Draft Historic account

Te Rarawa settlement

July 2011

The purpose of this draft document is to provide the opportunity for Te Rarawa hapu/marae to have input into the historic account that summarises the history of the relationship between Te Rarawa and the Crown from 1840-1992.

The historic account will be subject to negotiation and agreement between Te Rarawa and the Crown before being included as part of the Deed of Settlement. This document is yet to be agreed to by Te Rarawa or the Crown. There are a few areas yet to be developed (see p.59)

You are invited to peruse the document and make comment back to the Negotiations team by the 15th August, 2011 on the following matters:

- Are the main grievances for your hapu adequately captured in the account?
- Are there any factual errors?
- Are there any gaps to be filled?

Please provide any comments or write them directly on the draft. For further information please contact any of the Negotiations or Historic Research Team:

- Paul White toreatai@xtra.co.nz
- Aroha Harris arohah@ihug.co.nz
- Joe Cooper joe1020@clear.net.nz
- Haami Piripi haami@terarawa.co.nz
- Malcolm Peri pouoterangi@xtra.co.nz
- Kevin Robinson kevin@terarawa.co.nz

DRAFT

DRAFT

Section one

He Whakaputanga and Te Tiriti o Waitangi

1. The 1830s marked the early beginnings of engagement between Te Rarawa and the British Crown. Te Rarawa was part of an emergent Maori nation that was forming in the years prior to 1840 and this is evidenced in formal letters, ceremonies and meetings with British dignitaries in Australia and England at that time. (1)

2. A request by Maori in 1831 to the King of England for a formal relationship began a process that lead to engagement with the first British Resident, James Busby, and the deliberate selection of a national flag for international legal purposes. These steps culminated in 1835 with the formal signing of He Whakaputanga o te Rangatiratanga o Nu Tireni (the Declaration of Independence). (2) Te Rarawa rangatira Papahia, Te Huhu, Te Morenga and Panakareao were among those that signed the Declaration.

3. It is Te Rarawa's view that the intent of the declaration was to establish a confederacy to lead the Iwi in a new relationship with the British Crown and others. It was formally recognised by the British government. He Whakaputanga accordingly laid the foundation for Te Tiriti o Waitangi.

4. In 1839, the British Government authorised its recently appointed British Consul for New Zealand, Captain William Hobson, 'to treat with the Aborigines of New Zealand for the recognition of Her Majesty's sovereign authority over the whole or any part of those islands which they may be willing to place under Her Majesty's dominion'.[i]

5. The resulting document, Te Tiriti o Waitangi, was debated on 5 February 1840 and signed by Maori and British representatives on 6 February 1840. [ii] 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.[iii]

6. Some 2000-3000 Maori 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 Maori support for the treaty was not unanimous a number of Te Rarawa rangatira signed it following a day of speeches and debate.[iv]

7. At Kaitaia on 28 April 1840 officials assured Maori that a Governor would better control Pakeha 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 provided an assurance that the Queen would not interfere with native laws or customs. Te Rarawa rangatira expressed their desire to have land sales and trade regulated and for Pakeha misdemeanours to be controlled. Nopera Panakareao was reported as concluding the speeches with the statement that 'the shadow of the land goes to Queen Victoria, but the substance remains to us'. Te Rarawa and other chiefs, led by Panakareao, then signed the treaty.[v]

8. Te Rarawa Rangatira that signed Te Tiriti o Waitangi included Hakitara, Te Toko, Papahia, Takiri, Wiremu Tana, Te Tai, Wiremu Patene, Matenga Paerata, Puhipi Te Ripi, Rawiri, Whiti, Hua, Te Uruti, Pangari, Pero, Ipu and Te Reti. While an English language version was developed all Te Rarawa signatories signed the Maori language version.
9. In the Maori language version (Te Tiriti) signatories ceded kawanatanga (governance) to the Queen under article one, tino rangatiratanga was reserved to rangatira over their

DRAFT

kainga and taonga under article two, and received the protection of the Queen and the status of British subjects under article three.

10. The English language version refers to the cession of sovereignty to the Queen under article one, confirms and guarantees to the chiefs and tribes the full exclusive and undisturbed possession of their lands, forests, fisheries and other properties under article two, and gives royal protection and the rights and privileges of British subjects under article three.

11. Te Rarawa believe that Te Tiriti o Waitangi is the founding constitutional document of Aotearoa/New Zealand as a nation and as such it is the cornerstone document upon which New Zealand's constitutional arrangements rest. Te Tiriti o Waitangi is a promise and a covenant between Māori and the British Crown and goes to the very heart of the social and political lives of every New Zealander. Te Rarawa believes however, that Te Tiriti o Waitangi has not been honoured since the time of its signing and that a number of breaches of Te Tiriti have occurred.

12. Te Tiriti was not adhered to as the settler government was established. There was no attempt to include Te Rarawa in the emerging governance or kawanatanga of New Zealand nor were there any arrangements to provide for tino rangatiratanga over kainga and taonga. Little attention was paid to the rights of Te Rarawa people as British subjects.

Maori voting rights

13. The New Zealand Constitution Act 1852 was the first enactment by the British Crown to grant the colony of New Zealand self government. The Act established both provincial and central representative assemblies. Very few Maori qualified to vote as there was a stipulation that voters had to be male and that they had to have individual title to land granted by the Crown. While Maori were in the majority at the time only about 100 Maori were eligible to vote out of an electorate of nearly 6000. The Act allowed for "Māori districts" where Māori law and custom were to be preserved. However, this section was never implemented by the Crown. The Act remained in force as part of New Zealand's constitution until it was repealed by the Constitution Act 1986.

14. Maori representation in Parliament did not come about until 1867 with the establishment of separate Maori seats. While there were 72 seats for European representatives at the time, there were only four for Maori. Based on the population at the time up to 16 seats were justified for Maori. (http://www.elections.org.nz/study/education-centre/history/maori-vote.html)

15. The provincial government system was abolished in 1876 when the Counties Act of 1876 created 63 counties out of the old provinces.

The place of Te Tiriti in NZ Law

(Needs further work)

16. Te Tiriti was side lined by successive governments with it being referred to as a simple nullity at law. This statement, which was made by Sir James Prendergast, Chief Justice of the Supreme Court, when delivering his judgment in the case of Wi Parata v. The Bishop of Wellington in 1877, influenced government decision-making on Treaty of Waitangi issues for decades. Prendergast ruled that the courts lacked the ability to consider claims based on aboriginal or native title. He described the Treaty of Waitangi as 'worthless' because it was signed 'between a civilised nation and a group of savages'.

This extreme view held that the Treaty had no judicial or constitutional status because Maori were not a nation capable of signing a treaty. Since the Treaty had not been incorporated into domestic law, it was a 'simple nullity'. (http://www.nzhistory.net.nz/timeline/17/10)

17. There were no references in NZ statute until the passing of the Treaty of Waitangi Act in 1975. The Act identifies that the English language version differs from the text of the Treaty in the Maori language and that it is “desirable that a Tribunal be established to make recommendations on claims relating to the practical application of the principles of the Treaty and, for that purpose, to determine its meaning and effect and whether certain matters are inconsistent with those principles.” The Waitangi Tribunal, which could only consider contemporary claims up to 1985, has concluded in numerous reports that governments have breached the Treaty on countless occasions since 1840.

Footnotes:

(1) Brief of Evidence for Dr Manuka Arnold Henare, 12 January 2002, Wai 1071, 1007, 594, 566, 521, 262, 151, 131,
(2) Op cit

DRAFT

Section two

Pre-Treaty land transactions

1. Land ownership in pre-Treaty Aotearoa was generally derived from mana tupuna (ancestral right) and ahikaroa (continued occupation). Land use was controlled by the rangatira of hapu who were required to provide for their members and protect the resources for future generations. Te Rarawa concepts of land ownership came into direct conflict with Western notions of property ownership through a number of pre-Treaty land transactions.

2. The desire to attract or retain missionaries and increase trading opportunities led Te Rarawa chiefs to enter into over 20 land transactions with Pakeha before the Treaty was signed.[1] 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. Most of the transactions around Kaitaia, led by Panakareao and including the Okiore, Waiokai, Kerekere, Ohotu, Otararau, Tangonge and Pukepoto Deeds, were with CMS missionaries or their support workers.[2] Other transactions in this area included the Awanui block. The northern Hokianga Harbour transactions, which were mainly between local chiefs and those involved in the kauri timber trade, included 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. [3]

3. Te Rarawa had well established traditional systems of land tenure and transfer which were different from the British system of transfer of title under English law. Many of the land deeds Te Rarawa entered into provided for Māori to continue occupying, cultivating or otherwise using the land. In some cases the Pakeha buyer made additional payments, over time, for the land.

4. Before the signing of the Treaty of 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 under the Native Land Ordinance 1841 to investigate all pre-1840 land transactions. The Commissioners, guided by the "real justice and good conscience of the case", were to inquire into whether a transaction had occurred or not, and validate those claims where Maori supported the transaction. [4]

5. These inquiries proceeded on the assumption that the transactions constituted a contract for sale and purchase of the land under English law, rather than taking into account Maori customary law. As the Waitangi Tribunal concluded in the *Muriwhenua Land Report*, this was not the understanding of the Maori parties to the transactions. The Commission did not inquire into the nature of the transaction from a Maori perspective, nor did it investigate whether the Maori parties to any transaction were the rightful or only owners.

---

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

[2] Waitangi Tribunal, *Muriwhenua Land Report*, pp. 60-61.

[3] 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.

[4] 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.

6. Te Rarawa understandings of what alienation meant to the British settlers were also influenced by provisions made in deeds of transfer that allowed for ongoing occupation by Maori, the incidence of additional payments over time and the lack of follow up occupation by settlers in some situations.

7. In some cases, particularly with the Hokianga transactions, land was transacted without the knowledge of hapu living on the land. There was considerable dispute over the right of certain parties to enter into transactions over the land in question. The Commission did not seek to investigate land occupation or the rights of those entering into pre-Treaty transactions.

'Surplus lands'

8. The Crown generally limited land grants to Pakeha settlers to a maximum of 2,560 acres to ensure settlers did not become owners of large areas of land. The Crown decided to operate a 'surplus land' policy. Where Maori stated before the Commission that they had transferred land to a settler, customary title was deemed to have been extinguished. If the land involved in that transaction was greater than the area the Crown granted to a settler, it was the Crown's policy to retain the balance of land as 'surplus land'.[5]

'Scrip'

9. In many cases, the Crown offered successful claimants the opportunity to exchange their award for a certificate entitling them to Government 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. Because surveys had not been completed many of the grants exchanged for scrip were over inflated. The Crown applied this approach heavily in the northern Hokianga, because of its valuable timber resources which government officials were eager to secure. Because the Crown surplus claim was usually unclear and nothing actually changed on the ground, many Māori continued to occupy or use land as those they had signed deeds with had left to take up their scrip land elsewhere.[6]

10. The Old Land Claims Commissions were undertaken in two main phases with a number of Commissioners being involved. Commissioner Godfrey considered claims in the Kaitaia District during 1843. Commissioners Richmond and Spain also began hearings in the Hokianga in 1843.

11. Many problems arose from these processes. The Commissioners were not able to complete investigations in a number of areas. The standard of evidential proof was in many cases low and Maori objecting were forced to engage with an adversary process to be heard. Surveys were not completed and precise descriptions of land were not sought. The adequacy of payment was dealt with on a formulaic basis. The value of goods exchanged multiplied by three times the current price in Sydney was used as a rule of thumb. . In the decade following the Land Claims Commission there was confusion about who held rights in certain areas especially where land continued to be occupied by Māori which in turn led to rising tension between Māori communities and grantees.

12. As a result of the Land Claims Settlement Act 1856, the Crown started a second series of investigations into the pre-Treaty transactions. The Land Claims Commissioner, Francis

---

[5] Stokes, 'A Review of the Evidence', p. 266; D Moore et al, 'Old Land Claims', pp. 68-63.
[6] Stirling and Towers, Part1: Historical Overview, pp. 327-328.

DRAFT

Dillon Bell, was to define the original transactions by survey and distinguish between Crown granted areas and lands the Crown asserted ownership of under its surplus land policy.[7]

Kaitaia Old Land Claims

13. Commissioner Godfrey began to hear claims in Kaitaia in February 1843. According to Godfrey, Te Rarawa rangatira, Panakareao and other chiefs declared that the sales of land around Kaitaia should be acknowledged but any lands not granted to the claimants would be resumed by the chiefs who sold them. In addition, they would not sell any more lands or allow any future interference by the Government.[8] In late 1843 Governor Fitzroy reportedly promised to return surplus lands to Māori; a promise he reiterated to Northland Māori in September 1844.[9]

14. Commissioner Godfrey proceeded to hear seven claims with the Te Rarawa area, predominantly from missionaries, for the Awanui, Okiore, Otararau, Waiokai, Ohutu, Kerekere, Whakakarere, Pukemiro, Tangonge and Pukepoto lands. These were affirmed by Māori. Godfrey, recommended the Crown grant land, in most cases specifying a land area and repeating any joint occupancy or other special clauses which were in the original deed.[10] Governor Fitzroy subsequently issued most of the recommended grants, but in two cases granted more land than Godfrey recommended. In many cases the Crown grants issued by Governor Fitzroy specified boundaries of the land granted. None of the land was surveyed when granted, however, and the land subject to the Crown grants remained unclear.

15. Although the deeds recording these early land transactions attempted to formalise the arrangements entered into between Māori and Pakeha the precise nature of each transaction was not always apparent from the deed. Crown grants assigned permanent ownership to individuals with absolute rights to transfer ownership of the land and its resources.

Otararau (OLC 328)

16. In 1835 the Reverend Joseph Matthews purchased 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 and Waiokai blocks were 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. A Crown grant was issued on that basis even though no survey had been completed.

17. Matthews' claims were called in by the second commission in 1857. By this time survey plans were available. The Otararau block was 1,855 acres and Matthews requested that 685 acres of low swampy land, adjacent to Lake Tangonge, be cut off. Matthews was subsequently awarded 1,170 acres in the Otararau block. Bell retained the remaining 685 acres in this block as surplus lands, and it became known as the Tangonge block.[11] This is part of the Landcorp's Sweetwater Station today.

---

[7] Waitangi Tribunal, *Muriwhenua Land Report*, p. 131.
[8] Stokes, 'A Review of the Evidence', p. 251.
[9] Stirling and Towers, Part1: Historical Overview, pp. 653-655. See also D Armstrong and B Stirling, 'Surplus Lands. Policy and Practice: 1840-1950', Wai 45 #J2, 1995, Chapter 3. Stirling notes that Bell was acutely aware that if the surplus was not taken by survey it would have reverted to Maori, and 'would only need to be purchased again at a later date', Stirling and Towers, Part1: Historical Overview, p. 675 citing *AJHR* 1862, D-10, p.5.
[10] Waitangi Tribunal, *Muriwhenua Land Report*, p. 159.
[11] Waitangi Tribunal, *Muriwhenua Land Report*, p. 260.

18. The Pukepoto hapu assumed that the 685 acres had reverted to them, but the Crown claimed it under its ‘surplus land’ policy.[12] The hapu continued to use the lake in traditional ways to catch eels, snare birds or use other resources. In the 1890s Timoti Puhipi tried to claim royalties for kauri gum extracted from the Tangonge block and found that the Crown claimed ownership of the land.[13] In 1893 Puhipi and others (including Rev Matthews) petitioned Parliament about the ownership of the block and the Native Affairs Committee recommended an inquiry.[14] The Surveyor-General advised that this could potentially threaten the Crown title to surplus lands and there was no inquiry.[15]

19. There were further petitions in 1894 and 1906.[16] The 1906 petition was referred to the Houston Commission in 1907.[17] Robert Houston heard evidence from the Maori petitioners at Kaitaia. The Crown did not appear to defend its claim to title of the land. Houston found Maori still living on the land. The Commission concluded that Rev Matthews had promised to return Tangonge land to Maori, that it should not have been included in Matthews’ old land claim and it therefore did not become ‘surplus land’. He found it was and should be native land vested in the Maori owners.[18] The Crown did not implement Houston’s recommendation.

20. Another petition in 1924 was investigated by the Native Land Court under the Native Land Amendment and Native Land Claims Adjustment Act 1924. The case was heard at Ahipara in February 1925 and the Crown defended its assumption of title. Judge MacCormick thought it probable that Matthews had promised to return the Tangonge land to Maori, but considered he did not have any power to do so. MacCormick did not make specific recommendations but suggested the Crown make some concession to the Maori petitioners.19

21. The matter was also considered by the Sim Commission in 1927 in response to another petition.20 It concluded that the petitioners had failed to establish that Matthews had agreed to give the land back to them.21 In 1939 the Native Affairs Committee recommended that another petition concerning the Tangonge lands be referred for inquiry.22 This did not happen until the Myers Commission (Surplus Lands Commission) was established in 1946. That Commission agreed with the conclusions of the MacCormick and Sim commissions.23

22. In the 1930s a number of Maori families erected dwellings on the Tangonge block in the belief that it was Maori land. By 1941 there were seven families living on the block. The

---

[12] Ibid, p. 161.

[13] Ibid, p. 260. The Tangonge block was zoned as part of the Tangonge kauri gum reserve.

[14] Timoti Puhipi and 20 others, No 402, ‘Reports of the Native Affairs Committee’, *AJHR*, 1893, I-3. Rev. Matthews also signed the petition in support of the claimants.

[15] Armstrong and Stirling, pp. 120-121.

[16] Timoti Puhipi and 5 others, No 734, 1894, ‘Reports of the Native Affairs Committee’, *AJHR*, 1895, I-3; Nepia, p. 12 (Rev Matthews also signed the petition in support of the claimants); and, Timoti Puhipi and 29 others, No 207, 1906, ‘Reports of the Native Affairs Committee’, *AJHR*, 1906, I-3.

[17] The commission resulted from the 1894 recommendations of the Native Affairs Committee on several petitions asking for the return of lands considered by the Crown to be surplus lands.

[18] Stirling and Towers, Part1: Historical Overview pp. 923-924; C Geiringer, ‘Historical Background to the Muriwhenua Land Claim 1865-1950’, Waitangi Tribunal, Wai 45 #F10, 1992, p. 221. Waitangi Tribunal, *Muriwhenua Land Report*, p. 261.

[19] Armstrong and Stirling, pp 120-1, 399-400; C Geiringer, p. 224.

[20] Herepeti Rapihana and 10 Others, No. 275, 1926 and Hati Rapihana and Another, No. 278, 1926 ‘Reports of the Native Affairs Committee’, *AJHR* 1926, I-3, p. 3.

[21] C Geiringer, pp. 225-227. The Sim Commission heard from the only surviving witness of the Houston Commission.

[22] Pereene Tukariri and 105 Others, No. 24, 1939 ‘Reports of the Native Affairs Committee’, *AJHR* 1939, I-3; Armstrong and Stirling, p. 411.

[23] 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.

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.24

23. Most of those living on Tangonge had come to work in Kaitaia from outside the area, but they were connected to the Pukepoto hapu. The Native Department found that only one dwelling could be described as inadequate. The others, while very basic, were typical of contemporary Maori accommodation in the area. All the families were reluctant to move because they had nowhere else to go. Officials from the Native Department recommended that some Crown land be provided for these families but that recommendation was not implemented.[25] There were further attempts to evict these families which eventually succeeded during the 1960s. The Waitangi Tribunal noted that 'the Government finally won the Tangonge block, and with it the undying bitterness of the local Maori people'.[26]

Okiore (OLC 705)

24. The Okiore claim covered 3,000 acres. It was negotiated between CMS surgeon Dr Samuel H Ford and Panakareao and 13 others. The deed excluded the village of Te Kokopu and included a 'joint occupancy' clause which allowed Maori to 'cultivate along the banks of the Awanui River from one generation to another'.[27] When Ford had the land surveyed for the purpose of making his land claim, he left the 132-acre Matarau Native Reserve out of the survey for Maori to have. Land Commissioner Bell ordered a grant of 2,627 acres for Ford. Bell agreed to making Maori a further reserve within the block if asked to do so and if it was recommended by the Resident Magistrate White. No reserve was established. The Crown retained the surplus area of 5,653 acres.

Awanui (OLC 875-877)

25. The Awanui block comprised some 13,684 acres. The land was transacted between Panakareao and others and a settler H Southee, who was married to Ati, daughter of Rangatira, Ruanui. The deed for this transaction had a 'joint occupancy' clause which stated that the land was for Southee and his children forever but added that Maori already residing on the block 'are to have the banks for the river to cultivate for themselves, the places are to remain sacred for them for ever, they are not to be troublesome, nor let anyone venture to offer for sale any part on what they are living because those places are for the cultivations of the natives from one generation to the other.'[28]

26. The land was investigated by the first commission. The Maori signatories supported Southee's claim but emphasised that the area along the Awanui River was reserved for Maori. Southee had sold part of the land area to his farming partner, William Maxwell, and the Governor ordered a Crown grant of 2,560 acres for Maxwell. Southee was also indebted to a couple of traders, Gilbert Mair and William Powditch, who also sought satisfaction from the Crown in relation to proceeds of Southee's land interests at Awanui. Mair and Powditch were awarded scrip. Southee was given a Crown grant for 186 acres.[29]

---

[24] Armstrong and Stirling, p. 412.
[25] Ibid.
[26] Waitangi Tribunal, *Muriwhenua Land Report*, p. 262.
[27] 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.
[28] OLC 1/875-877, pp. 1843-1847, cited in Waitangi Tribunal, *Muriwhenua Land Report*, p. 70.
[29] Armstrong and Stirling, pp. 166-167.

27. Maxwell's grant was not surveyed, but in mid 1855 he upset local Maori whom he told to leave and abandon their cultivations along the Awanui River bank because the land was his. By now, Southee was dead. The issue of Maxwell's boundaries was referred to Land Commissioner Bell in 1857. An arrangement whereby the Commissioner would grant Maori 200 acres as a reserve was noted on the record. It was signed by eleven Maori and witnessed by an interpreter. In the end, Maxwell was granted 5,124 acres (including 2,538 for surveys and fees). Of this he was to transfer 400 acres to a surveyor and 500 acres to H Southee's son and 26 acres to F D Fenton (presumably for a survey debt). Maori were awarded the 200 acre reserve, but a further 200 acres recommended to be reserved for the Rangatira Puhipi was never created. The Crown retained 8,360 acres of surplus.[30]

28. Between 1857 and 1862 the Crown issued new grants for all the pre-Treaty transactions in Te Rarawa's rohe.[31] As a result, Pakeha claimants were granted 16,199 acres, the Crown acquired 15,966 acres as 'surplus' land and Māori were awarded 446 acres of reserves at Pukepoto and Awanui.

29. These Crown grants fundamentally altered the nature of the transactions entered into by Panakareao and others 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.[32] In other cases such as the Kaitaia-Kerekere block Māori occupation, cultivation and traditional usage continued unabated anyway.[33] The new grants were unconditional and did not carry on these provisions from the original deeds.

30. In addition, the areas deemed to be Crown land, through its surplus land policy, were often not immediately clear to Māori on the ground as the Crown had no physical presence on the land. In many cases, including 685 acres of swampy Otararau lands adjoining Lake Tangonge, Māori assumed the land had reverted to them and continued to use it in traditional ways for eeling, bird snaring and other resources.[34]

Hokianga Old Land Claims

31. Commissioners Richmond and Spain carried out hearings in the Hokianga from 1843. The majority of claims were not dealt with to the satisfaction of either the Maori or the settler parties. Hokianga Māori initially co-operated with Bell when the second round of Commissions commenced in 1857 by assisting him to identify the poorly defined claims the Crown had provided 'scrip' for in 1843-44. They appeared before the Bell commission to secure their interests in land they continued to occupy and use but the Commission did not find in their favour.[35]

32. The Crown regarded lands it had paid 'scrip' for, to be Crown land. Much of this was unsurveyed and the Crown was concerned it had paid out more to settlers in scrip than the land involved in the original transactions. In late 1858, the Crown undertook a comprehensive survey of the Hokianga scrip lands to try reconcile the estimated acreage claimed and scrip paid out.[36]

---

[30] Ibid, pp. 167-168.
[31] Waitangi Tribunal, *Muriwhenua Land Report*, pp. 60-1 and 131.
[32] Ibid p. 63 and p. 70. Stokes, 'A Review of the Evidence', p. 123.
[33] Ibid, p. 153.
[34] Ibid, p. 161.
[35] Stirling and Towers, Part1: Historical Overview, p. 9; Stirling and Towers, Part 2: Hokianga Scrip Claims, Claim Studies, Appendices and Bibliography p. 1062.
[36] 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.

33. The surveys were overseen by a Native Department interpreter, John White, who had grown up in the Hokianga and was related to a claimant to significant Hokianga lands.[37] This official involved himself in the survey process fully and in excess of his authority.[38] He simply dismissed boundary disputes by Māori as greed and demanded Māori strictly adhere to the boundary findings of the first commission.[39] 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.[40]

34. Pakeha claimants lodged claims for some 13,000 acres along the western arm of the Mangamuka River and 77,500 acres along the northern Hokianga Harbour. Overall, some 90,000 acres was claimed for in the Northern Hokianga district for an approximate purchase in goods and cash of £1,957. The Commission, however, granted just 370 acres, £7,000 scrip and one Maori reserve of six acres along the Mangamuka River, and 525 acres, £2,960 in scrip and no Maori reserves along the northern Hokianga Harbour.
35. The Crown surveyed 3,138 acres on the western arm of the Mangamuka River, and over 6,125 acres on the northern Hokianga Harbour. For the Northern Hokianga district, the Crown assumed ownership of around 5,563 acres in surplus and scrip survey.[41]

Motukaraka

36. In 1831 a land transaction took place between Thomas McDonnell and Taonui, Whatiia and others. The purchase was reputedly motivated by an altercation between Whatiia and others within Ngai Tupoto and Ngati Here. McDonnell claimed to have purchased 80 square miles (50,000 acres) of land at Motukaraka with goods worth £134 at Sydney prices.
37. In 1843 Commissioner Richmond investigated McDonnell's Motukaraka claim (OLC 1034).[42] Taonui confirmed the transaction before Commissioner Richmond but his right to sell the land was strongly opposed by upwards of 30 Ngati Here; a part of the Ngai Tupoto hapu living on the block. Lead by Hua, Te Uruti and others they did not accept his mana whenua or right to sell.[43] Those in opposition to the sale of the entire block 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.[44]
38. The Richmond Commission decided that McDonnell had made a valid purchase and recommended the maximum Crown grant of 2,560 acres with one restriction.[45]

---

[37] 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.

[38] 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.

[39] Stirling and Towers, Part1: Historical Overview, pp. 353-354. Stirling notes little Maori evidence is extant given that this evidence was not directly filed with the claims themselves, but disappeared into the general melee of government records relating to Maori, few of which survive.

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

[41] 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.

[42] Marian Horan, 'Motukaraka Research Report', 2004, pp. 3-4.

[43] Ibid, pp. 8-10.

[44] Ibid, p. 7.

[45] Ibid, pp 4, 6.

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." The boundaries Richmond stipulated were those put forth by Ngai Tupoto and only corresponded to the Motukaraka Point, of 200 acres.[46] Governor Fitzroy confirmed Richmond's recommendation on 16 January 1846, and a Crown grant was issued on 1 February 1846 under Governor Grey for 2,560 acres within the boundaries Richmond identified in his report.[47]

39. Over the next 15 years McDonnell disputed Richmond's findings. Investigations held between 1850 and 1857 acknowledged that Ngai Tupoto living on Motukaraka continued to deny Taonui's right to sell Motukaraka land and only affirmed McDonnell's purchase of the Motukaraka Point.[48]

40. 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.[49] Ngai Tupoto would continue, as they had since before 1840, to occupy the land right up until the 1880s, tending to their gardens and taking out spars for export.[50]

41. Commissioner Bell visited the Motukaraka area in March 1858 and informed Ngai Tupoto that McDonnell's purchase was now the property of the government.[51] Local Maori and Commissioner Bell walked the boundaries of McDonnell's purchase, which Ngai Tupoto noted only covered the Motukaraka Point.[52] Survey documents from 1858 also described McDonnell's purchase, noting it covered just the Motukaraka Point.[53]

42. After McDonnell relinquished his Motukaraka claim Ngai Tupoto living on the land sought to have some of the land reserved to protect their houses. This was denied and Motukaraka Point was put up for auction. Ngai Tupoto was forced to purchase the land to safe guard their houses and a marae, through settler Christopher Harris, husband of Ngahuia, of Ngai Tupoto.[54]

43. In the late 1870s, under its surplus land policy, the Crown began asserting ownership of the balance of the 2,560 acres of Motukaraka land it decided it was still entitled to. It tried to survey the land but stopped after protest from local Maori.[55] A Ngai Tupoto woman, 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.[56]

---

[46] 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.

[47] *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.

[48] Horan, Motukaraka document bank, items 5, 6 and 7.

[49] Marian Horan, 'Motukaraka Research Report', 2004, pp. 14-15.

[50] Stirling, Part 1: Historical Overview, pp. 877-878.

[51] Marian Horan, 'Motukaraka Research Report', 2004, pp. 15-18.

[52] Marian Horan, Motukaraka document bank, item 8.

[53] Ibid, item 10.

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

[55] 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.

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

44. Crown officials at the time argued that firm action was required to assert Crown ownership of Motukaraka. They argued that the Motukaraka Block was a "test case" for ensuring that Maori elsewhere recognise Crown rights to land formerly Maori owned. It was expected Maori who disputed Crown claims in other areas would be discouraged by the Crown's success in subdividing the Motukaraka Block. Officials argued that if Maori wished to dispute the claim they could take the matter to the Supreme Court.

45. The Crown wanted to establish a Special Village Settlement on Motukaraka lands, to encourage settlers to the area.[57] Ngai Tupoto protest delayed the survey of the land until the mid-1880s.[58] When the survey and subdivision of the land proceeded Ngai Tupoto asserted that they wished to have a number of urupa, cultivations and papakainga areas reserved for their use. The surveyors reduced the size of most requests. The Crown granted wahi tapu to Ngai Tupoto without payment. To attain cultivation areas within Motukaraka, Ngai Tupoto had to exchange other lands of three times the acreage, for every acre reserved.[59] Ngai Tupoto was forced to yield 127 acres at Omarakura to safeguard their homes and gardens. The reserves that were set aside were in the name of individuals on behalf of Ngai Tupoto. Several of the reserves were subsequently alienated.

46. Further protests were made by way of petition to parliament. Hone Hare and 44 others of Ngai Tupoto of Motukaraka, petitioned Parliament in 1926. This was heard by the Sim Commission which confused the boundary issues relating to the case and dismissed the petition in 1927 without a proper investigation. A further petition in 1938, George Marriner on behalf of G. J. Harris and 96 others referred to the Myers Commission, was equally unsuccessful.[60]

47. Many Ngati Here and Ngai Tupoto people were rendered landless as a result of the Crown's actions in relation to the Motukaraka lands.

Kohukohu

(based on information from claimants. Source OLC 971)

48. In 1843 the Commissioner William Spain sat in Kohukohu to hear Mariner's Kohukohu claim (OLC 971). Mariner had taken over the claim which had changed hands several times since the original transaction between Ihutai rangatira, Wharepapa and others, and Frederick Maning. Maning had sold the claim to, Dr Adolphus Ross, and Rev. Nathaniel Turner of the Wesleyan Mission in 1838, before Matthew Marriner brought it in 1840. Turner also sold a portion to G. F. Russell in 1839.

49. Wharepapa disputed the sale alleging Mariner had not paid the full price and also sought to have land reserved for himself, his grandson George Clark and the tribe. The Commission granted Mariner the Kohukohu claim and he exchanged it for £950 of "scrip". Wharepapa's interests were not surveyed out.

50. In 1858 the Bell Commission, sat in Kohukohu and the Kohukohu claim was reheard. Wharepapa continued to dispute Mariner's claim. Bell determined Mariners claim to be 815 acres, but one quarter of that area was to be reserved for chief Wharepapa, his grandson George and Ihutai between Waihoehoe stream and Mariner's house.

[57] Marian Horan, 'Motukaraka Research Report', 2004, p. 19.
[58] Ibid, p. 22.
[59] Ibid, p. 23.
[60] 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.

51. In 1859 the Crown surveyor cut out 50 acres and 3 acres for Russell's OLC-399 and Gundry respectively, for interests they had purchased from Mariner, despite the fact that these transactions had not been identified at the first Commission.

52. The surveyor began work surveying out the Crowns scrip interest until George Clark intervened. An attempt to bribe Wharepapa to allow the survey was made by the Crown surveyor who said he would survey a small piece to be cut out for George if he allowed the surveyor to finish his work. George refused to consider the bribe and would not allow the survey without his grandfathers and the Ihutai interests also being cut out. Nothing further happened until 1883.

53. 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, his grandson George and Ihutai. In 1884 the error was revealed and special legislation was required to fix the problem. In 1888 the Native Promises and Contract Act 1888 was passed and Wharepapa, his grandson and the Ihutai interest were finally surveyed out after 58 years of dispute.

Mangamuka River Claims
(Bruce Stirling, Northland Old Land Claims, pp.525-535)

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

55. As part of the Bell Commission from 1858 Surveyor Clarke, accompanied by interpreter White commenced surveys along the Mangamuka River. A feature of the claims was the exaggeration of the areas involved, the payment of an inflated amount by way of scrip, and the failure of the Crown agents to adhere to the instructions of Commissioner Bell.

56. The Mangataipa claim by Cassidy (OLC 82) was estimated to be 1500 acres and £1053 was paid by way of scrip. On survey it 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, and land was taken as exchange elsewhere.

57. The Moturata claim by Hunt (OLC 242) was for 3000 acres and was exchanged for £2560 in scrip. The area surveyed was 533 acres. The claim was disputed by Wiremu Patene, Te Otene and Mohi Whitingama. Hunt, who had paid for the land with an amount of lead that he retained inhis possession, did not produce it when called upon some time later. 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 earlier. Wiremu Patene, Mohi Tawhai and other rangatira had sought to retain the land through exchange but White overrode their request.

58. At Rahurahu (OLC 122, 124) where Cochrane had claimed 1000 and 500 acres respectively. He had been awarded 200 acres in the name of his daughter Jane Clendon and £800 in scrip for the first claim and £328 in scrip for the second. 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.

59. At Horohoro, Mitchell (OLC 966) had claimed and been granted 1500 acres. 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 as he interpreted them taking in 271 acres and without any authority assumed ownership for the Crown.

Children of dual descent

60. The Bell Commission finished before resolving all claims, including those of Māori children of Pakeha fathers (referred to as “half-caste” claims). In the northern Hokianga district one such claim was made for 29.5 acres at Punehu.[61] 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.[62]

61. 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 Kuari (Gundry), by then a widow, to support her and son, Wiremu. 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’.[63]

DRAFT

[61] 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.
[62] Ibid, pp. 1328-1330, 1333-1334.
[63] Ibid, pp. 1332-1333, 140-1342

Section three

Pre-1865 Crown purchases

1. 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 land-purchase programme in this region involved complex negotiations between Maori and Crown agents who held divergent understandings about the purposes and benefits of land sales. Having secured more than 20,000 acres of Te Rarawa land declared 'surplus' to the Old Land Claims, the Crown actively pursued its purchasing programme around the Kaitaia area.

2. Through a series of purchases from 1858 to 1863, the Crown purchased over 150,000 acres in the far north including Muriwhenua South, Wharemaru, Kaiawe, Ahipara, Ohinu, Kokohuia and Maungataniwha blocks. This gave the Crown control of a substantial area of Te Rarawa land and almost all remaining Māori land North of Kaitaia. The purchase programme left the hapu with inadequate land for their future needs.

3. The purpose of the programme was to acquire everything and hand back part of the land under a new tenure arrangement so that Maori and Pakeha would be on the same footing. Indeed, Governor Gore Browne noted that the land acquisition policy in 1857 for the Far North was "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."

Adequacy of title investigation and representation

4. The investigation of title and the adequacy of representation was a major concern in relation to pre-1865 land transactions. There was no process in place before 1865 for determining the rightful owners of the land. The Crown dealt with willing sellers and avoided dealing with those who refused to sell regardless of the will of the collective. There was inadequate documentation of the sales process.

Adequacy of reserves

5. The Crown only set aside a few reserves for Te Rarawa from the substantial area it acquired of Te Rarawa hapu land from 1858-63. The establishment of reserves did not provide sufficient areas of land for the future needs of Te Rarawa hapu in the area, nor did not take account of resource gathering practices. For example the 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 operations. Maungataniwha was another major food gathering area for hapu. Te Rarawa hapu have continued to access food and other resources from the Maungataniwha lands right up to the present time.

6. Land in the Ahipara-Awanui area attracted some settlers from the 1860s. Over time, as the Crown began to assert its ownership over 'surplus' lands in the area Te Rarawa became alienated from lands they had continued to utilise. The paucity 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.

Crown policy

7. It was Crown policy 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. 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.

Te Rarawa understandings

8. Te Rarawa rangatira and the Crown representatives held different understandings of property ownership and sale. Te Rarawa's view was based on mana whenua (authority over the land) derived from mana tupuna (ancestral rights) and ahikaroa (on going occupation) whereas the Crown viewed sales as extinguishment of all rights for all time. Crown purchase of much of this land was not followed by occupation and there was a view that the Crown's claim grew cold because of it.

9. What Te Rarawa rangatira saw was a plan for settlement in which they could partner the government and become 'substantial beneficiaries in the new regime'. These divergent understandings were a continuation of the circumstances that existed in the case of pre-treaty land transactions.

10. In this new wave of land buying several important factors influenced Maori to enter into transactions with the Crown. The first was the belief in the existence of a haumi, or alliance, most effectively evidenced by the relationship between Panakareao and the Crown. In the Maori view, their transactions with the Crown affirmed the Maori-Crown alliance and the authority of the rangatira involved. Maori regularly sought opportunities for these affirmations and the main issue was neither a sale nor the price but the recognition attained through inclusion in any contract.

11. The second factor that influenced Maori was that traditional Maori philosophies and policies continued to prevail. Maori lifestyles were still firmly embedded in custom. In pursuit of new social and economic goals, traditional Maori views about relative status and authority and its interrelationships with land and people, continued to be important, often transcending the boundaries imposed by lines on a map.

12. The third and most influential factor was that in the Maori view, European settlement provided skilled services, goods, and ready markets for Maori produce. The main debate amongst Maori was not about sales but about the expectation of settlement benefits. The expectation of future benefits would have influenced Te Rarawa rangatira to participate in the government's purchase programme. The Crown on the other hand maintained the same view of land transactions it had held regarding Old Land Claims. As a result, Maori and the Crown continued to enter into land transactions with markedly different expectations.

Crown responsibilities

13. The Waitangi Tribunal found that whatever motives Maori had to enter into these transactions with the Crown, they were overshadowed by the Crown's responsibilities as the purchaser, with a monopoly on purchasing under pre-emption, and a fiscal interest in both buying and on-selling. In taking a right of pre-emption, the Crown assumed the obligation to use its privilege responsibly with due regard to Maori rights and to the duty

of active protection. In short, the use of its pre-emptive right to lower the price, taking advantage of Maori inexperience and ignorance of land values and how they increase, demanded that the Crown ensure that Maori received other benefits as well as maintaining their economic base.

14. Moreover, though the government never explicitly stated its policy was to relieve Maori of their land, as fast and as cheaply as possible, the Tribunal found that 'this policy was generally accepted, understood, or tacitly agreed upon, and later events would show that total extinguishment of Native title, mainly by purchase, was effected in fact'. Even while both sides believed Maori would benefit from European settlement, there was no attempt by the government to reserve the land Maori needed for that purpose. The Crown made no arrangements whatsoever to ensure that Maori interests were protected, calling into question the adequacy of title and representation, boundaries and descriptions, purchase prices and reserves.

Status of Crown purchases

15. The Waitangi Tribunal found that no Crown purchase prior to 1865 can be regarded as an absolute sale, especially as there was no contractual mutuality or common design evident in the transactions, and no protective arrangements overall. There was no independent examination of government actions for fair and even-handed contracts and no official confirmation process. Nor was there any access for Maori to independent and informed advice, something made essential by the government's purchase monopoly and interests in both buying and selling Maori land.

16. According to the Tribunal the extent to which Maori saw these transactions as sales in the same way as the Crown did is doubtful because as in pre-treaty transactions there was not the reality of sale on the ground. There was no immediate surrender of taking of possession. Maori 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 and the Maori desire was still for more Pakeha to come.

Muriwhenua South

17. The purchase of the Muriwhenua South block was facilitated by Kemp and White. The size of it was initially identified by Kemp as being 25,000 acres and no survey was completed before the deed of sale was executed. The actual area turned out to be in excess of 87,000 acres and the purchase price reduced to 3 pence per acre accordingly. Although it was obliged to keep a proper record of the transaction, the Crown cannot establish that the true area was made know before the deeds were signed. The Muriwhenua South block makes up a substantial part of the Aupouri State Forest. (Muriwhenua report)

Maungataniwha

18. A total of 32,591 acres was purchased by the Crown in the form of the Maungataniwha East, West No 1, and West No 2 Blocks from 1862-1863. There was no process to determine the ownership of these lands which were the pivot point between the iwi of Te Rarawa, Ngapuhi and Ngati Kahu. There is limited documentation of the sales process and no record of the conditions of sale. Notwithstanding nearly 3000 acres being reserved, all but 754 acres of the 2,995 acres held back from the sale were later alienated from the ownership of Maori. 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 eroded away.

Sources:

Muriwhenua Report, Waitangi Tribunal, 1997
Te Rarawa Historical overview, 2004 Uira Associates

DRAFT

Section four

Introduction of Native Land Court

1. In 1865 the Crown established the Native Land Court, at a time when Maori had no political representation and were engaged in major disputes and land wars in several districts. The Court and its establishing legislation became the foundation for all future acts of parliament dealing with Maori land, which promoted colonisation and Pakeha settlement to the detriment of Te Rarawa tribal interests, especially Te Rarawa land tenure systems.

2. Under the Native Land Acts of 1862 and 1865 the Crown established the Native Land Court to determine the owners of Māori land "according to Native Custom" and to convert customary tenure into title derived from the Crown. The Native Land Acts also set aside the Crown's pre-emptive right of land purchase, to give individual Māori named as owners by the Court the same rights as Pakeha to lease and sell their lands to private parties as well as the Crown.

3. The Crown aimed with these measures, to provide a means by which disputes over the ownership of lands could be settled and facilitate the opening up of Māori customary lands to colonisation. It was expected that land title reform would eventually lead Māori to abandon the tribal and communal structures of traditional land holdings. While converting customary lands into land held under the British title system would also give Māori landowners the right to vote, pressure from Pakeha settlers about the perceived failure of the pre-emptive purchase system to meet their demand for land provided the immediate impetus for Parliamentary action in 1862.

4. The Native Land Court system over-rode traditional tenure systems. Customary tenure was able to accommodate the multiple and overlapping interests of different iwi and hapu to the same piece of land. The Court was not designed to accommodate the complex and fluid customary land usages of Māori within its processes, because it assigned permanent ownership. In addition, land rights under customary tenure were generally communal but the new land laws gave land rights to individuals. The Crown had generally canvassed views on land issues at the 1860 Kohimarama but did not consult with Te Rarawa on the native land legislation prior to its enactment.[64]

5. Māori had to use the Court to protect their mana whenua interests and secure legal title to their lands. They could lose their interests in land if they did not participate in Court hearings initiated by other claimants. Te Rarawa hapu engaged in the process to up hold their mana but Native Land Court processes were foreign to Te Rarawa values and set up different hapu groups as adversaries. There were numerous examples of where Te Rarawa hapu were pitted against each other.

6. 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. The Court's processes were initiated on applications by Māori for a title determination. Land had to be surveyed before the Court could determine title. The Court which consisted of a Pakeha judge and a Māori

[64] 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 only received the invitations to the meetings 2 days prior to its commencement. Vincent O'Malley and Stephen Robertson, 'Muriwhenua Land and Politics, 1862-1909', September 1991, p. 11.

assessor would hear the claims of the claimants and any counter-claimants before awarding ownership and issuing a certificate of title.[65]

7. The legislation provided for a maximum of ten owners to be listed on a block of land. It did not provide for any trusteeship and was at variance with the customary principal of collective ownership. The ten-owner rule alienated a number of Te Rarawa people from their lands.

8. Te Rarawa initially made limited use of the Court. Crown officials reported that survey costs and Court expenses were a deterrent. Between 1865 and 1873 Te Rarawa only used the Court to gain legal title to around ten blocks of land. Most were small areas reserved from lands previously sold to the Government. In accordance with the Native Land Act 1865, the Court awarded these blocks to ten or fewer owners. The Act did not specify whether the named owners were to act as trustees as for other Māori who had customary interests in the lands.[vi] Most of these lands were eventually sold to private land purchasers.

9. A large number of Te Rarawa attended a meeting in February 1869 at Whangape where it was proposed by some Te Rarawa chiefs to elect Māori to adjudicate in all land questions such as disputed rights and on criminal issues.[vii] This led to the election of a head chief to reside over Hokianga Te Rarawa and another chief to preside over the Kaitaia Te Rarawa. They sought to approval of the Government and also asked to have a Resident Magistrate at Whangape. The Government did not take these proposals seriously and no further action was taken. (O'Malley and Robertson p. 101.)

Crown Purchasing and Native Land Laws 1870-1900

10. Crown purchasing policy and practice in this period can be divided into two main phases: 1870-1879, the era of the Vogel administration during which pre-purchase negotiations and payments were commonplace, and 1880 to 1900, when the number of land purchases significantly increased due to the aggressive purchasing policies of the Liberal Government.

11. The two main Crown policies underpinning land purchases throughout this period were racial amalgamation and national development. This becomes clear under a closer examination of Native Land Court processes, and the high number of Crown land purchase transactions under the Public Works and Immigration Acts 1870 and 1873, and the Liberal Governments' Native Land Purchase Act 1892 and Native Land Acquisition and Purchase Act 1893.

Crown purchasing 1870-1879

12. In the early 1870s the Vogel Government borrowed heavily to fund an immigration and public works scheme that aimed to use a number of means, including the purchase of Māori land, to develop infrastructure and facilitate Pakeha settlement in the North Island. The Crown sent land purchase agents to discuss the sale of land with Te Rarawa and other northern Māori in 1873.[66]

---

[65] Drawn largely from KEC drafting.

[66] McDonnell met with Māori at Ahipara in 1873. Unclear when land purchase agents sent to the northern Hokianga but Brissenden had secured the purchase of the Kauaeoruruwahine, Taraire and Te Takinga blocks by November 1874.

DRAFT

13. When the first major land purchases occurred, it is widely accepted that hapu were still living as autonomous political entities within their own rohe.[67] Te Rarawa continued to uphold communal land use according to the customary rights and obligations within a hapu territory, and to uphold the authority of rangatira who made political decisions for the common benefit of the hapu.

14. A Crown land purchase agent undertook an exploratory visit to Ahipara in July 1873. Te Rarawa informed him that they were not anxious to sell their land.[68] Timoti Puhipi wrote to the Crown agent in August 1873, however, to inform him that the Ahipara people had arranged what land they would sell 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'.[69]

15. The Crown land agent returned to Ahipara in September 1873 and after an initial meeting with two chiefs, met with an assembly of people to explain why the Government wanted the land and what benefit they would get from selling a portion of their lands. The chiefs had stated that they did not consider that they had received benefits from the lands they had previously sold.[70] The agent reported that he had highlighted the benefits of European settlement stating 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.[71] 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'.[72]

16. Further discussions occurred the following day. Others were reported to be interested in selling a valley called Te Uwhiroa and messages were sent to people in the Herekino and Whangape areas to meet at Herekino. The Crown agent repeated the speech he had made at Ahipara. The next day, after a visit to view the land, the Crown agent was given two green stones as a symbol of the people's agreement to sell the land and have Europeans settle among them. In return, he gave a small sum of money as a token of the Crown's good faith.[73] In the following days he also met with Māori at Takahue to discuss the purchase of land there.

17. 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. This had the potential for sales to be agreed with individual owners only and without the consent of the wider collective of owners. However Te Rarawa continued to present the Court with lists of fewer than ten owners for most of the blocks that passed through the court for title determination. This assisted the transfer of land to the Crown where purchases had already been agreed and the Court usually acceded to the applicants' wishes.

18. The 1873 Act also made provision for all Maori to retain at least 50 acres per person to ensure that sufficient land was available for the "support and maintenance of the native population." However no attempts were taken to determine how much land should be

---

[67] Judith Binney, Judith Bassett, Eric Olssen, *The People and the Land Te Tangata me te Whenua An Illustrated History of New Zealand 1820-1920,* Wellington, 1990, pp 28 and 84.
[68] Stokes, post 1865, p. 84
[69] Cited in Stokes, post 1865, p. 84-85 (quote p. 85).
[70] Stokes, post 1865, p. 85.
[71] Stokes, post 1865, p. 86.
[72] Stokes, post 1865, p. 86.
[73] Stokes, post 1865, p. 87.

DRAFT

reserved for the future needs and survival of Te Rarawa hapu. (section 24 NLA 1873). In the 1878 census approximately 2000 Te Rarawa people were identified. Under the legislation at least 100,000 acres should have been reserved for their use. Total Te Rarawa land holdings were reduced well below this point from the 1870s, despite the rapid recovery of Te Rarawa population from the 1880s.

19. The Crown Purchasing Officers throughout this period were W.B White(1872), Lieutenant Colonel Thomas McDonnell (July 1873), E. T. Brissenden (Oct 1873) supported by Crown interpreter, Charles Nelson, and J. W. Preece (1875).[74] The system of land alienation practiced by these men was tinged with deceit, cost and corner cutting and moral irresponsibility, and commonly involved pre-title purchase negotiations and pre–purchase payments, inducements to sell land, and disregard for the reservation of sufficient land-bases for the future welfare of hapu.

20. From 1872 to 1879 Crown agents negotiated with Te Rarawa for the purchase of twenty six blocks of land, totalling nearly 95,000 acres.[75] This included the Te Maroa, Kaitaia North, Te Kauae o Ruruwahine, Mangakino, Taraire, Manganuiowae, Otangaroa, Takahue, Te Uhiroa, Puhata, Te Paku, Tauroa, Epakauri, Orowhana, Ngatuaka, Te Takanga, Mapere, and Paripari, blocks. The process was fraught with difficulties including inter hapu and Iwi disputes, questionable Crown purchasing practices and conflicting expectations.

Adequacy of investigation

21. From 1873 the Native Land Act 1873 directed that the Native Land Court to 'ascertain from such evidence as it shall think fit, not only the title of the applicants, but also the title of all other claimants to the land'. The proportionate share of owners was also to be ascertained, if the majority of owners so wished, according to 'Native usage and custom'.[76] Under pressure from Crown agents, judges sought to ease and quicken the process by which Maori land alienation to the Crown could take place by restricting their investigations to within the confines of the Court, and by continuing to limit the number of individuals recorded on the title. Crown purchase blocks usually passed through the Court with ease and this was indicative of the Court's reluctance to interfere with Crown purchase activities.[77]

22. Thus, throughout the 1870s a large number of blocks were awarded to fewer than ten owners for the purposes of sale to the Crown. Judging by the speed in which deeds were transferred to the Crown, often a matter of days in the case of the Mapere, Otangaroa, Te Paku, Te Takanga (No.2), Epakauri, Orowhana, Paripari, and Te Tauroa blocks, titles were not investigated adequately. The pressures imposed upon the Native Land Court by Crown purchase agents are clear, as outlined in this account of the Te Uhiroa and Te Puhata blocks, which went before the Court in June 1875.

23. Because the initial application for the Te Uhiroa and Te Puhata blocks was made just prior to the date in which the Native Lands Act 1873 came into effect, Judge Maning, suggested to Chief Judge Fenton that they could 'be gone on with without the preliminary inquiry required by section 38 of the present [1873] Act'.[78] When the titles were finalised in June 1875, Judge Monro named 27 owners on the Te Uhiroa block and 29 owners on

DRAFT

---

[74] ibid, p 39.
[75] Te Runanga o Te Rarawa, Te Rarawa Overview Report, table 5.9, pp. 106-107. Adjusted to remove several Paatu blocks included in original report.
[76] Stokes, p 36.
[77] Geiringer, p 51.
[78] Stokes, p 98.

the Te Puhata block. However, there was no record of the Court having carried out an investigation in the Court minutes. The Court served merely to facilitate the purchase of Te Puhata and Te Uhiroa blocks by the Crown and acted under the assumption that the identification of owners by the Crown agents was rigorous and exacting'.[79]

24. Large areas of land were often vested in small numbers of owners. In the case of the Takahue blocks comprising of over 28,000 acres, the land was divided in to two parts each being vested in only three people, each representing a hapu. There is no evidence of an adequate process of investigation that looked at the complex, intersecting and fluctuating rights of the various hapu. The Takahue block as surveyed was a convoluted area mainly of forest land used for hunting and food gathering. It linked many different hapu communities from Pukepoto and Kaitaia almost across to Mangamuka and Manganuiowae. Whether the small number of owners registered was truly representative of all hapu with rights is open to question. (Stokes p. 137)

Crown Purchasing 1880 to 1900

25. Between 1880 and 1883 the Crown continued to purchase land albeit on a smaller scale. The Tapuwae 2 and Rawhitiroa blocks consisting of nearly 8000 acres were sold during this period. The Native Land Act in force at this time allowed the Crown to purchase the interests of individuals named on a memorial of ownership and, if not all owners wanted to sell their land, apply to the Court to partition out the interests it had purchased.[viii] In this way Te Rarawa became involved in Court hearings to subdivide or partition land. In March 1882 the Crown had its interests in the Rawhitiroa block partitioned out by the Court, with the non-selling owners receiving an area at the south of the original block.[ix]

26. While there was less Crown purchasing of lands in the 1880s, the Native Land Court hearings remained a feature of Te Rarawa hapū communities. In addition to partition hearings, Te Rarawa were involved in hearings to arrange successions to individual interests in land.

27. There was a resurgence of Crown purchasing of Te Rarawa lands in the 1890s. In 1894 the Crown introduced a monopoly situation by re-imposing Crown pre-emption over all Māori land.[80] In 1895 Timoti Puhipi and thirty other chiefs of Te Rarawa and Ngapuhi 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, which they considered to be 'one of the safe modes with us to enable such liabilities imposed on our lands to be paid off'.[81]

28. Between 1895 and 1897 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. In contrast to decisions made by Te Rarawa in the 1870s about passing blocks through the Court and sales to the Crown, signs that Te Rarawa were losing control over the process and pace of sales are evident in the court activity and sales process from the 1890s. This loss of control occurred because of changes to the native land legislation affecting title and the market in Māori owned land. Individualised title enabled Crown agents to deal directly with individuals rather than negotiating with communities of owners. In many cases the purchases were affected through the Crown

[79] ibid.
[80] Taken from KEC drafting.
[81] Cited in O'Malley and Robertson, p. 168. **Check quotes**

getting agreement from individual owners and then applying to the Court to partition out the interests it had acquired from those of non-selling owners.

The promised benefits of Pakeha settlement

29. The promised benefits of Pakeha settlement also failed to materialise in any substantial way. Settlement did not eventuate quickly as much of the land transacted was not suitable for farming or small holdings. A lot of the land was steep, bush clad, exposed to coastal wind and difficult to access. 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.'[82] 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.[83]

30. The Crown did attempt to generate some European settlement in the area, by including parts of the Takahue, Te Puhata and Te Uhiroa blocks in a 'Village Homestead Special Settlement' scheme to encourage such settlement through monetary advances to Pakeha settlers the late 1880s. The schemes had limited success however.[84] In other cases Crown acquired lands were put to other uses. The Te Kauaeoruruwahine blocks, Otangaroa 1 and the Te Takanga blocks the Crown had purchased in the 1870s were declared state forest (now the Warawara forest) in 1886.[85]

Crown purchasing practices

31. Te Rarawa found that the Crown generally tried to acquire land as cheaply as possible. A Crown agent operating in the northern Hokianga reported in November 1874 that he had secured and paid a deposit on several blocks (including Kauaeoruruwahine, Taraire and Te Takanga) and that the land was of mixed character and he had attempted to select the best at the lowest price.[86]

The use of Tamana

32. The Crown generally opened negotiations and pre-paid some purchase money for land before the owners of the land had been determined through the Native Land Court. This pre-payment was referred to as tamana. Because payments often preceded the determination of rightful ownership, and the survey of land, the practice of tamana often pre-empted the process of the Court...

33. The payment of tamana was sometimes a response to pressure from individual Māori. At the hui to negotiate the purchase price of the Takahue block the Crown was asked for

[82] Daamen, p. 47 citing Resident Magistrate to Under-Secretary of the Native Department, 11 May 1876, AJHR 1876 G1, p. 19
[83] Daamen, pp. 47-48 citing Resident Magistrate to Under-Secretary of the Native Department, 26 May 1879, AJHR 1879, G1 p. 2.
[84] Stokes, post 1865, pp. 105-107.
[85] Daamen, p. 59.
[86] Daamen, p. 43 citing Brissenden to Clarke, 3 November 1874, H H Turton, *An Epitome of Official Documents Relative to Native Affairs and Land Purchases in the North Island of New Zealand*, Wellington, 1883, p. 41.

a £100 deposit. The land purchase agent reported that 'contempt was freely expressed for a [Land Purchase] Commissioner who, said the natives, "had been sent to purchase lands, who had had the assurance to beat them down in their price, but who had not brought one cooper [penny] to 'Whakatapu', or bind the bargain when concluded".'[87]

34. There could be some delay between a land purchase being agreed between the parties and the transaction being legally concluded as the land had to be surveyed and the Court had to determine ownership before land title could transfer. One land purchase agent reported that this caused frustration amongst Māori who thought that 'the small deposit paid by Government agents is a trick to tie up their lands', in contrast to private purchasers who tended to paid all the purchase money at the time of sale.[88]

35. Some Māori were, however, concerned at the prepayment of purchase money. In 1874 Kare Pika Komene expressed opposition to the Crown on behalf of Herekino Māori about two payments of money for the Te Uhiroa block before purchase arrangements were concluded. He argued that the payment of money should be stopped until the land had been surveyed.[89] Often the survey revealed a larger area of land than the preliminary estimates, but sale proceeds were fixed due to the earlier payment of tamana.

Adequacy of payment

36. In all land transactions during this period, little or no attempt was made on the behalf of land purchase officers to assess the fair value of land or its resources.[90] Forested lands in particular, including Takahue, Te Kauae o Ruruwahine, Ngatuaka, and Otangaroa were known by Maori 'owners' to be valuable in terms of the logging industries and as customary food sources. However, Crown officials dismissed any notion of compensating for forests or any other resources which may have been upon the lands being purchased. Referring to the Takahue negotiations, McDonnell wrote: "The Natives wished to be paid for all timber on the land this I explained could not be, if you, I said buy a shirt, you do not pay extra for the buttons. All garments that have buttons are purchased with the buttons and in this instance the trees are the buttons on the land.[91]

37. Indeed, the correspondence shows that the Crown purchasing officers' main goals were to purchase as much land as possible at the cheapest price, and that the Crown approved of such tactics. In the purchase of Takahue, McDonnell's directives from the Native Office (Land Purchase Branch) included that 'in mentioning the rate of 3s per acre, it is to be understood that this is to be the maximum price and your endeavours should be directed to reduce it if possible.'[92] Outlining the price negotiations McDonnell wrote in returning correspondence that in response to Maori requests for 5/- per acre, he had responded with an offer of 2/- per acre. The final purchase agreement was then made for 2/4, a figure below the maximum amount approved by the Native Office.

38. A number of factors combined to allow this inequitable practice. The practice of tamana weakened the parties' subsequent negotiating power in terms of a fair price. Once any Maori had accepted a deposit they were bound to sell to the government at any price. Pre-payment thus hindered the operation of the free market in determining the price for Maori land'.[93] Additionally, as outlined in the discussion on special settlements, it

[87] Stokes, post 1865, p. 89.
[88] Stokes, post 1865, p. 91.
[89] O'Malley and Robertson, pp. 242-243.
[90] Stokes, p 122.
[91] ibid, p 87.
[92] ibid.
[93] Geiringer, p 50

appears that Maori were prepared to accept a lower price for their land in the short term due to expectations fostered by Crown Officials regarding the long-term benefits deriving from Pakeha settlement in their districts.

Inter hapu and iwi disputes

39. Attempts to survey land and resolve differences over respective interests in land could trigger considerable tension among Māori. In the case of the Kaitaia block the issues of the boundary between Te Rarawa and Paatu was tested. A major armed altercation between the parties was narrowly avoided.

40. The determination of ownership of the Rawhitiroa and Rarotonga lands also brought old rivalries to the fore. The Court process revealed the entrenched positions of Ngati Kuri and other Te Rarawa hapu in relation to ownership. Each party denied the right of the other to the land. The Court determined that as the Rarawa and the Ngati Kuri were both descended from the same ancestor, had lived on, cultivated and exercised rights of ownership over the land they were entitled to equal interests. The Ngati Kuri on one occasion had been driven from the land but had afterwards returned, settled down and intermarried with the Rarawa. Both groups had been in joint occupation but the court determination drove the factions apart and the result was that the land was divided and subsequently alienated.

41. The investigation of the ownership of the Tapuwae lands was an example of a dispute within a hapu that was caused by Crown actions and Native Land Court processes. Ngai Tupoto became divided after the loss of the Motukaraka lands to the Crown brought about by McDonnell's Old Land Claim. A part of Ngai Tupoto known as Ngati Here had fought other members of Ngai Tupoto who had been implicated in the McDonnell transaction. This division carried over into the investigation of the Tapuwae block and the Court divided the land between the two factions, with one immediately selling to the Crown. This disenfranchised a large part of the hapu.

Costs of the Native Land Court and Land Alienation

42. Unless willing to lose interests in their land, all Te Rarawa hapu were forced to engage with the Native Land Court in some way. Maori were required to pay for every step of the process; not just title adjudications but successions, partitions and appeals.[94] In the 1860s and 1870s it cost £4 for a straight-forward adjudication, £1 for the investigation, £1 for the examination, £1 for the certificate of title, and £1 for the Crown grant. In the case of the Patiki blocks, the cost of subdividing the block into thirteen sections cost the claimants £26 plus survey costs.[95] By the 1890s the fees were so high that the 1891 Rees Commission stated: "So heavy have the burdens become which the laws have placed upon the ascertainment of Native title that before the individual interests of Natives can become vested in them by order of the Court the whole value of the land is often expended."[96]

Survey liens

43. In addition to the Court costs the cost of survey fell on the owners of the land regardless of whether they had initiated the survey or not. During the 1870s the Crown both financed and undertook the survey of lands as part of the purchase agreement. Prior to

[94] Geiringer, p 97.
[95] ibid.
[96] ibid, pp 97-8.

1873, those who did not wish to sell to the Crown, were forced to find the funds to pay for surveys or have surveys conducted by private surveyors on credit, often for twice the price.[97] From 1873, the Crown advanced Maori the costs of surveys and it was Crown practice to establish a survey lien over land where owners did not have cash resources to cover survey fees. It is unclear whether the owners were aware of the cost of the survey charge or that a lien had been placed over the block. If the liens were not paid they attracted an interest charge of 5% per annum. It was often years later before the Crown enforced the survey liens. Huge costs subsequently mounted up on the land and were for the most part unrecoverable except through the sale of the land'.[98]

44. The Native Land Act 1894 provide for the Crown to take land to recover the cost of survey. Owners of land were then forced to yield a substantial portion of the land in lieu of the outstanding survey liens. Several thousand acres of land were taken by the Crown in this period to cover costs of survey including Te Takanga 2, Tapuwae 3A, Paihia 1A1 and Motukaraka West B blocks.

Disruption and debt

45. While in some cases Te Rarawa avoided lengthy Court hearings to determine ownership of land, some days could be taken up by the process of hearing claims to ownership, concluding the purchase and then appearing before the Court again. Once the Court had made an ownership order, the Crown would seek signatories to the transfer of title documents and the parties would return to the Court to have the transfer of title authorised. For example, ownership of the three Te Kauaeoruruwahine blocks was determined by the Court at Herds Point (Rawene) on 1 June 1875. On 12 June 1875 the deeds of purchase for those blocks were produced at a court sitting in Waimamaku, where the Court explained the effect of the deed, the remaining payments for the land were made to the owners and the purchase was completed.[99] Considerable travel and time was required to get to the Court sittings. This had implications in terms of cost and time away from normal pursuits such as gardening, fishing and food gathering. Many Te Rarawa rangatira and supporters ran up considerable debts associated with Native Land Court hearings and land surveys. This often led to alienation of further land.

Sufficiency of reserves

46. The Waitangi Tribunal has recorded that article two of the Treaty of Waitangi imposed upon the Crown a duty to ensure that every tribe maintained 'a sufficient endowment for its foreseeable needs'.[100] Between 1865 and 1900, the Crown failed to fulfil this obligation to the hapu of Te Rarawa. Neither the Crown purchase officers, nor the Native Land Court, took responsibility for ensuring that sufficient lands were set aside for the future needs of Te Rarawa.

47. Prior to 1865 Crown agents had acknowledged the need to set aside reserves for Maori. Such a reserves policy was described by McLean in 1854 as: "blocks of land excepted by the Natives, for their own use and subsistence, within the tracts of land they have ceded to the Crown for colonisation…being considered essential for their own maintenance and welfare to retain them".[101] McLean acknowledged two important principles at least in theory: on the one hand such reserves should be inalienable, on the

[97] ibid, p 99.
[98] ibid.
[99] Daamen, pp. 44-45.
[100] Geiringer, p 61.
[101] "General Report on Native Lands and Native Land Tenure", AJHR 1907, G-1C [Stout/Ngata: G-1C], p 8 [Doc Bank], McLean to Col Scc, 29 July 1854, cit. Geiringer, pp 61-2.

other they should be sufficient to provide for the needs of the vendors and their descendants'.[102]

48. A handful of reserves were set aside for Te Rarawa hapu in the 1860 and 70s and they were generally made inalienable for 21 years. The Crown purchasers constantly sought avenues to facilitate a sale while the land was reserved. It was often purchased by the Crown soon after the restriction was lifted. Private purchasers had acquired most of the reserves set aside during this time by the 1920s.[103]

49. By the 1870s any pre-existing theories on reserves failed to transform in practice. Despite the provisions of the Native Land Act 1873, the District Officer in the 1870s, W. B. White, did not see fit to set aside any more reserves in the 1870s. Instead, as Crown Agent, he seems to have been more concerned with purchasing more land for the Crown[104.] This occurred despite warnings in 1871 from the Commissioner of Native Reserves, Charles Heaphy, that there was insufficient land reserved for Maori under the guidelines set out in the Native Land Act 1873, and warnings from Judge Maning in 1876 that reserves were not being set in the Te Rarawa area.[105]

50. Between 1880 and 1900 there appear to be no records of land reserves being set aside except for wahi tapu in the Rawhitiroa and Rarotonga purchases.[106] In the case of these reserves they were land locked and no legal access was provided to them. By 1894, the 50 acre rule had been watered down to reserving 'sufficient land' for the maintenance of life under the Native Land Court Act 1894.[107] It was not until 1905 that the Crown passed legislation obliging Crown land agents to reserve sufficient lands.

Kaitaia Block

(Stokes pp.75-9,107-119)

51. In 1867 a Te Rarawa chief Tamaho Te Huhu held hui with the people of Kaitaia and the Victoria Valley to discuss their land claims. 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, but this precipitated a boundary dispute between Te Rarawa of the Ahipara, Herekino and Whangape districts, and Te Paatu.

52. When the survey reached a certain point the survey was challenged by Te Paatu who sought to halt it proceeding any further. The dispute escalated with both sides amassing war parties in the area. Resident Magistrate White and his two Assessors from the Native Land Court mediated between the opposing parties and a boundary for the survey line was eventually agreed with the northern boundary of the Kaitaia block providing a dividing line between Te Rarawa and Paatu.[108]

53. The Native Land Court investigated title to the 11,026 acre Kaitaia block in 1868 but the minutes of the Court hearing have not survived. The block was awarded to nine men representing Te Rarawa hapu. It was then divided into the Kaitaia North and Kaitaia

[102] ibid.
[103] ibid, p 61.
[104] ibid.
[105] ibid, p 122.
[106] Geiringer, p 70.
[107] *Te Roroa Report*, pp 92-3.
[108] Stokes, post 1865, pp. 76-78.

South blocks, with the Court placing a 21-year restriction on the alienation of the 5,220 acre Kaitaia South block.[109]

54. In December 1871 the Government became aware that a private purchaser was negotiating to purchase the 5,806 acre Kaitaia North block and the following year authorised Resident Magistrate White to enter negotiations over this block on behalf of the Crown. The limited records that remain of the negotiations suggest that the Crown made advance payments to at least some of the owners of the land before the purchase deed was signed. The Crown's purchase of the land was completed in October 1872.[110]

55. The Kaitaia South block was declared inalienable for 21 years in 1872. There was some suggestion that there may be gold on the block. It was one of the few areas reserved from sales for Te Rarawa occupation. The Crown had been keen to purchase Kaitaia South at the time it purchased the North block. They sought agreement from the owners to have the restriction on alienation lifted. Crown agents recommended to the government that the purchase should be completed as "it 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. (Stokes, p.83)

56. The restriction on alienation was not removed but the block was partitioned into two in 1884. The land was not surveyed on the ground and in 1891 the Government accepted an offer from John Lundon to negotiate the purchase of the block for the Crown. The Registrar of the Native Land Court set out the payments to be made for the 5520 acres at 7/6 per acre. When the owners received payment for the land it was substantially less than what they had agreed to. Lundon had retained 3/- for himself despite being an agent for the Crown.

57. The owners petitioned the Native Affairs Committee and a formal enquiry was held in 1892. Lundon produced a document signed by the owners of the Kaitaia South block authorising him to act as their agent. It was dated the same day as the sale and the owners were adamant that they had not authorised Lundon to be their agent. The Crown made it clear that it was their intention that the owners would receive the full 7/6 per acre, with Lundon receiving a Crown commission of £50.

58. The Native Affairs Committee reported back to parliament that the Crown was in no way responsible for the allegations and that they should have taken the matter to a Court of Law. An offer of assistance was made to enable the petitioners to take the matter to Court, and the report noted that the conduct of certain Crown officials was peculiar.

59. The Crown arranged for the Court proceedings to be taken on behalf of the owners against Lundon who had received £783 from the transaction. The case was heard in 1893 but the Judge found in favour of Lundon giving weight to the validity of the document appointing him as agent, stating that they may have been careless in listening. The Judge also considered that the owners had received a fair price notwithstanding the commission deducted by Lundon. Hone Papahia petitioned parliament seeking a further investigation but this was rejected.

60. The Court decision was consistent with Pakeha public opinion and expectations of the day. The perception was that the large areas of Native land were a hindrance to settlement and a grievance to the Europeans because no rates were being obtained from them to construct roads and bridges. This decision compounded the increasingly strained relationship between Te Rarawa and the Crown.

[109] Stokes, post 1865, p. 79.
[110] Stokes, post 1865, pp. 80-82.

DRAFT

Mapere

(Stokes)

61. In 1872 the recently appointed Inspector of Schools, A. H. Russell, visited the Te Rarawa rohe. He reported that a school house and 12 acres had been given by Timoti Puhipi at Pukepoto. (AJHR 1872, F-5. p 11) He visited the proposed school site at Mapere, Ahipara, and found the timber necessary for a school-house already on the ground, and arrangements made for its erection. He arranged with Mr Puckey, and Rev. Mr Matthews, to call a meeting of the Ahipara people for the election of a school committee, the definition of school boundaries, and the nomination of trustees. By late 1872 the school was opened and by 1873 there were 54 enrolled including 48 Maori, 1 'half-caste' and 5 Pakeha. It operated under the provisions of the Native Schools Act 1867 and Amendments in 1871. The provisions of the 1867 Act and 1871 Amendment envisaged a trust relationship between the Crown and local Maori who would provide endowment lands for their school. These provisions did not require outright transfer of endowment lands to the Crown and made legal provision was available to have the site vested in trustees (P5, p 11).

62. Ahipara Māori and the Crown jointly contributed to the development of the school building and the teacher's salary.[111] The land was under customary title for a number of years before Timoti Puhipi procured a survey of the Mapere lands in 1876 and the following year the Court investigated the title. The school site, Mapere 2, was awarded to Kihiringi Te Morenga and the adjacent Mapere block was awarded to Timoti Puhipi to facilitate the transfers.[112] Both were acknowledged Te Rarawa rangatira acting on behalf of the hapu. The Mapere 2 block was transferred to the Crown for a nominal fee for education purposes shortly thereafter. The requirement to transfer the land to the Crown contravened the provisions of the Native Schools Act. The Mapere block which had a court house erected on it was also transferred to the Crown at the same time.[113]

63. Much of the relevant correspondence from this time has not survived but it is clear there was some form of trust relationship between Crown and Ahipara Maori in respect

---

[111] 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.

[112] 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.

[113] 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.

of this land. White had reported in March 1873 that the Ahipara courthouse, erected some years earlier on Mapere block, had been blown down, and he wanted to erect another at a cost of £120. He recommended in 1876 the Crown purchase the site of the Ahipara courthouse. In December 1876 White reported that Mapere 2 block, the Ahipara School site, had been surveyed and was ready to pass through the Native Land Court (P5, pl 1). On the survey plan the Mapere 2 block was described as 'School Reserve'. In May 1877, in a report on Ahipara School, White described the site: "twenty odd acres, lately given as a school endowment, and on which the teacher's house is built' (AJHR 1877, G-4, pl). It was clear that the intention of the Ahipara hapu was that the land was given for school purposes, as an endowment.

64. Around 1902, after the death of Kihiringi Te Morenga, and following difficulties with sand encroachment, changes to the river, and flooding, the Ahipara school was shifted to a different site.[114] The land was not restored to Maori ownership or used for the benefit of Ahipara Maori. The public foreshore road to Te Kohanga (Shipwreck Bay) was laid out over the Mapere block in 1925. In 1935 the Ahipara hapu sought an inquiry through the Native Land Court and the return of the Mapere lands as a marae site. A recommendation was made to the Lands Department but this was declined in 1939. From the 1940s the land was used by local Pakeha farmers on short term grazing leases. In the 1960s another attempt was made to have the land returned but this was also rejected. In 1985 the blocks were amalgamated and declared a recreation reserve. In 1989 it was transferred to the Department of Conservation and this coincided with the lodging of an application for redress to the Waitangi Tribunal.[115]

Warawara

65. 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. The land was known as the Warawara comprising an area of 18,270 acres originally. The Kauae-o-Ruru-Wahine transactions illustrated a number of the problems with the Crown purchasing process and conflicting expectations. (Kahukura Report, Appendix 6.3 p.30)

66. The hearings for Te Kauae-o-Ruru-Wahine purchases were concluded in 1875 but the negotiations and the payment of tamana had taken place two years earlier, well before the investigation of ownership was undertaken by the Native Land Court. (Kahukura Report, Chapter 2 pp.31-36) The negotiations were undertaken through a Crown agent Mr E Brissenden and interpreter, Charles Nelson. Te Rarawa speakers dealt with Nelson

[114] 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…’.

[115] Stokes, ‘The Muriwhenua Land Claims Post-1865’, pp. 123-137. In 1936 there was an application to the Native Land Court for an investigation into the acquisition of Mapere 2 by the Crown (because of a claim that the land had been gifted to the Crown for special purposes), Northern Minute Book 67, folio 76 and Northern Minute Book 69, folio 223-4. This eventually developed, in 1938-9, 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 re the Mapere 2 block., 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. In 1986 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, Te Rarawa sought the return of the Mapere 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.

DRAFT

as an agent of the Crown. Verbal assurances were given that the ownership of the timber and other resources on the land would be retained. Oral evidence indicates that these assurances were pivotal to a sale being agreed to.

67. The Crown agents agreed a sale of Te Kauae-o-Ruru-Wahine based on these assurances. The land had not been surveyed but a number of owners were advanced tamana monies and the Crown purchasing agents encouraged the hapu representatives to file for an investigation of title with the Native Land Court. The hearings were held in May of 1875 with the block divided into three parts with 14 rangatira representing an estimated 200 owners of the 9260 acres. While the assurances about the timber and other resources being excluded from the sale were pivotal to the agreement, this condition was not recorded in the deed of sale which followed a few weeks later. (Kahukura Report, Chapter 2 pp.31-36)

68. Te Rarawa hapu continued to access resources from the Warawara after the sales including timber for the building of houses, fences, churches and a marae, and the extraction of gum to provide whanau income. Te Rarawa hapu members continued to dig gum and assert ownership of the trees until 1903 when gum digging regulations put a stop to it.

69. In 1885 the Warawara was gazetted as a State Forest under the jurisdiction of the Land and Surveys Dept. In 1922 it was transferred to the newly formed Forest Service. Early reports identified that the forest contained more than 60 million feet of timber. It also found that operational costs to mill the area would be too high to make large scale milling viable. The small scale milling of 'dry' kauri began in 1922.

70. From 1903 attempts by Te Rarawa to have the situation remedied through Members of Parliament began. A series of meetings were held and a formal petition was lodged in 1924. The petition was heard by the Native Land Court, but the judge found it difficult to accept the validity of the claim because the claimants had taken so long to bring the matter forward. He accepted that it was probable that there was 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 he dismissed the claim that the ownership of the timber was valid and made no recommendation.

71. Te Rarawa communities continued to request permission to take timber for the purposes of housing, school and community projects, and gum from the Warawara with little success over a number of decades. The Conservator of Forests decided that any milling of timber would not be considered until a working plan had been approved and access and boundary issues dealt with.

72. Milling began in earnest in 1967. This continued through until 1974 when 8.5M board feet of timber had been extracted. The Warawara was then recommended as a conservation area with a sanctuary being set up in 1979 and an ecological area established in 1982. 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.

73. 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. This dispute about the sale of land separately to the resources on the land has not been adequately addressed or resolved

DRAFT

Epakauri, Orowhana and Te Tauroa

74. The Epakauri, Orowhana and Te Tauroa blocks were amongst the many acquired by the Crown under the Native Land Act 1873. They were dealt with together, and the land purchase officers involved were Brissenden and J. W. Preece. Because these acquisitions pre-empted the Court's investigations, and arguably required the Court's decisions to support the purchases, records detailing ownership and interests were poor. The Epakauri and Te Tauroa Blocks were investigated by the Native Land Court at Ahipara in November 1875. The presiding Judge in the case was F. E. Manning, and the areas involved 10,510 and 1600 acres respectively.

75. During the investigation the claimants indicated they wanted only ten owners listed on the title. Apparently a more comprehensive list could not be made out due to disputes regarding their respective rights. However, Manning would not agree to this arrangement. Preece wanted ten names on the title to facilitate the government's purchase of the land. According to Manning, Preece said Manning's interpretation of the law was wrong. The hearing was adjourned with the dispute left unresolved. Manning later noted that the problems with the case had occurred due to the presence of Native Land Purchaser Officers and suggested they should not be present during title investigations. In the meantime he refused to re-open hearings until it was agreed that the names of all interested owners would be submitted.

76. In April 1876, Manning advised Judge Fenton that he had been told by Timoti Puhipi that he would no longer oppose the ruling of the Court and blamed Preece for making him take up his earlier stance. With substantial down-payments already made on these blocks, Brissenden asserted that the matter had been settled. When the case returned to Court in June 1876, however, interests in these blocks were debated between Ngati Kuri and other Te Rarawa hapu. As Geiringer noted, 'it appears that Crown agents had indeed pre-empted important and complex ownership issues'. Ngati Kuri and Te Rarawa each claimed that the whole of the land belonged to them and neither would submit to any other view.

77. Manning did not make an order for fear of worsening the animosity between the two parties and again adjourned the case. He also warned that Te Rarawa Maori no longer had sufficient land to support themselves. His warning went unheeded, and as it was Manning was set to resign due to his concern about the 1873 Native Land Act. The case was left to Judge Monro who determined title to the blocks in March 1877. There is no record of how the owners settled their dispute. Two names were provided for the title to Epakauri and one for Te Tauroa on behalf of Ngati Kuri, while Te Rarawa gave two for Epakauri and three for Te Tauroa. Three weeks later, the blocks were transferred to the Crown for 4d an acre. Tamana was paid in each of the above cases prior to the blocks being surveyed or passed through the Native Land Court.

78. Judging by the speed in which deeds were transferred to the Crown, and in light of the troubled history of the title investigations, titles to the land could not have been investigated adequately; undue pressure was placed on an already flawed process. This view is supported by Geiringer who commented that initial negotiations prior to the Court's adjudication took place without any evidence of Land Purchase Officers establishing any 'process to establish the rightful owners of the land'. Furthermore, in the aftermath of these transactions, the Crown failed to keep its promise of economic benefits and a mutually beneficial alliance between Maori and the Crown. Epakauri was gazetted as a kauri gum reserve in the late 1890s, and significant tracts of both Epakauri and Te Tauroa are currently included in the DOC estate.

DRAFT

Summary of land loss between 1865 and 1900

79. Between 1865 and 1900, the Crown alienated at least 130,000 acres of Te Rarawa lands and forests.[116] Alienation of Te Rarawa land in the latter half of nineteenth century was the deliberate product of Crown policies aimed at colonising a 'new' land and people. Legislation passed throughout this period set the framework in which Maori would become assimilated into a colony which upheld Western concepts of land law and land use, and in which Maori land alienation would occur.

80. Resistance by disaffected hapu to sales was generally ignored. This was made easy because individualisation of land interests undermined group authority and the role of hapu leadership.

81. A key characteristic of land alienation throughout this period was the employment of the Native Land Court and Crown Purchasing Board to administer and facilitate the alienation of Te Rarawa lands. These two Crown bodies form the basis of Te Rarawa grievances during this period. It was through their operations the Crown either actively breached Te Rarawa rights, and/or failed to protect Te Rarawa land interests. The Native Land Court and Crown Purchasing Departments became the machinery that represented and facilitated Crown policy. The ideals associated with colonisation permeated both the Crown institutions and individuals who worked within them, from the Crown purchasers and surveyors, through to Native Land Court Judges.

82. These individuals, on behalf of the Crown, implemented policies that took advantage of the impoverished state of Te Rarawa hapu. They made promises that were not keep; they purchased Te Rarawa land, from an ever-decreasing land base, for less than it was worth; they disregarded and extinguished Te Rarawa customary land rights, and they failed to protect the land interests of Te Rarawa individuals. All of these practices were carried out at a time when Te Rarawa hapu were declining in number and increasingly poor Te Rarawa hapu were forced to pay the costs associated with Crown purchases, the Native Land Court, and consequently, land alienation.

[116] 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.

Section five

Twentieth century Māori land administration

Maori Land Boards

62. Despite several intensive bursts of Crown purchasing activity and a land title system that worked against Te Rarawa exercising control over land alienation, Te Rarawa had managed to hold onto a reasonable amount of their land by the beginning of the twentieth century. However the valuable and productive Kaitaia lands had long been alienated and little settlement had occurred from which Te Rarawa could derive economic benefit.

63. Crown concerns about the effect of rapid land loss on Māori were factored into government reforms of Maori land administration in the twentieth century. The Maori Land Administration Act 1900 introduced a voluntary system for corporate decision making about Maori land and to increase productive use of such land. Elected Māori land Councils had powers to determine title to customary lands, assisted by Papatupu Block Committees, set apart Māori land for occupation (papakainga) as inalienable and to supervise the leasing out of remaining lands.[x]

64. Papatupu block committees were widely used during the first decade of the 20th century to determine the ownership of remaining areas of customary land. This involved around 57,000 acres of land and included Waihou, Whakarapa, Te Karaka, Wairoa, Kahakaharoa, Te Karae, Manukau and Ahipara. The system was more empowering of hapu communities and reflected more thorough assessments of mana whenua. The other powers of the Maori land Councils were hardly used as the focus was on determining land ownership.

65. The voluntary scheme for vesting land into the land boards was replaced by compulsory vesting measures to increase the availability of Māori land for settlement by 1905. Under the Maori Land Settlement Act 1905 the Tai Tokerau Maori Land Board was established. The Land Boards were put in place to speed up the process of determining the individual ownership of Maori land and lead to increased alienation. Initially there were six members including four Maori; three elected by Maori and one appointed by the Crown. This configuration was changed several time reducing Maori involvement and by 1913 to just two members; the Judge and the Registrar of the Maori Land Court with no Maori representation.

66. The Native Minister could compulsorily vest any Māori owned land considered unnecessary or unsuitable for occupation by its owners in a land board. Only land boards could approve leasing of any Māori land. The Maori Land Boards had a policy of selling half and leasing half of lands not reserved for Maori occupation. ,.[xi] Using compulsory vesting measures around **x** acres of Te Rarawa lands ended had been placed under the control of Māori Land boards by **190x.**

67. Despite the compulsory vesting measures the land board system was initially slow to deliver results in the north island. The Crown instructed a Royal Commission (the Stout Ngata Commission) in 1907 to investigate and report on the best methods for bringing unoccupied and ‘unimproved’ Māori land into production.[xii] This meant surveying Māori land holdings and recommending which lands should be retained by Māori and which should be brought into production. This included recommending the sale of up to half of Māori owned land deemed surplus to requirements.

68. The Commission sat for two days at Ahipara and Mangonui in April 1908, where a large number of Māori landowners turned out.[xiii] The Commission considered that the best of the

land in the Mangonui County was located between Herekino and Ahipara.[xiv] It noted that around half of the Māori-owned land there was vested in the Tokerau Board but did not recommend that half of that land be compulsorily sold. This was a tacit acknowledgment that Māori retained little land in the area that they did not need for their own use and that the remaining lands were not highly productive for settlement purposes. It was also consistent with the twin aims of protecting Māori landholdings and improving productivity of Māori land. At the time of the Stout-Ngata report individuals associated with Te Rarawa hapu retained interests in less than [120,000] acres of Māori land.[xv] The reports of the Commission led to the eventual consolidation of Māori land legislation in the Native Land Act 1909.

69. Crown policy for Māori land administration for much of the twentieth century continued to focus on gaining access to Māori land for Pakeha settlement and helping Māori to make productive use of their remaining lands.xvi The means for doing so involved the board system for managing lands, various title improvement schemes, providing access to development capital and increasing involvement of officials of the Department of Māori Affairs in day to day management of farms. It also involved the continuation of Crown purchasing which only tapered off around the mid 1930s.

70. This era of Māori land administration which lasted to the 1950s saw administrative bodies making decisions about Māori owned land. For Te Rarawa, like Māori elsewhere, the administration became more complex over time, had many of the worst features of bureaucratic decision making and alienated them from important decisions about their land, foremost of which involved decisions about leasing and sales.

Te Karae

71. The history of the Te Karae block, vested in 1907, shows how owners were removed from the management of their lands and how the board system and subsequent legislation worked to transfer ownership out of Māori hands.

72. 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.[xvii] In 1907 the Native Minister compulsorily vested the Te Karae blocks in the Tokerau District Māori Land Board.[xviii] The Minister could compulsorily vest lands which he considered were not suitable or required for occupation by Māori. Such lands could be leased by the Board for up to 50 years, but not sold. This was meant to enable development of the land while providing income to its Māori owners.

73. The following year the Stout-Ngata Commission heard submissions from the Māori owners of Te Karae on their wishes for the future use of the land.[xix] Most sought to retain the majority of the land as either papakainga or through it being leased back to its Māori owners. Some were agreeable to some land being made available for lease by non-Māori.[xx] Contrary to the owners' wishes the Commission recommended leasing out most of the land by public auction because they considered that timber profits from the block were benefiting a relatively small number (the resident owners) of owners only.[xxi]

74. The board oversaw the subsequent survey and lease process which some owners actively protested against.[xxii] After subdivision, 1,230 acres were set aside for papakainga and 5,175 acres as Māori land. The remaining land was to be offered to Māori owners in the first instance and only to non-Māori settlers if not taken up by owners. The majority of the remaining land was leased to the general public.[xxiii] 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.[xxiv]

75. Land boards could raise loans on vested lands to fund road construction. In 1911 the Tokerau Land Board borrowed money against the Te Karae land to build roads to encourage Pakeha settlement in the area. There was no legal requirement for the board to consult Te Karae owners and no consultation occurred.[xxv] The board received a 40-year loan of £7,500 from the Treasury (4,500 for roading and 3,000 to meet survey costs of the Te Karae blocks). The Board also provided a £500 subsidy, charged against revenue from Te Karae leases, to the Hokianga County Council for roading. The roads between Kohukohu and Broadwood and Mangamuka Bridge became the main highway.[xxvi]

76. 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 £15100 in fulfilment of a loan of £7500.[117]

77. From 1912, large tracts of the block were transferred to settlers on 50 year leases and from 1911 to 1915, the board spent over £8,000 on extensive roading and survey work on Te Karae.[118] .

78. The Native Land Act 1909 amended previous legislation governing the Te Karae lands. It removed the Crown's monopoly purchase powers to enable lands to be leased or sold to private parties. It sought to prevent individual owners from selling interests by allowing land to be sold only if meetings of assembled owners approved the sale or by leave of the land board. In 1913 a further legislative change allowed the Crown to bypass these provisions and purchase undivided interests directly from owners.[xxvii]

79. In 1915, the Tokerau Land Board put forward separate resolutions that all four blocks be sold to the Crown for £1.1.0 an acre. At meetings of assembled owners, a split vote carried the resolution to sell Te Karae 1 with the owners Te Karae 2, 3 and 4, overwhelmingly opposed to any sale.

80. Owners holding 713 shares in Te Karae 1 agreed to a sale with 573 shares against. Several major owners agreed to cut out their shares represented by 183 acres. Ninety two per cent of all the owners in the other three blocks voted against transferring their land to the Crown: 248 people (4796 shares) voted against the resolutions to sell while only 28 people (312 shares) voted in favour.[119]

81. However, immediately after the meetings in 1915, the Crown actively pursued the purchase of shares from individuals in Te Karae 2, 3 and 4, clearly ignoring the collective will of the owners. As the Crown purchased shares, the debts built up by the £7500 loan were charged against each shareholder and deducted from the amounts given to them. There was much disquiet about the owners' share of the debt being deducted from the purchase monies, including a petition in 1918.[120] In addition, some owners sold their shares to free

[117] 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.
[118] 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.
[119] In Te Karae 2, 94 per cent were against the resolution to sell: 83 people or 3132 shares against, and five people or 216 shares in favour. In Te Karae 3, 96 per cent were against: 77 people (849 shares) against, and three people (27 shares) for. In Te Karae 4, 85 per cent were against: 88 people (815 shares) against, and fifteen (69 shares) for.
[120] Petition, Hone Otene and 34 Others, 12 March 1918, BAAI, 11466/44a, National Archives Auckland.

themselves from debt. The Crown actively pursued a share purchasing programme paying commission to a local Lawyer who acted on their behalf.

82. As the Crown accumulated shares in the various blocks they had them identified and cut out with a focus on the better land that was being developed. These long drawn out purchases were utilised in the Crown's alienation of Te Karae 2 and 4. In Te Karae 2, the Crown's interests were defined by partition on three separate occasions before 1933 and by the end of the 1930s, the Crown owned the majority of Te Karae 2 and 4.121

83. From 1912, money for the Treasury loan repayments was deducted from the rent money paid to each Te Karae owner.[xxviii] The Board mismanaged the repayments and by the late 1930s it was clear it would not be able to pay the loan off in full. Part of the loan was eventually written off on the basis that the road had become a main arterial road and had it been constructed at that time it would be paid for by the Crown rather than by Māori. It also noted that Te Karae lessees had been given reduced rentals as a result of relief legislation, but the Māori beneficial owners had not received similar relief in regard to the Treasury loan.[xxix] In 1938 the Native Department recommended that the loan be settled out of the Te Karae funds held by the Board, although those funds fell short. When the loan was finally settled in 1942, the Te Karae owners had repaid over £11,500.[xxx]

84. When the Vested Lands Commission heard submissions on Te Karae lands in 1950, the Land Board still controlled and leased approximately 3,000 acres of Te Karae. The owners' submissions to the Commission asked for the return of these lands from the administration of the Land Board.[xxxi] Crown purchases continued for a further three years.

85. The Māori Affairs Act 1953 provided for compulsory vesting of uneconomic shares in land (a shareholding worth less than £25) in the Maori Trustee. The Crown established a conversion fund to hold and transfer these interests and used this fund in the Tai Tokerau district more frequently than anywhere else. This mechanism gave the Māori Land Court more power over Māori owned land by allowing the Maori Land Court, on the advice of the Department of Maori Affairs, to vest uneconomic interests in the Māori Trustee without seeking the agreement of the shareholder/landowner.[122] Up to date valuations of land interests were not sought and whanau were unable to amalgamate their interest together.

86. The Maori Trustee was to pool such interests for later sale, usually to Māori with greater interests in the same land. The Crown intended to make it easier for Māori farmers who were settled on these farms to buy out other interests. In In the Te Karae case this never happened and allowed the Crown to increase its stake holding.

87. Despite opposition from prominent Māori the scheme was intensified under the Māori Affairs Amendment Act 1967. The new Act maintained the $50 threshold for compulsorily purchases, but made it easier for the Māori Trustee to sell this land to the Crown rather than to Māori farmers.

---

[121] 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.

[122] Official statements make it clear that, after 1953 at least, the requirement to consult Maori owners about the selection of settlers was seen 'as a hindrance to the best use of the land.' The Maori Trustee could acquire uneconomic shares when succession orders were being made, when blocks were partitioned, as part of consolidation or amalgamation schemes, and when consolidated ownership orders were issued, Bassett and Kay, pp. 142, 572.

88. Private purchases of Te Karae lands occurred through the 1950s and 1960s.[xxxii] Today, around 1,100 acres of Te Karae lands remains in Māori ownership, with approximately 5000 acres still in Crown ownership through Landcorp and the Department of Conservation.

Whakakoro
(Stokes)

89. Whakakoro is another area in which administration by the Tokerau Maori Land Board led to the alienation of significant areas of land. The Whakakoro block of 2647 acres owned by Ngati Haua hapu running between the Whangape Harbour and the coast was vested in the Tokerau Land Board in 1907. In the Stout-Ngata report on northern Maori lands in 1908 the Whakakoro Block were listed as under negotiation for lease (AJHR 1908. G-1J. p. 16).

90. By 1910 Whakakoro had been partitioned into blocks labelled A to F. Over the period 1910-1919 there was a series of partitions of E and F blocks, which were closely related to the sale of some of them. The undertaking of surveys generated a charge against the land which the majority of owners were unable to pay. In many cases the owners were left with no option but to sell their interests inland to discharge the survey debt. By this time a number of the owners of the Whakakoro lands were not living in the area. Absentee owners were often the first to sell their interests. A pattern of survey and individualisation of title emerged followed by debt and the sale of shares by individuals. This led to partitioning of land and the sale of the majority of the block between 1910 and 1919.

91. In several cases the sale date preceded the partition order. This can be explained by the purchase of individual interests of a number of owners, and then an application to the Court for these interests to be partitioned out. The piecemeal sale of much of the Whakakoro block provides another example of how the operation of the Tokerau Land Board and the Native Land Court inevitably led to the alienation of land. Individualisation of title, leasing and partition, became part of the process of alienation in the case to private purchasers. Several families interconnected by marriage eventually took up the majority of the Whakakoro block.

92. Post alienation, this lead to the Whakakoro lands remaining in the same family for three generations until it was put up for sale in the 1990s. Ngati Haua had built a good relationship with the family and had maintained their customary access to their maunga, the harbour and coast notwithstanding the alienation. The sale in 1993 threatened their customary use of the land and lead to an occupation of the site and an application to the High Court for an injunction. Ngati Haua maintained that the relationship created with this family was in the nature of a trust. The High Court rejected the argument but suggested that whether or not the philosophy that lay behind the land sale legislation was appropriate to the society at the time, was a matter of debate. The matter of Ngati Haua's customary access to the Whakakoro lands has still not been resolved.

Waireia

93. The Waireia block of over 4000 acres came before the Native Land Court in 1913 (NM 51 p.315 13/3/13). The Court judgement divided the block into three parts under tupuna Tarutaru, Ngono and Ihengaiti; and shares were allocated to various Te Rarawa hapu groups based on ancestral rights and occupation.

94. In 1914 a meeting was convened by the Tokerau Land Board to consider the sale of the block in response to a request from Pakeha settlers who wished to purchase the land. A resolution to sell was supposedly carried at the meeting but there was a large group of dissenting owners who did not want their shares included in the sale. There were also several large shareholders who only agreed to sell a part of their interests. These requests

and those of the dissenting shareholders were ignored by the Tokerau Land Board allowing the sale to proceed. The sale of Waireia left many Te Rarawa people landless.

95. The agreement to sell was also conditional upon the timber being valued and paid for separately. After the sale a government valuer put a nil value on the millable timber. This valuer was later proven to be incompetent and the value was assessed at £2000. The owners tried to claim some compensation for this error of judgement by a Crown agent and it lead to several petitions to the Crown to no avail. In 1925 a petition was lodged by Hone Te Tai and 28 others "for compensation for loss incurred through a false report by a Government valuer as to timber on the land." (Daamen Report, 54-58)

96. Judge Acheson produced a report in 1931 upholding the case of the petitioners and questioning the validity of the resolution, accusing the Tokerau Land Board of abusing its powers and failing to protect the interests of the owners. Not only had the resolution to value the timber separately been frustrated but the actual vote to sell had not in fact been carried by a majority. Despite the report being presented to parliament in 1932 nothing was done." (Daamen Report, 54-58)

97. The Waireia land was in private ownership for more than 20 years but was purchased by the Crown for a development scheme in the late 1930s. An area of more than 1000 acres, containing the maunga Tauwhare was transferred into the NZ Forest Service in 1957 and subsequently into the conservation estate in 1989.

98. Protest continued sporadically through to the 1980s when the Maori Land Board took up the matter. In 1983 the Ministers of Maori Affairs and Finance approved a settlement of the longstanding grievance of the Waireia claims. Te Rarawa people of Hokianga were to receive $315K and in lieu of a cash settlement were given a 1/3 shareholding in the Waireia Development Scheme. The matter of the 1000 acres transferred into the conservation estate was noted but not acted upon. In 1987 the Waireia Trust was established and took over the ownership of the land on behalf of Te Rarawa with mortgage finance from the Board of Maori Affairs.

99. An area of mudflats known as Punehu on the Waireia River was transferred into the ownership of Landcorp in 1989. In the 1990s Landcorp proposed to sell the reclaimed area and the Waireia Trust sought an urgent hearing of the Waitangi Tribunal to look in to the matter. The Trust purchased the land to protect it on the understanding that they would be reimbursed the cost subject to a tribunal hearing. This did not happen. WAI 450 was lodged in 1994 and was subsequently included with Te Rarawa's claims.

Title reform

100. By the 20th century Te Rarawa land ownership had generally been reduced to multiple shareholdings of undefined interests in a much reduced land base. The remaining land blocks were often marginal for farming development and owners were unable to derive an income from their lands. There was increasing pressure from a growing population, and accumulating debt from survey costs whenever land was partitioned for the purpose of development or sale. Through succession, interests in land were also held by an ever increasing number of owners few of whom could remain resident in the local area for economic reasons. For the Crown it meant holding interests in land without clear title or holding title to scattered parcels of land which limited their economic viability.

101. Crown policy for Maori land in the twentieth century was driven by the view that Maori would only be assimilated into Pakeha society if lands could be individualised and made productive. For these reasons the Crown introduced schemes in the twentieth century to substantially reorganise the underlying title of many Te Rarawa lands. This had the effect of

suspending the rights of Te Rarawa land owners and empowering the Crown to act on their behalf. Foremost amongst these was consolidation of titles and this became the primary system of title reform in Northland Consolidation

102. From the late 1920s the Crown introduced title consolidation schemes to convert interests held by the Crown and the owners into nominal cash values, and transfer them into new subdivisions separating out Crown and Māori lands. This allowed the Crown to consolidate its own scattered undivided individual interests into blocks suitable for Pakeha settlement but also grouped related Māori owners into a single economic (or whanau) location, and thus providing clear title for Māori.[123]

103. Te Rarawa initially welcomed the schemes. They saw the benefit in consolidating small scattered interests that were mostly uneconomic.[124] For example, Crown and private purchasing in the 1880s and a few subsequent sales left Māori with about 6,654 acres around Ahipara by the 1920s.[125] These lands were held in small partitions in over 120 separate blocks, insufficient to farm viably. This pattern was repeated in most areas wherever Crown purchasing had occurred.

104. In 1928 the Native Minister requested four consolidation schemes for the 'Tokerau District' covering over 500,000 acres.[126] Two of these (Mangonui and Hokianga) involved Te Rarawa interests. Each scheme was divided into smaller schemes. The Mangonui scheme included three of relevance to Te Rarawa: Pukepoto, Ahipara and Herekino (including Whangape and Manukau).[127] The Hokianga scheme included four smaller schemes of relevance to Te Rarawa: Motukaraka (including Te Karae and Kohukohu), Panguru, Mitimiti and Pawarenga.

105. Consolidation involved the owners in agreeing on the location of resident and non resident owners interests, having these interests grouped into family units, and awaiting the survey of the new units. The costs of survey, including an allowance for roading access to the new units, and costs of unpaid rates, were loaded into the scheme and this was reflected in the amount of land awarded to the Crown and the owners. Associated with this work court staff had to identify all owners and bring succession up to date. After 1930 no Te Rarawa lands still in Māori ownership remained unaffected by consolidation schemes.[128]

Ahipara consolidation scheme

106. The Crown intended to complete consolidation quickly. Although simple in concept, in practice, consolidation was complex, time consuming and cumbersome.[129] For example, although the Native Minister approved the Ahipara consolidation scheme in December 1930,

---

[123] The Mohaka ki Ahuriri Report, 13.12(d), p. 499.

[124] 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.

[125] Stokes, pp. 210-211.

[126] The district was divided into four: Mangonui (130,883ac), Bay of Islands, Kaipara and Hokianga (which included northern and southern Hokianga, or 102,352ac), Alexander, 'Consolidation and Development in Muriwhenua', p. 34; and Terry Hearn, 'Social and Economic Change in Northland c.1900 to c.1945: the Role of the Crown and the Place of Maori', a report commissioned by the Crown Forestry Rental Trust, 2006, pp. 632-633.

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

[128] Stokes, pp. 207, 209.

[129] Stokes, p. 210.

it was not completed until the 1950s.[130] The scheme included over 130 separate blocks of approximately 7,323 acres, comprising principally the Ahipara block and the Waitaha block of 1,000 acres.[131]

107. Under the scheme a number of owners' interests in Ahipara were to be moved to Te Hapua, Te Kao, Karikari peninsula and other areas outside the Te Rarawa rohe, or simply moved south to Whangape and Hokianga.[132] A number of Māori families established dairy units in the scheme. Although the lands were multiply owned, the owners were required to nominate one family to occupy and farm each farm unit. This meant many land owners were excluded from living on the lands.

108. By the late 1950s many had accumulated development debt ranging from £50 to over £1,000, nominated occupiers of many farms had simply left the land or had died, leaving lands unoccupied, and groups of units were without proper title.[133] Concerned owners complained to the Department of Māori Affairs of unrest and dissatisfaction. A steering committee of local elders, farmers' representatives and a representative of absentee owners helped the department to clean up the incomplete titles. The smaller coastal blocks included in the original consolidation scheme were excluded so that the final consolidated titles were all located in the Ahipara block.[134]

109. It was 30 years before the Māori Land Court was able to finally confirm the finalised titles from the Ahipara consolidation scheme. By then, however, with few jobs, insufficient lands to support their families and the depletion of kai moana resources, many Ahipara families had migrated to Auckland.[135]

Impact of the schemes

110. Progress with the other schemes was also slow and lagged behind other districts.[136] 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. The local Native Land Court Judge wanted consolidation sped up, and regularly complained that insufficient staff had been allocated to complete the task. [137] By the mid-1940s only the Panguru scheme in the Hokianga was near completion.[138] In Mangonui only

[130] For the completion of the Manukau scheme, see Alexander, 'Consolidation and Development in Muriwhenua', p. 125.
[131] Stokes, pp. 211-212, also citing Alexander 'Consolidation and Development in Muriwhenua: Supporting Documents' A5: 26-27, and 57. The Waitaha block is located along the west coast between Tauroa and the Herekino harbour. Several adjacent small blocks included in the Ahipara scheme were Te Kohanga 1 and 2, Te Awapatiki, Te Angaanga 1 and 2, Te Neke 1-3, Turiapua A Sections 1 and 2. The Waitaha block comprised A, B1, B2, C, D and E blocks.
[132] Stokes, p. 212 citing Alexander 'Consolidation and Development in Muriwhenua: Supporting Documents' A5:28-60.
[133] Stokes, p. 214. Stokes notes that the fortunes of the 'Ahipara farmers' on the scheme had not been reviewed for her report.
[134] Stokes, p. 215; Alexander 'Consolidation and Development in Muriwhenua', p. 133.
[135] Stokes, p. 215, Waitangi Tribunal *Muriwhenua Land Report*, p. 377.
[136] Aroha Harris, Maori land development schemes, 1945-1974 with two cases from the Hokianga, MPhil thesis, 1996, p. 42.
[137] 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.
[138] 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.

the Ahipara and Manukau schemes were completed, although not until the 1950s.[139] This meant that titles were often not finalised until the 1940s and 1950s.[140] Such delays left Māori with uncertainty about the status of these lands and their ability to use them. In some instances, the lack of progress with the consolidation schemes hampered economic progress because owners could not raise loans for development without secure title.[141] The hampering of economic development was prevalent at the Pawarenga causing hardship for farmers.[142]

111. Despite their initial support for the schemes, landowners soon found there was limited if any provision to challenge or question a scheme while it was being prepared.[143] In effect, while consolidation was underway, the usual rights of owners were suspended. Had the schemes been completed in a timely manner, as originally envisaged, this might not have presented too many problems. The lengthy delays however meant that owners rights were suspended for more than 30 years.

112. While the schemes remained the onus was on the owners to keep an eye on their interests, (how and where they were distributed). This could be challenging as it required attention and vigilance over a 30 year period. Nor was it always easy, given the complexity and delays, and the fact that those who had been involved in the early consolidation negotiations were often no longer present when the schemes were finally completed. The regrouping of fragmented shares in a particular region also carried a social cost because it disrupted ancestral ties to particular pieces of land'[144]

Additional mechanisms to 'improve' titles

113. Despite efforts to achieve more viable holdings through consolidation, the Crown feared that the number of owners in a consolidated block would increase through succession over time. This was also an issue where consolidation work remained incomplete because it presented another obstacle to completion. The Crown was also aware that many Maori land owners still lacked secure tenure despite years of title consolidation schemes. By the early 1950s the Crown acknowledged two key priorities for Maori title reform: preventing the current state of titles from deteriorating in the future and "cleaning up the existing mess".[145]

114. The Māori Affairs Act 1953 provided a range of mechanisms to address these concerns. These included rearranging titles by compulsory vesting of uneconomic shares in land in the Maori Trustee, the Crown acquiring shares on partition and succession and through amalgamating titles and consolidation orders. Te Rarawa experienced all of these

[139] For the completion of the Manukau scheme, see Alexander, 'Consolidation and Development in Muriwhenua', p. 125.
[140] 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.
[141] Bassett and Kay, p. 92; The hampering of economic development was prevalent at the Pawarenga causing hardship for farmers, Stokes, pp. 92-93.
[142] Stokes or Bassett and Kay pp. 92-93
[143] This extended to landowners unable to present their views about a scheme, and there was no provision for redress for owners who might be aggrieved by decisions taken when a scheme was being prepared. In the Muriwhenua, consolidation schemes were 'embraced with some enthusiasm', and no Muriwhenua lands still in Maori ownership were unaffected, Stokes, p. 207.
[144] Stokes, p. 209.
[145] 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.

mechanisms, mainly because title work remained incomplete as a result of the consolidation schemes.

115. The Crown established a mechanism (the “conversion fund”) to hold and transfer uneconomic interests in land and used this fund in the Tai Tokerau district more frequently than anywhere else. This mechanisms gave the Māori Land Court more power over Māori owned land by allowing the Maori Land Court, on the advice of the Department of Maori Affairs, to vest any “uneconomic interest” (a shareholding worth less than £25) in the Māori Trustee without seeking the agreement of the shareholder/landowner.[146] The Maori Trustee was to pool such interests for later sale, usually to Māori with greater interests in the same land. The Crown intended to make it easier for Māori farmers who were settled on these farms to buy out other interests. In many cases, delayed settlement of the scheme, often for decades, meant that the Crown owned a substantial and valuable interest in some schemes.

116. Despite opposition from prominent Māori the scheme was intensified under the Māori Affairs Amendment Act 1967. The new Act maintained the $50 threshold for compulsorily purchases, but made it easier for the Māori Trustee to sell this land to the Crown rather than to Māori farmers.[147] Sometimes “uneconomic” shares represented the last vestige of someone’s landholdings and the compulsory removal left many Te Rarawa people landless and severed any tangible ancestral connection to their turangawaewae. Often owners were simply not aware of the state of their remaining landholdings and did not know they had lost them in this way.

117. Amalgamated partitions were used in Te Taitokerau to enable better utilisation of “poorly farmed Maori land”. In 1967 some 2,088 acres of land at Whangape held in 51 separate titles were amalgamated to form 3 titles and a scheme was completed in 1971 to amalgamate 17 titles to 600 acres of land in Mangamuka East and west blocks into two clear titles.[148] This meant grouping adjoining blocks together and cancelling all partitions. The Native Land Court would then regroup owners and repartition the amalgamated blocks into residential sections or economic farm units.[149]

118. In practice, all these forms of “title improvement” were used in conjunction with each other. For example, in 1967 a general meeting of landowners at Ahipara agreed to investigate amalgamating land held in 49 titles (totalling 4,704 acres) deemed by the Crown to be “idle and poorly farmed”. The scheme was abandoned 15 months later but revived on a modified scale (814 acres) in March 1969. Even so, key owners resisted this scheme.[150]

119. Conversion was unpopular with Maori but it was not until 1987 that the Crown introduced legislation to allow for the return to owners of uneconomic shares previously acquired by the

[146] Official statements make it clear that, after 1953 at least, the requirement to consult Maori owners about the selection of settlers was seen ‘as a hindrance to the best use of the land.’ The Maori Trustee could acquire uneconomic shares when succession orders were being made, when blocks were partitioned, as part of consolidation or amalgamation schemes, and when consolidated ownership orders were issued, Bassett and Kay, pp. 142, 572.

[147] Under the 1967 Act the Maori Trustee could notify the court of his wish to acquire interests and require the court to determine what interests was ‘uneconomic’; the court was then required to vest such interests in the Maori Trustee.

[148] Title improvement – quarterly return 31 March 1967, MA 1 Box 808, 68/2/1, ‘Title Improvement and file reconstruction returns’, National Archives.

[149] Aroha Harris, ‘Maori Land Development Schemes, 1945-1974 with two case studies from the Hokianga’, MPhil, Massey University, 1996, p. 45.

[150] Title improvement – quarterly returns, MA 1 Box 808, 68/2/1, ‘Title Improvement and file reconstruction returns’, National Archives.

Māori Trustee. Sadly this was too late in many of cases because shares had already been transferred to others. The return of shares was not actively pursued by the Maori Trustee.

Land Development Schemes

120. Title improvement could only increase the economic viability of remaining Māori landholdings if landowners could attract development funding. The Government, in the 1930s led by Sir Apirana Ngata, introduced land development schemes to provide Māori landowners access to Crown funds to develop their land for agricultural purposes.[151]

121. At the end of April 1930 Ngata held several hui in Northland, including at Ahipara, Herekino, Whakarapa (Panguru) and Whangape and won support for the schemes.[152] He introduced two development schemes impacting on Te Rarawa: Mangonui and Hokianga. These schemes were linked with the title consolidation process and were seen as a means by which a class of self-reliant Māori farmers would transform rural Māori communities. The extent of this transformation was also dependant on the suitability of available land for development. By the 1930s much of Te Rarawa remaining landholdings was marginal for agricultural purposes.

122. While landowners in the general title system were able to secure finance over their lands and retained the freedom to make decisions over their farms, banks were reluctant to lend against multiply owned Maori land. When Maori land owners were finally able to access finance it meant relinquishing control over their lands to the Crown. Once land had been notified as coming under the scope of a development scheme owners could not interfere with development work or privately alienate any of the land involved.[153]

123. In this way the Crown sought to control the development process and recover its development funds.[154] The Native Minister had considerable powers to improve, equip and finance land under development and to overcome any difficulties arising from the state of titles and to bring these lands under the scope of a development.[155] Because consolidation schemes were still incomplete some development scheme farmers ended up occupying land which they did not own. This created the potential for conflict with legal owners.[156]

Hokianga

124. Mäori in the Hokianga generally agreed to the development schemes, and initially hoped that the schemes would finance improvements on their lands without state control.[157] Te Rarawa were also concerned about iwi members who were landless or who were unable to utilise their lands because they were awaiting consolidation and clear title.[158] Nevertheless, they were keen to participate at a number of levels, including an advisory committee.[159]

---

[151] 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.

[152] Bassett and Kay, p. 26.

[153] Ward, p. 415.

[154] 'Historical Evidence of Ashley Gould', p. 3.

[155] 'Historical Evidence of Ashley Gould', p. 26.

[156] Bassett and Key, pp. 105-106.

[157] Bassett and Kay, p. 560. While Pakeha were able to secure finance over their lands and retained the freedom to make decisions over their farms, Maori were only able to access finance subject to Crown control over their lands.

[158] Geiringer, p. 207.

[159] Harris, pp. 62-63.

125. By 31 March 1931 approximately 99,000 acres of Hokianga land had been brought into the development scheme.[160] The Hokianga development scheme was made up of a number of small whanau operations in north and south Hokianga with units at Taheke, Omanaia, Utakura, Punakitere, Whirinaki, Waimamaku, Pakanae, Rangiahua, Motukaraka, Panguru, Pawarenga and Mangamuka. These were eventually serviced by a base farm at Waima.[161] By 1935 there were 283 units under the scheme.[162] By 1949 there was a host of small dairy farms, mainly farmed by nominated occupiers. There were also some stations in the Hokianga district.[163]

Pukepoto, Ahipara and Whangape

126. The Crown established the Mangonui development scheme in 1930. By 1931 approximately 127,500 acres of Mangonui land was subject to the scheme which ran until 1963.[164] All lands not leased to Pakeha were included in the scheme.[165] Te Rarawa interests in the Mangonui scheme lay in the Pukepoto, Ahipara and Whangape areas.[166]

127. The development schemes were slow to deliver the intended benefits to Te Rarawa. From 1932 the Native Minister became increasingly concerned about costs and roll-out of the Northland development schemes noting also the increasing bureaucratic nature of the schemes.[167]

128. In 1936, Wairama Maihi te Huhu and 154 others petitioned the Government on behalf of Te Rarawa asking for the return of lands to accommodate the needs of a rapidly increasing population. They pointed out that most of the lands that had been sold to the Crown remained vacant and undeveloped. The petition followed a hui held at Ahipara which was attended by representative elders of Te Rarawa from Whangape, Manukau, Ahipara, Pukepoto, and a number of other settlements'.[168] The Crown did not respond to the petitioners' concerns.

Loan repayments

129. The Crown development funding took the form of a loan on each farm which had to be repaid with interest. In return for its investment the Crown exerted significant control in the administration of the lands. Each farmer had to assign control of their cream cheque to the Native Department, and Government officers made all significant purchase and management decisions on behalf of the owners.[169] In July 1944 Tawati Rapihana and Hone Romama wrote to the Native Department on behalf of 'the 42 units' in the Ahipara, Pukepoto

---

[160] *AJHR* 1932, G 10, p. 6.
[161] For northern Hokianga are series: H and J (Motukaraka, Tauateihiihi, Te Karae, Waihou Lower, Whakarapa and Motuti), JJ and K (Rangi Point, Mitimiti, Pawarenga, and L (Mangamuka), Bassett and Kay, pp. 44-45.
[162] Harris, pp. 61-62.
[163] Harris, p. 62.
[164] Bassett and Kay, p. 41, *AJHR*, 1932, G-10, p. 6.
[165] Ngata did not consider Northland Maori had sufficient land for creating large-scale development, with Maori ownership being reduced to blocks around kainga and mahinga kai. Furthermore, not all the lands that were gazetted were suitable for inclusion in a development scheme, Bassett and Kay, pp. 32, 36-37, 39, 42.
[166] Each of the development schemes were subdivided into 'series' covering unit farmers in different. For Mangonui, Series E (Ahipara), EE (Whangape) and D (Pukepoto). Te Rarawa may also have interests in Series F (Pamapuria) and G (Peria), Alexander 'Consolidation and Development in Muriwhenua', pp. 334- 347.
[167] Geiringer, pp. 205-207; From 1932, Ngata became increasingly concerned about the way that the Northland development schemes were being administered and implemented, and the increasing costs of development. It was a situation exacerbated by the onset of the Depression and the increasing bureaucratic nature of the schemes, Basset and Kay, p. 62; Stokes, p. 222.
[168] Geiringer, p. 207 citing Wairama Maihi te Huhu and others to Prime Minister, 6 January 1936, MA 1 19/1/210, Archives NZ.
[169] Waitangi Tribunal, pp. 479-480; Ward, p. 415, Aroha Harris, 'Maori Land Development Schemes, 1945-1974 with two case studies from the Hokianga', MPhil, Massey University, 1996, p. 21.

and Pamapuria districts. They were concerned by mounting debt, the interest charged on loans and the inability of farms to produce a reasonable standard of living given the amount of money deducted from the cream cheques and the rate of interest charged on loans.[170] The Native Department noted that development costs of undeveloped lands often exceeded the value of the improvements, while mortgages placed over the land overcapitalised the holdings.[171]

130. In the early 1950s Crown concerns about the extent of debt write-offs led to a policy of recovering the costs of development before settling farmers on development schemes. This meant the department would manage a developed property to pay back the debt, before the property was subdivided for the owners to settle on. This resulted in the department running many stations in the Tokerau District for decades, such as the Tapuwae block.[172]

Tapuwae block

131. In 1911 more than 4000 acres of Ngai Tupoto land was compulsorily vested in the Tokerau District Land Board. In 1912 the Board leased the Tapuwae 1B and 4 blocks to Pakeha for fifty years. Throughout the 1950s the consolidation process approved numerous exchanges in quick succession whereby interests in Tapuwae were swapped with interests throughout the north and south Hokianga. In 1957, the Pakeha lessee applied to surrender their lease, and the Māori Land Court agreed for the owners to take over the block.

132. The costs of taking over the property were too high, and so in 1959 the Board of Māori Affairs placed the block into a land development scheme and recorded a loan of £28,460 for farm development. The block had not been farmed well by the lessee with major weed control and land management issues and the Crown had to advance further funds.

133. Over the next few decades, owners became concerned that the Department of Māori Affairs was mismanaging the farm and accruing mounting debt against their land. By 1979 owners were calling for the return of the land because of the debt problems and their need to have more of a say in the running of the block. The owners used a provision in the legislation to form an incorporation. This enabled them to elect a committee of management to manage the land as a farm.After a period of several years of agitation , the block was finally returned to the owners in a very poor state in 1982. After 70 years without any control of their land it was returned to the owners with a debt of over three hundred thousand dollars which was covered by a loan from the Crown. .[173]

134. With the restructuring of the government sector that occurred during the 1980s the interest rate on rural lending soared and the owners of the Tapuwae 1B and 4 Incorporation were increasingly faced with an impossible financial situation. The Incorporation challenged the Crown through the Waitangi Tribunal in the early 1990s over the Crown generated development debt which was incurred under Part 24 of the Maori Affairs Act 1953.. A settlement was reached between the Crown and the Tapuwae Incorporation but it is the view of Ngai Tupoto that the Crown used heavy handed legal and political threats to “settle” the matter.

[170] Stokes, pp. 222-223.

[171] 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. 130; For instance, following consolidation of titles at Ahipara, Ahipara B had a debt of £1,151.4.10, Alexander, ‘Consolidation and Development in Muriwhenua’, p. 343.

[172] Bassett and Kay, pp. 118, 141.

[173] Te Uira Associates, ‘Te Rarawa Historical Overview Report: Volume One of Two, p. 137.

Return to owner control

135. The long-term benefits of the land development schemes were mixed. In their early years the schemes satisfied immediate Māori demands for land development. However, some of the smaller individual units, in particular, were of limited economic benefit and failed to fulfil owners' expectations.[174] The Crown's preferred solution for the smaller individual units, particularly from the late 1950s onwards, was for farms to be amalgamated or combined into larger units. The Department of Maori Affairs encouraged owners to sell, exchange, amalgamate and lease land in order to ensure that farms were large enough to provide a decent living for one family. This could mean that individual farmers were forced to compete with their whanau and neighbours to obtain sufficient land to be self-supporting.

Owhata

136. Te Rarawa settlements on the southern shore of Herekino harbour had dwindled to two small blocks by the 1920s. The 43 acre Owhata block 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. The Herepete Heke whanau who lived in the community understood that some of their land was taken for the road. Maraea Herepete Heke protested the taking and erected a fence to prevent construction. Prior to this, Maraea had complained to the Native Minister. Officials advised that the road was laid out entirely on an adjacent block. Acting on this information Maraea was eventually arrested and imprisoned in Auckland's Mt Eden prison, but released on technical grounds and put on probation.[xxxiii]

137. 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 their land and a claim by the Crown that a portion of the block was Crown land. He recommended sorting out the issue with a surveyor on the ground. Before that could happen, Maraea and her family upstaged a picnic protest staged by local Pakeha on the disputed land. Maraea was returned to Mt Eden prison for five months. During that time many of her children were left in the care of a 13 year old daughter.

138. 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 discrepancies between plans and between road lines marked on plans and surveyed on the ground. It also revealed that the earliest survey of the Owhata block boundaries was unreliable and there was confusion about the status of the land taken. 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 passed away in 1941 before compensation was awarded. However a later Chief Judge did not agree with the recommendations for compensation and none was ever paid.[xxxiv]

139. 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 planting of s and dunes on

---

[174] Bassett and Kay, pp. 565-566; Harris notes that the scheme supported many Maori communities through the depression and World War Two. She adds that the response from 'Maori farmers' was variable, with some 'completely comfortable' with the schemes, while others 'struggled, Harris, Abstract (no page reference).

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.

Kahakaharoa

140. The Kahakaharoa block of 3740 acres runs along the west coast on the northern side of the mouth of the Hokianga harbour and is made up almost entirely of sand hills. A number of wahi tapu, including Te Puna ki Hokianga, are located within Kahakaharoa, which also served as an access way to the moana and its resources.

141. In a report to the Native Department in 1945, Judge Prichard of the Native Land Court described Kahakaharoa as 'useless and dangerous, with drifting sand encroaching on useful lands'. He said the interests of the owners were 'almost valueless'. On Prichard's advice, the Department considered buying the freehold title to Kahakaharoa, in order to protect adjoining lands from the 'sand menace'. Various government inquiries in 1946 concluded that the North Hokianga sand dune country was unsuitable for cultivation or settlement and would never have any commercial value unless reclaimed.

142. The Crown preferred to obtain title before beginning any reclamation work, thus preventing the owners from expecting any return from the 'valuable asset' that would result from the state's development efforts. Under the Native Land Act 1931 any offer from the Crown had to be agreed to by the majority of shareholders present at a properly convened meeting of owners. Furthermore, the Crown had to at least pay the assessed value of the land, and ensure no owner would be made landless as a result of the transaction.

143. The Crown's proposal to purchase Kahakaharoa was discussed at a series of meetings of owners in 1947 and 48, and there seemed to be sufficient support amongst the owners to enter into a transaction. However, the owners preferred to gift rather than sell the land. The Crown, on the other hand, insisted on a sale. It had already been advised by Prichard that gifting risked the possibility that owners would always regard themselves as having an interest in the land. The Crown felt that a sale would ensure the owners would have no basis on which to lay any special claim to Kahakaharoa in the future.

144. By the end of 1948 the owners had been encouraged to proceed with the sale of Kahakaharoa. They set a sale price of 2/6d an acre which would yield a total of about £700, more than twice as much as the Crown had planned on paying. The owners insisted on a number of conditions, including exclusion of specific wahi tapu from the sale, including 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.

145. Although the Maori Land Court confirmed the owners' resolution to sell, the Crown hesitated over the conditions. It 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 it was concerned about the owners having rights to the foreshore above the low water mark. The Registrar of the Court tried to encourage the Crown to proceed with the sale and deal with its concerns after the transaction was finalised. By mid-1951 the transaction was still incomplete.

146. It was not until 1953 that the Crown resumed discussions with the owners. Going against advice not to renege on the 1948 agreement, the Crown offered the owners £225, or 1/- an acre. At a meeting in December 1953, the owners voiced their disappointment about the delay they had endured and the reduced price. However, a resolution to sell was recorded, subject to the same conditions previously stated in 1948. The Crown's acquisition of Kahakaharoa was further delayed in 1954 when it submitted to the Court that it wanted the exact area surveyed. The transaction was again held in abeyance, this time for some five years. In 1959 the Court partitioned Kahakaharoa, which had 419 owners by then, into three blocks: Kahakaharoa A, B and C. Kahakaharoa C contained Te Puna ki Hokianga, and in 1960 the Court appointed trustees to Kahakaharoa B and C. The Crown acquired Kahakaharoa A block in July 1959. It paid £181 to the Maori Trustee as agent for the owners.

147. By the time these matters were finalised there were only a small number of owners still alive. Meetings of owners included less than 10 shareholders at times. No work was ever undertaken by the Crown in relation to the sand encroachment. The Crown took ownership of the esplanade reserve in clear contradiction of one of the conditions of sale.

Summary of impacts of 20th century land administration

- Significant tracts of Te Rarawa lands were compulsorily vested in the Tokerau Maori Land Board without consultation with the owners and rendered Te Rarawa powerless to control their own land.
- The collective will of Te Rarawa land owners was ignored even when clearly articulated (as in the Te Karae case).
- The rights of the individual versus the rights of the collective – Crown didn't even consider it a factor in administering the land and used the individual to undermine the collective.
- Te Rarawa lands were used freely for public works and to benefit Pakeha settlers.
- Conflict of interest in the roles of the Native Land Court and Maori Land Boards, especially after changes to membership and effective elimination of Maori representation.
- Anomalies and improprieties in specific transactions run through the Tai Tokerau Board.
- Aggressive tactics used by Crown agents to secure interests in Te Rarawa lands.
- General failure to assist Te Rarawa into farming compared to the Pakeha population.
- The whole title reform programme that came with the development schemes further undermined the collective.
- Development schemes were fundamentally assimilationist.
- Uneconomic shares deprived many Te Rarawa people of their lands. The position of the Maori Trustee was used to remove Maori control of land in some circumstances and to implement title ownership manipulation schemes.
- Title policies focussed on limiting Maori ownership as much as possible, effectively undermining collective authority and Te Rarawa social order.

Section six

Natural Resources: Te Taiao o Te Rarawa

1. Te Rarawa have always held that they and their marine environment are inseparable and this relationship is well-recorded in hapu and iwi narratives, for example, the whakatauki 'he manu moana nga whanau o Taikarawa' [or other example as determined by the kahui kaumatua]. Water and its associated bird, plant and marine life feature in the lives and geography of all Te Rarawa marae and hapu. Daily relationships with the immediate marine environment is emphasised by the location of Te Rarawa 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.

2. Throughout history, Te Rarawa people have variously sought to maintain their mana tiaki over their marine environment.[xxxv] They have expressed a range of concerns to government agencies and local authorities about degradation of the marine environment and its resources, the prejudicial effects of Crown regulation and legislation, and the strong desire for Crown support for Te Rarawa authority over the takutaimoana.

3. 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. Over time the environment suffered from some degree of degradation and there has been a decline in species of importance to Te Rarawa. Mahinga kai and rongoa gathering places of Te Rarawa have been polluted or lost. The loss of these resources also led to the loss of knowledge and ritual associated with them, and the loss of whenua ngahere practices over lands where the mana whenua of several hapu converge and a pattern of shared resource use and cooperation occurred.

4. Whenua Ngahere 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. There were also many areas set aside as torere where human remains were placed and ana or burial caves used for a similar purpose. They also included sites of historical and cultural significance including wahi tapu and pa.

Reclamations

5. 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.

6. 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.

7. 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.[xxxvi]

8. An early application to the Crown for a reclamation at Whakarapa by Holland in 1916 met with considerable protest. The application for 63 acres of mudflat was on an estuarine area adjoining Maori land and of customary importance to the local hapu. Members of the Ngati Manawa, and Kaitutae hapu petitioned the Crown objecting to the process of allocating mudflats for reclamation, asserting customary ownership based on the Treaty of Waitangi. An enquiry was called for. Despite this the Crown ignored the hapu concerned and gave permission to the applicant to commence reclamation by way of lease in 1922.

9. The local people took matters into their own hands systematically demolishing retaining walls and filling in drains to frustrate the reclamation. Several members of the community were taken to Court and fined for trespass. Eventually, through political intervention, Holland was compensated and the lease from the Marine Department was cancelled.

10. In 1922 a petition from Re Te Tai Papahia and others (of Ngati Te Reinga, Ngati Manawa and Te Kai Tuta) 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’.[xxxvii] 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.[xxxviii] 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.[xxxix] 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’.[xl]

11. As a result of access concerns and damage to mudflats caused by reclamation dams installed by a local Pakeha farmer, a claim was brought by Toma Atama on behalf of Māori of Rangikohu to investigate ownership of the mudflats. Claimants 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.[xli] The claim was opposed by the Crown.

12. 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.[xlii] 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.[xliii]

13. 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, Owhata Harbour, Whangape Harbour and other places.[xliv] Other smaller areas of mudflats were reclaimed for road or marine structures, such as stop banks, jetties, sheds and boating ramps.

Te Oneroa a Tohe

14. 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 voyage of the ancestor Tohe. The beach is regarded by Maori as Te Ara Wairua, a spiritual pathway to Te Rerenga Wairua (Cape Reinga).

15. 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 plentiful stocks of fish such as mullet, schnapper, flounder rock cod and 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.

16. 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.[xlv]

17. In the latter part of the nineteenth century the Marine department assumed regulatory control over marine species, including toheroa. Local Maori including Te Rarawa began to be concerned 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.

18. A local committee was 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 following events such as drownings 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.

19. In 1955 Te Rarawa and a neighbouring iwi sought to gain title to the beach with a view to vesting the foreshore in nominated trustees.[xlvi] 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 a neighbouring iwi shared customary ownership of Te Oneroa a Tohe [xlvii]

20. 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 a neighbouring iwi appealed the Supreme Court decision but the Court of Appeal upheld the Supreme Court finding that customary title was extinguished on the sale of the adjoining blocks.

21. 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 of tikanga and this in turn has undermined their kaitiakitanga of Te Oneroa a Tohe.

Protection of species

22. 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.[xlviii]

23. For Te Rarawa, the kukupa (kereru) has an historic importance as a food source and as a cultural treasure'.[xlix] Harvesting kukupa was a traditional right protected by the provisions of the Treaty of Waitangi. Māori and settlers alike hunted the kukupa.[l] 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.[li] 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.[lii]

24. 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 native birds and impinged on Māori customary rights.[liii] Māori were also concerned that bush clearance contributed more to the decline of the kukupa than traditional hunting practices.[liv] 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.

25. By the turn of the twentieth century, the emphasis on managing game birds changed from game management and imported birds to conservation.[lv] 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.[lvi] A lack of enforcement capability continued well into the second half of the twentieth century as the law pushed the hunting of kukupa underground.[lvii]

26. 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.[lviii] Over the years, and in spite of the law, a number of Northland Māori have been convicted for harvesting kukupa.[lix]

27. By the 1990s, the threat to kukupa was not just hunting but competition for food resources from an increasing possum population. Since 1987, the Department of Conservation has been charged with managing the Wildlife Act. It has attempted to work with Northland Māori in the management of declining numbers of kukupa.

Minerals

28. Over time the Crown assumed ownership of all gold, silver, petroleum and uranium and exercised control over the extraction of other minerals, including coal, aggregate, sand, and certain other minerals 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 was 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.

29. Before 1991 minerals were managed under separate administrative arrangements. The Crown Minerals Act 1991 reformed the law governing the management of oil, gas, minerals,

DRAFT

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. This has led to the situation where Te Rarawa rangatiratanga over its natural resources such as sand and aggregate has been diminished.

DRAFT

Section seven

General issues

Public Works Issues

30. 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 mana whenua and manaakitanga. Examples of such contributions include providing 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.

31. By way of example, in 19XX 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 for 5-6 miles to service a community of 300 Māori and Pakeha. They agreed to provide labour free and fell and saw kauri for the necessary bridges. They asked for a grant to cover costs and it took 6 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 (river shingle). (pp. 108-109). (McBurney, pp. 108-109)

32. 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.

33. The Crown seldom consulted Te Rarawa about takings under the Public Works legislation because it was not required to do so before the middle of the twentieth century.[lx] 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.

34. 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 paid 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. There could be considerable delays before payments were actually made and sometimes owners of multiply owned lands did not receive any compensation because the owners were not known. Compensation for vested land was paid into Land Board funds not directly to the beneficial owners.

35. Poor access and the fact that much of Te Rarawa productive lands had passed out of their ownership meant that their remaining lands were usually deemed of lesser value and hence attracted lower rates of compensation. Te Rarawa consider that historically the Crown looked first to Māori land for public works purposes because there were fewer obstacles to overcome.

Scenery preservation

36. 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.

37. 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.

38. 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.[lxi] 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.

39. Other scenic reserves within the Te Rarawa area of interest include the Motukaraka scenic reserve, 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. The Department of Conservation has managed these reserves since 1987.

Rating on Maori Land

(Source: Waitangi Tribunal report, Maori and Rating Law)

40. There were a number of early attempts to rate Maori land particularly for the establishment of roads. In the debate around the 1871 Highway Boards Empowering Act the matter of rating of Maori Land was raised. It was pointed out that Te Rarawa Maori in in Mangonui were already paying a substantial customs duty which could be used for roading. In reality much of the land set aside for roading and other public purposes was taken from Maori and money that was collected for roading was invariably spent in European settlements and in urban areas. The Act provided for rating on Maori land if a Native Land Court title had been issued.

41. Following the abolition of provincial government a number of local government measures were put in place including the Rating Act of 1876, which replaced the various ordinances in force with a uniform land valuation scheme. It included exemptions for land that was still in native title or was occupied only by Maori where a title had been issued. It provided for Maori land to be sold for non-payment of rates where European lessees were in default.

42. Rating legislation was reviewed on a regular basis over the following 30 years. Progressively land occupied by Maori where title had been issued was charged half rates. If the rates were not paid, a charge was made against the land and this could be realised the next time the land was partitioned.
In the early 20th century the legislation was expanded to empower the Minister of Native Affairs to apply to ascertain title to customary land whether the owners wanted it or not. Compulsory vesting of lands in the District Land Board where rates were unpaid was also introduced.

43. The 1910 Rating Amendment brought the bulk of Maori land into the general rating regime and made it liable for full rates. This forced Maori to lease or sell land to cover the costs of rates. The 1923 Native Land Amendment and Land Claims Adjustment Act provided for consolidation schemes which allowed the Native Land Court to vest land in the Crown to satisfy outstanding rates. In 1924 the legislation was simplified to allow the court to make a charging order for rates and if they remained unpaid the Act allowed for the land to be vested in the Native Trustee for sale.

44. 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. Many blocks of land were alienated in this way.

45. The Pritchard-Waetford Report in 1965 ignored Maori aspirations to retain links with their remaining lands and recommended sweeping powers to bring fragmented blocks into productive development. Despite opposition from Maori including Te Rarawa, many of the report’s recommendations were adopted in the 1967 Maori Affairs Amendment Act.

148. Then 1967 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. 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.

149. 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 provisions over general land provided clear provisions for the sale of land where local authority rates were unpaid and lands declared abandoned. There are a number of examples of land subject to status change under the 1967 Amendment Act being sold for unpaid rates.

46. In 1987 the power to have Maori land sold for rates arrears was removed from the legislation. Local authorities can still apply to the Maori Land Court for a charging order for rates.

47. The matter of rates remains a point of contention for Te Rarawa up to the present day. Rates are levied on unoccupied, undeveloped and unproductive holdings. Many land blocks have no legal access and do not benefit from any local authority services. The basis for the valuation of land for rating purpose is flawed. It assumes that all land is a saleable commodity and able to have a commercial valuation placed upon it. It continues to disadvantage Maori owners who do not or cannot develop their land for a financial return.

Other matters for consideration (still to be worked on)

- Devolution of Crown authority to local and regional authorities. Legislation. (Town and Country Planning Act, Resource Management Act etc)
- Socio-economic deprivation.
- Undermining of cultural foundation, loss of reo etc
- Crown afforestation, broken promises.
- Toheroa (more detail)

[i] Normanby to Hobson, 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.
[ii] Claudia Orange, *The Treaty of Waitangi*, 1997 reprint, p. 62.
[iii] Miria Simpson, *Ngä Tohu o Te Tiriti: Making a Mark*, 1990, pp. 8, 14 and 15.

DRAFT

[iv] 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. .
[v] Claudia Orange, *The Treaty of Waitangi*, pp. 60-66 and pp. 82-84; Stokes, ‘A Review of the Evidence’, pp. 188-196.
[vi] Stokes, post 1865, p. 26.
[vii] Vincent O’Malley and Stephen Robertson, Muriwhenua Land and Politics, 1862 – 1909, report for CFRT, 1997, pp. 101-102.
[viii] Waitangi Tribunal, *Turanga Tangata Turanga Whenua: The Report on the Turanganui a Kiwa Claims*, p. 440.
[ix] Stokes, post 1865, p. 145.
[x] Loveridge, pp. 22-3.
[xi] Loveridge, p. 61; Native Land Amendment Act 1913.
[xii] *AJHR* 1907 G-1. The two Commissioners were Chief Justice Sir Robert Stout and (later Sir) Apirana Ngata. Specifically, the Commission’s practice brief was to inquire into Maori tenure, its occupation and profitability, and how best to utilised it in the interests of both the Maori owners and the public good.
[xiii] Dame Evelyn Stokes, ‘The Muriwhenua Land Claims Post 1865’, Wai 45 and others, Waitangi Tribunal, 2002, p. 198.
[xiv] *AJHR* 1908, G-1J, p. 6. Stoke, p. 199.
[xv]As Loveridge noted, ‘All things considered, the best strategy open to Maori landowners from late 1907 onwards was probably to cooperate with the commission – to attend hearings and make their wishes known. If owners did so, they had a good chance of influencing the commissioners’ recommendations.’ Loveridge further noted ‘that the Government ceased to implement the recommendations of the Stout–Ngata commission when the Native Land Act 1909 was passed, even though the provisions of the 1907 Act were embodied in the new legislation.’ Loveridge, pp. 58, 61.

[xvi] Donald Loveridge, ‘Mäori Land Councils and Mäori Land Boards: A Historical Overview, 1900 to 1952’, Waitangi Tribunal Rangahaua Whanui series, pp. 22.
[xvii] Te Uira Associates, ‘Te Karae Draft Report’, September 2003, p. 1; Marian Horan, ‘Te Karae Research Report’, 2004, p. 1.
[xviii] *NZG*, 1907, p. 1929. The Minister could compulsorily vest lands which he considered were not suitable or required for occupation by the Maori. Such lands could be leased by the Board for up to 50 years, but not sold. This was meant to enable development of the land while providing income to its Maori owners.
[xix] Horan, ‘Te Karae Research Report’, p. 2.
[xx] 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 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.
[xxi] Horan, ‘Te Karae Research Report’, pp. 3-4.
[xxii] Horan, ‘Te Karae Research Report’, p. 8
[xxiii] 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’).
[xxiv] 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’.
[xxv] 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.
[xxvi] 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’.
[xxvii] Richard Boast and others, Maori Land Law, Wellington, 1999, p. 90

[xxviii] 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.
[xxix] 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.
[xxx] 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.
[xxxi] Horan, 'Te Karae Research Report', pp. 28-9.
[xxxii] Horan, Motukaraka and Te Karae Research Commission – Supplemntary Research, December 2005
[xxxiii] Evelyn Stokes, The Muriwhenua Land Claims Post 1865, 2002, p. 147
[xxxiv] Evelyn Stokes, The Muriwhenua Land Claims Post 1865, 2002, p. 152
[xxxv] Used in *Karanga Hokianga*, pp.87-8. Translated by Meredith as guardianship rights and responsibilities.
[xxxvi] Richard Boast, Rangahaua Whanui National Theme q, *The Foreshore*, First Release, Waitangi Tribunal Rangahaua Whanui Series, Wellington, 1996, p. 22.
[xxxvii] 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.
[xxxviii] 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.
[xxxix] Daamen, p. 103 citing letters from William Topia to Native Minister, 13 and 29 September 1924, MA 1 1926/386, ANZ.
[xl] 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.
[xli] 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.
[xlii] Boast, *The Foreshore*, p. 61.The mudflats allegedly adjoined the Manukau block.
[xliii] Boast, *The Foreshore*, p. 61.
[xliv] 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.
[xlv] Richard Boast, Ninety Mile Beach Revisited, in VUW Law Review, 1993, vol 23, p 147.
[xlvi] Richard Boast, Ninety Mile Beach Revisited, in VUW Law Review, 1993, vol 23, p 163
[xlvii] Te Rarawa Historical Overview Report, Te Uira Associates, pp. 142-152
[xlviii] Early acclimatisation societies introduced a host of suitable game species for sporting purposes and also to make New Zealand more like England.
[xlix] 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.
[l] 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.
[li] See James W Feldman, *Treaty Rights and Pigeon Poaching: Alienation of Maori Access to Kereru, 1864 – 1960*, Waitangi Tribunal, Wellington, 2001, p. 3.
[lii] 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.
[liii] *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.

[liv] For example, see Feldman, p.29, where several Pakeha MPs supported the Maori concern.
[lv] Feldman, p. viii.
[lvi] 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
[lvii] 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.

[lviii] 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.

[lix] 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.

[lx] Alexander, pp. 17-8, 146.

[lxi] Te Uira Associated, Te Rarawa Historical Overview Report, August 2004, p. 192

DRAFT