunities to benefit from the trade, technology and other benefits that proximity to Pakeha settlement appeared to offer.[99]

Kaiawe, Ahipara and Kokohuia

In 1859 the Crown purchased the Kaiawe block (1,375 acres) from Te Rarawa rangatira Te Puhipi Te Rewharewha and Te Waka Rangaunu for 58 pounds.[100] This purchase adjoined the Crown's surplus lands in the north (Tangonge block) and the surplus lands from the Puckey transaction in the south (Pukepoto). Little information is available about this purchase.

The Ahipara block (9,470 acres) described as "the finest land" was the largest of a suite of purchases completed around the Kaitaia area in 1859. [101] The Crown purchasing agent made two payments - 100 pounds for the claims of Te Puhipi Te Rewharewha and Te Waka Rangaunu and 700 pounds to 17 othersThe loss of the Ahipara block on the western shore of Lake Tangonge legally constrained Te Rarawa's access to the rich food resources of its wetlands. Although little changed on the ground at this time, these areas were later drained for farming purposes. The 800 acre Kokohuia block adjoining Ahipara was purchased by the Crown in 1861 for 50 pounds from eight Maori including Te Puhipi Te Rewharewha and Te Waka Rangaunu.[102]

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[96] Governor Gore Brown, land acquisition policy for the Far North, 1857, cited in Waitangi Tribunal, Muriwhenua Land Report, p. 255.
[97] Waitangi Tribunal, Muriwhenua Land Report, pp. 214-5, 262-4
[98] Stokes, A review of the Evidence, vol II, p. 530, and maps in Turtons,
[99] Waitangi Tribunal, Muriwhenua Land Report, pp. 190-191
[100] Turton's Deeds, Vol 1, Deed no. , p. 7
[101] Stokes, A review of the Evidence, vol II, p. 532
[102] Stokes, A review of the Evidence, vol II, p. 532

Through these purchases the Crown secured almost all the remaining part of the Ahipara-Kaitaia-Awanui flats and the bordering hills.[103] In the Ahipara-Awanui area an initial boom in pakeha settlement in the 1860s did not last. Maori remained in occupation and continued to use some of these lands and resources.

Muriwhenua South

The Muriwhenua South block makes up a substantial part of the Aupouri State Forest. Te Rarawa had interests in the southern portion of this extensive block of land. The purchase of the Muriwhenua South block was facilitated by the District Land Purchase Commissioner Henry Tacy Kemp and assisted by the local Resident Magistrate White. In 1858 the Crown paid Maori 1,100 pounds for the block which was estimated to be 28,000 acres.[104] Before negotiations were completed, the Crown realised that the block was far larger than originally estimated. Upon survey, the actual area turned out to be in excess of 87,000 acres which meant that the purchase price was equivalent to 3 pence per acre.[105]

No survey plan was attached to the deed and the deed itself did not state the size of the block. As a result it cannot be confirmed whether the Maori vendors had been properly informed of the amount of land being acquired before the deeds were signed. No reserves were set aside from the sale for Te Rarawa.

Maungataniwha

Maungataniwha was another major food gathering area for hapu. In this area the interests of hapu of Te Rarawa, Ngapuhi and Ngati Kahu converge. The Crown purchased a total of 32,591 acres in the form of the Maungataniwha East, West No 1, and West No 2 Blocks from 1862-1863.[106] The deeds referred to the sellers as the “chiefs and people” of Te Rarawa.[107] But at this time, there was no independent process to determine ownership of these lands and it was left to Crown purchase agents to determine who they should deal with. There is limited documentation of the sales process including whether timber values were included in the sale price.[108]

Notwithstanding nearly 3000 acres being reserved from the sale for the benefit of Maori, all but 754 acres were later alienated from the ownership of Maori.[109] The economic base of local hapu was systematically eroded, the benefits they expected failed to eventuate, and the balance of land on which they hoped to enjoy any benefits was also undermined. Te Rarawa hapu have continued to exercise what they regard as their customary rights to the resources of the Maungataniwha lands right up to the present time.

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[103] Waitangi Tribunal, Muriwhenua Land Report, p. 262.
[104] Kemp to McLean, 10 June 1857, AJHR 1861 C-1, p. 20, Richard Boast, ‘The Muriwhenua South and Ahipara Purchases’, Waitangi Tribunal, 1991, Wai 215 D16, pp. 8-9, Waitangi Tribunal, Muriwhenua Land Report, p. 269.
[105] Stokes, A Review of the Evidence’, p. 464.
[106] Te Uira Associates, pp. 68-69.
[107] Te Uira Associates, pp. 67-70
[108] Waitangi Tribunal, Muriwhenua Land Report, p. 237
[109] Te Uira Associates, p. 70

Reserves

The Crown only set aside a few reserves from the substantial area of land it acquired from Te Rarawa hapu between 1858 and 1863. In the short term there was negligible impact on Te Rarawa, because the Crown did not follow up its purchases with occupation on the ground. Maori generally kept the areas for cultivations, cattle runs and access to traditional food source areas such as lakes, rivers and the sea, remained as it always had. The European presence in the area was insignificant. Te Rarawa consider that in this way they continued their customary practices.

Declining population levels until in the nineteenth century also blunted the effects of the early Crown purchases. The effects of the inadequacy of reserves were generally not felt until the twentieth century when population levels had increased. By then Te Rarawa had lost around two thirds of their land holdings.

Although the long-awaited benefits of Pakeha settlement began to be noticeable from the 1890s, the declining amount of land remaining in Māori ownership limited the opportunities for Te Rarawa to benefit from the developing settlement of Kaitaia, the main township in their area, and its fertile surroundings.

Introduction of Native Land Court

In 1865 the Crown established the Native Land Court. At this time Maori had no representation in parliament. Through the Native Land Acts of 1862 and 1865 the Crown aimed to facilitate the opening up of Maori customary lands to Pakeha settlement and provide a means by which disputes over the ownership of lands could be settled. Under this legislation the Native Land Court was to determine the owners of Māori land “according to Native Custom” and to convert customary tenure into title derived from the Crown. Land rights under customary tenure were generally communal but the new land laws gave rights to individuals. No titles were awarded to Te Rarawa hapu as a whole.

It was expected that land title reform would eventually lead Māori to abandon the tribal and communal structures of traditional land holdings. The Crown gave up its monopoly right of purchase and the legislation allowed Māori to lease and sell their lands with few restrictions.

The Native Land Act 1865 provided for a maximum of ten owners to be listed on a block of land. Although there may have been an expectation that grantees act as trustees for the wider community there was nothing in the legislation to compel them to do so. The Native Land Act 1873 replaced the ten-owner system by requiring that all those with interests in land be included on a memorial of title.

Over time, the Native Land Court system replaced traditional tenure systems of Te Rarawa. Whereas customary tenure accommodated the multiple and overlapping interests of different iwi and hapu to the same piece of land, the court process led to the award of title to named individuals for a defined area of land and the right to alienate interests in land without regard to the interests of the wider community of owners. The Crown did not consult with Te Rarawa on the native land legislation prior to its enactment.[110]

[110] Note that O’Malley and Robertson suggest that there was probably only one person from the North, Te Hakitara Wharekawa from the Mangonui district was at the Kohimarama hui, because they onlyreceived the invitations to the meetings 2

Under this system, the Court, which consisted of a Pakeha judge and a Māori assessor, investigated title to Maori customary land. It would hear the claims and any counter-claims before recommending the award of a certificate of title.[111]

Land had to be surveyed before the Court could hold hearings to determine titles. Attempts to survey land and resolve differences over respective interests could trigger considerable tension.

Surveying was the greatest direct cost of the Native Land Court system for Te Rarawa. They had to meet this cost for all of the land which they were awarded even if other iwi were responsible for bringing these blocks into the system. This cost of surveying could lead to land sales as in 1897 when the Native Land Court subdivided the Motukaraka block into Motukaraka West A and Motukaraka West B. The Court vested Motukaraka West B in trustees who were to sell this block to meet the costs incurred surveying Motukaraka West and Tapuwae.[112]

Considerable travel and time could be required to attend the Court sittings. This had implications in terms of cost and time away from normal pursuits such as gardening, fishing, and food gathering.

Only land held with a freehold title from the Court could legally be sold or leased, or used as security to enable development of the land. Māori had to use the Court to safeguard their interests and secure legal title to their lands if they wished to participate in the new economy. If they did not participate in court hearings initiated by other claimants they risked losing their interests.

Te Rarawa initially made limited use of the Court. About twenty blocks went through the court between 1865 and 1873.[113] All were relatively small areas concentrated around Ahipara and western Hokianga with the exception of the eleven thousand acre Kaitaia block.[114] In accordance with the Native Land Act 1865, the Court awarded these blocks to ten or fewer owners, and could note any others with owners' rights on the back of the title.[115]

Kaitaia North block

The title determination of the 11,026-acre Kaitaia block illustrates the kind of tension that could arise as a result of the court's processes. In 1867 a Te Rarawa chief Tamaho Te Huhu decided to put land in Kaitaia through the Court. He held hui with the people of Kaitaia and the Victoria Valley to discuss their claims to this land. Despite some opposition it was generally accepted that Tamaho had established a claim to the area south east of Kaitaia. He later commissioned a survey of the land which became the Kaitaia block. However this precipitated a boundary dispute between Te Rarawa of the Ahipara, Herekino and Whangape districts, and Te Paatu.

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days prior to its commencement. Vincent O'Malley and Stephen Robertson, 'Muriwhenua Land and Politics, 1862-1909', September 1991, p. 11.

[111] Drawn largely from KEC drafting.

[112] Te Uiria Associates, p. 89.

[113] Peria, Okerimene, Kaitaia North, Ngatuaka, Paripara, Orakiroa, Kaitaia South, Okahu, Aputerewa 2 and Rotokakahi 2

[114] Stokes, post 1865, pp. 29-30

[115] Section 17, Native Land Act 1867; Maori Land Certificate of Title for Whakakoro– Hokianga – 1 – 150, ABWN W5278 8910, Box, 7, 326-469, ANZ(W).

Te Paatu challenged the survey and the rival claimants assembled taua to protect their interests. Resident Magistrate White and two Native Land Court Assessors mediated the dispute which eventually resulted in an agreed northern boundary of the Kaitaia block.[116]

The Court awarded title to the Kaitaia block to nine rangatira representing Te Rarawa hapu. The block was then divided into the Kaitaia North and Kaitaia South blocks, with the Court placing a 21-year restriction on the alienation of the 5,220 acre Kaitaia South block.[117]

In February 1869 a large number of Te Rarawa attended a meeting at Whangape where it was proposed by some Te Rarawa chiefs to elect Māori to adjudicate all land questions such as disputed rights and on criminal issues.[118] This led to the election of a head chief to preside over Hokianga Te Rarawa and another head chief to preside over the Kaitaia Te Rarawa. They sought the approval of the Crown, and asked to have a Resident Magistrate at Whangape if the Crown would not recognise the authority sought for the elected head chiefs. The Resident Magistrate from Waimate North forwarded the request for a Resident Magistrate to be appointed to Whangape, but the Crown did not agree to these proposals.

Crown purchasing 1870-1900

By 1865 Te Rarawa landholdings had diminished by more than 100,000 acres, but they remained largely in control of their own affairs in their own rohe.

In the early 1870s the Government borrowed heavily to fund an immigration and public works scheme that aimed to increase Pakeha settlement and develop the infrastructure needed for a growing colony. This led to a new phase of Crown purchasing of Te Rarawa lands.

From 1872 to the early 1880s Crown agents negotiated with Te Rarawa for the purchase of nearly thirty blocks of land, totalling nearly 95,000 acres. Among these blocks were the Kaitaia North, Te Kauae o Ruruwahine, Mangakino, Taraire, Manganuiowae, Otangaroa, Takahue, Te Uhiroa, Puhata, Te Paku, Tauroa, Epakauri, Orowhana, Ngatuaka, Te Takanga, Mapere, Tapuwae, Rawhitiroa and Motukaraka blocks.[119]

The Native Land Act 1873 provided that all owners of land which was sold should each have at least 50 acres reserved for their own use. However the Crown did not ensure this statutory requirement was given effect to.

In 1872 the Kaitaia North block was the first to be purchased by the Crown after Resident Magistrate White was authorised to enter negotiations for its 5,806 acres which were understood to be subject to negotiation with a private purchaser. The Crown's purchase of the land was effected through a deed signed in July 1872.[120]

[116] Stokes, post 1865, pp. 76-78.
[117] Stokes, post 1865, p. 79.
[118] Vincent O'Malley and Stephen Robertson, Muriwhenua Land and Politics, 1862 – 1909, report for CFRT, 1997, pp. 101-102.
[119] Te Uiroa Associates, pp. 106-7.
[120] Stokes, p. 73.

In 1873 the Crown began sending land purchase agents to discuss the purchase of further land from Te Rarawa.[121] Some of the land the Crown negotiated for had yet to have its ownership determined by the Native Land Court. The Crown generally adopted a process of negotiating with a group it understood to be the principal owners and paying them an advance to secure their agreement to sell (tamana). The Crown would generally pay the balance of the purchase money, and seek to complete its purchase, after the Native Land Court had awarded a title.

The Crown generally expected its land purchase agents to acquire land as cheaply as possible. It often authorised a maximum price its agents could pay per acre, but expected them to try and purchase the land for less.[122] In land purchase negotiations with Te Rarawa Crown purchase agents frequently emphasised the collateral benefits which could be expected from selling land to the Crown.

In July 1873 a Crown land purchase agent met with Maori at Ahipara to sound them out on selling land in the fertile Victoria Valley. The Crown agent emphasised that "if good land was sold by them pakehas would not only be glad to come, but would remain and prove a lasting benefit to the Natives."[123] Te Rarawa replied that they were not anxious to sell their land.[124]

However in August 1873 Timoti Puhipi informed the Crown agent that the Ahipara people had decided to sell some land to the Government. He added that 'the reason of giving you this land is, that we want Europeans to come (and reside on the land) not later than January 1874'.[125]

In September 1873 the Crown land agent returned to Ahipara where he again promoted the benefits of pakeha settlement to an assembly of people. Te Rarawa rangatira told him they had received no benefits from previous land sales.[126] The Crown agent replied that 'You the Rarawa were, with Ngapuhi the first to welcome the white man but you have let him, the substance, go from you, all that you have retained is the shadow and other tribes are now enjoying the benefits that might have been yours this day.[127] He added that the only way to get those benefits was '…to sell at a reasonable prices a large block of good land – land that you yourselves would cultivate. Then the Pakeha will reside on it, population will come and you will become independent like many Southern tribes'.[128]

The Crown agent repeated this message at Herekino after hearing there was interest in selling a valley called Te Uwhiroa. The next day the Crown agent received two pounamu as a symbol of Te Rarawa agreement to sell this land and have Europeans settle among them. In return, he gave a small sum of tamana as a token of the Crown's good faith.[129] Kara Pika Komene later objected to tamana payments being made before all the owners had agreed to

[121] Stokes, p. 73.
[122] Stokes p. 87
[123] Stokes, p. 84.
[124] Stokes, post 1865, p. 84.
[125] Stokes, post 1865, p. 85.
[126] Stokes, post 1865, p. 85.
[127] Stokes, post 1865, p. 86.
[128] Stokes, post 1865, p. 86.
[129] Stokes, post 1865, p. 87.

a transaction. He argued that there should be only one payment to all the owners when the transaction was completed.[130]

In the days following the negotiations at Herekino, the Crown agent met with Māori at Takahue to discuss a prospective land purchase. These discussions led to the sale of certain areas of land. The Crown authorised the agent to pay a maximum of 3/- an acre for Takahue, but directed him to try and purchase this land for less if this was possible.[131] The agent told the owners that the Crown would not pay additional money for the timber on this block, and it was finally purchased for 2/4 per acre.[132]

In the 1870s the Crown would not complete purchases of blocks for which it had paid tamana until the Native Land Court had awarded titles for the affected land. Te Rarawa frequently submitted lists with few names to the Native Land Court for inclusion on the titles of land the Crown had agreed to purchase. This meant that the Crown had to make arrangements with only a small number of legal owners to complete its transactions. In March 1877 the Mapere, Otangaroa, Te Paku, Te Takanga (No.2), Epakauri, Orowhana, and Te Tauroa blocks were all awarded to fewer than ten owners, and the Crown completed its purchases a few days after the Court's awards. Because the court's records focused on the transfer of title there is limited information about these investigations. Usually there were few details recorded if the Court simply rubber stamped out of Court arrangements.

From 1871 several Parliamentary enactments empowered the Crown to proclaim blocks as subject to Crown negotiations which meant that even owners of the affected land who had were not in negotiation with the Crown could not alienate any interests to private parties. In 1878 the Crown proclaimed several blocks including Tapuwae, "Motukaraka", Taraire and Te Paku.[133] The Crown did not remove these proclamations until it had acquired as much land as it wanted and thought it could acquire.

The Native Land Act 1873 provided that the sale of any block could only be completed with the consent of all owners on a memorial of ownership. However legislative amendments after 1877 made it increasingly easy for individual owners to sell their interests without regard for the wider community of owners. The Crown was empowered to apply to the Court for the award of any individual interests it had acquired.[134] In 1882 the Crown successfully applied to the Court for the title to 1,482 acres of Rawhitiroa.[135]

In the 1880s an economic crisis led to a significant reduction in the scale of Crown purchasing. However in the 1890s, as the economy recovered, there was a new surge in Crown purchasing. During the 1890s the Crown purchased over 27,000 acres of land from Te Rarawa hapu. This included the Kaitaia South, Ototope, Rarotonga, Rotokakahi A2, Te Awaroa 1A1 and 2A, Tautehere, and parts of Tapuwae 3, Motukaraka West, Okahu, and Patiki blocks.[136] The Crown's frequent negotiations with individual owners in the 1890s

[130] O'Mally and Robertson, p. 242.
[131] Stokes, p. 87.
[132] Stokes, pp. 73, 86-7.
[133] New Zealand Gazette 1878, pp. 850, 1392-3.
[134] Sections 59-64, Native Land Act 1873; Section 6, Native Land Act 1877; Waitangi Tribunal, Turanga Report, p. 440.
[135] Stokes, p. 145.
[136] Daamen, p. 40; AJHR 1895, G-2, p. 2.

meant Te Rarawa lost the tribal control over the land alienation process they had exercised in the early 1870s.

In 1894 Crown pre-emption was re-imposed over the whole country. In 1895 Timoti Puhipi and thirty other chiefs of Te Rarawa and another iwi wrote to the *New Zealand Herald* to 'place before the European public of New Zealand our true feelings in respect to the Native legislation' in force. They considered the re-introduction of Crown pre-emption to be 'monstrous and outrageous' because it prevented them from obtaining market value for their lands. It also prevented leasing of lands to private parties, which the chiefs considered to be 'one of the safe modes with us to enable such liabilities imposed on our lands to be paid off'.[137]

Warawara

In 1873 the Crown opened negotiations for the customary Te Rarawa land which was known as Te Kauae-o-Ruru-Wahine, and paid some tamana at this time. According to oral sources Te Rarawa received verbal assurances from the Crown that they would retain ownership of the timber and other resources on the land and these assurances were pivotal to their agreement to sell.[138]

The Crown acquired the Kauae-o-Ruru-Wahine blocks along with a number of smaller areas over a period of years from 1875 including all of Te Takanga and parts of Waihou Lower, Otangaroa, Ototope, Taikarawa, Whakarapa, Paihia, Rotokakahi, and Waireia. These blocks became collectively known as the Warawara and originally comprised an area of 18,270 acres.[139]

The Crown's policy was to only complete purchases for customary land after the Native Land Court had determined its ownership. Crown agents therefore encouraged Te Rarawa hapu representatives to have this land surveyed, and to lodge an application with the Native Land Court to determine its ownership. Once the Court had made an ownership order, the Crown would seek the owners' signatories to the transfer of title documents and the parties would return to the Court to have the transfer of title authorised.

In May 1875 the Native Land Court held heard claims for the Te Kauae-o-Ruru-Wahine block, and subdivided it into three parts. Titles were awarded to 14 rangatira although there were an estimated 200 Te Rarawa with interests in the blocks' 9260 acres. The Crown then secured the signatures of the 14 rangatira to deeds of purchase, and on 12 June 1875 presented these deeds to the Court. The Crown completed its purchase after it paid the outstanding purchase money, and the Court explained the effect of the deed to the legally recognised owners.[140] No conditions to preserve rights to the timber or other resources were included in the deed of sale.[141]

Resources at Warawara

Te Rarawa hapu had not believed that timber and other resources were included in the Crown's purchase of land in Warawara, and continued to access its timber and gum

[137] Cited in O'Malley and Robertson, p. 168.
[138] Kahukura, pp. 31-6.
[139] Kahukura Report, Appendix 6.3 p.30
[140] Daamen, pp. 44-45.
[141] Kahukura Report, Chapter 2 pp.31-36.

resources for many years. However in 1903 the Crown proclaimed regulations which prevented Te Rarawa hapu members from continuing to dig gum and asserting ownership of the trees.

Te Rarawa immediately began approaching Members of Parliament to restore their access to the timber and other resources. In 1924 the Crown received a formal petition after Te Rarawa had held a series of meetings. A Native Land Court Judge investigated the petition, but denied the validity of the claim because the claimants had taken so long to bring the matter forward. He concluded it was probable there had been an understanding that the Crown would allow the taking of "a bit of timber for a church or some whares or fences or for making some canoes," but dismissed Te Rarawa's petition. For a number of decades the Crown denied ongoing requests from Te Rarawa communities for permission to take timber for housing, school and community projects, and gum from the Warawara.[142]

In 1922 the Crown transferred Warawara forest to the newly formed New Zealand Forest Service, which managed it for production purposes until the late 1970s.Initially the high operational costs of milling the timber restricted the Crown's commercial operations to small scale milling of 'dry' kauri. The Crown did not begin large scale milling until the 1970s. By 1974 it had extracted 8.5M board feet of timber. The Crown then received a recommendation for Warawara to be set aside as a conservation area. In 1979 the Crown established a sanctuary, and in 1982 an ecological area. In 1984 Warawara was included as part of the Northland Forest Park and in 1987 the NZ Forest Service was disestablished and the Warawara was transferred to the Department of Conservation.[143]

Te Rarawa hapu have carried a grievance in relation to the Warawara for more than 130 years, despite numerous attempts to have the matter addressed. Their contention that the sale of land excluded the timber and other resources was never addressed or resolved to their satisfaction.

Epakauri and Te Tauroa

Prior to November 1875 the Crown opened negotiations to purchase land at Epakauri and Te Tauroa, and paid tamana for these lands. In November 1875 the Native Land Court investigated titles to the Epakauri and Te Tauroa Blocks involving 10,510 and 1,600 acres respectively. The claimants wanted only ten owners listed on the title, but the Court insisted upon including all those with interests. A Crown land purchase officer suggested to the Court that it should not insist upon naming all the owners, but the Court adjourned hearings until there was an agreement that all customary rights holders would be included on the titles.[144]

In June 1876 these blocks came before the Court again, but this time Ngati Kuri and other Te Rarawa hapu contested ownership. The Court declined to make an order as it feared this would deepen the animosity between the two parties, and again adjourned the case. The Court also warned that the hapu concerned no longer had sufficient land to support themselves.[145]

In March 1877 the Court finally awarded titles for these blocks after the parties to the hearing had resolved their dispute. There is no record of how the owners settled their dispute. Ngati Kuri provided two names for the title to Epakauri and one for Te Tauroa, and representatives

[142] Kahukura, p. 121.
[143] Kahukura, pp. 119-23.
[144] Stokes. Post 1865, pp. 98-105 need to check against these pages
[145] Stokes. Post 1865, pp. 98-105 need to check against these pages

of the other Te Rarawa hapu gave two names for Epakauri and three for Te Tauroa. Three weeks later, the Crown acquired the blocks for 4d an acre. [146] The Crown paid £27 for Epakauri, and £175 for Te Tauroa.[147]

In the late 1890s the Crown gazetted Epakauri as a kauri gum reserve. [148] Significant tracts of both Epakauri and Te Tauroa are currently protected land administered by the Department of Conservation.

Purchase of the Kaitaia South block

In 1868 the Native Land Court made the Kaitaia South block inalienable for 21 years.[149] This was one of the few Te Rarawa blocks where such an order was made. However the Crown was keen to add Kaitaia South to its purchase of Kaitaia North. A Crown official later wrote that Kaitaia South "was no use to the Natives and is surrounded by government land and unless the Native title is extinguished will be a source of annoyance to future settlers."[150] By February 1873 the Crown had persuaded one of the owners of Kaitaia South to apply for the restriction on alienation to be lifted, but this could not occur until Parliament had empowered the Crown to do so.[151]

In 1884 the Court divided the block into two parts vesting Kaitaia A in the names of three Te Rarawa rangatira and Kaitaia B in the names of eight.[152] However, the subdivisions were not surveyed on the ground. In 1891, after the restriction on alienation imposed in 1868 had expired, the Crown agreed to purchase the 5,520 acres in these blocks for 7/6 per acre. A Crown official paid this money to its purchase agent who returned just 4/6 an acre to the owners, The Crown agent kept 3/- an acre for himself claiming that he was the owners' agent, and that the money he kept was legitimate commission.[153]

In 1892 the owners petitioned the Native Affairs Committee asking to be paid the full amount of purchase money the Crown had agreed to pay. The owners were adamant they had not authorised the Crown purchase agent to act as their agent. The Crown informed the Committee that the agent had received £50 from the Crown as commission and that the Crown intended the vendors to receive the full 7/6 per acre purchase price. [154]

The Native Affairs Committee considered this was a private matter for a Court of Law. In 1893 the Crown arranged for Court proceedings to be taken on behalf of the owners against the agent who had received £783 from the transaction. The Court concluded that it was uncertain whether the owners were explicitly informed that the Crown had agreed to pay 7/6 an acre, and that they may have had to infer this from the text of the deed. However the Court found in favour of the agent because it thought the owners had agreed to pay the agent commission. The Court thought that 4/6 an acre was a fair price. After this judgement

[146] Stokes. Post 1865, pp. 98-105 need to check against these pages
[147] AJHR 1878, G-4.
[148] Stokes. Post 1865, p. 105
[149] Stokes, p. 72.
[150] Stokes, p. 83.
[151] Stokes, p. 83.
[152] Stokes, p. 107
[153] Stokes, pp. 111-2.
[154] Stokes, p. 112

the Crown's management of land purchase agents was subject to strong public criticism.[155] Hone Papahia petitioned parliament seeking a further investigation but this was rejected**.**

Benefits

The Crown's land purchases between 1865 and 1900 took place in an increasingly difficult period for Te Rarawa as their population declined. Te Rarawa consider that the Crown land purchase agents made promises of economic benefits the Crown did not keep, and purchased their land for less than it was worth.

Much of the land the Crown purchased from Te Rarawa was not suitable for farming because it was steep, bush clad, windswept and difficult to access. Crown land purchases from Te Rarawa, therefore, generated little economic activity from which Te Rarawa were able to benefit. However Te Rarawa continued to press for European settlement which they believed had been promised. As early as 1876 the Resident Magistrate reported to the Native Department that Māori in the Hokianga 'continued to express great anxiety for the introduction of European settlers amongst them, and repeatedly ask me why, the Government having lately purchased such large blocks of land, settlers have not been placed upon them, stating that one of their motives for selling was to cause an increase of Europeans in the district, and so enhance the value of the lands still remaining in their possession.'[156] Three years later he again reported that Māori were pressing upon him that the Crown had held out the benefits of European settlement as an inducement to sell their land and they wanted the Crown to fulfil that promise.[157]

In the mid 1880s the Crown attempted to generate some European settlement in parts of the Takahue, Te Puhata, Te Uhiroa and Motukaraka blocks in a 'Village Homestead Special Settlement' scheme. This encouraged settlement by providing monetary advances to Pakeha settlers. However the scheme had limited success.[158]

The Crown made little attempt to introduce settlers to some of the other lands it purchased. On top of not having the benefit of pakeha settlement, the Crown's control of the land restricted Te Rarawa access and customary use of the resources on these lands. For example, in 1886 the Crown declared a state forest in the Te Kauaeoruruwahine blocks, Otangaroa 1 and the Te Takanga blocks which the Crown had purchased in the 1870s. In 1885 the Crown proclaimed the Warawara as a State Forest under the jurisdiction of the Land and Surveys Dept.[159]

Summary of land loss between 1865 and 1900

[155] Stokes, p. 118.
[156] Daamen, p. 47 citing Resident Magistrate to Under-Secretary of the Native Department, 11 May 1876, AJHR 1876 G1, p. 19
[157] Daamen, pp. 47-48 citing Resident Magistrate to Under-Secretary of the Native Department, 26 May 1879, AJHR 1879, G1 p. 2.
[158] Stokes, post 1865, pp. 105-107.
[159] Daamen, p. 59.

Between 1865 and 1900, the Crown purchased at least 130,000 acres of Te Rarawa lands and forests.[160] The Crown acquired this land with an awareness that its previous land purchases had not brought economic benefits to Te Rarawa. In 1871 a Crown official reported that Te Rarawa had already alienated a reckless amount of land, and were in danger of becoming paupers.[161] The Crown did not ensure that the safeguards it wrote into the Native land legislation to protect Maori interests were applied to Te Rarawa. In 1876 the Crown was warned by a Native Land Court Judge that the requirement of the Native Land Act 1873 for Maori to have reserves of 50 acres per person was not being implemented in Muriwhenua.[162] By the end of the nineteenth century Te Rarawa held only around a hundred thousand acres, less than a third of their original land holdings.

Twentieth century Maori Land Administration

The Tokerau Maori Land Council

Crown concerns about the effect of land loss on Māori led to a suspension of Crown purchasing in 1899, and influenced legislative reforms of Maori land administration in the twentieth century. In 1900 Parliament enacted the Maori Land Councils Act, and in December 1901 the Crown established the Tokerau Maori Land Council which was to oversee the administration of Maori land in Tai Tokerau. Several members of the Council were to be elected by Tai Tokerau Maori, and at least half the Councillors were to be Maori.[163]

The Tokerau Council, was empowered to determine title to customary lands, with the assistance of Papatupu Block Committees. Te Rarawa block committees thoroughly assessed and advised the Council of customary ownership of 57,000 acres including the Waihou, Whakarapa, Te Karaka, Wairoa, Kahakaharoa, Te Karae, Manukau, Matihetihe and Ahipara blocks. Inalienable Papakainga were reserved for Maori occupation among these lands.[164]

The Council became responsible for approving all sales and leases of Maori-owned land in Tai Tokerau.[165]Maori land could also be vested in the Council in trust for leasing. The owners would not be consulted about the terms of the leasing, but would receive income from the rents paid. At first land could only be vested in the Council voluntarily, but, after 1903, the Crown was empowered to compulsorily vest land in the Council so that it could be developed for commercial agriculture while remaining in Maori ownership..

The Tokerau Maori Land Board

[160] This figure accounts for approximately one third of total Te Rarawa lands. It is a conservative figure calculated according to transactions identified as part of the research undertaken for this report. It excludes private purchases and any Te Rarawa lands unidentified at the time of writing.
[161] Heaphy, Commissioner of Native Reserves, Report on the Native Reserves in the Provence of Auckland, 19 July 1871, AJHR 1871, F-4, p. 5.
[162] Stokes, p. 122.
[163] Loveridge, pp. 22-3; Maori Lands Administration Act 1900.
[164] Wairoa Papatupu Block Committee Minute Book 22, Maori Land Court, Whangarei; Waihou Papatupu Block Committee Minute Book 28, Maori Land Court, Whangarei; Whakarapa Papatupu Block Committee Minute Book 29, Maori Land Court, Whangarei; and Te Karae Papatupu Block Committee Minute Book 32, Maori Land Court, Whangarei.
[165] Section 22, Maori Land Administration Act 1900.

In 1905 the Crown replaced the Tokerau Maori Land Council with the Tokerau Maori Land Board, and ended the provision for Tai Tokerau Maori to elect Board members. In 1913 the Crown ended Mäori representation on the Land Boards.[166]

Crown policies in the twentieth century effectively suspended Te Rarawa's full rights of ownership in their remaining lands. The Crown's establishment of the Land Boards, and their empowerment to oversee the administration of Maori land was the first of a number of measures the Crown would impose on Maori land during the twentieth century which would significantly erode the owners' rights in their land.

The Crown expanded the Board's role in the administration of Te Rarawa land. In 1908 the Crown established the Stout Ngata Commission to investigate the utilisation of Maori land. The Commission recommended that more than half of the best Maori land in Mangonui County between Herekino and Ahipara be vested in the Tokerau Board.[167]In 1909 the Crown acted on the recommendation of the Commission, and compulsorily vested a large quantity of Te Rarawa land in the Board.[168] Large areas in the Hokianga, such as Te Karae, also came under direct board control in the first decade of the twentieth century.

In 1909 a new Native Land Act 1909 provided for all sales of Maori-owned land, as well as leases to private parties, to be approved at meetings of the assembled owners arranged by the Board. At these meetings the approval of the owners controlling a majority of the shares in any block who were present at the meeting was required for any land alienation to proceed. This meant that sometimes a minority of owners could consent to a sale or lease. The Board's principal business until the 1920s was overseeing the selling and leasing of Maori land in response to demand from Pakeha farmers.

The Tokerau Board's Administration of Te Karae

In 1905, following an investigation into hapu interests by a Papatupu Block Committee, orders were issued naming owners for the Te Karae block of over 19000 acres. The land was divided into Te Karae 1, 2, 3 and 4, and individual shares were awarded to several hundred people from Te Ihutai, Ngati Toro, Patutaratara, Kohatutaka, Te Raho Whakairi, Ngai Tupoto, Ngati Here and Ngati Hua hapu.[169]

In 1907 the Crown compulsorily vested Te Karae block in the Tokerau Maori Land Board after concluding that these lands were unnecessary or unsuitable for occupation by their owners.[170]

In April 1908 the Te Karae owners presented submissions on the future use of their land to the Stout Ngata Commission.[171] A majority called for retention of most of Te Karae as papakainga or through lease back to its Māori owners. Some owners agreed to some land being leased to non-Māori.[172]

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[166] Loveridge, p. 61; Native Land Amendment Act 1913.
[167] Stokes, p. 199;
[168] *New Zealand Gazette,* 1909, pp. 1786-90.
[169] Te Uira Associates, 'Te Karae Draft Report', September 2003, p. 1; Marian Horan, 'Te Karae Research Report', 2004, p. 1
[170] NZ Gazette, 1907, p. 1929 (for Te Karae).
[171] Horan, 'Te Karae Research Report', p. 2.
[172] Horan, 'Te Karae Research Report', pp. 3-8. Horan was not able to look at all the relevant minutes but provided the following information: Owners of 4,879 acre Te Karae 1 wanted papakaingas to be created around their five kainga and the remainder to be divided and leased only to its Maori owners. Owners of Te Karae 2 originally wanted the entire block to be retained for their use (to develop the land themselves) but eventually proposed about 1,000 or their 9,000 acres could be leased to Pakehas. Owners of the 2,268 acre Te Karae 3 wanted their three kainga and existing cultivations to be enclosed within papakainga of 200 acres and for half of the remaining land to be divided into sections for selection by its Maori owners

From 1908 the board oversaw the survey and leasing of Te Karae which some owners protested against.[173] After consultation with the owners, 1,230 acres were set aside for Papakainga, 5,175 acres for preferential leasing to Māori, and 12,654 acres for leasing to the general public.[174] Few, if any of the sections offered to Māori owners to lease were taken up however, in part because of the requirement to pay rentals.[175] Most of the preferential Maori land was then offered to the general public.[176]

In 1911 the Tokerau Land Board mortgaged Te Karae land to the Crown to fund surveys and roads to encourage Pakeha settlement in the Te Karae block.[177] The owners were not consulted.[178] The board borrowed £7,500 for roading and surveying, and provided a £500 subsidy, from Te Karae lease receipts to the Hokianga County Council for roading. The roads between Kohukohu and Broadwood and Mangamuka Bridge later became a main highway and transferred into public ownership.[179]

The loan was to be repaid over a period of 40 years at four per cent interest. This amount was apportioned between the four Te Karae blocks on an area basis. Consequently, Te Karae land and its owners were committed, without consultation to paying £15,100 over 40 years to repay the £7,500 the Board received in 1911.[180] From 1911 to 1915, the board spent over £8,000 on extensive roading and survey work on Te Karae which it was intended would facilitate higher rental income from the board's leases.[181]

In 1912, the Board began making loan and interest repayments which were deducted from the income available to the Te Karae owners.[182] This income came from leases the Board granted to settlers for terms ranging from 21 to 50 years.[183]

In the 1930s legislation reduced the rentals payable by the Te Karae lessees due to the tough economic times of the depression. However the Crown did not reduce the Board's loan and interest repayments.[184] This meant that the Board struggled to repay its debt. The

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with the other half leased to non-Maori settlers. The owners of 3,025 acre Te Karae 4 gave mixed responses with some supporting the least of their land to non-Maori and others wishing to retain uninterrupted possession.

[173] Horan, 'Te Karae Research Report', p. 8

[174] Horan, p. 13.

[175] Horan, 'Te Karae Research Report', pp. 14-16. The President of the Land Board informed the Under-Secretary, Native Department in October 1909 'that in accordance with the advertisements I offered the Sections reserved for leasing by the Natives, to them on Friday the 15th instant but none were taken up on that day and they were held open until Sunday evening, and as none were applied for, they were accordingly included amongst the sections to be offered for general competition'.

[176] Horan, 'Te Karae Research Report', p. 13. Note that Horan uses the wrong figure (17, 654 acres) for general lease land. The figure 12,479 is given in the relevant primary source (Edgecumbe's report, 7 July 1909, BAAI, series 11466, 199a – document 3 in Horan's 'Te Karae Document Bank').

[177] Horan, p. 19.

[178] Horan notes that she did not find evidence of consultation in all the files she consulted (but did not get to consult all files) and one owner wrote to Judge Holland in Auckland in 1920 asking for an explanation regarding the mortgage on the block, Horan, 'Te Karae Research Report', p. 18.

[179] Memo, J Mills, J McKain and Bell, Te Karae Blocks 1 to 4, 16 December 1938, MA, series 1, 7/1/4, NAW, document 17 in Horan, 'Te Karae Document Bank'.

[180] Memorandum, Messrs. McKain, Mills and Bell to Registrar of the Native Department, 16 December 1938, MA 1, 7/1/4, Te Karae Block Loan 1912-45, National Archives Wellington.

[181] Memorandum, Messrs. McKain, Mills and Bell to Registrar of the Native Department, 16 December 1938, MA 1, 7/1/4, Te Karae Block Loan 1912-45, National Archives Wellington.

[182] As each piece of land was sold the Government paid the Board a grant which was intended to meet that land's share of the loan principal at the time of sale. The Board did not apply these grants to the reduction of the loan principal for the land that was sold. The Board continued to make the regular half yearly repayments provided for when the land was first taken out as if the Board still owned the land that had been sold. The loan was subject to a 4% interest rate.

[183] Memorandum, Messrs. McKain, Mills and Bell to Registrar of the Native Department, 16 December 1938, MA 1, 7/1/4, Te Karae Block Loan 1912-45, National Archives Wellington.

[184] Memo, J Mills, J McKain and Bell, Te Karae Blocks 1 to 4, 16 December 1938, MA, series 1, 7/1/4, NAW, document 17 in Horan, 'Te Karae Document Bank'; Horan, p. 22.

Crown finally agreed to write off part of the loan, and in 1942 the Board settled the debt after having re-paid the Crown £11,500 of the owners' money in principal and interest.[185]

Crown purchases in Te Karae

In 1915 the lessees of Te Karae urged the Crown to purchase this block, and then sell them the land they had leased.[186] The Crown soon opened negotiations to purchase Te Karae, and acquired most of Te Karae 1, including interests of owners opposed to selling, after the owners of only a third of the shares in the block voted in favour of selling at a meeting of assembled owners.[187]

The Crown also attempted to purchase Te Karae 2, 3 and 4 in 1915, but overwhelming majorities of the owners of these blocks opposed any sale. However the Crown could purchase Maori land without using the assembled owners' provisions, and frequently did so. From 1915 the Crown actively purchased interests in Te Karae 2 and 4 from individual owners over a period of several decades.[188]

In 1918 the Crown received a petition from 35 owners protesting against the deduction of a portion of the Board's debt from the purchase money they received.[189]

During the 1920s and 1930s the Crown made several applications to the Native Land Court to partition out the land it had acquired. The Crown sought to ensure that the land it received in Te Karae 2 and 4 matched the leased areas which were of better quality and were more accessible land in these blocks. This approach made it easier for the Crown to on-sell freehold title to the land which had previously been leased. By the late 1930s, the Crown owned the majority of Te Karae 2 and 4.[190] The Crown paid off the share of the mortgage allocated to each part of the Te Karae land it acquired.[191]

The Crown took out a lease on 438 acres of Te Karae 3 in order to make land available for Pakeha farmers as part of a small farm project. In 1938 the Crown promised the Pakeha farmers to whom it had subleased this land that it would purchase the freehold for them. However the owners wished to retain this land, and the Crown did not succeed in purchasing any of their interests before 1950.[192]

Te Karae Land Since 1950

In 1950, as the first Te Karae leases neared the end of their terms, the Board still controlled and leased approximately 3000 acres of Te Karae. The owners called for the return of those lands, but had to compensate the lessees for their improvements to the leased blocks before this could happen. The Tokerau Board had taken no steps to set aside the funds required for this, and the vested lands were not returned to Te Rarawa control at this time. [193]

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[185] Memo, J Mills, J McKain and Bell, Te Karae Blocks 1 to 4, 16 December 1938, MA, series 1, 7/1/4, NAW, document 17 in Horan, 'Te Karae Document Bank'; Horan, p. 22.
[186] Northern Advocate, 4 June 1915.
[187] Horan, p. 26.
[188] Horan, p. 22.
[189] Petition, Hone Otene and 34 Others, 12 March 1918, BAAI, 11466/44a, National Archives Auckland.
[190] Memorandum, Messrs. McKain, Mills and Bell to Registrar of the Native Department, 16 December 1938, MA 1, 7/1/4, Te Karae Block Loan 1912-45, National Archives Wellington.
[191] Horan, p. 19.
[192] Horan Supplementary, p. 18; AJHR, 1951, pp. 37-8.
[193] Horan Supplementary, p. 21.

In 1952 the Crown purchased 458 acres in Te Karae 3 from individual owners for its small farm scheme.[194] In 1954 a law change finally prevented any further Crown purchases of land Maori had already leased.[195]

In 1954 the remaining vested lands were vested in the Maori Trustee who had taken over the Board's functions.[196]The Maori Trustee was unable to pay all the compensation for improvements that were due as leases began to expire in 1957, and some of Te Karae remained vested in the Trustee in 1992.[197]

Private purchasers continued to acquire interests in Te Karae after 1954, and today, around 1,100 acres of Te Karae lands remain in Māori ownership. There are approximately 5000 acres still in Crown ownership through Landcorp and the Department of Conservation.

The sale of Waireia D

In 1913 the 4,429 acre Waireia block came before the Native Land Court. The Te Rarawa claimants argued that the block comprised three distinct parcels which were Waireia, Te Peke and Pupuwai. They called for Waireia to be awarded to the descendants of Tarutaru and Kahi, Te Peke to be awarded to the descendants of Ihengaiti, and Pupuwai to be awarded to the descendants of Ngono. The Court decided that the descendants of these ancestors were all one family, and awarded them interests in a single undivided Waireia block.[198]

In 1913 a private purchaser sought to acquire the Waireia block, and approached the Native Land Court to assist in this process. The Crown received a letter from a teacher at a Hokianga school asking it to void a number of proxies which some owners in Waireia D had given to another owner to represent their interests at hui to determine whether this block should be sold. The teacher wrote that the proxy holder had told the other owners he would vote against any sale, but the teacher had seen him in the company of a well known land purchase agent.[199] The Crown took no action in response to this request.

In April 1914 the proxy holder voted in favour of the sale of the entire Waireia D block of 4,000 acres. One of the owners at the meeting asked to withdraw the proxy he had given, but was informed by the Board that it was too late to do so.[200] A large number of owners opposed the sale. Also, several large shareholders only consented to sell part of their interests. Had this been taken into account a majority would not have been achieved. However the Board approved the sale of the entire block which left many of the owners landless.[201]

A condition of the sale was that the timber be paid for separately, but a Crown valuer assessed the value of the timber as nil, and the owners received no payment.[202] Over a number of years the forests were milled and a significant amount of timber was extracted from these lands.

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[194] Horan Supplementary, pp. 19-20.
[195] Horan Supplementary, p. 20.
[196] Horan Supplementary, p. 21.
[197] NA 14B/1111, LINZ
[198] Northern Native Land Court Minute Book 51, pp. 280-93; Wilson to Undersecretary 22 September 1914, MA1, 1395, 1926/370, ANZ(W).
[199] Askew to Minister of Native Affairs, 30 April 1913, BAAI 11466, Box 28, a 1372, ANZ(A).
[200] Chairman of Meeting to President Tokerau Maori Land board, 29 April 1914, BAAI 11466, Box 28, a 1372, ANZ(A).
[201] Daamen, pp. 55-7.
[202] Daamen, p. 55.

By June 1914 the Crown was receiving protests from the owners about the circumstances of the sale. Several owners signed declarations that they had given proxies on the understanding that the proxy holder would vote against the sale.[203] The school teacher who had warned the Crown in 1913 about the proxy holder wrote the Crown again in support of these declarations. In September 1914 a Native Land Court Judge investigated the transaction. He concluded that there was no reason to believe the testimony of "unreliable" Maori witnesses that they had given their proxies on the understanding the proxy holder would vote against the sale.[204]

The owners continued to protest to the Crown about the circumstances of the sale. In 1925 Hone Te Tai and 28 others lodged a petition "for compensation for loss incurred through a false report by a Government valuer as to timber on the land."[205]

Finally in 1931 the Crown asked another Native Land Court Judge to inquire into the circumstances of the Waireia D transaction. The Judge concluded that there had been no valid resolution to sell Waireia D, and that the sale should never have been confirmed. The Judge also concluded that the purchaser had not kept a promise to pay for the timber, and that the Tokerau Maori Land Board had "failed to protect the interests" of the owners of Waireia D.

In 1932 the Crown received advice from the Chief Judge of the Native Land Court, and the Solicitor General that there was no legal or equitable obligation for the Crown to pay compensation to the owners of Waireia D.[206] The Crown decided that the Tokerau Board should pay the owners £315 which was the value of the timber taken from Waireia D since the sale. However the Board was low on funds, and the payment was deferred.[207]

In 1935 the Native Land Court Judge who conducted the 1931 inquiry recommended that the Board pay £500 compensation to the owners, but the Crown decided not to make this payment as it was still considering how to respond to the Wareia D sale.[208]

The Crown finally decided not to pay any compensation to the owners in the 1930s, but did purchase Waireia D from its private owners. It became a Crown owned development scheme. In 1957 the Crown vested 1,000 acres of Waireia land including the sacred maunga Tauwhare in the New Zealand Forest Service and added it to the Warawara forest.[209]

The Crown did not provide Te Rarawa any compensation for their losses in the 1914 Waireia transaction before the 1980s, despite sporadic protests from Te Rarawa. In 1983 the Crown agreed to compensate the Te Rarawa people of Hokianga in part by providing them with a one third shareholding in the Waireia Development Scheme. In 1987 the Waireia Trust was established and took over the ownership of the residual land in the development scheme on behalf of Te Rarawa with mortgage finance from the Board of Maori Affairs. The Crown acknowledged Te Rarawa grievances about the transfer of the 1,000 acres to the Forest service but did not provide any additional compensation because of this.

[203] George William Kendall Declaration, 9 June 1914; Ngatai Mone Hotere, 9 June 1914, BAAI 11466, Box 28, a 1372, ANZ(A).
[204] Judge Tokerau District Native Land Court to Under Secretary Native Department, 29 September 1914, BAAI 11466, Box 28, a 1372, ANZ(A).
[205] Daamen, pp. 53-58.
[206] Under Secretary Native Affairs to Native Minister, 1 June 1940, MA1 1395, 1926/370, ANZ(W)..
[207] Under Secretary Native Affairs to Native Minister, 1 June 1940, MA1 1395, 1926/370, ANZ(W).
[208] Under Secretary Native Affairs to Native Minister, 8 February 1937, MA1 1395, 1926/370, ANZ(W).
[209] New Zealand Gazette, p. 1447.

Land Development Schemes

The land tenure reform imposed on Te Rarawa by the Crown in the nineteenth century made the economic development of Te Rarawa land in the twentieth century a very difficult proposition. Historically, lending institutions have been reluctant to lend money on land with multiple owners.[210] In 1907 a Royal Commission of Inquiry criticised the Crown for not providing Maori with the same level of support to develop their own land as it provided to Pakeha land owners.[211]

In 1920 Parliament empowered the Native Trustee to lend Maori Land Board funds to develop Maori land.[212] Nine years later the Crown began introducing schemes to develop commercial agricultural on Māori land using Crown debt funding.[213] This was the first time the Crown materially and actively assisted Maori to develop their own lands. The Crown intended that these schemes would put previously 'idle' land was put to good use, and pave the way towards economic prosperity for Maori communities.[214]

The development schemes, however, were another of the Crown's twentieth century policies which deprived Te Rarawa of the ability to control their own land. The Crown assumed complete administrative control over these schemes which the Native Minister characterised as a "benevolent despotism."[215]

The Crown made the costs of development schemes a charge against the affected land to be recouped from profits made by the farms that were developed.[216] The Crown also used the establishment of development schemes to help resolve outstanding survey liens and rates affecting Maori land in much of Te Hiku. Some large sums were written off, but more than £11,000 in survey liens, as well as rates on Maori land the Crown paid Mangonui County, were costed into development schemes, and charged proportionately to each farm unit the Crown financed.[217]

In April 1930 the Crown organised hui to discuss the establishment of development schemes in Taitokerau.[218] By this time much of Te Rarawa's remaining land was marginal for farming purposes, but they agreed to the establishment of two development schemes at Mangonui and Hokianga.[219]

By March 1931 the Crown had notified the establishment of development schemes over approximately 99,000 acres in Hokianga, and 127,500 acres in Mangonui. The land notified in Mangonui included all remaining Te Rarawa land which was not already leased. This included land at Pukepoto, Ahipara, Manukau, Herekino and Whangape.[220] This gave the Crown control over those areas for development purposes, whether or not those lands would

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[210] A. Gould, *Maori Land Development Schemes, 1920-1993,* Wellington, 2004, p. 388.
[211] AJHR, 1907, G-1C. P. 15.
[212] Orr Nimmo, p. 708.
[213] Alan Ward, *National Overview*, Vol 1, Waitangi Tribunal Rangahaua Whanui Series, 1997, p. 109. Crown finances were all loans charged against the schemes, much of which was eventually written off as a loss. Some rates and survey liens were also written off on consideration of Maori agreeing to commit land to the schemes.
[214] Harris, pp. 111-2.
[215] K Orr Nimmo, *The Sun of Advancement and Progress, An Overview of the East Coast Inquiry District Claims,* Wai 272, A5 p. 711.
[216]
[217] Stokes, pp. 221-2.
[218] Bassett and Kay, p. 26.
[219] Geiringer, p. 207.
[220] *AJHR* 1932, G 10, p. 6.

in fact be developed. In 1932 the Crown estimated that just over one quarter of the land notified in Taitokerau was suitable for development.[221]

The Crown preferred to develop large stations, but this was difficult as the land left to Te Rarawa after earlier land transactions was held in isolated pockets throughout the district. By 1935 there were 283 small units under Crown administration in Hokianga.[222]

The Crown required that the multiple owners of small land parcels in the development schemes nominate one family to farm each unit. This undermined traditional relationships with land, resulting in some Te Rarawa leaving their ancestral lands.

During their first ten years, the schemes contributed to improved Te Rarawa living conditions, and helped support some Te Rarawa through the depression of the 1930s.[223] Te Rarawa made frequent requests for more land to be actively developed to help provide for their growing population.[224]

In the 1930s and 40s Crown land development in the Hokianga district focussed on small dairy farms. The Crown believed that dairying could provide a reasonable standard of living and allow the repayment of the development loans.[225] However most of Te Rarawa's remaining landholdings were too small for profitable for dairying. By the 1940s some owners were struggling to make ends meet, and found the interest payments on the Crown's loans extremely burdensome.[226]

In July 1944 Tawati Rapihana and Hone Romana complained to the Crown on behalf of 42 development scheme units in the Ahipara, Pukepoto and Pamapuria districts about the impact of the mounting debts development schemes were imposing on Te Rarawa lands and whanau. The difficulty of earning a living on development scheme units led many of their children to seek employment opportunities in cities.[227]

Many of the dairy farms established from the 1930s proved uneconomic over the long-term.[228] After 1945 the Crown's objectives for development schemes became more focused on the development of profitable economic units rather than providing for the needs of rural Maori communities.[229] In other districts, the Crown focused increasingly on developing larger corporate units which could more easily adapt to changing market conditions.[230] This did not happen in the Te Rarawa rohe where there was insufficient contiguous land, and many Te Rarawa whanau units became marginal. The debts owed to the Crown by some whanau easily exceeded the value of the land by the early 1960s.[231]

The Crown retained control of the land in some development schemes for many decades until debt levels were reduced to what the Crown considered a manageable level.[232] Te Rarawa did not anticipate, when they agreed to place land into development schemes, that the Crown would retain control for so long.[233] Te Rarawa were keen to be actively involved in

[221] AJHR, 1932, G-10, p. 6.
[222] Harris, pp. 61-62; Geiringer, p. 205.
[223] Harris, Abstract; p. 112.
[224] Geiringer, p. 207.
[225] Harris, p. 62.
[226] Stokes, pp. 222-223.
[227] Stokes, pp. 222-223.
[228] Harris, p. 62.
[229] Harris, p. 112.
[230] Harris, p. 112.
[231] Bassett and Kay, p. 568.
[232] Bassett and Kay, p. 569.
[233] Bassett and Kay, p. 567.

the administration of their own land, but some owners lost control of their land to the Crown for more than a generation.

Tapuwae

In 1912 the Taitokerau Board approved the lease of the Tapuwae 1B and 4 blocks owned by Ngai Tupoto hapu to a Pakeha settler for fifty years.The lease was due to expire in 1962, but in 1957 the lessee requested permission to surrender the lease early.[234] In 1957 a Maori Trust Office official reported that the lessee had farmed Tapuwae well, but the owners were later advised by a prominent local farmer that the block had deteriorated over the final fifteen to twenty years of the lease.[235] The owners could not afford the investment which was needed to farm Tapuwae profitably, and, in 1958, consented to Tapuwae being put into a development scheme.[236] At this time the Crown anticipated that the block would be handed back to the owners' control in ten years.[237]

By 1961 the owners were concerned about what they considered the Crown's mismanagement of Tapuwae. Crown officials told the owners that it was necessary to incur losses in the early years of the scheme in order make profits over the long term.[238] However the owners' concerns about the Crown's management were not eased as a growing debt became attached to Tapuwae. The Crown controlled Tapuwae through to the late 1970s during which time the owners began to push for the block to be restored to their control.[239]

In 1979, after several years agitation by Ngai Tupoto landowners, the Crown agreed to return Tapuwae to an incorporation of owners. In 1982 the Crown finally returned the land to an incorporation which was faced with a debt of more than $255,000.[240] The land was seriously infested with weeds, and fences and housing were in a state of disrepair. The owners considered that the Crown had badly managed the land.[241]

In the 1980s Ngai Tupoto struggled to service the debt they owed to the Crown. By 1989 this had grown to more than $300,000.[242] In 1984 the Crown introduced a package of economic reforms which led to rising interest rates. Farm profits fell sharply during the 1980s. In this environment Ngai Tupoto could not service the debt. In 1992 the Crown took legal action against the incorporation, after it failed to meet its debt repayments. The owners considered the circumstances in which Tapuwae was returned to their control unfair prompting a claim to the Waitangi Tribunal in 1992.[243]

By1990 the Crown had withdrawn from all development schemes in Tai Tokerau, and returned the land in the schemes to the control of its owners. In most cases the Crown agreed to a partial or total write off of the debts of the schemes.[244]

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[234] Rishworth and Harrison to Maori Trustee, 21 February 1958, MA 19/21, ANZ(A).
[235] Field Supervisor Report, 5 December 1957, BAAI 1030, Box 159, MA 19/21, part 1; District Officer to Secretary Maori Affairs, 23 August 1960, BAAI 1030, Box 159, MA 19/21, part 2, ANZ(A).
[236] Extract of Minutes of Hokianga Maori Land Court Minute Book, vol. 29, ff. 70-1, in BAAI 1030, Box 159, MA 19/21 part 2, ANZ(A).
[237] District Officer Report, 17 October 1958, BAAI 1030, Box 159, MA 19/21 part 2, ANZ(A).
[238] Minutes of Owners' Meeting, 9 October 1961, BAAI 1030, Box 162, MA 19/21/12, part 1, ANZ(A).
[239] Te Uira Associates, 'Te Rarawa Historical Overview Report: Volume One of Two, pp. 136-7.
[240] Wai 263 Statement of Claim..
[241] Te Uira Associates, 'Te Rarawa Historical Overview Report: Volume One of Two, p. 137.
[242] Wai 263, Statement of Claim.
[243] Te Uira Associates, 'Te Rarawa Historical Overview Report: Volume One of Two, p. 137
[244] Bassett and Kay, p. 215.

Title Reform

The development schemes became closely intertwined with twentieth century land tenure reform. All of the land placed in the development schemes was affected by title reform.[245]

By the early years of the 20th century the land tenure reform imposed by the Crown in the nineteenth century meant that the remaining Te Rarawa landholdings were held in increasingly fragmented titles. Ongoing successions to the interests of deceased owners made the problem worse. For example, in 1926 Māori around Ahipara held 6,654 acres in over 120 separate blocks which were too small to farm viably. This pattern was widely repeated throughout Te Rarawa.[246]

Consolidation Schemes

In the 1920s the Crown introduced schemes to consolidate the fragmented interests of Maori landowners. These schemes involved consolidating the dispersed interests of Maori landowners into contiguous blocks which could then operate as single economic units.

In 1926 Te Rarawa landowners began to request the consolidation of their small and scattered uneconomic holdings.[247] Several years later in 1928 the Native Minister requested consolidation schemes for Mangonui and Hokianga. These are the same areas which were notified for development schemes in 1930.

The Mangonui consolidation scheme involved three smaller schemes which affected Te Rarawa interests in Pukepoto, Ahipara and Herekino (including Whangape and Manukau).[248] The Hokianga scheme included four smaller schemes which affected Te Rarawa interests in Motukaraka (including Te Karae and Kohukohu), Panguru, Mitimiti and Pawarenga. After 1930 all Te Rarawa lands still in Māori ownership were affected by consolidation schemes.[249]

The Crown initially intended to complete consolidation quickly. However the process proved complex and time consuming as family units were identified, and their interests grouped together. New boundaries had to be surveyed, and access provided.

In 1941 the Crown still had much to do to complete the Mangonui Consolidation Scheme. No surveying had been done at Whangape, and further surveying was needed at Ahipara and Manukau. The Native Land Court Judge who oversaw the scheme regularly complained that the Crown allocated insufficient staff to it.[250] By the mid-1940s only the Panguru scheme in the Hokianga was near completion.[251]

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[245] Harris, p. 112.

[246] Stokes, pp. 210-211.

[247] For instance, in 1926, the Te Rarawa Chamber of Commerce asked the Native Minister to 'transfer' scattered Maori land interests to where Maori resided into 'idle' Crown land. In October 1927, Ahipara Maori petitioned the Native Minister to have their interests in Ahipara consolidated. Judge Acheson reported in July 1926 that 'big meetings' had been held in Muriwhenua, including Ahipara, where Maori gave their unanimous support to consolidation, David Alexander, 'Consolidation and Development in Muriwhenua', Wai 45, 1997, pp. 99-100.

[248] Alexander, 'Consolidation and Development in Muriwhenua', p. 106. Te Rarawa may have interests in Pamapuria (Series F) and Peria (Series G).

[249] Stokes, pp. 207, 209.

[250] The status of the Mangonui Consolidation Scheme in 1941 was mostly incomplete, with incomplete surveys for Ahipara, no surveys at Whangape and 'minor adjustments needed' at Manukau, Stokes, p. 209; Hearns, p. 685; Judge Acheson wanted consolidation sped up, and regularly complained that insufficient staff had been allocated to complete the task, Alexander,

It was not until the 1950s that the Crown finalised titles in Hokianga, and in the Ahipara and Manukau schemes in Mangonui.[252] The rest of the Mangonui scheme was never completed.[253]

The lengthy delays in the Crown completing consolidation and development schemes created great difficulties for the affected owners. They were left uncertain about the status of their lands and their ability to use them for several decades. This made it difficult, if not impossible, to raise development finance which contributed to economic hardship.[254]

The consolidation of interests through these schemes could disrupt ancestral connections to lands.[255] For example a number of owners lost their interests in Ahipara in exchange for interests in other parts of Te Hiku such as in Te Hapua, Te Kao, the Karikari peninsula, Whangape and Hokianga.[256]

Uneconomic Interests

In 1952 the Crown described the state of Maori land titles as a "mess".[257.] For many Maori, the consolidation schemes had not provided the secure tenure expected. Ongoing successions to the interests of deceased owners meant that fragmented ownership continued even for blocks which had gone through consolidation schemes.[258]

In1953 the Crown sought to address the continuing fragmentation of Maori land titles by empowering the Maori Trustee to compulsorily purchase uneconomic interests. The Maori Trustee was also empowered to sell compulsorily acquired interests to other owners. These powers were used to a greater extent in Tai Tokerau than elsewhere.

Many Te Rarawa were deprived of their last tangible ancestral connections to their turangawaewae. It was often the case that owners did not know the state of their land interests, and that they had been compulsorily acquired by the Maori Trustee. Despite opposition from prominent Māori, including Te Rarawa, it was not until 1974 that the Crown took steps to end the Maori Trustee's power to make such acquisitions. Only in 1987 did the Crown enact legislation providing for uneconomic interests still held by the Maori Trustee to be returned to their owners.

Amalgamations

'Consolidation and Development in Muriwhenua', pp. 45-52.; Harris, p. 42; After World War Two, the Tai Tokerau district still represented a major task for the Government, *AJHR* 1946 G-9 pp. 6-12.

[251] Tables 9.2, 9.7 and 9.8, Hearns, pp. 639, 674-675. Without a search of the land recrods, it is unclear whether these schemes were ever completed.

[252] The status of the Mangonui Consolidation Scheme in 1941 was mostly incomplete, with incomplete surveys for Ahipara, no surveys at Whangape and 'minor adjustments needed' at Manukau, Stokes, p. 209; Hearns, p. 685; Judge Acheson wanted consolidation sped up, and regularly complained that insufficient staff had been allocated to complete the task, Alexander, 'Consolidation and Development in Muriwhenua', pp. 45-52.; Harris, p. 42; After World War Two, the Tai Tokerau district still represented a major task for the Government, *AJHR* 1946 G-9 pp. 6-12.

[253] For the completion of the Manukau scheme, see Alexander, 'Consolidation and Development in Muriwhenua', p. 125.

[254] Bassett and Kay, p. 92; The hampering of economic development was prevalent at the Pawarenga causing hardship for farmers, Stokes, pp. 92-93.

[255] Stokes, p. 209.

[256] Stokes, p. 212 citing Alexander 'Consolidation and Development in Muriwhenua: Supporting Documents' A5:28-60.

[257] Cabinet paper CP(52)604, dated 29 May 1952,item 6, MA W2490 Box 312 68/3/1 Conversion Policy Scheme 1952-1955, Archives New Zealand.

[258] Cabinet paper CP(52)604, dated 29 May 1952,item 6, MA W2490 Box 312 68/3/1 Conversion Policy Scheme 1952-1955, Archives New Zealand.

Another method the Crown sometimes used to address the problems created by the fragmentation of Maori land titles was amalgamation. This involved the cancellation of partitions in contiguous lands, and the regrouping of the owners into a single block.[259] Amalgamation schemes usually ran concurrently with consolidation schemes. This process was often resulted in areas being re-named which could create confusion for owners, and their descendants about the land in which they had interests.

In 1967 51 separate titles at Whangape were amalgamated to form 3 titles affecting more than two thousand acres. A scheme was completed in 1971 to amalgamate 17 titles to 600 acres in Mangamuka including the Mangamuka West block into two clear titles.[260] The Maori Land Court oversaw the regrouping of owners and repartitioned the amalgamated blocks into residential or economic farm units.[261]

The Crown believed that blocks had to have small numbers of owners to be economically viable. This view sometimes led to Te Rarawa individuals and whanau groups competing against each other for sufficient land to sustain themselves.

Land Issues Since 1945

Kahakaharoa and Wairoa

The 4,480 acre Kahakaharoa and 1,078 acre Wairoa A blocks located between Hokianga harbour and the west coast are made up almost entirely of sand hills. A number of wahi tapu, including Te Puna ki Hokianga, are located within Kahakaharoa. The two blocks are access ways to the moana and its resources.[262]

In 1945 the Crown received a report from a Native Land Court Judge which described Kahakaharoa and Wairoa A as ‘useless and dangerous, with drifting sand encroaching on useful lands’. They were described as ‘almost valueless’. The Crown began considering whether to purchase Kahakaharoa and Wairoa A in order to protect adjoining lands from the ‘sand menace’. In 1946 the Commissioner of Crown Lands concluded that the North Hokianga sand dune country was unsuitable for cultivation or settlement and would never have any commercial value unless reclaimed.[263]

The Crown preferred to obtain title before beginning any reclamation work. This meant the Crown rather than the Te Rarawa owners would gain any economic benefits that might arise from the Crown’s development work.

An amendment to the Native land laws in 1931 provided that the Crown could only purchase land with the agreement of the majority of shareholders present at a properly convened meeting of owners. The Crown had been required since the first decade of the twentieth century to pay at least the Government valuation of the land, and ensure no owner would be made landless as a result of the transaction.[264]

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[259] Harris, p. 45.
[260] Title improvement – quarterly return 31 March 1967, MA 1 Box 808, 68/2/1, ‘Title Improvement and file reconstruction returns’, National Archives.
[261] Aroha Harris, ‘Maori Land Development Schemes, 1945-1974 with two case studies from the Hokianga’, MPhil, Massey University, 1996, p. 45.
[262] Valuation 201754, 13 September 1946, MA W2459, 5/14/1, part 1, ANZ(W), Te Uira Associates, p. 155.
[263] Te Uira Associates, p. 156.
[264] Te Uira Associates, p. 157.

In 1946 the Crown arranged valuations of Kahakaharoa and Wairoa A. Kahakaharoa had previously been valued at £5 for the entire block while Wairoa had previously been valued at 5/- an acre or £250 for the whole block. The Valuation Department accepted the existing Wairoa valuation, and re-valued Kahakaharoa at 1/- an acre or £225 for the whole block. These were still considered nominal valuations, and the Crown valuer suggested that, as the intrinsic value of this land was so low, the owners might be persuaded to make a "fine gesture" and gift it to the Crown.[265]

In 1947 the Crown offered to purchase Kahakaharoa for £225 and Wairoa for £250. However the owners resolved at meetings organised by the Tokerau Maori Land Board in 1947 and 1948 to gift land in these blocks rather than sell it. The Crown declined this gift because of the statutory prohibition against it acquiring Maori land for less than the Government Valuation. The Crown reiterated its offers to purchase Kahakaharoa and Wairoa for their Government valuations.[266]

In September 1948 the owners resolved to sell Kahakaharoa and Wairoa to the Crown. They agreed to accept the Government's offer of 5/- an acre for Wairoa, but requested 2/6 an acre for Kahakaharoa to make the price more commensurate with that the Crown had offered for Wairoa. The combined price sought by the owners was about £700.[267]

The owners insisted on a number of conditions, and exclusions from the two blocks. The owners wanted the exclusion of specific wahi tapu from the sale of Kahakaharoa, notably about 100 acres at Te Puna o Hokianga; access to the sea and foreshore for fishing and other recreational activities to a depth of three chains; a right of way for people living at Rangi Point and Orongotea; and the right to the economic benefits of any workable lime deposits that might be found in the future. The owners also understood that the Crown's reclamation programme would be applied to the land that remained in their ownership, and they resolved that the purchase monies would be applied to marae and community development.[268]

The Maori Land Court approved the owners' resolutions to sell subject to legislation being enacted to implement all the terms they had proposed.[269]

However the Crown hesitated over the conditions proposed by the owners, and approved by the Maori Land Court. The Crown initially wanted the 100 acres proposed for reservation at Te Puna o Hokianga reduced to 30 or 40 acres. It was reluctant to allow the right of way for Rangi Point and Orongotea, and was also concerned about the owners having rights to the foreshore above the low water mark.[270]

By May 1950 the Crown was confident it could negotiate compromises with the owners, but in August 1950 the Crown withdrew from negotiations after the Soil Conservation Department expressed scepticism about the practicality of reclamation on Kahakaharoa and Wairoa A.[271]In January 1951 the Crown concluded that it would not be advisable to purchase

[265] District Valuer to Valuer General, 13 September 1946, MA W2459, 5/14/1, part 1, ANZ(W).
[266] Te Uira Associates, p. 159.
[267] Resolution 18 September 1948, MA W2459, 5/14/1, part 1, ANZ(W).
[268] Registrar to Under Secretary Maori Affairs, 20 April 1949, MA W2459, 5/14/1, part 1, ANZ(W).
[269] Extract Tokerau Maori Land Court Minute Book 18, pp. 176-8, in MA W2459, 5/14/1, part 1, ANZ(W).
[270] Te Uira Associates, p. 160.
[271] Director General of Lands and Survey to Secretary Maori Affairs, 5 May 1950, MA W2459, 5/14/1, part 1, ANZ(W).

these blocks until a comprehensive policy had been developed towards sand dunes in Te Hiku.[272]

In April 1951 Whina Cooper urged the Minister of Maori Affairs to complete the purchases of Kahakaharoa and Wairoa A as their drifting sands were a menace to other Te Rarawa land.[273] The Minister agreed to re-consider purchasing these blocks, but noted it was unlikely the Crown would make a decision until after it had settled on a nationwide policy towards sand dunes.[274] This decision was delayed for several years because of the scale and complexity of the nationwide problem, and the Crown re-assigning responsibility for development of the new policy.[275]

In March 1953 the Crown decided to re-open negotiations to purchase Kahakaharoa and Wairoa A after concluding that the costs of administering successions to the hundreds of individual interests in these blocks were greater than the cost of purchasing.[276] The Crown offered the owners the Government valuations for each block which had been re-assessed in 1952. Both blocks were now valued at 1/- per acre.[277]

At a meeting in December 1953 the owners expressed disappointment about the delay they had endured and the reduced price. However, resolutions to sell for 1/- an acre were recorded, subject to similar conditions to those proposed in 1948. Fewer than ten of the hundreds of owners attended the meeting which approved this sale.

The transaction could not be completed until the quantity of land to be sold had been surveyed. In July 1959 the Crown finally acquired 3,620 acres in Kahakaharoa A for £181. This was paid to the Maori Trustee as agent for the owners.[278] Te Rarawa retained ownership of 233 acres in Kahakaharoa B around the Te Puna ki Hokianga spring, and a further 627 acres in Kahakaharoa C.[279] The Crown acquired 974 acres in Wairoa A1 for £48. Wairoa A2 of 124 acres was reserved for the owners.[280]

The long stretch of Kahakaharoa is now in Crown ownership, and managed by the Department of Conservation.[281]

Whakakoro

In 1870 the Native Land Court awarded ownership of the 2,647 acre Ngati Haua block of Whakakoro to ten individual owners. The names of twenty two others with owners' interests were also noted on the title.[282] Whakakoro provided Ngati Haua access to their maunga, the Whangape Harbour and the coast.

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[272] Director General of Lands to Secretary Maori Affairs, 13 January 1951, MA W2459, 5/14/1, part 1, ANZ(W).
[273] Notes of Interview, 13 April 1951, MA W2459, 5/14/1, part 1, ANZ(W).
[274] Minister of Maori Affairs to Whina Cooper, 18 June 1951, MA W2459, 5/14/1, part 1, ANZ(W).
[275] Director of Lands and Survey to Secretary Maori Affairs, 2 February 1953, MA W2459, 5/14/1, part 1, ANZ(W).
[276] Director General Lands and Survey to Secretary Maori Affairs, 5 March 1953, MA W2459, 5/14/1, part 1, ANZ(W).
[277] Director General Lands and Survey to Secretary Maori Affairs, 15 July 1953, MA W2459, 5/14/1, part 1, ANZ(W).
[278] Te Uira Associates, pp. 161-2.
[279] Extract of Tokerau Maori Land Court Minute Book, vol. 19, fol 200, in MA W2459, 5/14/1, ANZ(W).
[280] MLC 13929.
[281] Te Uira Associates, p. 162.
[282] Maori Land Certificate of Title for Whakakoro– Hokianga – 1 – 150, ABWN W5278 8910, Box, 7, 326-469, ANZ(W).

In 1904 the Native Land Court partitioned Whakakoro and divided the titles to the six new blocks among the twenty two original owners and their successors.[283] All of the Whakakoro subdivisions were soon under negotiation for lease.[284] In 1911 the partitions in Whakakoro were surveyed for a cost of £150. This became a debt charged against all but one of the subdivisions, and interest began to accumulate on this debt.[285] Between 1912 and 1920 private purchasers acquired most of Whakakoro from the individual owners of its subdivisions. These purchases were approved by the Tokerau Board.[286]

The majority of Whakakoro came to be owned by a Pakeha family Ngati Haua built a good relationship with this family over several generations, and retained customary access to their maunga, the harbour and the coast through what had become privately owned land. However they had no legal guarantee this access could be maintained if new owners decided to deny them access, and this is what subsequently happened.[287]

1967 Maori Affairs Amendment Act

In 1967 the Maori Affairs Amendment Act included a provision that Maori land which was surveyed and owned by four people or fewer would automatically have its status changed to general land. This removed the jurisdiction of the Maori Land Court. A significant number of land blocks in Te Rarawa's area of interest ceased to be Maori land under these provisions. This section of the Act was repealed in 1974 but not before all the status changes had been completed.[288]

Many of the blocks concerned were owned by people who were deceased or unknown to the Maori Land Court. In some cases there were no obvious successors. The rating legislation provided clear provisions for the sale of general land where local authority rates were unpaid and lands declared abandoned. Te Rarawa recall a number of examples of land that was subject to status change under the 1967 Amendment Act being sold for unpaid rates.

Te Oneroa a Tohe

Te Oneroa a Tohe, also known as Ninety Mile beach, is a site of high cultural and spiritual significance to Te Rarawa. Its name, Te Oneroa a Tohe, commemorates the ancestor Tohe. The beach is regarded by Maori as part of Te Ara Wairua, a spiritual pathway to Te Rerenga Wairua (Cape Reinga).

Te Rarawa, along with other iwi, enjoyed access to abundant shellfish from this beach such as toheroa, pipi, tuatua, tipa and kutai. The seas contained abundant stocks of fish such as kanae (mullet), tamure (schnapper), patiki (flounder), ngakoikoi (rock cod) and pioke (shark). Traditional conservation practices, such as rahui during spawning seasons prevented over-harvesting of the natural resources of the beach. The wealth of its marine- and bird-life and its strategic location for trade and migration purposes meant that control of Te Oneroa a Tohe in pre-Treaty times was particularly important for northern tribes and was bitterly contested from time to time.

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[283] Northern Native Land Court Minute Book 34, pp. 372-7.
[284] AJHR 1908. G-1J. p. 16
[285] Chief Surveyor's Certificate, 15 July 1912, BAAZ, 1109, 1470C, Whakakoro Survey File, ANZ(A).
[286]
[287] Stokes, pp. 156-7.
[288] Te Uira Associates, pp. 139-40.

Use and control of the beach stabilised around the 1820s. Initially the sales of adjoining land in the 1850s (the Ahipara and Muriwhenua South blocks) and changing land use in the nineteenth century did not prevent Te Rarawa and others from maintaining their customary usage and conservation practices. They continued to exercise local control over use of the beach into the 1880s by imposing rahui in response to conservation needs or events such as drownings.[289]

In the latter part of the nineteenth century the Marine department assumed regulatory control over marine species, including toheroa, an important taonga to all west coast hapu of Te rarawa. The hapu of Te Oneroa a Tohe began to voice concern from the 1920s about Pakeha taking and selling toheroa, especially on a commercial scale. In the 1920s 273 Maori petitioned against a proposal to process toheroa in a cannery. The operation went ahead in the 1930s anyway placing Maori access to toheroa in competition with commercial harvests.

A local committee established under the 1908 Fisheries Act sought to control access to toheroa but it had limited means to impose customary approaches to managing this species. Although the committee was still able to impose rahui dissatisfaction with official recognition of the committee was evident by the mid 1940s. By then stocks of toheroa had noticeably dwindled and the commercial cannery operation ceased production.

In 1955 Te Rarawa and Te Aupouri sought to gain title to the beach with a view to vesting the foreshore in nominated trustees.[290] The application referred to Maori concern about Marine department management of the beach and the disappearance of toheroa. The Crown contested their claim before the Maori Land Court arguing that the beach was not customary land before the Treaty of Waitangi was signed in 1840. The Maori Land Court restricted its consideration of the claim to matters of traditional ownership. It concluded that Te Rarawa and Te Aupouri shared customary ownership of Te Oneroa a Tohe [291]

However the Supreme Court, on appeal by the Crown, ruled that the Maori Land Court had no jurisdiction over the foreshore because Maori aboriginal title to the foreshore had been extinguished. Te Rarawa and Te Aupouri appealed the Supreme Court decision but the Court of Appeal upheld the Supreme Court finding that customary Maori title was extinguished on the sale of the adjoining blocks.

For much of the twentieth century Te Rarawa were shut out of any meaningful role in managing Te Oneroa a Tohe and its resources. During that time, these natural resources were depleted as a consequence of over harvesting. Te Rarawa consider that the loss of opportunity to practise customary conservation measures has led to a loss of knowledge and tikanga, and this in turn has undermined their kaitiakitanga of Te Oneroa a Tohe.

[289] Richard Boast, Ninety Mile Beach Revisited, in VUW Law Review, 1993, vol 23, p 147.
[290] Richard Boast, Ninety Mile Beach Revisited, in VUW Law Review, 1993, vol 23, p 163
[291] Te Rarawa Historical Overview Report, Te Uira Associates, pp. 142-152

Contributing to the Public good

Te Rarawa has long made substantial contributions of both land and natural resources for the public good. Sometimes Te Rarawa took the initiative because they wished to contribute to the greater good and affirm customary concepts of manawhenua and manakitanga. Contributions included the provision of public access through Māori lands, allowing public use of Te Rarawa waterways for transport purposes, and providing land and timber for the establishment of schools.

By way of example, in 1922 Tamaho Maika and 75 others from Te Uri o Tai on the Whangape harbour petitioned the Prime Minister and the Minster of Public Works to provide a road through the Pakinga, Paihia No. 1 and Rotokakahi blocks to service a community of 300 Māori and Pakeha.[292] They agreed to provide labour free and fell and saw kauri for the necessary bridges. The road was a cooperative effort by local Maori and Pakeha settlers, both of whom contributed free labour to the project .It took six years to complete the road with Te Uri o Tai providing teams of bullocks to cart shingle and deliver for about half the usual price.

Mapere

Sometimes the Crown later overlooked the contribution of land, resources and labour and did not provide the means to return lands that were no longer used for their intended purpose. For example, land that was provided for the purpose of a school at Mapere in Ahipara in 1872 was not returned when it was no longer needed.

Te Rarawa rangatira Timoti Puhipi was a strong advocate of education and was already materially supporting a school and its pupils at Pukepoto when the Crown organised its first inspection in 1872. Puhipi told the inspector he would provide 12 acres of land and some timber for a new school building at Mapere in the same district.[293] The Crown supported this proposal and agreed to contribute to the development of the school building and the teacher's salary.[294] It was noted at the time that the arrangement was unusual because the school was not to be vested in trustees under the Native Schools Acts of 1867 and 1871.[295] The Native Minister understood that the land had been given as an endowment for education purposes.[296] The new school was built and operational by June 1873 with 54 enrolments.[297]

At that time, no formal transfer of land occurred and the land remained in customary title. Timoti Puhipi arranged for a survey of the Mapere lands in 1876 and the following year the

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[292] Peter McBurney, Public Works in Northland, pp. 108-109.

[293] Inspector of Schools to Native Minister 25 July 1872, *AJHR* 1872, F 5, p. 6 and 13 March 1872, p. 11.

[294] In the first 6 months of the school Mäori paid £24 pa towards the teacher's salary and the Government paid £56, Inspector of Schools to the Native Minister, 21 April 1873, *AJHR,*1873, G4, p. 7. In his June 1873 report to the Native Minister the Inspector of Schools commented that Mäori had proposed to pay £40 a year towards the teacher's salary, which he had accepted, Inspector of Schools to the Native Minister, 30 June 1873, *AJHR*, 1873, G4, p. 2. At this stage the school building doubled as a church. The Government had contributed £39 to the erection and furnishing of this building, Ven Archdeacon Clarke to the Native Minister, 2 September 1874, *AJHR*, 1875, G2, p. 2.

[295] Native Minister to Inspector of Schools, 25 April 1872, *AJHR*, 1872, F-5, p. 18.

[296] Native Minister to Inspector of Schools, 25 April 1872, *AJHR*, 1872, F-5, p. 18.

[297] Inspector of Schools to Native Minister to, June 1873, *AJHR*, 1873, G-4, p. 2.

Court investigated title of those lands. The school site, Mapere 2, was awarded to Kihiringi Te Morenga and the adjacent Mapere block was awarded to Timoti Puhipi.[298] The 29 acre Mapere 2 block was transferred to the Crown for a nominal sum for education purposes shortly thereafter. The 4 acre Mapere block which had a courthouse erected on it was also transferred to the Crown at the same time.[299] Around 1902, following difficulties with sand encroachment, changes to the river and flooding the Ahipara school was shifted to a different site.[300]

Ahipara Māori sought the return of the Mapere lands a number of times in the twentieth century without success.[301] In 1935 the Ahipara hapu sought an inquiry through the Native Land Court for the return of Mapere 2 as a marae site.[302] This eventually developed into an unsuccessful proposal to exchange some Mäori land for the Mapere block for marae development. In 1985 Mr Waaka-Iraia of the Ahipara Mäori Committee wrote to the Minister of Lands about the Mapere 2 block.[303] In 1986 Te Rarawa again expressed their wish to have the Mapere lands returned.[304] By then the lands had been gazetted as a recreation reserve. The Crown did not consider there was any obligation to offer the land back to the former owners because it considered the nature of the original transaction as a sale. The Department of Lands and Survey subsequently leased the lands out for gazing purposes.[305]

War service

A significant number of Te Rarawa men were among the 200 northern Maori serving overseas in the First World War as part of the allied war effort.[306] A large proportion of these volunteers came from the northern Hokianga and Ahipara/Pukepoto areas. Te Rarawa raised funds to help send their young men overseas. One of Timoti Puhipi's sons served

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[298] Northern Minute Book, No 1, folio 140, 5 March 1877, See 'Supporting Documents for: Mapere for a School Site: the Acquisition of Mapere 2 Block by the Crown', Wai 45, Doc P5 (a), pp. 55-6 for memorials of ownership.

[299] Northern Minute Book No 1, folio 191, 10 March 1877. The Inspector of Schools wrote about the proposed Mapere site for the Ahipara school in 1872 that 'I visited the proposed school site at Ahipara, and found it to consist of from twenty to thirty acres of good land, with most of the timber necessary for a school-house (to be used also for Divine service) already on the ground…'. Inspector of Schools to the Native Minister, 13 March 1872, *AJHR*, 1872, F5, p. 11. In 1877 the 29 acre Mapere 2 block (school site) was purchased by the Crown for £4. The adjacent 4 acre Mapere block was purchased on the same day for £10.15.0. In 1936 the Native Land Court heard an application for inquiry as to the acquisition of Mapere 2 by the Crown. The Court minutes record the Court explaining to the assembled people that the Mapere 2 block 'was largely sand, so it is presumed that the price was not a normal one'. Northern Minute Book 67, folio 76, 5 February 1936. Sand encroachment on the block appears to have become a problem in the late 1890s.

[300] Report on Ahipara school, *AJHR,* 1899, E2, p. 4 notes 'there is trouble here with sand-encroachment, which may by-and-by overwhelm the school-house'. The report in *AJHR*, 1905, E2, p. 5 notes that 'as the old building was in danger of being buried by the sand, it was removed to a new site…'.

[301] Stokes, 'The Muriwhenua Land Claims Post-1865', pp. 123-137.

[302] Northern Minute Book 67, folio 76 and Northern Minute Book 69, folio 223-4.

[303] see 'Supporting Documents for: Mapere for a School Site: the Acquisition of Mapere 2 Block by the Crown', Wai 45, Doc P5 (a), pp. 86-9.

[304] at a meeting to hear objections and submissions relating to license to occupy Mapere 1 and 3 lodged by Lionel Robert Masters, attended by the Assistant Commissioner of Lands, see 'Supporting Documents for: Mapere for a School Site: the Acquisition of Mapere 2 Block by the Crown', Wai 45, Doc P5 (a), pp. 90-103.

[305] Stokes, Post 1865, pp. 134-135

[306] James Cowan, *The Maori in the great War: A History of the New Zealand Native Contingent and Pioneer Battalion, Gallipoli, 1915, France and Flanders, 1916*-1916, Facs. Edition 1995, p. 11; Also Chris Pugsley's nominal rolls listed in *Te Hokowhitu a* Tu, and Michael King, *Whina*, p. 71, cited by Adrienne Puckey, *Trading Cultures, A History of the Far North*, (pre-publication draft 26 May 2011), p. 206

overseas. Another son was the official recruiting officer for the Kaitaia district.[307] Te Rarawa suffered the loss of many of their young men. In 1916, Te Rarawa as part of the local community erected a memorial in the Kaitaia district to commemorate the war service of Maori and pakeha.[308] Hundreds of Te Rarawa men also served overseas in the Second World War and those at home were part of the local war effort.[309] A number of war memorials and honours boards were erected at Te Rarawa hapu communities and marae.

Te Rarawa consider that their returned soldiers have not always enjoyed the same advantages as other soldiers on their return. After the Second World War a number of farms were allocated to returned servicemen under the Rehabilitation Board's farming schemes.[310] The Government's policy was to allow any returned servicemen who met the eligibility criteria (capacity and some personal financial capital) to enter these ballots. However, Maori returned servicemen were generally required to be supervised by the Native Department, which affected their eligibility for the general ballot scheme. Maori rehabilitation committees tried to settle Maori returned servicemen on Maori land development or rehabilitation schemes.[311] However, neither these farms nor those allocated under the general ballot scheme, were allocated on a tribal basis.

Public works

Since 1882 the Crown has been able to compulsorily acquire Te Rarawa lands using public works legislation. It has used this legislation in the nineteenth and twentieth centuries to acquire land for various public purposes including schools, scenery preservation, roads, and access to gravel. The Crown seldom consulted Te Rarawa about early takings under the Public Works legislation because it was not required to do so before the middle of the twentieth century.[312] The legislation did not compel the Crown to return compulsorily acquired land to Te Rarawa once it no longer needed it for the purpose for which it was taken.

Public Works legislation reflected the principle that full and equivalent compensation should be paid to the owners whose lands the Crown compulsorily took for public works. However, early public works legislation established separate provision for the taking of Māori land and general land. Compensation was generally payable for lands taken for public works but not always for roading. And whereas compensation for Māori land was determined and paid by the Māori Land Court, compensation was assessed for general land by a valuation tribunal.

Poor access and the fact that much of Te Rarawa productive lands had passed out of their ownership meant that their remaining lands usually attracted lower rates of compensation. The Court could also grant an easement to landowners in lieu of payment. Compensation for

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[307] Not referenced, but cited in Adrienne Puckey, *Trading Cultures, A History of the Far North*, (pre-publication draft 26 May 2011), p. 207.
[308] Not referenced, but cited in Adrienne Puckey, *Trading Cultures, A History of the Far North*, (pre-publication draft 26 May 2011), p. 207. See also photo of unveiling, 24 March 1916, Far North regional Museum, vf 400/6
[309] various references cited in Adrienne Puckey, *Trading Cultures, A History of the Far North*, (pre-publication draft 26 May 2011), p. 273.
[310] Ashley Gould, Maori Land Development Schemes, Generic Overview, circa 1920 to 1993, CFRT, 2004, p. 222.
[311] Richard Bassett and Heather Kay, 'Ngāti Manawa and the Crown c19272003: An Overview Report', p. 44.
[312] Alexander, pp. 17-8, 146.

vested land was paid into Land Board funds not directly to the beneficial owners. There could be considerable delays before payments were actually made and sometimes beneficial owners in multiply owned lands did not receive any compensation because the beneficial owners were not known. Te Rarawa consider that historically the Crown looked first to Māori land for public works purposes because there were fewer obstacles to overcome.

Owhata

Te Rarawa settlements on the southern shore of Owhata/ Herekino Harbour had dwindled to two small blocks by the 1920s. The 43-acre Owhata block, owned by whanau from the Ngati Torotoroa, Popoto and Tahukai hapu, contained a papakainga with marae and urupa and substantial gardens. The community there remained relatively undisturbed until a road was put through in 1937 without consultation.[313] The Herepete Heke whanau who lived in the community understood that some of their land was taken for the road. Maraea Herepete Heke disrupted the survey of the road and erected a fence to prevent construction.[314] She complained to the Minister that the road was on their land but officials advised that the road was laid out entirely on an adjacent block. Acting on this information Maraea was eventually arrested. She pleaded guilty to the charge of "disrupting the survey" and was released on probation after a short spell in Auckland's Mt Eden prison.[315]

Upon further investigation of the records and plans for the block a Native Land Court judge concluded that there were grounds for the protest arising from the taking and laying off of the road over the Owhata lands. He recommended sorting out the issue with a surveyor on the ground. Before that could happen, Maraea and her family disrupted a picnic protest staged by local pakeha on the disputed ground. Maraea was returned to Mt Eden prison for five months for breaking the terms of her probation.[316] During that time many of her children were left in the care of a 13 year old daughter. [317] No assistance was given to her children despite appeals by the Native Land Court Judge and others.

It was not until 1941 that the boundary issue was investigated once more to see whether the road encroached on the Owhata block. This revealed inconsistencies between plans and discrepancies between roadlines marked on plans and surveyed on the ground. It also revealed that the earliest survey of the Owhata block boundaries was unreliable and confirmed the extent of confusion about the status of the land taken. Maraea also acknowledged they had been mistaken about the boundaries to begin with. This led to an agreement with the Herepete Heke whanau that the re-formed road would become the boundary of the Owhata block. Maraea claimed 10 acres from the adjoining block as compensation for imprisonment. The court agreed to recommend substantial financial and other compensation for Maraea and an adjustment of the Owhata block boundaries. Maraea

[313] Evelyn Stokes, The Muriwhenua Land Claims Post 1865, 2002, p. 147
[314] BAAI 11466 134d/4555 Tai Tokerau Alienation File – Owhata B 1923-1927, AANZ, see summary of correspondence esp Maraea Heke letters in 1937
[315] Evelyn Stokes, The Muriwhenua Land Claims Post 1865, 2002, p. 147
[316] Evelyn Stokes, The Muriwhenua Land Claims Post 1865, 2002, p. 149
[317] BAAI 11466 134d/4555 Tai Tokerau Alienation File – Owhata B 1923-1927, AANZ, see summary of correspondence esp Maraea Heke letters in 1937

passed away in 1941 before compensation was awarded. None of the several measures for compensation recommended by the Court were implemented.[318]

In 1976 the Owhata block was subdivided into two parts. Despite the fact that the Owhata hapu had virtually no land left the Crown required the taking of an esplanade reserve for the use of the public, under a requirement of the Local Government Amendment Act 1978. The land has also suffered severe erosion since the 1980s with the planning of sand dunes on the other side of the harbour in pine trees. The combination of the esplanade reserve and the erosion have reduced the amount of the remaining Owhata lands by around half.

Scenery preservation

In the early 1900s the Crown introduced a scenery preservation policy to protect and preserve features and sites it considered were unique to New Zealand. This led to the introduction of legislative measures to set aside Crown owned lands for scenery preservation and also allowed the Crown to take land (including Māori land) for scenery preservation purposes.

Sometimes the land that became scenic reserve had once been part of land that the Crown had acquired under its surplus lands policy in the nineteenth century. Regardless of how the Crown had acquired the land, Māori were usually restricted by legislation from harvesting resources from these lands, including traditional resources. In 1925 the Crown tried to prosecute Maori who continued to use the resources of the Mangamuka Scenic reserve.[319] Although unsuccessful this reinforced the legal position that Maori who tried to access customary resources on these lands were trespassers.[320]

The Tapuwae scenic reserve was established in 1903 in the face of opposition from Māori and Pakeha who wished to harvest timber from the land.[321] A first World War veteran of Ngai Tupoto was arrested and jailed for taking of timber from the Tapuwae Scenic Reserve after World War One.

Scenic reserves were administered by the Department of Lands and Survey until 1987. Until recently the legislation did not provide any role for tangata whenua in the way that these reserves were managed.

The Crown established a number of other scenic reserves in the first half of the twentieth century usually from lands acquired for other purposes. The Motukaraka Scenic reserve was created in 1941 on disputed land**.** Other scenic reserves created from Crown acquisitions include the Rotokakahi River scenic reserve, Kaitaia Scenic reserve, Mangamuka Scenic reserve, Otaneroa scenic reserve, Waitawa Scenic reserve, Pukemiro Scenic reserve, Broadwood scenic reserve, Paponga scenic reserve, Runaruna scenic reserve, and the Mangataipa scenic reserve.[322]

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[318] Evelyn Stokes, The Muriwhenua Land Claims Post 1865, 2002, p. 152
[319] Geoff Park, Effective Exclusion, Wai 262, p. 264
[320] Geoff Park, Effective Exclusion, Wai 262, p. 264
[321] Te Uira Associated, Te Rarawa Historical Overview Report, August 2004, p. 192
[322] Te Uira Associated, Te Rarawa Historical Overview Report, August 2004, pp. 191-195

Rating Issues

From 1894 to 1910 any Maori land held under Native Land court titles was liable for rates at half the rate of European land. After that lands were rated on the same basis as European land. -

It was difficult for Te Rarawa to generate a sufficient income from their lands to pay the rates levied by local authorities. This was exacerbated where land was held in multiple ownership and included absentee owners. Sometimes Te Rarawa could only meet their rating commitments by selling or leasing land. Legislation introduced to facilitate consolidation of titles in the 1920s allowed the Native Land Court to vest land in the Crown to satisfy outstanding rates. By the 1920s unpaid rates had begun to accumulate. When the Crown consolidated titles it paid off the rates at a discounted rate and deducted the value from each person's interest in the scheme.[323] A similar provision applied to lands in development schemes. In this way Te Rarawa lost some land to meet unpaid rates.[324]

The 1950 Maori Purposes Act further empowered the Maori Land Court to appoint the Maori Trustee to effect land alienations where land was unoccupied, owing rates and harbouring noxious weeds. Te Rarawa recall a number of examples where this led to further loss of land.[325] In 1987 the power to have Maori land sold for rates arrears was removed from the legislation but local authorities can still apply to the Maori Land Court for a charging order for rates.

Rates were a point of contention for Te Rarawa because they believed they had been generous contributors to the public good by serving in two world wars and having provided land for roads. Many lands remained unoccupied, undeveloped and unproductive and some land blocks had no legal access and benefited little from any local authority services. Until the end of the twentieth century Maori concerns were generally not well recognised or provided for under operative planning regimes. Te Rarawa considered also that the basis for valuing lands disadvantaged them.

Natural Resources: Te Taiao o Te Rarawa

Te Rarawa have always held that they are part of the environment. Historically, this relationship has been emphasised by the location of their marae, which are variously situated next to one of the three Te Rarawa harbours, or along the long stretches of wild coastline, or close to the once remarkable and highly productive eco-system comprising Tangonge Lake and wetlands.

Throughout history, Te Rarawa people have sought to maintain their mana tiaki [inherited rights and responsibilities] over their environment.[326] The Crown through legislation assumed regulatory control over these resources and the environment. This limited opportunities for Te Rarawa to develop and use those resources themselves.

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[323] David Alexander, Consolidation and Development in Muriwhenua, pp. 9, 28-29.
[324] Stokes, pp. 221-2.
[325] For example in Te Karae
[326] Used in *Karanga Hokianga*, pp.87-8. Translated by Meredith as guardianship rights and responsibilities.

Land loss and the Crown's regulatory regime undermined traditional practices over land, sea and resources. Many of these areas were generally not occupied on a permanent basis and were used for hunting and other food gathering, the taking of timber and other resources, and the collection of rongoa. Hapu also declared certain areas as torere and other burial sites where human remains were placed. These lands also included sites of historical, environmental, political and cultural significance including maunga, awa, wahi tapu and pa.

Over time the environment suffered from degradation arising from deforestation, siltation, drainage and development schemes, introduced weeds and pests, farm run-off and other pollution. There has been an associated decline in species of importance to Te Rarawa. Many mahinga kai and rongoa gathering places have been damaged or lost. The loss of these resources also led to the loss of knowledge and ritual associated with them.

Control of species

Since the1860s the Crown has also progressively assumed control over indigenous species through legislation. This began with the passing of legislation to regulate species introduced into New Zealand but was extended over time to include indigenous species.[327] This included species of importance to Te Rarawa such as kukupa (native wood pigeon) toheroa, tio (oyster), kuaka (godwit), parera and whio (ducks).

For Te Rarawa, the kukupa (native wood pigeon) has an historic importance as a food source and as a cultural treasure'.[328] Harvesting kukupa was a jealously guarded traditional right. Māori and settlers alike hunted the kukupa.[329] Sportsmen and legislators considered the kukupa as native game and the bird was brought into the regulation framework. The Wild Birds Protection Act 1864 was the first piece of legalisation to regulate the kukupa by prescribing a hunting season for the bird to be shot within specific areas as proclaimed by the governor.[330] The traditional methods of hunting and preservation of kukupa conflicted with the game laws designed for sport and not for food gathering. Various other legislative measures followed which saw the prohibition of the use of snares and traps in taking of birds protected by the law.[331]

In the 1880s through to the 1910s Māori members of Parliament spoke about the management of the kukupa. They considered Māori could take care of their own birds by, for example, rahui. Māori supported restrictions on hunting kukupa but did not wish the law to apply to them. They pointed out that these restrictions conflicted with the way Māori used

[327] Early acclimatisation societies introduced a host of suitable game species for sporting purposes and also to make New Zealand more like England.

[328] Te Uira Associates, 'Te Rarawa Historical Overview Report: Volume Two of Two, Working Draft' A Report commission by Te Runanga o Te Rarawa, August 2004, p. 179.

[329] Alexander, p. 716. Alexander notes that in 1911 Pakeha settlers' request to a visiting Minister to the area to have the prohibition on kukupa lifted so they could hunt them feel on deaf ears.

[330] See James W Feldman, *Treaty Rights and Pigeon Poaching: Alienation of Maori Access to Kereru, 1864 – 1960*, Waitangi Tribunal, Wellington, 2001, p. 3.

[331] Alexander notes that the 1860s and 1870s marked a period of experimentation with various policy settings, Alexander, p. 714; The Animal and Protection Acts provided for the exemption of native districts if consent was given by the Governor. Feldman records two exemptions were given in 1901 and 1910 respectively, although not for Northland, pp. 12-22, 30, 40.

native birds and impinged on Māori customary rights.[332] Māori were also concerned that bush clearance contributed more to the decline of the kukupa than traditional hunting practices.[333] For the most part, the early laws had little practical effect on Māori, whose knowledge of the legislation was probably minimal; Māori and many Pakeha continued hunting kukupa for most of the nineteenth century.

By the turn of the twentieth century, the emphasis on managing game birds changed from game management and imported birds to conservation.[334] In 1922 Parliament declared the kukupa absolutely protected under the Animals and Game Protection Act 1921-1922. The protection status continued under the Wildlife Act 1953, which currently remains in force.[335] A lack of enforcement capability continued well into the second half of the twentieth century as the law pushed the hunting of kukupa underground.[336]

In the second half of the twentieth century, the Crown initiated a more active conservation policy with a focus wider than mere enforcement, but this failed to stop the harvesting of kukupa.[337] Over the years, a number of Northland Māori have been convicted for harvesting kukupa.[338]

By the 1990s, the threat to kukupa was not just hunting but competition of food resources from an increasing possum population. Since 1987, the Department of Conservation has been charged with managing the Wildlife Act.

Minerals

Over time the Crown also assumed ownership of all gold, silver, petroleum and uranium and exercised control over the extraction of other minerals, including coal, aggregate, sand, through various legislative means. For example through the Petroleum Act 1937 the Crown nationalised all petroleum resources in New Zealand and became the sole recipient of royalties from any commercial oil and gas fields. Te Rarawa were not consulted when the Crown extended its control of natural resources to include minerals and have never agreed to the Crown's assumption of control.

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[332] *NZPD* 1899 vol 10 p 407. Heke spoke on numerous occasions about this issue in 1900, 1903, 1907, 1908 and 1910, *NZPD* 1903 vol 26, p 72; *NZPD* 1907 vol 142 p 788; *NZPD* 1908 v144 p 288; *NZPD* 1910 vol 151 p. 207.

[333] For example, see Feldman, p.29, where several Pakeha MPs supported the Maori concern.

[334] Feldman, p. viii.

[335] The Act states that all crafted artefacts or taonga using indigenous materials, and all the feathers and other materials allocated by the Department of Conservation to Maori craftspeople, remain the property of the Crown

[336] Alexander notes that there was no notable enforcement of the laws in Northland, in particular due to a lack of available enforcement officials and priorities, and this continued under the Wildlife Act 1953, Alexander, p. 715-720.

[337] Feldman, p. viii; Alexander outlines the approach the Wildlife Service undertook, including an education programme aimed at Maori communities but to which, for all intents and purposes, was a failure. An enforcement campaign by Forest rangers in Northland met with abject failure when one of the Maori rangers leaked the campaign to the Northland Maori community, Alexander, pp. 723-726.

[338] For instance, Daamen notes that in 1937 pigeon shooting was rife in the Warawara State Forest and wider area, Daamen, pp. 63-64; Te Uira Associates record a number of more contemporary convictions, Te Uira Associates, 'Te Rarawa Historical Overview Report: Volume Two of Two, Working Draft' A Report commission by Te Runanga o Te Rarawa, August 2004, pp. 179-180.

Before 1991 minerals were managed under separate administrative arrangements. The Crown Minerals Act 1991 reformed the law governing the management of oil, gas, minerals, aggregate and coal resources and confirmed the nationalisation of petroleum, gold, silver and uranium. Since 1991 impacts on the environment from mineral extraction have been regulated through the Resource Management Act 1991. Te Rarawa consider that over time their rangatiratanga over natural resources such as sand and aggregate has been disregarded.

Reclamations

The Hokianga, Whangape and Herekino harbours have an extensive network of estuarine areas including mangrove forests and mudflats. These areas are an important source of sustenance for Te Rarawa with the harbour yielding large amounts of pipi, karehu, tio, kutae, and tipa. They are also important breeding grounds for many species of fish and marine life.

Large scale timber activities in the Hokianga and other harbours during the nineteenth century and early twentieth century resulted in a dramatic increase in silting. This in turn led to an increase in estuarine areas. From the early twentieth century the Crown began assuming ownership of estuarine areas. Through a series of acts of parliament starting with the Harbours Act in 1908, various Crown agents were empowered to issue leases and licences and to freehold land between low and high water mark for the purposes of reclamation. A number of farmers became interested in reclamation of mud flats to expand their holdings of flat lands and the Crown considered more than a dozen applications from this time.

Te Rarawa was not consulted in relation to this body of legislation and in fact opposed the Crown and denied their right to allow reclamation. In the first half of the twentieth century, attempts by Te Rarawa to claim property rights for the estuarine areas, particularly in the Hokianga and Herekino harbours were 'strongly opposed' by the Crown.[339]

Protest and Petitions

There were a number of petitions and letters of protest in relation to reclamations. An early application to the Crown for a reclamation at Whakarapa (Panguru) by Robert Holland in 1916 met with considerable protest. The application for 63 acres of mudflat (the Ngakororo mudflats) involved an estuarine area adjoining Māori land and of customary importance to the local hapu. Members of the Ngati Manawa, Ngati Te Reinga and Kai Tutae hapu used this are for many purposes, including as a landing reserve,for fishing and shellfish gathering, drying nets and, when dry, as a racecourse.[340] The Crown permitted the applicant to commence reclamation by way of a 21-year lease in 1922 despite Māori objections.[341]

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[339] Richard Boast, Rangahaua Whanui National Theme q*, The Foreshore*, First Release, Waitangi Tribunal Rangahaua Whanui Series, Wellington, 1996, p. 22.

[340] Daamen, p. 127; The area of the licence was based upon a survey of the mudflats which, when completed, showed an area of 65.5 acres, Alexander, p. 877.

[341] No mention was made of Te Rarawa's complaints in the official's note recommending Holland's lease to the Minister. Holland did not own land adjoining the mudflats, but had land some distance inland, Daamen, p. 102; Holland erected stopbanks in the years 1923-24 'or thereabouts', Richard Boast, *Foreshore and Seabed*, LexisNexis, Wellington, 2005, p. 188.

The local people disrupted the reclamation by demolishing retaining walls and filling in drains. Several members of the community were taken to Court and fined for trespass.[342] The Crown opposed attempts by local Māori to have the Native Land Court investigate title to the mudflats.[343] In 1942, the Appellate Native Court overturned an earlier court decision that the mudflats were papatupu, and declared that the Crown had title.[344] The Crown compensated the applicant and cancelled his lease.

In 1922 a petition from Re Te Tai Papahia and others (of Ngati Te Reinga, Ngati Manawa and Te Kai Tutae) to the Native Minister asserted continuing ownership of estuarine lands and strongly objecting to the Crown actions in relation to reclamations. The petitioners claimed that the 'Treaty of Waitangi states that sandbanks and deltas are ours'.[345] In 1923 Hohepa Himi Hare of Ngai Tupoto hapu wrote to Member of Parliament, Tau Henare, asking for mudflats in the Tapuwae River to be excluded from reclamation leases as his people obtained food from these areas.[346] William Topia of Motuti wrote to the Native Minister in 1924 expressing concern about the loss of rights to use these areas for their own purposes.[347] In the same year a deputation of northern Māori called on the Minister of Marine to explain their concerns about the Hokianga foreshore, including allowing Māori to 'work the mudflats'.[348]

Despite these protests a significant area of mudflats in the Te Rarawa area of interest were made available for reclamation over a period of years. These included reclamations at Kohukohu, Punehu (Waireia Creek), Kaitara, Tapuwae, Mangakino, Motukaraka (Wairupe Creek), Rangiora, Pikiparia, Te Karae, Tutekehua and other places.[349] Other smaller areas of mudflats were reclaimed for road or marine structures, such as stopbanks, jetties, sheds and boating ramps.

In the 1930s a claim was brought by Toma Atama on behalf of Māori of Rangikohu, Herekino to investigate ownership of the mudflats. It resulted from concerns about access and

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[342] Daamen, p. 104; Boast, *The Foreshore*, p. 57; Alexander, pp. 880-881. Alexander notes that local Maori had lodged their own applications with the Marine Department for licences to occupy the mudflats without success.

[343] Alexander, pp. 881-885. When the court sat in 1931 to hear title to the mudflats, the survey plan showed that some of Holland's reclamation was in fact above high tide mark, meaning that it should not have been included in the 1922 licence issued.

[344] Boast, *The Foreshore*, p. 59. The Te Rarawa foreshore and seabed research showed that no title was issued for the mudflat and it has reverted to mudflats.

[345] Rose Daamen, 'Exploratory Report on Wai 128 filed by Dame Whina Cooper on behalf of Te Rarawa ki Hokianga', July 1993, pp. 97-98, 127, also citing petition of Re Te Tai Papahi and others to Native Minister, n.d., M 1 537 4/765, ANZ. The petitioners did not receive a 'comprehensive report'; Re Te Tai's affiliations is also given in H Tate and T Paparoa, *Karanga Hokianga*, Kohukohu, 1986, p. 60.

[346] Daamen suggests that Maori were less objectionable to the Tapuwae reclamation by the Vujcichs as the wife of Mijo Vujcich was tangata whenua, Daamen, p. 100 citing letter from Hohepa Himi Hare to Tau Henare, 21 November 1924, M1 575 4/1660, ANZ; Located at Matawhera Point, the reclamation is now known as Lots 1-3 DP 32651 flanked by a thin strip of Crown Land (marginal esplanade reserve), Map 4a of 35, Te Rarawa Foreshore and Seabed title research maps.

[347] Daamen, p. 103 citing letters from William Topia to Native Minister, 13 and 29 September 1924, MA 1 1926/386, ANZ.

[348] The deputation was led by W Rikihana of the Maori Land Court and introduced to the Minister by Tau Henare, Boast, *The Foreshore*, citing notes of a deputation of Maori waiting on the Minister of Marine, 29 September 1924, M 1 4/1746, ANZ.

[349] Some of these reclamations were not just farmers. The Kohukohu reclamations related mainly to timber and marine structures as well as for land for the Kohukohu township. In the 1940s, the Hokianga Co-operative Dairy Company Limited secured a foreshore licence to use and occupy a part of the foreshore at Motukaraka and Wairupe Creek, see file ZACE 14959 82a 24/14, ANZ on Works Auckland office folder 1, Te Rarawa foreshore and seabed research, CLO.

damage to mudflats caused by reclamation dams installed by a local Pakeha farmer. Rangikohu Maori claimed that they had occupied the mudflats undisturbed for the gathering of kai moana as well as a landing reserve. Claimants had grazed stock over the accreted areas.[350] The claim was opposed by the Crown.

Judge Acheson found that the applicants were entitled to the mudflats on the basis of accretion to their own properties, but also on the basis that it was uninvestigated customary (or papatupu) land.[351] The Crown appealed to the Appellate Court which treated the issue as one of accretion, and found that the Land Court had no jurisdiction to deal with accretions to parcels of Māori freehold land.[352]

The Crown became involved with the reclamation of the Punehu/ Waireia mudflats in the 1960s when a public road was developed to provide access to the Rangi Point Community. The ownership of the reclaimed area was assumed by the Crown and was eventually transferred to Landcorp from the Crown in 1989 despite the adjacent Waireia land being returned to Te Rarawa in 1987. Subsequent to the reclamation at Punehu the local community have reported a significant decline in seafood stocks in the area.

Socio-economic consequences

Around 1840 Te Rarawa held around 345,000 acres[353] which included forests, waterways, mahinga kai and sites of cultural, spiritual, historical, political and economic significance. Te Rarawa actively sought opportunities that arose from their early contacts with traders, missionaries and representatives of the Crown and entered into land transactions expecting to gain ongoing benefits from this contact. By 1900 Te Rarawa had lost more than two thirds of their landholdings, including most of their more productive lands in the Kaitaia district.

Benefits from pakeha settlement were slow to arrive and were not commensurate with the long term effect of the loss of large areas of their land through sales, public works takings and other forms of land alienation. By the 1950s Te Rarawa had only 50,000 acres left. Many of their remaining lands are marginal with poor road access and surrounded by private land.

Te Rarawa suffered severely from newly-introduced European diseases and epidemics in the nineteenth century, which added to their social and economic deprivation.[354] This saw a rapid decline in the Te Rarawa population by the late nineteenth century.[355] Te Rarawa people were hit particularly hard by the 1918 influenza pandemic with significant loss of

[350] See 'Notes of Evidence, Native Land Court held at Herekino on Tuesday, 21st January 1941', p. 31, on LS 36 28, ANZ on Lands and Survey folder 3 section 8, Te Rarawa foreshore and seabed research, CLO.
[351] Boast, *The Foreshore*, p. 61.The mudflats allegedly adjoined the Manukau block.
[352] Boast, *The Foreshore*, p. 61.
[353] See spreadsheet of Te Rarawa blocks in AOI
[354] James Newell, Muriwhenua Socio-economic profile report, p. 2-5.
[355] James Newell, Muriwhenua Socio-economic profile report, p. 2-23.

life..[356] With the ongoing alienation of land there was an inadequate economic base for the population which began growing again in the twentieth century.[357]

Historically, employment opportunities in the far north were seasonal and largely based on primary industries – gum digging, flax, timber, and farming. Some farming families benefited from the farm development schemes for a while but most did not. Over time, much of the land acquired by the Crown for settlement ended up as protected forest or conservation lands. This further limited the opportunity for waged employment in the rohe and restricted access to traditional foods and resources.

The development schemes sought to address this by creating a rural class of Maori farmers. However by the 1950s communities in the far north continued to endure poverty as a result of depleted landholdings and declining dairy incomes. The lack of local development and employment drove many whanau to migrate to urban areas. By the mid twentieth century Te Rarawa had experienced high levels of migration to urban areas.[358] This created huge social upheaval and difficulties for Te Rarawa people both in urban and rural areas.[359] Concern about the sustainability of these remote northern communities was an important factor in the Crown's decision to establish a forest in the early 1960s, named Te Aupouri State Forest.[360] Approximately 65,000 acres of Crown land, including parts of the Muriwhenua South, Awanui and Okiore blocks was developed by the NZ Forest Service.

This was one of the few initiatives taken by the Crown to support Maori communities in the far north by providing employment opportunities from forestry. It was generally accepted that the forest served socio-economic and environmental purposes following many attempts at stabilising the coastal dunes cleared of native vegetation by gumdiggers and from overgrazing.[361] Based initially around a small pine plantation at Waipapakauri the forest eventually extended along the Aupouri peninsula. Over time other areas such as areas around Takahue were included.

By the 1980s this forest had become a useful source of permanent and seasonal employment. However the corporatisation of the commercial arm of the NZ Forest service in 1987 saw the sale of cutting rights. The company contracted its own staff which meant that many Te Rarawa lost their jobs.

The Crown has been slow to provide infrastructure to the Far North. Until the 1940s the roading network was inadequate and many communities still relied upon access from the sea. There has been little provision of public transport and parts of the rohe are still without electricity.

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[356] Claire Kaahu White, Not for oneself but for all, Rawene School, 2009. p.44
[357] James Newell, Muriwhenua Socio-economic profile report, p. 2-23.
[358] James Newell, Muriwhenua Socio-economic profile report, p. 2-30.
[359] Melissa Matutina Williams, Back-home and Home in the City" 2010, PhD Thesis relating to Panguru
[360] Stokes, Post 1865, pp. 294-296
[361] Stokes, Post 1865, pp. 294-296

Those who stayed within the rohe experienced difficulties in using their lands productively. Most lands were held as scattered parcels in multiple ownership, with large numbers of people holding small ownership interests. Te Hiku o te ika health, education and employment opportunities, and economic well being are well below that of fellow New Zealanders.[362] Te Rarawa people suffer from high levels of morbidity and their life expectancy is well below that of non-Maori New Zealanders. Te Rarawa whanau have suffered from low home-ownership rates, poor housing and living conditions.

Te Rarawa are aggrieved that for too long they were not consulted about Crown policies that might be detrimental to Te Rarawa, whether in health, education, economic development or cultural practices. They consider that some legislative measures including the 1847 Education Ordinance, the native land legislation, and the Tohunga Suppression Act helped erode traditional tribal structures including the extended whanau and rangatira, customary knowledge and practices, and hapu leadership. Even legislation that looked promising, such as the Native Schools Act 1867 and the Maori Councils Act 1900, could be detrimental in its implementation. Although enacted in an attempt to remedy various specific issues, such legislation gave authority to non traditional social structures and institutions and had an ongoing effect in discouraging the acquisition and sharing of customary knowledge. Over time, these and other measures also damaged the cultural health of Te Rarawa.

Te Rarawa now own less than a sixth of the territory they held at 1840. Today, only 15 percent of Te Rarawa people live in or near their rohe.[363] Their access to and control over natural resources is limited and the resources have suffered from pollution and environmental degradation. The Te Rarawa rohe lies in a part of New Zealand that is underdeveloped and economically struggling. But Te Rarawa are still there. Although colonization and Crown policies irrevocably changed their world, the hapu of Te Rarawa have maintained their presence around the same settlements and waterways of their tupuna.

[362] Stokes, Post 1865, p. 395.
[363] Te Runanga o Te Rarawa Iwi affiliation database, 2010