

Porirua ki Manawatū Inquiry District:

Local Government Issues Report

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Ministry of Justice WELLINGTON

A report prepared for the Porirua ki Manawatū Inquiry and commissioned by the Crown Forestry Rental Trust.

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1. Introduction

1.1 The Author

My name is Suzanne Woodley and I am a historian of Wellington. I have a Bachelor of Arts from Canterbury University and a Bachelor of Arts with Honours in History from Victoria University of Wellington.

Between 1990 and 1995 I worked for the Waitangi Tribunal where I wrote a number of reports including the first general report on Native Townships for the Tribunal's Rangahaua Whanui National Themes series. During 1995 and 1996 I worked as a researcher for the Hauraki Maori Trust Board.

Between 1997 and 2004 I worked at The National Archives (formerly Public Record Office), London. I held various roles including project manager and senior archivist. Since May 2005 I have again been involved with researching Treaty claims. This has included the preparation of reports for the Crown Forestry Rental Trust and Waitangi Tribunal. Recently completed reports include the Rating and Landlocked blocks report for the Taihape Inquiry and the Mangakahia Land Issues report for Te Paparahi o Te Raki Inquiry. In addition, I have worked for other researchers preparing reports for the Waitangi Tribunal and for the report writing team of the Waitangi Tribunal Unit. The later involved the compilation and analysis of socio-economic data and reference checking for Te Kohanga Reo claim and Whanganui lands reports.

1.2 Project Brief

This report was commissioned by the Crown Forestry Rental Trust as part of the Phase One technical research programme for the Porirua ki Manawatū District Inquiry.

The Project Purpose is:

The Local Government Issues report will address claims issues relating to local government in Porirua ki Manawatū. It will consider iwi/hapū engagement with the

various forms of local government and will have a particular focus on the impact of rating on Māori land.

The following general subject areas were to be address:

Local Government Themes and Issues:

- The extent to which the Crown provided for iwi/hapū participation in the legislative and regulatory framework established and maintained for local government in the district
- The establishment of various forms of local government in Porirua ki Manawatū
- The impacts and difficulties for iwi/hapū in dealing with the large number of different local government bodies in the Porirua ki Manawatū district
- The extent to which the Crown provided for separate forms of Māori local self-government, such as Native Committees and Māori Councils, tribal kōmiti/committees and rūnanga
- The nature and extent of local iwi/hapū engagement with, and representation on, local government structures and decision-making (and overall consultation with Māori by local government) including:
 - Any limiting factors on iwi/hapū involvement or engagement with local government;
 - Crown resourcing to ensure adequate participation in local government decision making;
 - Any demands by iwi/hapū to participate more effectively in local government;
 - Any benefits from local governance structures;
 - Any concerns, complaints or issues with the exercise of local authority powers;
 - Local initiatives by Māori and how any such initiatives fared;
 - Provisions for iwi/hapū representatives on local authorities and participation in local body elections; and
 - Consultation with iwi/hapū in local body decision making.
- Patterns of expenditure and the provision of services to iwi/hapū, including roads, water and drainage

- Impacts on iwi/hapū of town and country planning legislation in Porirua ki Manawatū, with particular reference to housing
- The impact of legislative changes such as the Town and Country Planning Act 1953, Resource Management Act 1991 and the Local Government Acts 1974 and 2002 on iwi/hapū participation in local government planning and decision-making in Porirua ki Manawatū
- The impact of local government legislation and regulatory framework/s on the ability of Porirua ki Manawatū iwi/hapū to utilise their off-shore islands
- Any evidence of iwi/hapū concern or complaints to the Crown about the system of local government in the district, and Crown responses to such complaints
- Evaluate the effectiveness of the local political forms of organisation on offer to iwi/hapū in the inquiry district (excluding environmental management regimes, which are being considered in a separate report)

Ratings Themes and Issues:

- A summary of the general development and implementation of rating policy over the nineteenth and twentieth centuries, including how and when rating liabilities extended to Māori land (based on existing secondary research and reviews)
- The extent to which rating and valuation legislation, policy and practice recognised the particular nature of Māori land title
- Whether classes of Māori land were exempted from rates in the district, and whether this changed over time?
- What role did local government, the Māori Land Court, District Māori Land Boards and the Māori Trustee have regarding the levying and collection of rates on iwi/hapū land in the Porirua ki Manawatū district?
- The impact of title fragmentation, multiple ownership and land-locked land on the ability of Porirua ki Manawatū iwi/hapū to meet rates liabilities
- The extent to which Māori land owners were consulted about the rating of their land, if any
- The reaction of iwi/hapū in the district to the imposition of rates and the possibility of compulsory acquisition for non-payment

- The extent and impact of local body charges (including those of district council, pest control boards, catchment boards and other agencies) on Māori land holdings in the Porirua ki Manawatū district
- The extent to which local bodies sought the appointment of a receiver for blocks with outstanding rates charges
- The extent to which such receiverships resulted in compulsory long-term leasing or sales of the land. The Contractor will, as far as possible, quantify the amount of Porirua ki Manawatū iwi/hapū land loss through this avenue
- Case studies of blocks where the County Council, the Māori Land Board and/or the Māori Trustee were appointed receiver
- The impact of pressure for rates payments on Māori land alienation in the district, including detailed case studies outlining any compulsory takings of Māori land for non-payment of rates
- To what extent did rating affect iwi/hapū aspirations for utilising their land?
- Any evidence of iwi/hapū paying rates on lands where significant use/access restrictions were enforced by the relevant local government authority
- Any evidence related to local authority actions or decisions that had the effect of limiting iwi/hapū exercise of kaitiakitanga in the district
- The impact of any local government actions or omissions on wāhi tapu or other sites of significance, any complaints made related to this, and Crown responses to such complaints

The time frame for this project was 1480 hours.

Note that the issue of the management of off-shore islands is being included in the Environment and Natural Resources Issues report.

1.3 Structure of Report

Due to the large number of local authorities that had jurisdiction over the inquiry district and the need to keep the information organised in a systematic and coherent way, this report has been organised by local authority. There are chapters on each of the major road boards, counties and boroughs as well as the Foxton Harbour Board. Within the Manawatu and

Horowhenua County chapters are sections concerning their successor agencies – the Manawatu and Horowhenua District Councils. There is also a separate chapter on Kapiti Coast District Council.

The report begins with an overview of the development of local authorities from the nineteenth century including a discussion of the voting system and whether Maori were elected to any of the local authorities in the inquiry district. This is followed by a legislative overview of rating and town and country legislation, local authority legislation concerning Maori participation in local government and the Resource Management Act 1991. Chapters then follow concerning the various local authorities. These chapters begin with an examination of the establishment of the local authority and if there is any evidence that Maori were elected to them at any stage. With the exception of the Foxton Harbour Board chapter, these chapters include an examination of the early relationship between Maori and the local authority, rating issues and with respect to Oroua, Kairanga and Horowhenua counties, town and country planning issues. Issues particular to individual councils are also discussed such as Kai Iwi Pa in the Kairanga County chapter; the Karewarewa urupa in the Horowhenua County chapter and the Paraparaumu Airport in the Kapiti Coast District Council chapter. The Foxton Harbour Board chapter deals solely with issues concerning the Papangaio J block. Interspersed into each chapter are summaries of the issues discussed. The penultimate chapter discusses Maori forms of self-government as provided by legislation. The conclusion brings together all the issues discussed in the report.

1.4 Methodology and Sources

As can be seen in the maps in the report (pages 87-91) the number of county councils across the inquiry district grew from three in 1876 (Rangitikei, Manawatu and Hutt Counties) to nine in 1921 (Rangitikei, Kiwitea, Pohangina, Oroua, Kairanga, Manawatu, Horowhenua, Hutt and Makara). Also by 1921, there were seven Boroughs across the inquiry district: Marton, Feilding, Palmerston North, Foxton, Shannon, Levin and Otaki. In addition, there were Town Boards, Road Boards, Catchment Boards and other local authorities such as the Foxton Harbour Board. Today there are four District Councils (Rangitikei, Manawatu, Horowhenua and Kapiti), two City Councils (Palmerston North and Porirua) and two Regional Councils (Wellington and Manawatu-Whanganui) encompassing the inquiry district area.

Because of the large number of local authorities, not all have been examined. The most north-east points of the inquiry district are the areas which have been examined the least particularly that of Rangitikei, Pohangina and Kiwitea counties and in the south the Upper Hutt City Council (which took over some of the Hutt County land in the 1960s). The focus on particular local authorities has been determined by the location of the remaining Maori land in the inquiry district particularly with regard to rating issues. The focus of work has also been dependant on availability of records. Emphasis on the Maori land rating regime of the Horowhenua County Council and Otaki Borough Council has arisen because there is relatively more information on these Councils and the records examined have revealed that this was a major issue in these areas. Conversely, records on catchment and rabbit boards in the inquiry district and their relationship with Maori are more limited. Time constraints have also impacted on the ability to examine these particular local authorities.

Many of the issues included in this report are from statements of claim and/or have been raised at claimant hui with the author. In addition, many of the issues identified in scoping reports completed by Terry Hearn, Robyn Anderson and Tony Walzl concerning local authorities have been examined.¹

With respect to records, *Papers Past* has been used extensively to examine early contact by local authorities with Maori. Nineteenth and early twentieth century newspapers recorded the meetings of the various local authorities. This was often with more detail and clarity than the actual minute book which are often brief and difficult to read. Newspapers also recorded early dealings between Maori and local authorities particularly with regard to roads. With regard to the rating element of the report, a comprehensive examination of inquiry district block order files and Maori Land Court Minutes (Otaki and Wellington) was completed which involved the identification of blocks affected by rates charging orders, receivership orders and vesting orders. This in turn identified the local authorities that were the most involved with the rating of Maori land and the extent to which they pursued rates on Maori land.

¹ Terry Hearn, The Waitangi Tribunal Porirua ki Manawatu Inquiry District, A Technical Research Scoping Report commissioned by the Crown Forestry Rental Trust, 3 May 2010; Robyn Anderson, Porirua ki Manawatu Inquiry: Historical Issues Scoping Report for Hapu and Iwi Broadly Associated with Ngati Raukawa, December 2014; Tony Walzl, Ngātiawa / Te Āti Awa Research Needs Scoping Report, 18 January 2016.

Research was undertaken at Archives New Zealand (Wellington), Alexander Turnbull Library (Wellington), Archives Central (Feilding), the Aotea Maori Land Court (Whanganui), the Ian Matheson Archives (Palmerston North), the Kapiti Coast District Council (Paraparaumu), the Otaki Museum (Otaki), Heritage New Zealand (Wellington) and the Environment Court (Wellington).

1.5 Acknowledgements

I am grateful for the assistance given to me by the staff of the archive and library repositories that I have visited while preparing this report. Of particular note are Michael Biggs at Archives Central in Feilding (who found all the un-accessioned Horowhenua County Council Maori land rates files) and Adrian Humphries of Wellington City Archives for access to the Makara County minute books. Thank you also to Andrea Joseph at the Maori Land Court in Whanganui, Te Kenehi Teira at Heritage New Zealand, Rachel Coughy at the Environment Court, Evan Greensides at the Ian Matheson Archives in Palmerston North, Jan Harris at the Otaki Museum, Jeremy Clements and Sherilyn Hinton of Kapiti Coast District Council and staff at Archives New Zealand, The National Library and Alexander Turnbull Library. Many thanks also to Sir Taihakurei Durie and Mahina-a-rangi Baker for providing me with their reports and to Bray Waitaha, André Baker, Heeni Collins, Grant Young, Paul Husbands, Tony Walzl, Paula Berghan and Heather Bassett for research material. Also thanks to Rick Sanson and Clint McMillan for the provision of the maps and to claimants for their feedback.

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Tena koutou katoa.

2. The Establishment of Local Government in the Porirua ki Manawatu Inquiry District and the County, Borough and Town District Voting Systems

2.1 Introduction

This chapter examines the legislation that provided for the formation of highway and road boards, county, borough and town councils in the nineteenth century and the local authorities that were established in the inquiry district as a result. Also discussed is the voting system provided for by the legislation and the preponderance of Pakeha councillors voted to the boards, boroughs and counties in the inquiry district under this system.

2.2 The Provinces, Highway and Road Boards

Under the Constitution Act 1852, six provinces were established: Auckland, New Plymouth, Wellington, Nelson, Canterbury and Otago. The Wellington Provincial Government had jurisdiction over the area within the Porirua ki Manawatu inquiry district who in 1872, established eight highway boards. These included the Manawatu Highway Board which was ‘the first unit of local government in the inland Manawatu district’ initially covering the districts of Foxton, Feilding and Sanson. Highway Boards were renamed Road Boards in 1882 under the Road Boards Act 1882. The 1882 Act ‘divided the country into road districts, each governed by a road board’. Initially, ‘there were 319 boards; this reduced to 209 in 1907 and 59 in 1922, as the county councils took over road boards.’²

The focus of Highway and Road Boards was roads and bridges – both the building of them and the subsequent maintenance. With respect to the levying of rates on Maori land, section 5 of the Highways Boards Empowering Act 1871 provided for the rating by Highway Boards of Maori freehold and customary land that was not in the occupation of Maori (so leased to Pakeha). The Rating Act 1876 then exempted all customary and Maori freehold land from rates. From 1882, however, road boards (and counties) were able to levy and collect rates on

² Jane Luiten, ‘Local Government on the East Coast’, A report commissioned by History Works for the Crown Forestry Rental Trust, August 2009, pp. 15, 35. <http://www.teara.govt.nz/en/roads/page-5>; Mark Derby. ‘Local and regional government - Local authorities multiply’, Te Ara - the Encyclopedia of New Zealand, updated 13-Jul-12; Archives central website: <http://archivescentral.org.nz/>, accessed February 2017.

more extensive areas of Maori land within their district. This is discussed further in the legislative chapter.³

Highway and Road Boards in the inquiry district included: Manawatu (1872-1902), Manchester (formed from the Manawatu Board (1876-1903)), Otaki (1878-1913), Sandon & Carnarvon (1881-1887), Kiwitea (1882-1893), Te Horo (1884-1906), Whirokino (1884-1903) and Fitzherbert (1889-1902).

2.3 Counties, 1876-1989

In 1875, the Provincial Government was disestablished and replaced by a system of counties under the Counties Act 1876. The country was divided into 63 counties, three of which came within the boundaries of the Porirua ki Manawatu Inquiry District: Rangitikei, Manawatu and Hutt. These were larger than the areas administered by road boards but excluded boroughs. Each county was ‘divided into between six to nine ridings, geographic areas that reflected a community of (economic) interest, much like the existing road boards’.⁴

Luiten records that county councils, with representation from each riding, were:

... empowered to levy a general rate up to one shilling in the pound, to raise special loans with the consent of the ratepayers up to four times the amount of the general rates, and to incur a limited overdraft. The powers of the councils were clearly defined, including the control of “county roads,” and power to make bylaws, construct public works, subsidise constituent road boards, and aid charitable institutions, museums, and public libraries. Under the proposed Financial Arrangements Bill, counties would be subsidised two-to-one from the Consolidated Fund for any general rates raised.⁵

Maori land was rated by county councils from 1882 with exceptions until 1910 when all Maori land except for customary land was rated.

³ Tom Bennion, *Maori and Rating Law* Waitangi Tribunal Rangahaua Whanui Series, 1997, p. 1; Bruce Stirling, “‘Eating Away at the Land, Eating Away at the People’: Local Government, Rates and Maori in Northland”, for Crown Forestry Rental Trust, 2008, p. 17; Luiten, ‘East Coast’, p. 31.

⁴ Luiten, ‘East Coast’, pp. 42-43.

⁵ Ibid, p. 43.

By 1921, there were nine counties in the inquiry district: Rangitikei, Oroua, Kiwitea, Pohangina, Kairanga, Manawatu, Horowhenua, Hutt and Makara. These were all dis-established by 1989 and replaced with four district councils: Rangitikei, Manawatu, Horowhenua and Kapiti Coast.

2.4 The Election of Highway Board, Road Board and County Councillors

As will be seen in each individual county chapter, Maori highway board, road board and county councillors were the exception rather than the rule. In the course of the research for this report, just three Maori county councillors have emerged. These were Te Aputa Kauri who was elected to represent the Waikanae Riding of the Horowhenua County between 1980 and 1983 and T Wineera and M Metekingi who were Makara county councilors from 1956 to 1962 and 1959 to 1962 respectively.⁶

The voting system was likely to have been a reason why road boards and county councils were dominated by Pakeha. The system was set up so that many Maori could not vote in road board and county council elections. Indeed, no Maori could vote in a highway board or county council election until 1882. As well, those who held the most wealth within a particular county or road board district, which was generally Pakeha, had more voting power.

Luiten has examined the voting system for road boards, which she stated was ‘on the same basis as county councils’.⁷ She records that the first county councils elected under the 1876 Act were to operate for one year and that these elections were:

... open both to those qualified to vote in the road board elections where road districts made up a county riding and, in the “outlying districts” beyond, to those registered on the parliamentary electoral roll. By the time of the second county election, set down for November 1878, the councils were to have prepared electors’ rolls for each riding, the basis for subsequent county elections. These electors’ rolls were to be drawn from the “occupiers” column of rateable property in the district’s

⁶<http://www.pcc.govt.nz/About-Porirua/Porirua-s-heritage/Porirua-s-natural--cultural-and-historic-heritage/Civic-History/Members-of-Boards-and-Councils>

⁷ Luiten, ‘East Coast’, p. 59.

valuation roll prepared under the Rating Act 1876. From 1878 on then, county franchise was the preserve of the county ratepayers over the age of 21. The exception to the rule, brought about by political pragmatism, was a single vote given to those registered as having a miner's right. It was not until 1944 that the franchise was extended to non-ratepaying county residents, 65 years after the removal of a similar property qualification from the general elections.⁸

This meant that from 1878 until 1944, only those named as 'occupiers' in the valuation roll for a county could vote. Luiten notes that occupiers included women meaning that while women could not vote in a general election until 1893, they could vote in local authority elections.⁹

That a person had to be on the valuation roll was problematic for Maori and often meant their exclusion from the voting process. Reasons for not being on the valuation roll included the way that Maori land was rated, the non-payment of rates by Maori, multiple ownership and the inability of counties to consistently provide correct occupier information.¹⁰

The rating regime affected the ability of Maori to be on the valuation roll. As is also explained in the legislative chapter, Maori land was not rated until 1882 (under the Crown and Native Rating Act 1882) so Maori were not recorded as occupiers on the valuation roll and could not take part in the voting process. This meant that in places like Otaki, where equal numbers of Maori and Pakeha lived, only Pakeha could vote when the Otaki Road Board was established in 1878 (and indeed only Pakeha were elected to the Board).¹¹

The 1882 Act made Maori liable for rates within five miles of a public road. Section 17 stated that payment of rates by Maori entitled the payer to be enrolled as a ratepayer and therefore vote but as Luiten points out, 'rates demands were not required to be addressed to the Maori owners but to the Colonial Treasurer, who was to have it published in the *Kahiti*'. As well, payment by Treasury 'did not entitle the Maori owners to a vote'. She also argues that between 1888 (when the Crown and Native Rating Act 1882 was repealed) and the Rating

⁸ Ibid, 'East Coast', p. 60.

⁹ Ibid, 'East Coast', p. 17.

¹⁰ Ibid, 'East Coast', pp. 65-69.

¹¹ See Otaki chapter.

Acts Amendment Act 1893 that ‘rates liability of Maori land ... is not clear’. She notes, however, that Bennion and Towers have stated that ‘the status quo in terms of Maori land liable for rates continued under the Rating Act 1882. This Act exempted from rates all Maori land “of which there is not an owner or occupier other than a Native” (that is, only Maori land leased to a Pakeha was liable for rates)’.¹² As the occupier was Pakeha, they would have been entitled to vote and not the Maori owner.

Under the Rating Acts Amendment Act 1893, ‘Maori land within five miles of a public road was again made liable for rates’ and in 1896, the “nominated” owner system was adopted. Section 2 of the Rating Act Amendment Act 1896 provided that when there were more than four owners, an occupier would be nominated who would accept responsibility for the payment of rates (and who could vote). The local authority could ‘notify the owners in the *Kahiti* and give them three months to nominate an owner as representative for rating purposes’. Alternatively, the local authority could nominate an owner and their name placed on the valuation roll. This meant that just one owner, regardless of how many owners of a block there were, was entitled to vote¹³

In 1904, ‘all Maori freehold land was brought under the Rating Act, except for customary or papatupu land’ and as Luiten notes, ‘for the first time it was directed that Maori owners be noted on valuation rolls, thus ensuring that they would be eligible to vote in local body elections’. Luiten also records, however, that section 42 of the Counties Act 1908 specified that ‘in any case where there was more than one person appearing on the valuation roll as the occupier of any one property, for the purpose of voting in local body elections, only the person whose name appeared first on such roll was to be entitled. The other beneficial owners – whether two or two hundred – were silenced’. This, she states, was continued under the Counties Act 1920, and ‘only became less important with the extension of franchise to residents in 1944’. This was as per the Local Election and Polls Amendment Act 1944.¹⁴

As will be discussed further in the report, the payment of rates on Maori land was often problematic and rates were not always paid on Maori land occupied by Maori. Rates were usually paid on Maori land that was leased but because only occupiers of land could vote, it

¹² Luiten, ‘East Coast’, p. 66.

¹³ Bennion, pp. 28-29; Luiten, ‘East Coast’, p. 66.

¹⁴ Luiten, ‘East Coast’, pp. 66, 68.

was the lessee who could do so and not the Maori owners. With regard to the impact of non-payment of rates on being able to vote, Luiten points out that section 121 of the Counties Act 1876 ‘provided for collectors to make a return of the names of those who neglected or refused to pay any rates, but it was not until the Counties Act 1920 that this became a disqualification for voting purposes’. She explains that County defaulters’ lists ‘cut across riding boundaries, so that even where rates had been paid on some properties, the failure to pay rates on all properties debarred the ratepayer from voting.’¹⁵

But it was not just the requirement that only the occupier could vote that impacted on Maori. The voting system also provided for ‘weighted voting’. Section 41 of the Counties Act 1876 specified how many votes an elector was entitled to (between one and five) based on the rateable value of their property. Luiten further explains the ‘sliding scale’:

A landholder with property worth £350 or more could exercise 5 votes in any one riding, compared to the single vote of a ratepayer with property worth less than £50. A decade later, under the Counties Act 1886, the incidence of the scale was raised considerably:

1. Less than £1,000: 1 vote
2. Between £1,000-£2,000: 2 votes
3. Between £2,000-£3,000: 3 votes
4. Between £3,000-£7,500: 4 votes
5. More than £7,500: 5 votes¹⁶

Luiten records that the scale was ‘changed again at the turn of the century, under the Local Government Voting Reform Act 1899, so that an elector with rateable property less than £1,000 had one vote; those with property worth between £1000 and £2,000 two votes; and those with land valued at more than £2,000 were blessed with three votes’. She states that this continued through most of the twentieth century. As noted above, the Local Elections and Polls Amendment Act 1944 allowed county residents to vote (as opposed to those listed as occupier on the valuation roll) though they were only entitled to just one vote. Weighted

¹⁵ Ibid, ‘East Coast’, p. 68.

¹⁶ Ibid, ‘East Coast’, pp. 60-61.

voting, however, continued. It was not until the Counties Amendment Act 1974 that the weighted scale was:

... removed from the ratepayers' qualification, and the almost century-old "one person, one vote" bedrock of New Zealand's parliamentary democracy was extended to the county electorate. In 1974 too, the age limit of electors was reduced to 18 years.¹⁷

A return of the number of people within each county who were entitled to one or more votes in respect to the years 1904 and 1914 has been reproduced below in respect of counties within the inquiry district. The 1904 return also provided road board information but the only board relevant to the inquiry district where information was given was Otaki. The number of persons 'possessing franchise' within the Otaki Road Board area was 294 with 232 people entitled to one vote, 33 entitled to two votes and 29 entitled to three votes. This meant that over 20 percent of those able to vote were entitled to more than one vote. The proportion of those entitled to more than one vote was greater in the counties with 44 percent of voters entitled to more than one vote in the counties of Kairanga, Manawatu and Oroua. This contrasted with 22 percent nationally. The proportion was less in Horowhenua (35 percent) and Hutt (24 percent). Manawatu had the largest proportion of voters entitled to three votes (26 percent) which contrasted with 11 percent nationally.¹⁸

The 1914 return shows that apart from the Hutt and Makara Counties, at least one third of all voters in the counties of the inquiry district had three votes. This contrasted with 21 percent nationally. The proportion of voters who had just one vote was, apart from the Hutt and Makara Counties, less than 53 percent which was a little over half of all voters and again contrasts with the national average of 64 percent. This large proportion of voters with three votes in the counties of Horowhenua, Kairanga, Kiwitea, Manawatu, Oroua, Pohangina and Rangitikei meant wealthier landowners had a greater influence over election results in those counties.¹⁹

¹⁷ Ibid, 'East Coast', p. 61

¹⁸ 'Voting Power in County Districts', 16 August 1904, AJHR 1905, H25A.

¹⁹ Luiten, 'East Coast', pp. 61-62; 'Local Elections' Return of number of persons entitled to one or more votes in County elections', 1914, AJHR 1915 H27.

Table 1: Number of people entitled to one or more votes in elections of counties within Porirua ki Manawatu Inquiry District, 1904

Name of County	Number possessing franchise	Number and % entitled to cast one vote	Number and % entitled to cast two votes	Number and % entitled to cast three votes
Horowhenua	723	471 (65%)	130 (18%)	122 (17%)
Hutt	1194	907 (76%)	138 (11.5%)	149 (12.5%)
Kairanga	645	369 (57%)	128 (20%)	148 (23%)
Kiwitea	867	538 (62%)	151 (17%)	178 (21%)
Manawatu	649	361 (56%)	121 (19 %)	167 (26%)
Oroua	655	369 (56%)	139 (21%)	147 (22%)
Pohangina	483	309 (64%)	97 (20%)	77 (16%)
Rangitikei	1622	1106 (68%)	237 (15%)	279 (17%)
National Average	77,217	60,650 (78%)	8,164 (11%)	8,403 (11%)

Source: 'Voting Power in County Districts', 16 August 1904, AJHR 1905, H25A. (percentages have been rounded up to the nearest whole number)

Table 2: Number of people entitled to one or more votes in elections of counties within Porirua ki Manawatu Inquiry District, 1914

Name of County	Total No of Ratepayers	Number and % who had one vote	Number and % who had two votes	Number and % who had three votes
Horowhenua	1248	662 (53%)	183 (15%)	402 (32%)
Hutt	1401	1020 (73%)	145 (10%)	236 (17%)
Kairanga	842	383 (45.5%)	160 (19%)	299 (35.5%)
Kiwitea	658	257 (39%)	107 (16%)	294 (45%)
Makara	306	170 (55.5%)	54 (18%)	82 (27%)
Manawatu	889	406 (46%)	142 (16%)	341 (38%)
Oroua	767	352 (46%)	122 (16%)	293 (38%)
Pohangina	420	128 (30%)	105 (25%)	187 (45%)
Rangitikei	1629	712 (44%)	239 (15%)	678 (42%)
National Average	106,131	68,300 (64%)	15,316 (14%)	22,515 (21%)

Source: 'Local Elections: Return of number of persons entitled to one or more votes in County elections', 1914, AJHR 1915 H27. (percentages have been rounded up to the nearest whole number)

There was one further component to the county voting system. This was described as 'plural voting' and as noted by Luiten, was also 'a feature of New Zealand's parliamentary system until 1889'. It meant that a person who owned properties in more than one riding were 'entitled to multiple votes in the county election'. Plural voting continued until 1986 when it was revoked under the Local Government Amendment Act 1986.²⁰

The effect of weighted and plural voting was that wealthy landowners and those with properties in more than one riding were entitled to more votes than those who owned less or had property in one riding only. County rateable capital valuation data suggests that it was

²⁰ Luiten, 'East Coast', p. 62.

more likely to be Europeans in this category than Maori. For instance, rateable capital value data from 1933 shows the total rateable capital value of the Horowhenua County to be £4,981,224. Of this, the total capital rateable value of Maori land occupied by Maori was £153,646 (three percent of the total) and the total value of Maori land occupied by Europeans was £335,293 (almost seven percent of the total). This meant that 90 percent of the capital value of land in the county was in respect to European owned land and 97 percent of the capital value of land in the country was in respect to European owned and occupied land. The difference in capital value between Maori and European land is therefore marked and makes it far more likely for Europeans to be in the categories that allowed for more than one vote than Maori.²¹

Another factor which would have impacted on the ability to vote was the state of the valuation rolls. As will also be seen in the following discussion on rating in all counties, there are numerous examples of valuation rolls (on which the electoral rolls were based) not being kept up to date. Rates were routinely levied against deceased owners and very often the Council did not know who the occupier of land was when it levied rates (and applied for a rating related charging, receivership or vesting orders).

What is also important to consider is the number of Maori this affected. Up until the 1960s, the majority of Maori in the inquiry district lived in counties as opposed to boroughs and towns and the numbers living in counties were substantial. In 1926, 4129 Maori lived in the counties of Rangitikei, Oroua, Kairanga, Manawatu and Horowhenua and 513 Maori lived in the boroughs of Marton, Feilding, Palmerston North, Foxton, Shannon, Levin and Otaki. This meant that 89 percent of the Maori population lived in counties. While the proportion of Maori living in counties as opposed to boroughs had reduced by 1961 to about 73 percent (2498 Maori lived in boroughs and 6634 in counties) the number of Maori counted in these boroughs and counties had increased from 4642 in 1921 to a total of 6634 in 1961. Therefore, there was a significant number of people affected by the county voting process.²²

While details of any Maori protest about the restrictions on voting in county elections has not been located, this does not mean that Maori were uninterested in voting. In 1893, following

²¹ Native Land Rates Committee Minutes of Evidence, 1933, ACIH 16093 MA 86 1/2 Native Land Rates Committee, Minutes of Evidence, 9 June – 29 September 1933, Archives New Zealand, Wellington. SW Document Bank, volume 1, pp. 2-22.

²² Lange, 'The Social Impact', pp. 137, 175.

the passing of legislation which allowed women to vote in general elections, a request was made to the Native Minister by Te Ara Takana and 51 other Ngati Kauwhata women for them to register on the electoral roll. Practical help was not exactly forthcoming, with Hoani Taipua (MP), who had written the letter on their behalf, simply sent a copy of the relevant legislation.²³

The system set up by the Crown for participation in the voting process for road boards and counties was, therefore, not designed to ensure that every Maori adult had the opportunity to vote and have their views represented. This is reflected in the lack of Maori councillors for the inquiry district until the late 1950s – almost eighty years after the first county was formed – and even then, this was the exception rather than the rule.

2.5 Boroughs and Towns, 1867-1989

Other types of local authorities included borough councils and town boards. These also featured in the inquiry district. The Municipal Corporations Act 1867 was introduced to ‘instill some nationwide uniformity to municipal government’ and provided for the creation of boroughs ‘from any settlement of 250 or more households within nine square miles [14.5 kilometers]’. Four boroughs were established within the inquiry district during the 1870s and 1880s. These were Palmerston North which was established in 1877 and became a city council in 1930, Marton established in 1879, Feilding, established in 1881 and Foxton, established in 1883. By 1921, three more boroughs had been formed in the inquiry district: Levin in 1906, Shannon in 1917 until 1966 when it became a county town, and Otaki in 1921. In 1962, the Porirua Borough Council was established from what was the Makara County. It became a city council in 1965. As well, the Waikanae County Town became a county borough in 1969 (and then a district community council in 1974) and the Kapiti Borough Council was established in 1974 from the Hutt County Council.²⁴

With respect to towns, the Town Districts Act, 1881 provided for ‘smaller settlements to be constituted as towns and administered by a town board’. Inhabitants of localities comprising less than 50 householders and two square miles could apply to be constituted as a town.

²³ Hoani Taipua for Te Ara Takana and 51 others, Te Awahuri to Minister of Native Affairs, 27 October 1893 and cover sheet, ACGO 8333 IA1/651/[17] 1893/3974 From: Hoani Taipua, MHR, Te Awahuri Date: 27 October 1893 Subject: Application from certain Maori women to have their names placed on electoral roll, 1893, Archives New Zealand, Wellington. SW Document Bank, volume 2, pp. 95-99.

²⁴ Archives Central Website: <http://archivescentral.org.nz/>, accessed April 2017.

Town districts at this time stayed part of the county though in 1908, they could be constituted outside of the county. Towns were established at Bulls, Foxton, Halcombe and Lethbridge (Turakina) under the 1881 Act. Rongotea Town District was established in 1905 and Otaki in 1912 (which was made an independent town (outside of the Horowhenua County) in 1914). Other county towns formed later in the twentieth century included Waikanae in 1953 (which became a borough in 1969), Paekakariki in 1960 and Paraparaumu in 1969. The following county towns were also established by 1966 though establishment dates and information on whether any of those elected to these local authorities were Maori have not been located: Ratana, Bulls, Sanson, Tangimoana Beach, Himatangi Beach, Foxton Beach, Waitarere, Pukerua Bay, and Plimmerton-Paremata.²⁵

2.6 The Election of Borough Councilors

Under the Municipal Act 1867 only owners or occupiers of rateable property within a borough could vote. As with voting in county elections, those owning properties with a certain level of rateable value were entitled to additional votes 'so that those with property worth over £350 were entitled to five votes' (known as plural voting). Women who owned property could vote but like those owning property valued at less than £25, could not seek election as a borough councillor. Luiten explains that the Act:

... set out model bylaws dealing with streets, footpaths, waterworks, drains, wharves, regulation of buildings, fire prevention, nuisances and other responsibilities. Councils were also given power to run gasworks, public baths, libraries, museums, gymnasias, recreation reserves and charitable institutions.²⁶

In 1898, plural voting was abolished in respect to the election of borough councillors (as opposed to county councillors) and from 1910 all adults, not just property owners, were able to vote in borough elections. This was as per the Municipal Corporations Act.²⁷

²⁵ Stirling, Bruce, 'Eating Away at the Land, Eating Away at the People: Local Government, Rates, and Maori in Northland', research report commissioned by the Crown Forestry Rental Trust, 2008, Wai 1040 A15, Te Paparahi o Te Raki (Northland) inquiry, p. 18; New Zealand Census, 1966, volume 1, p. 14.

²⁶ Luiten, 'East Coast', p. 40.

²⁷ Mark Derby. 'Local and regional government - Local authorities multiply', Te Ara - the Encyclopedia of New Zealand, updated 13-Jul-12
URL: <http://www.TeAra.govt.nz/en/local-and-regional-government/page-3>

The absence of plural voting and that property owners, not just those named as occupiers, were entitled to vote is likely to have impacted on the ability of Maori to elect Maori borough councillors. Population was also a factor. One such borough was Otaki which was established in 1921. The Maori population in Otaki in 1918 comprised around 25 percent of the total and was still relatively high at 14 percent in 1956. This is likely to have facilitated the election of Maori councillors between 1923 and 1927 and 1935 and 1938. A Maori councillor, Hema Hakaraia, was also elected from 1943 to 1971 and served for a time as deputy mayor. There was, however, only ever one Maori councillor on the Otaki Borough Council at any one time. This could have been due to pragmatism as putting forward more than one Maori could have risked splitting the vote resulting in no Maori on the Council.²⁸

With the exception of Otaki, however, the majority of Maori did not live in boroughs during this early period. Of Maori who lived in seven of the boroughs in the inquiry district in 1926, 276 (or 54 percent) lived in Otaki and 237 Maori (46 percent) in the six boroughs of Marton, Feilding, Palmerston North, Foxton, Shannon and Levin.²⁹

A Maori councillor, Charles Hill, was also elected in Shannon in 1957 (formed in 1917). The combination of an increased Maori population in the borough and the voting system which allowed every adult one vote, is also likely to have facilitated this. Maori in Shannon totalled just 21 in 1926, but increased to 136 in 1956 (over 11 percent of the total population) and 266 (16.7 percent) in 1961.³⁰

In Levin (established in 1906) it took until 1957 for a Maori councillor (Nepia Winiata) to be elected though population does not appear to have been a factor with Maori making up just 2.5 percent of the population of Levin at this time. Between 1956 and 1961 the population did increase to 266 though this was still just over 3 percent of the population. In 1966, the Maori population of Levin was 576 which was five percent of the total population. Mr Winiata, who was secretary for the Raukawa Tribal Executive, was also elected deputy mayor. Horace (Sonny) Sciascia also served as a Levin borough councillor from 1980 to 1986 and was

²⁸ See Otaki chapter.

²⁹ Lange, 'The Social Impact', pp. 137, 175.

³⁰ Te Ao Hou, No 18, May 1957, <http://teaohou.natlib.govt.nz/journals/teaohou/issue/Mao18TeA/c13.html>; New Zealand Census, 1956; Lange, 'The Social Impact', p. 175

mayor from 1986 to 1989 before the council was amalgamated with the Horowhenua District Council.³¹

Maori councillors were also elected to the Porirua City Council from 1965 when it was established (but not while it was a Borough Council between 1962 and 1965). The first Maori woman borough councillor was elected to the newly constituted Waikanae Borough in 1971 (it had previously been a county town). She was Te Aputa Kauri who, as already noted, later became a Horowhenua county councillor in the 1980s. The make-up of the population of Waikanae also does not appear to be a factor in her election. The census from 1971 shows that just three percent of the population of Waikanae County Town (which became the Borough) was Maori.³²

2.7 The Election of Town Board Commissioners

With respect to towns, under the Town Districts Act, 1881, the Board was to consist of between five and seven commissioners. At the first election, every householder within the district was qualified to be elected but in subsequent elections only those rated 'at an annual rental of ten pounds' could become commissioners. For the first election, those whose name was on the electoral roll for any riding of the county within which the district was included and who owned or occupied property within the district could vote. Subsequently those who could vote were restricted to rate payers. As with boroughs and counties, there was also weighted voting with an owner with property valued at more than £350 entitled to five votes. The Town Boards Act 1908 continued to prescribe that only those whose name appeared on the electoral roll for any riding of the county of which the district formed part, and who owned or occupied property within the district, was entitled to vote for any Board constituted under the 1908 Act and thereafter, only ratepayers of the district were entitled to vote. Ratepayers were described as persons over the age of 21 years whose name appeared on the valuation roll of a town district as the occupier. Weighted voting also remained with those whose property was valued at more than £2000 entitled to three votes. Town Boards were not included in the Municipal Corporations Act 1910 which gave residents of boroughs, as opposed to ratepayers named on the valuation roll, the right to vote. The Local Election and

³¹ Ibid; http://horowhenua.kete.net.nz/documents/0000/0000/2360/Dick_Denton_s_Scrapbook_3_page_14.pdf.

³² Maclean, Chris and Joan, *Waikanae Past and Present*, Whitcombe Press, 1988, p. 83; New Zealand Census, 1971.

Polls Amendment Act 1944, however, provided for residents to be able to vote for a town board which was the same Act that allowed residents of counties to vote in county elections.

In Otaki, Maori commissioners were elected to the Town Board from 1916 until 1920, just prior to the town becoming a borough in 1921. The commissioners were PH Taipua and Pairoruka Rikihana. The elections for town board commissioners in 1920, however, did not see the election of any Maori. This may have been due to four Maori putting their names forward with the result that three out of the four received around 100 votes each whereas the seven European men who were voted on the Board all received more than 200 votes each.

No other instances of Maori being elected to town boards in the inquiry district have been located.

2.8 Summary

Counties were where the majority of Maori in the inquiry district lived from the time road boards and counties were established to well into the second half of the twentieth century. In 1921, 4129 Maori lived in the counties of Rangitikei, Oroua, Kairanga, Manawatu and Horowhenua and by 1961, 6634 Maori lived in these counties so the numbers were not insignificant.³³ The system set up by the Crown for participation in the voting process for road boards and counties was not designed to ensure that each and every Maori adult in these counties had the opportunity to vote and have their views represented. Even after 1944 when residents of a county were entitled to vote (as opposed to just the occupier named on the valuation roll) weighted voting remained. This meant that those whose land was worth the most were entitled to more votes. Those in this position were more likely to be Pakeha and this bias in favour of wealthy land-owners continued until 1974. This system resulted in a complete lack of Maori road board and county councillors for the inquiry district until the late 1950s – almost eighty years after the first county was formed – and even then, this was the exception rather than the rule and in one county only (Makara). Indeed, between the establishment of the first road board in 1872 and the re-organisation of counties in 1989, just three Maori county councillors were elected in the inquiry district.

The voting process for borough councils was different to that of counties so that by 1910, those resident in boroughs could vote and every adult, regardless of how much their property

³³ Lange, *The Social Impact*, pp. 137, 175.

was worth, were entitled to one vote only. With the exception of Otaki, however, the majority of Maori did not live in these boroughs at this time. The voting system, combined with the relatively high Maori population of Otaki, appears to have facilitated the election of a number of Maori Otaki borough councillors from a relatively early stage though initially just for short periods of time (1923 to 1927 and 1935 to 1938). From 1943, however, Hema Hakaraia was elected and served on the council for the next 28 years though always as the only Maori councillor. Maori were also elected to Levin and Shannon Borough Councils from the 1950s, to the Porirua City Council from the 1960s and the Waikanae Borough in 1971.

With respect to towns in the inquiry district, the only reference found regarding Maori commissioners was in the town district of Otaki (prior to becoming a borough) where Maori were elected as commissioners between 1916 and 1920 but again, just one Maori served as a commissioner at any one time.

The Waitangi Tribunal has found in its Tauranga Moana report that ‘local councils where Maori were virtually invisible cannot be seen as properly representative’.³⁴ Indeed, the absence of Maori county councillors and the small number of town board commissioners and borough councillors in the Porirua ki Manawatu inquiry district meant that Maori were largely absent from the decision-making process and their views not widely represented.

³⁴ Waitangi Tribunal, *Tauranga Moana 1886-2006, report on the Post-Raupatu Claims*, Legislation Direct, 2010, volume 1, online version, p. 387.

3. Legislative and Policy Overview

3.1 Introduction

This chapter contains a legislative and policy overview of rating and town and country planning legislation as it relates to Maori land and local authority legislation concerning Maori participation in local government.

A discussion of the legislation relating to the provision of separate forms of Maori local self-government including the Maori Councils Act 1900, the Health Act 1920, and the Maori Social and Economic Advancement Act 1945 is located in the penultimate chapter. A discussion of legislation concerning closing orders instigated by local authority health inspectors is located within the Kairanga County chapter.

The overview of rating legislation and policy is largely based on Tom Bennion's *Maori and Rating Law* report which is a comprehensive analysis of the legislation and government policy associated with the rating of Maori land. In addition, the inquiry district specific rating reports of Marinus La Rooij, Richard Towers, Jane Luiten and Bruce Stirling (Tauranga, East Coast, Te Rohe Potae and Te Raki respectively), have been utilised. Correspondence from the General Rating files of the Maori Affairs Department from the twentieth century have also been incorporated as has an overview completed by the author for the Taihape Rating and Landlocked Blocks report.³⁵

3.2 Rating Legislation, 1871 to 1910

Rates are defined by Bennion as a 'tax, based on ownership of property, levied by a local authority and applied to services at a local level'. He explains that it was not until 1882 that Maori (and Crown) land was 'extensively rated'. Prior to this, Maori and Crown land was

³⁵ Tom Bennion, *Maori and Rating Law* Waitangi Tribunal Rangahaua Whanui Series, 1997; Jane Luiten, 'Local Government in Te Rohe Potae', for Waitangi Tribunal, 2011; Marinus La Rooij, "'That most difficult and Thorny Question': The Rating of Maori Land in Tauranga County", for Waitangi Tribunal, 2002; Richard Towers, "'Its rates and taxes are biting ... its teeth cannot be withdrawn!'" Rating on the East Coast, for Crown Forestry Rental Trust, 2007; Bruce Stirling, "'Eating Away at the Land, Eating Away at the People": Local Government, Rates and Maori in Northland', for Crown Forestry Rental Trust, 2008; Waitangi Tribunal, *Tauranga Moana 1886-2006: Report on the Post-Raupatu Claims*, Wellington, 2010; Suzanne Woodley, 'Taihape Rangitikei ki Rangipo Inquiry: Maori Land Rating and Landlocked Blocks Report, 1870-2015', 2015.

exempted from rates by the Municipal Ordinance of 1844 though between 1871 and 1876, Highway Boards were able to levy rates on Maori land. Section 5 of the Highways Boards Empowering Act 1871 stated that all customary Maori land and land held under a Native Land Court were liable for rates if in the occupation of pakeha. Only the Manawatu Highways (later Road) Board was operative at this time in the inquiry district which initially, at least, covered the Foxton, Sanson and Feilding districts. By 1876 the position had changed and all Maori land, be it customary or freehold, was exempted from rates.³⁶

Stirling states that even at this early stage (in the 1870s) many of the ‘enduring themes of the rating debate’ were discussed. These included the ‘difficulties for Maori in actually paying full rates – given the limited development of their lands to date and difficulties of tenure’. It was also argued that ‘as Maori used the roads, they should have to pay for them, just as settlers did’. On the other hand, it was also observed that ‘Maori made many contributions towards roading and local government income, other than rates’. This included ‘uncompensated takings for roads’. As the Public Works report for this inquiry district has not been completed at the time of writing this report, it has not been possible to include full details of the contribution made by Maori towards roads in the inquiry district or details regarding compensation. There are, however, examples throughout this report where Maori land was taken for roads at the instigation of local authorities and not compensated for.³⁷

Two Acts were passed in 1882 - The Crown and Native Lands Rating Act 1882 and the Rating Act 1882. The former ‘widened the categories of rateable Maori land and established a scheme for the Crown to guarantee payment of the Maori contribution’. Bennion records that Parliament was told that the ‘underlying principle’ of the Crown and Native Lands Rating Act 1882 was that all land should ‘contribute their fair share’ to the construction and maintenance of the roads of the country. It was ‘said to be one of several measures ... introduced to achieve the aim of the Minister of Public Works to provide local government with its own funding base’.³⁸

³⁶ Bennion, p. 1; Stirling, p. 17; Luiten, East Coast, pp. 36-37; Archives Central website: <http://archivescentral.org.nz/>, accessed February 2017.

³⁷ Stirling, pp. 17-18.

³⁸ Bennion, pp. 1, 16. Bennion’s source is New Zealand Parliamentary Debates, 1882, volume 43, pp. 703, 868; Luiten, ‘Te Rohe Potae’, p. 36.

It was the Crown and Native Lands Rating Act 1882 Act that provided for the rating of all Maori land within borough boundaries. Also rated under the Act was Maori land held under a Crown Grant, in the occupation of Europeans and within five miles of a public road (s6 (15) ‘except customary land not occupied by a Pakeha’ (un-investigated Maori land occupied by Maori). It provided too for the Governor in Council to proclaim districts outside of the boroughs as ‘Native Rating Districts’ (s4) which were subject to rating. In addition, the Governor in Council could proclaim districts over Maori land ‘to which the provisions of the Act relating to Maori land did not apply and that would therefore be rated the same as European land (s5).³⁹

Indeed, a *Gazette* notice of February 1884, gave notice regarding the constitution of Native Rating Districts under the Crown and Native Land Rating Act, 1882. Included in the schedule of districts were the county of Rangitikei (with the exception of the Lethbridge Town District) and the county of Manawatu comprised within the boundaries of the Otaki Road District. Notice of districts excluded from the Crown and Native Lands Rating Act, 1882 was given on the same day with ‘that portion of the County of Rangitikei comprised within the boundaries of the Lethbridge Town District’; ‘all that portion of the County of Manawatu comprised within the boundaries of the Foxton, Manawatu, Manchester, Sandon, and Carnarvon Road Districts’ and the Hutt County excluded from rating under the Crown and Native Lands Rating Act 1882. A month later another gazette notice was published, cancelling the previous notice and declaring the counties of Rangitikei, Manawatu, Oroua and Hutt as Native Rating Districts (the Horowhenua County Council was not established until 1885).⁴⁰ Despite this notice, there is no record of the Act being applied to the Hutt County in terms of rates being charged or paid by the Crown under the Act.

Section 6 of the Crown and Native Lands Rating Act 1882 exempted extensive areas of Crown land from rates including parliament and government buildings, schools, museums, hospitals, prisons, railways and public parks. The Act also specifically exempted the following Maori land from rates:

- Maori land occupied by Europeans (under section 6(14); (as these lands were dealt with under the Rating Act)

³⁹ Marinus La Rooij, p. 18; Stirling, p. 19.

⁴⁰ *New Zealand Gazette*, 2 February 1884, p. 193-194; 21 February 1884, pp. 337-338.

- Maori land within the counties of East Taupo, West Taupo, Kawhia, Sounds, Fiord, Stewart Island (s6(13); and
- Maori land more than five miles from any public road open for horse traffic (s6(15)).⁴¹

The third exemption meant, as Towers suggests, that ‘those areas where road development had been active were most affected’. Bennion notes that in practice that ‘by making all Maori land within five miles of a highway liable for rates, the Act affected 3.5 million acres out of 13 million acres by 1883’.⁴²

Other exemptions were provided in the accompanying Rating Act 1882 which included Maori land ‘where the original title had not been extinguished and which was unoccupied’. In addition, the Act exempted lands ‘owned by Maori’ where there was ‘not an owner or occupier other than a Native’. Stirling explains that these exemptions were ‘undermined by the reference to them being subject to other legislation affecting the rating of Maori land; meaning the Crown and Native Lands Rating Act 1882’.⁴³

Determining whether Maori land was rated or not was the Property Tax Commissioner who prepared the valuation rolls (s8). The Act also changed the way land was valued for rating purposes – from annual rental value to capital value (‘market value’). Stirling records a ‘technical point’ made in respect of this by the Member of Parliament for Mt Ida, Cecil De Lautour, when the legislation was being debated in Parliament. Mr De Lautour ‘warned that the impact of this change would be “very much greater than any yet proposed by the House because the annual value of Native lands particularly is altogether inconsiderable as compared to what it will be when you rate on the fee-simple value”’.⁴⁴

Stirling also records Alan Ward’s research which indicates that in 1883, the Property Tax Department had ‘valued Maori land for rating purposes at up to three times its market value’.⁴⁵

⁴¹ Bennion, pp. 16-17.

⁴² Richard Towers “‘Its rates and taxes are biting ... its teeth cannot be withdrawn!’” Rating on the East Coast, for Crown Forestry Rental Trust, 2007, p. 36; Bennion, p. 20.

⁴³ Bennion, p. 16; Stirling, p. 142.

⁴⁴ New Zealand Parliamentary Debate, 30 August 1882, vol 43, p. 704, quoted in Stirling, p. 137.

⁴⁵ Stirling, pp. 144-145.

The Crown and Native Lands Rating Act 1882 Act also provided for rates demands to be sent, 'in the absence of a named owner on the title' not to Maori but to the colonial treasurer.⁴⁶ He was then required to publish a demand notice in Maori in the *Gazette*. The first such demand notice was given in 1884 when the Colonial Treasurer gave 'notice' in the *New Zealand Gazette* to owners of Maori land under the Crown and Native Lands Rating Act, 1882, advising that each and every owner or owners of land described in valuation rolls supplied to local bodies, including the Rangitikei County Council, Manawatu County Council, Otaki Road Board, Sandon and Carnarvon Road Board, Oroua County Council, Manawatu Road Board and Manchester Road Board, were required and directed to pay rates before 22 May 1884. The Treasurer said that demands had been made to him by the local bodies for payment. The Hutt County Council was not included in the schedule of local bodies to which this applied.⁴⁷

Similar *Gazette* notices were published in 1885. In these instances, the Manchester Road Board, Te Horo Road Board, Otaki Road Board, Manawatu County Council, Rangitikei County Councils were included in the schedule of local bodies for which this applied. The wording was clear:

Notice is hereby given to you and each and every of you that rolls of Native lands are now deposited at the offices of the said several local bodies, which said rolls are in the Maori language, and show the rateable value of the Native lands therein mentioned or described. And you and each and every of you, the owners of the said lands, are hereby required and directed to pay the said rates on or before the 13th day of April, 1885, such payment to be made by you at the office of the local body in whose district the lands affected are respectively comprised, and as noted in the said schedule.⁴⁸

Between 1887 and 1891, comparable *Gazette* notices were published giving notice under the Crown and Native Lands Rating Act, 1882 and its amendments that owners described in the valuation rolls supplied to local bodies were required to pay rates to that local body by a

⁴⁶ La Rooij, p. 19.

⁴⁷ *New Zealand, Gazette*, 24 April 1884, p. 711.

⁴⁸ *New Zealand Gazette*, 17 September, p. 1060; 1 October 1885, p. 1119.

particular time.⁴⁹ This meant that Maori were required to go to the County office to inspect the valuation roll to determine whether they were required to pay rates. Stirling argues that a notice in the *Gazette* could ‘scarcely be said to constitute actual notification of the owners of land’.⁵⁰

Bennion explains that Maori owners who paid rates were entitled to have the name of ‘one of their number’ enrolled on the ratepayers roll, who could then vote in local body elections (s 17). If the rates were not paid by the Maori owners within three months, however, then the colonial treasurer was to pay them (ss9, 15). This meant that this person was no longer entitled to vote.

In April 1885, it was reported that a total of £12,626.16.1 had been paid by the Colonial Treasurer to local bodies for rates on Maori lands for the years 1882-1883 and 1883-1884. While not a comprehensive list of payments for the inquiry district, the following payments as recorded in the *Manawatu Standard* show that local authorities in the inquiry district received over £2677 of this amount:

Table 3: Amount paid by Colonial Treasurer to Local Bodies in Manawatu-Rangitikei Region for Rates on Maori Land under Crown and Native Rating Act 1882, 1882-1883 & 1883-1884

Local Authority	Amount paid
Manawatu Road Board	£330.15.8
Manawatu County Council	£1123.13.5
Manchester Road Board	£245.15.3
Otaki Road Board	£301.4.9
Rangitikei County Council	£627.3.7
Sandon and Carnarvon Road Board	£49.1.8
Total	£2677.11.4

Source: *Manawatu Standard*, 20 April 1885, p. 3.

In addition, the following tables published by the government, show the significant amounts paid, in particular to the Rangitikei, Manawatu and Horowhenua County Councils and Manawatu, Manchester and Whirokino Road Boards under the Crown and Native Lands Rating Act 1882 between July 1885 and May 1886, and June 1886 and September 1887. The larger number of local authorities reflects the establishment in the mid-1880s of the

⁴⁹ *New Zealand Gazette*, 17 February 1887, p. 263; 5 January 1888, pp 4-5; 11 April 1889 p. 374; 5 March 1891, p. 315

⁵⁰ Stirling, pp. 144-145.

Horowhenua County Council as well as two more Road Boards (Te Horo and Whirokino). Of note is the absence of any payment to the Hutt County Council which had jurisdiction at this time over the small area of Maori land remaining in the inquiry district south of the Waikanae River.

Table 4: Payments to Local Bodies in inquiry district under Crown and Native Lands Rating Act, 1882, from 23 July 1885 to 31 May 1886

Local authority	Crown	Maori	Total
Rangitikei County Council	£42.16.5	£512.10.8	£555.7.1
Bulls Town Board	£3.2.6	-	£3.2.6
Lethbridge Town Board	£1.11.3	£2.0.2	£3.11.5
Manawatu Road Board	£67.1.0	-	£67.1.0
Manchester Road Board	£3.12.6	£214.2.4	£217.14.10
Kiwitea Road Board	£459.0.6	-	£459.0.6
Manawatu County Council	£31.13.2	£588.4.8	£619.17.10
Sandon-Carnarvon Road Board	£1.5.0	£23.13.9	£24.18.9
Horowhenua County Council	£96.11.4	£152.8.8	£249.0.0
Otaki Road Board	£23.16.10	£45.17.11	£69.14.9
Whirokino Road Board	£42.19.10	£268.6.6	£311.6.4
Te Horo Road Board	£11.0.4	£24.16.8	£35.17.0
Palmerston North Borough Council	£28.19.0	-	£28.19.0
Marton Borough Council	£7.0.7	-	£7.0.7
Foxton Town Board	£36.11.3	-	£36.11.3
Feilding Borough	£6.16.8	-	£6.16.8
Total	£863.18.2	£1832.1.4	£2695.19.6

Source: Payments to Local Bodies in inquiry district under Crown and Native Lands Rating Act, 1882, 23 July 1885 to 31 May 1886; AJHR, 1886, B15

Table 5: Payments to Local Bodies in inquiry district under Crown and Native Lands Rating Act, 1882, from 1 June 1886 to 30 September 1887

Local authority	Crown	Maori	Total
Rangitikei County Council	£60.18.11	£455.6.9	£516.5.8
Bulls Town Board	£2.19.4	-	£2.19.4
Lethbridge Town Board	£0.7.10	£1.5.9	£1.12.9
Manawatu Road Board	£51.7.11	£225.1.11	£276.9.10
Manchester Road Board	£4.9.0	£163.15.9	£168.4.9
Kiwitea Road Board	£941.17.0	-	£941.17.0
Manawatu County Council	£30.1.2	-	£30.1.2
Sandon-Carnarvon Road Board	£11.3.11	£24.2.8	£35.16.7
Horowhenua County Council	£208.18.1	£506.15.9	£715.13.10
Otaki Road Board	£38.9.2	£41.4.7	£79.13.9
Whirokino Road Board	£66.6.7	£310.11.10	£376.18.5
Te Horo Road Board	£56.11.9	£28.11.11	£85.3.8
Palmerston North	£23.2.11	-	£23.2.11

Borough Council			
Marton Borough Council	£6.1.10	-	£6.1.10
Total	£1502.8.2	£1756.16.11	£3259.5.1

Source: Payments to Local Bodies in inquiry district under Crown and Native Lands Rating Act, 1882, 1 June 1886 to 30 September 1887, AJHR, 1887, Session II, B7.

The total amount paid out by the Crown in respect to Maori land in the inquiry district as recorded in the above three tables was £6266.9.7 though it was likely to have been more as the data for the years 1884 to 1885 has not been located. Stirling records that this expenditure by government was ‘to be recovered along with the stamp duty [Native Land Duty of 10 percent charged on all Maori land alienations] paid whenever the land was leased to a non-Maori, or when it was sold or exchanged for the first time (s12)’.⁵¹

Bennion records too that although the Act provided a ‘generous payment system’ there were still criticisms from members of parliament that the legislation did not go far enough. There were some, however, who ‘agreed that Maori were being taxed for roads they had never asked to be built’ and that the payment of stamp duty on lands as they were alienated did not support the view that Maori paid no taxes. Bennion also notes that the Member of Parliament for Rangitikei and others criticised the legislation for its limited provision of Maori representation on local bodies. There was also opposition by the Maori members of parliament which Bennion states ‘was an expression of a general unease’ that all legislation relating to Maori was ‘pressing on them very severely indeed’. He records that Wiremu Te Wheoro, the member for Western Maori ‘gloomily predicted that as a result of the Act Maori would not sell or lease their land’ but that the rates would accumulate until they reached ‘such an amount that a Bill will probably be brought in to confiscate those lands altogether as payment for the rates’. Indeed, Native Minister Herries later noted that the 1882 Act had to be repealed in 1888 ‘because it was found that in some cases the liens caused by the Crown paying the rates amounted in the course of time to more than the value of the land, which consequently became unsaleable’.⁵²

As well, it was pointed out by the aforementioned MP Mr De Lautour, speaking during the debates prior to the Bill becoming law, that ‘Maori would not know the amount of

⁵¹ Stirling, p. 137

⁵² Bennion. pp. 17-18. Quote from NZPD 1882, volume 43, 30 August 1882, p 703 (Tomoana) and from 30 August 1882, p. 712 (Wiremu Te Wheoro); W H Herries to G W Russell, 24 May 1918, ACIH 16036 MA1/401 20/1/1 part 1, Rating of Native Lands – General File, 1915-1928, Archives New Zealand, Wellington. SW Document Bank, volume 1, pp. 31-33.

accumulated rates upon their properties, until they came to alienate the land, and received vastly less than the full purchase price'. He also 'emphasised the extent to which Maori land was incapable of bearing an equal share of the rates burden, because Maori were not in a position of equality in relation to their land'. This was the same point made by Apirana Ngata in the 1920s.⁵³

The cost of the 1882 Act, however, proved unsustainable for the Crown. Marinus La Rooij states that:

... the new rating system created a serious strain on the Crown's purse. While the Treasurer was able to recoup some of the monies owed to him, it was clear that a debt would have to be carried until the land was sold. Under the 1882 Act the Crown paid out £67,369 in compensation to local bodies.⁵⁴

This, as Stirling points out, was a charge against rateable Maori land.⁵⁵

The Crown and Native Lands Rating Act Repeal Act 1888 'ended the scheme of Treasury reimbursement to councils, and provided that liability for rates on Maori land was now governed solely by the Rating Act 1882'. This meant that 'the only Maori land liable for rates was that occupied by Pakeha (which generally meant that the occupier paid the rates)'. Crown land reverted to being exempted from rates. Luiten notes that while the 1882 Act was repealed, 'provisions regarding the recoupment of money by the Colonial Treasurer for paid rates on Maori land' was not meaning that Maori were still liable for the £67,369. As well, the 1888 Act required that rates 'derivable' from Maori land were only to be spent on roads that benefitted Maori rate-paying lands (s7).⁵⁶

Stirling records that 'county and settler pressure ... soon led to the Maori rating regime being widened' in the form of the Rating Act 1893.⁵⁷ The long title to the 1893 Act was 'to declare all Native Land to be Rateable Property' and as Bennion notes, the passing of this Act went 'some way towards removing obstacles to a wider coverage' of the rating of Maori land. The

⁵³ Stirling, p. 137

⁵⁴ La Rooij, p. 20.

⁵⁵ Stirling, p. 20.

⁵⁶ Bennion, p. 11; La Rooij, p. 18; Luiten, 'Te Rohe Potae', pp. 37-38; Stirling, p. 20.

⁵⁷ Stirling, p. 20.

Act said that all Maori land, ‘held customarily or otherwise (s 15), was to be rateable’ but that this applied only to Maori land where title had been investigated by the Native Land Court and land where title had not been investigated by the Court but was in the occupation of Europeans. In addition, ‘Maori land occupied by Maori and outside the boundaries of towns or boroughs would be levied at half rates and be exempt from any special rates’. No rates were to be levied if the land were:

- situated more than five miles from any public road or highway (s 18(1));
- customary land without a European occupier (s 18(4));
- situated in a borough or town district occupied solely by Maori, and which, ‘owing to the indigent circumstances of the occupiers, or for other special reason’, the Governor thought should be exempted (s 18(2)); or
- exempted by declaration of the Governor in Council (s 18(3)).

As well, ‘rate arrears could be recovered as for European land, except that no lien could be registered against the land, nor could it be sold, until the matter had first been inquired into and approved by a Trust Commissioner (s19)’.⁵⁸ Therefore ‘no land could be sold or charged for rates without the consent of the Trust Commissioner’ (whose functions were assumed by the Native Land Court in 1894). The 1893 Act was consolidated with other rating legislation as the Rating Act 1894.⁵⁹

In 1896, the Rating Act Amendment Act was introduced with the aims of making rates more ‘easily collectable by councils and relieve hardship to some Maori’ which, Bennion points out, were contradictory to each other. Under section 2, the Act provided that when there were more than four owners, an occupier would be nominated who would accept responsibility for the payment of rates. The local authority could ‘notify the owners in the *Kahiti* and give them three months to nominate an owner as representative for rating purposes’. Alternatively, the local authority could nominate an owner and their name placed on the valuation roll. This owner ‘would receive all rates demands and could be sued on behalf of all the owners for arrears’. The nominated owner, however, was only responsible for the payment of their proportionate share. Judgements ‘could not be enforced without the consent of the Minister (s

⁵⁸ Bennion, p. 26.

⁵⁹ Ibid p. 26.

2(5)), who could elect to place the land under lease, with or without the consent of the owners (s3).⁶⁰

In 1904, there were further changes to the legislation in the form of the Native Land Rating Act, 1904. Native Minister James Carroll said that the Act increased the rating burden on Maori owners of land.⁶¹ The Waitangi Tribunal explains that under this Act land that could be rated:

...included all Maori land within 10 miles (16 km) of a town or borough; Maori land which had at any time been acquired by purchase or lease; Māori land for which rates had ever been paid previously; and Maori land which had been incorporated under the Native Land Court Act 1894. Other Maori land which had had its title ascertained, and which was not in any of the categories listed as fully rateable, was to be subject to only half the normal rates. Customary land remained exempt unless occupied by a European.⁶²

Bennion notes too that the 1904 Act seemed to be the first Act to ‘direct that Maori owners be listed on valuation rolls, thus ensuring that they would be eligible to vote in local body elections’.⁶³ The Tribunal records that where interests in a block had not been defined, there were to be ‘nominated Native occupiers’ (no more than one nominee for every 25 owners) and only they would be named on the roll. ‘The nominated occupiers also became liable for the payment of rates ‘as if they were the sole occupiers’, although with certain limits on the total liability. The concept of ‘nominated occupiers’ was retained in the Rating Act 1908, which consolidated earlier rating legislation’.⁶⁴

With regard to exemptions, the governor in council could determine by notice in the *Gazette* or *Kahiti* whether lands should be exempted.⁶⁵

⁶⁰ Ibid, pp. 28-29.

⁶¹ Ibid, pp. 29-30 (James Carroll quote from NZPD, 1904, vol 128, p. 197)

⁶² Waitangi Tribunal, *Tauranga Moana 1886-2006: Report on the Post-Raupatu Claims*, Wellington, 2010, p. 324.

⁶³ Bennion, p. 34.

⁶⁴ Waitangi Tribunal, *Tauranga Moana 1886-2006: Report on the Post-Raupatu Claims*, Wellington, 2010, p. 324.

⁶⁵ Bennion, p. 34.

Of note is the statements about rating made by Apirana Ngata and Robert Stout in their report on Maori land tenure in 1909. The report said that the current rating law did not appear to be 'unfair except in rare cases' and that Maori were 'realising more and more that they must come under the general local taxation of the local bodies under whose jurisdiction they reside, and that in order to enable them to pay the taxes they must utilise their lands, or alienate to those capable of utilising the same'. They were of the opinion that if past legislation 'devoted more attention to making the Maori an efficient farmer and settler' (meaning training and development assistance) then the issue of local (and general) taxation 'would have been long ago solved'. The question of rating was still, however, 'to a large extent ... governed by the position of the titles and ... the reasonable difficulties that confronting the communal landowners'. Whereas, they said, if lands were individualised or 'held in family holdings and in such a position that only the sloth of the owners prevents proper occupation, the local rates should be enforced'.⁶⁶

3.3 Rating Amendment Act 1910 and 1913 Amendment

Further legislation relating to the rating of Maori land was introduced in the form of the Rating Amendment Act, 1910. The Act 'sought to simplify rating law as it applied to Maori land' and to 'make it as close to Pakeha rating law as was feasible'. This was done, Bennion states, by changing the definition of Maori land and simplifying the lands that could be exempted. Customary land remained exempted but unless otherwise specified 'all Maori freehold land was to be subject to rates in the same manner as European land'. There was also no longer any provision for land to be subject to half rates. Bennion notes that the government envisaged that some areas of land 'not serviced by roads and ... unproductive would remain exempt' and that such lands could be exempted 'using the discretionary powers of the Governor in Council'. Under the exemption provision (section 5(1)) the governor could by order in council exempt any Maori land liable for rates 'on account of the indigent circumstances of the occupiers or for any other special reason, or to any specified class of lands'. Bennion states that although this was not new, 'the difference was that virtually all exemptions, and class exemptions, were to be provided for in this discretionary manner'.⁶⁷

⁶⁶ Robert Stout & Apirana Ngata, 'Native Lands and Native Land Tenure', AJHR 1909, G1g, pp. 9-10.

⁶⁷ Bennion, pp. 36-37.

Reflecting on the Act's blanket rating provisions, Ngata had the foresight to suggest that the outcome of the legislation would be 'to "force a large area of land in the North Island into settlement" as Maori would have to lease their lands to pay rates'.⁶⁸

With regard to the taking or leasing of land for the recovery of rates, there was no Ministerial requirement to approve this and instead it 'was to be handled by the relevant Land Board or the Public Trustee'.⁶⁹

In terms of the recovery of unpaid rates, nominated Maori owners could be sued and any such judgement was 'deemed to be a judgement against all the owners or occupiers' (s8(2)). The nominated occupier system provided that where land was owned by more than one person 'two or more representative owners could be placed in the owners' column of the valuation roll, and in cases where the owners also occupied the land, any two could be entered in the occupiers column 'as nominated Maori occupiers' (s.7).⁷⁰

Luiten explained the responsibilities of the Valuer General, Native Land Court and Maori Land Boards in the maintenance of the valuation rolls:

Although the Valuer-General was still primarily responsible for the compilation of such lists, additions and alterations requested in writing by the president of the Maori Land Board or the judge of the Native Land Court could be acted on without further inquiry. Rates demands were to be sent to the nominated owners or occupiers 'or any one of them', who could also be sued on behalf of all the owners (s.8). If judgements were not satisfied within a month, the debt could be charged against the land, to be registered with the District Land Registrar on the title (s.14). Local bodies could then apply to the Native Land Court to have the charge enforced: either by the appointment of the Maori Land Board or Public Trustee or any other person as a receiver of the rents and profits of subject land; or by vesting the affected land in the Maori Land Board or Public Trustee in trust to sell.⁷¹

⁶⁸ Ibid, p. 38.

⁶⁹ Ibid, p. 37.

⁷⁰ Luiten, 'Te Rohe Potae', p. 44.

⁷¹ Ibid, p. 44.

In 1913, there was a further amendment to the legislation pertaining to the rating of Maori land which Bennion states tightened up the law and made the collection of rates on Maori land 'even easier'. The Rating Amendment Act 1913 provided for liens to be registered against Maori land which as will be seen in later discussion, was used by the Oroua County Council in relation to the Reu Reu block. Luiten describes this provision further:

Under Section 14(1) if rates levied on Maori land remained unpaid for more than nine months, the local body could simply have a lien registered against the land at the District Land Registrar in the prescribed form. In doing so, the local body was compelled to notify the registration in the *Kahiti* and to notify the nominated owners by post. Under Section 15, the owners were prevented from leasing or selling or otherwise dealing with their land until the lien, or the charging order under the 1910 Amendment, was discharged. The period of action for recovery was extended from three to four years.⁷²

Luiten also points out that liens meant that local authorities would 'only obtain the registered or charged rates when the land came to be leased or sold'. Also, that the Native Minister, Herries, refused at this time to 'give his sanction to the sale of Maori land for unpaid rates'. Luiten notes too that the 1913 Act 'put the onus on the Registrar of the Native Land Court to keep a record of multiply-owned Maori lands and the respective nominated owners and occupiers for rating purposes, and to advise both the Valuer General and the relevant local body of any changes either to the named individuals or the status of the land itself, through partition or alienation (s.11(6))'. She states that conversely, the Court was not part of the charging order process.⁷³

Following the introduction of this legislation there were concerns from local authorities that liens obtained under the 1913 Act 'could not be registered against titles' and that the Act should be amended. This was because many Native Land Court titles were not registered on the land transfer system. Bennion notes that Prime Minister Massey, 'indicated in 1917, that the question of rating native lands was 'highly contentious' and not connected with the war, and would therefore not be considered'.⁷⁴ Native Minister Herries also argued in 1918 that he

⁷² Ibid, p. 45.

⁷³ Luiten, 'Te Rohe Potae', p. 44.

⁷⁴ Bennion. p. 39.

considered that local authorities had ‘not sufficiently used the weapons they already have in their armoury’. He listed three provisions that had not been utilised:

(1) Native land held in severalty, that is, held by one owner, is exactly in the same position as European land and can be rated accordingly, See Section 17 of the Rating Amendment Act, 1913.

(2) An occupier of Native land, whether a European or Native, can be sued for his rates. It is not necessary that his name should be inserted on the Valuation Roll. He can be sued simply as an occupier, and sued for the rates due on the whole block. The burden of proof that he is only occupying a portion rests on him. The term “occupier” is extremely wide and includes everyone except the owner. See Section 6 of the Rating Amendment Act, 1910, and Section 10 of the Rating Amendment Act, 1913.

(3) The provisions of Section 14 of the Rating Amendment Act, 1913, for registering a lien for rates against Native land only operate ... in the case of land that is registered under the Deeds Registration Act, 1908, or under the Land Transfer At, 1908. Rates due for more than four years cannot ... be charged as liens, but rates once charged as liens remain charged against the land until discharged by an alienation. The four year period does not discharge the lien. It is open to a County Council to charge each year’s rates as they become due. Of course, the objection is the same as that which proved fatal to the old Crown and Native Land Rating Acts of 1882 and 1883, which had to be repealed in 1888, because it was found that in some cases the liens caused by the Crown paying the rates amounted in the course of time to more than the value of the land, which consequently became unsaleable.⁷⁵

Herries felt that to extend the operation of section 14 of the Rating Amendment Act, 1913 to include titles registered by the Native Land Court, would ‘infringe the agreement entered into by the two parties at the institution of the National Government’ and that any such extension would have to be more limited for the following reasons:

⁷⁵ W H Herries to G W Russell, 24 May 1918, ACIH 16036 MA1/401 20/1/1 part 1, Rating of Native Lands – General File, 1915-1928, Archives New Zealand, Wellington. SW Document Bank, volume 1, pp. 31-33.

Native land being held in common by the owners, who are in many cases not residing on the land and in some cases not residing in the district, has always been treated by the Legislature in a different way to land held in severalty. The owners have no individual rights in the land until their interests are defined and separated. Hence when they cannot individually make use of the land, it has always been considered unfair to treat them as if they were able to get as much enjoyment out of the land as they could if it was held in severalty. It would be unfair by accumulating rates in the shape of liens on land held in common to deprive innocent holders of interests residing in outside places, perhaps remote from the block and entirely ignorant of any such charges, of their interest in such land. It would be contrary to the universal policy of all New Zealand Governments to allow Native land to be sold for non-payment of rates or to be so charged with liens as to destroy the equity of redemption, and thus render a Native landless without giving him a chance of occupying the land and getting enough out of it to pay the rates. An owner holding in common is in that position. The remedy for this is individualisation and that process is, I am glad to say, proceeding rapidly throughout the North Island. When a Native holds in severalty as I have previously pointed out, he is in the same position as a European as regards rates and rightly so, as the Native has the same, or nearly the same, control over his land as a European.⁷⁶

He also said that he did not see that much good would be gained by continuing the discussion and the whole question was 'one of policy'. He felt that he had 'laid down the principles that have been followed by the Government' and that if the policy was to be changed then it needed to be done by Cabinet. In his opinion it would be 'impossible to get the principle of unrestricted sale of Native lands held in common for payment of rates through the present House' and that it would be 'violently opposed' by all the Maori representatives and those who sympathised with them. He concluded that it was 'not desirable that party feeling should be aroused during war-time, and such a course would ... be contrary to the understanding under which the National Government was formed'.⁷⁷

⁷⁶ Ibid. Note that the reference to the National Government is in terms of the wartime coalition government – not to the National Party formed in the 1930s.

⁷⁷ W H Herries to Acting PM, 15 July 1918, ACIH 16036 MA1/401 20/1/1 part 1, Rating of Native Lands – General File, 1915-1928, Archives New Zealand, Wellington. SW Document Bank, volume 1, pp. 34.

3.4 Native Land Rating Act 1924 and Rating Act 1925

In 1924, a parliamentary committee was established to investigate the rating of Maori land. It made recommendations as to how to improve the collection of rates on Maori land. These recommendations ‘formed the basis’ of the Native Land Rating Act 1924, described by the Waitangi Tribunal as a ‘landmark piece of legislation which handed over responsibility for rates enforcement to the Native Land Court.’ The 1924 Act was incorporated into the Rating Act 1925.⁷⁸

Section 9 of the 1924 Act (section 108 of the 1925 Act) provided that local authorities could apply to the Native Land Court for a charging order on land where rates were owed within two years of the rate being levied. On hearing the application, and satisfied that the rate was payable, the Court could order a charge over the land. Defence, Bennion states was ‘limited to those “open to an ordinary ratepayer” but there was also provision to remit the whole or part of the rates ‘in special circumstances arising from hardship or indigency’’. The charge was noted in the records of the Court and ‘registered against the title if one existed’. Bennion explains that the ‘key motive’ for using the Land Court was to ‘solve the problem of getting liens to ‘stick’ to the land’. As noted previously this was because many Native Land Court titles were not registered on the land transfer system. Charging orders, he said, could be ‘easily imposed by the Court’. The large number of charging orders made in the inquiry district would support this statement.⁷⁹

As the Waitangi Tribunal explains, once a rate charging order was made, ‘the court could appoint a receiver to enforce it’. Initially this was the Maori Land Board, ‘but subsequently the role generally fell to the Native Trustee’ (later the Maori Trustee). In the 1950s the county clerk of the local authority concerned could be and was appointed receiver. The receiver ‘could lease the land and its resources for up to 21 years’. Bennion notes that by 1961, the Maori Trustee had been appointed receiver for 341 blocks where rates had not been paid. Many receivership applications were made by various councils within the inquiry district though the Horowhenua County Council was the most prolific of these councils.⁸⁰

⁷⁸ Waitangi Tribunal, *Tauranga Moana 1886-2006: Report on the Post-Raupatu Claims*, Wellington, 2010, p. 328.

⁷⁹ Bennion, p. 48.

⁸⁰ Ibid; Waitangi Tribunal, *Tauranga Moana 1886-2006: Report on the Post-Raupatu Claims*, Wellington, 2010, p. 328.

Further (and until 1988), under section 109 of the 1925 Act (and section 155 of the 1967 Act), Maori land could be vested in the Maori Land Board, later Native and Maori Trustee for sale if a charging order was not paid within one year. This was subject to the consent of the Native Minister, later Minister of Maori Affairs and, according to Bennion, ‘rarely used’.⁸¹ Indeed, an application by the Otaki Borough Council in 1927 was never signed off by the Minister in 1927 and a Department of Maori Affairs researcher asserted in 1962 that ‘it has always been the policy of Governments past and present not to allow Maori land to be sold for payment of rates’. In 1963, however, the first of many section 109 applications were ordered by the Maori Land Court regarding lands in the Porirua ki Manawatu Inquiry District and consent given by the Minister of Maori Affairs. The local authorities concerned were the Otaki Borough Council, the Horowhenua County Council and the Porirua City Council. It is not clear from the government records examined around this time why this suddenly changed. No statement from officials or from the Minister has been located that even acknowledge that this was a different approach. Maori Land Court Judges though appeared to support and even encourage the applications (this is discussed in specific local authority chapters) asserting that if rates were owed and the land concerned could not be leased to earn enough money to cover the rates, then it should be sold. The alternative, exempting the land from rates, was not deemed an option. Indeed, Chief Judge Prichard commented in 1967, that Maori land ‘should not be declared non-rateable simply because it ... [could not] be leased’. He said that:

If it can be sold – and there is some land so poor that it cannot be leased but can be sold – then it should be sold.⁸²

Section 109 orders also had to be consented to by the Minister of Maori Affairs and during the period where section 109 orders were made in the inquiry district (1963 to 1967) Josiah Ralph Hanan was Minister of Maori Affairs (from 1960 and 1969). He was also the architect of the Maori Affairs Amendment Act 1967 which was said to be ‘not widely accepted by

⁸¹ Bennion, pp. 48-49. Waitangi Tribunal, *Tauranga Moana 1886-2006: Report on the Post-Raupatu Claims*, Wellington, 2010, p. 328; Maori Affairs Research Assistant, ‘Item 31 Relating to Local Body and other Rates’, 14 June 1962, AAMK W3074 869 Box 705 b 19/10/8 Miscellaneous – Legal Differentiation – Rates, 1961-1962. SW Document Bank, volume 1, pp. 85-107.

⁸² Ivor Prichard, Chief Judge of Maori Land Court to Minister of Maori Affairs, 18 April 1967, AAVN W3599 869 Box 116 22/2 part 2 Roding Legislation and General Powers of the Maori Land Court, 1964-1969, Archives New Zealand. Note that this file is wrongly described in the Archives New Zealand catalogue and is actually called Rating on Maori Land, Policy, 1964-1978, reference 20/1 vol 1. SW Document Bank, volume 1, pp. 137-138.

Maori'. No comment from him concerning the use of the section 109 order has been located. With respect to the applications in the inquiry district where Maori Affairs officials recommended signing the order, he duly did so.⁸³

Customary land continued to be exempted from rating under the 1924 Act. Also exempted was 'land occupied by a Native burial ground of not over five acres (under section 4(b)), and land on which a church or meeting house was situated, again not over five acres (section 4(c))' Land could also be exempted if the occupiers were in 'indigent circumstances'.⁸⁴ Further, under section 5(1) the Governor General could, by order in council, exempt any land from rates 'for any other special reason, or to any specified class of lands'. Significantly this exemption did not affect any rates charging orders or liens previously made by a local authority meaning unpaid rates levied and secured by a lien or charging order prior to an exemption were still owed to the local authority. The exemption could at any time be carried or cancelled by the order in council. This was carried over as section 104 of the Rating Act, 1925.

Ngata, however, had section 104 amended by section 34 of the Native Land Amendment and Native Land Claims Adjustment Act 1926. This provided that the Governor-General could act on a recommendation of the Native Minister, local authority chair, Commissioner of Crown Lands or a Judge or Commissioner of the Land Court to exempt land. Further 'the Native Minister could issue a warrant for the writing off of part or all of any rate which remained unpaid on the exempted lands, and they were then to be removed permanently from the rating rolls'. Bennion states that this was designed to allow Native Affairs Department officials 'to investigate which lands should not be subject to rates and remove such lands from the rate books'. No examples have been located of this section of the legislation being used in the inquiry district.⁸⁵

⁸³Bennion, pp. 48-49. Waitangi Tribunal, *Tauranga Moana 1886-2006: Report on the Post-Raupatu Claims*, Wellington, 2010, p. 328, Wellington; P Barton 'Hannan, Josiah Ralph' from the Dictionary of New Zealand Biography. Te Ara – The Encyclopedia of New Zealand, updated 8 October 2013 URL: <http://www.TeAra.govt.nz/en/biographies/5h6/hanan-josiah-ralph>; Maori Affairs Research Assistant, 'Item 31 Relating to Local Body and other Rates', 14 June 1962, AAMK W3074 869 Box 705 b 19/10/8 Miscellaneous – Legal Differentiation – Rates, 1961-1962, Archives New Zealand. SW Document Bank, volume 1, pp. 85-107.

⁸⁴ Bennion, p. 48.

⁸⁵ Ibid, p. 52.

Bennion records that it was also at this time that Ngata pointed out to the House in a debate on rating that ‘much land was unsuitable for settlement and should not be rated’. When Ngata became involved with rating issues at Otaki, his views emphasised the need for Maori to be on a level playing field with Pakeha before Maori land was rated in the same way as European land. Further details on the views of Ngata on rating can be found in the Otaki Borough Council chapter.⁸⁶

This lack of a level playing field was emphasised too by Maori at a local body conference held in August 1927 about the rating of Maori land. While many local authorities continued to emphasise their desire to be able to rate Maori land the same way as European land (that is, have the power to sell it), others argued that a ‘lack of any facilities to secure financial accommodation ... prevent[ed] natives developing their holdings’ and therefore making their land revenue producing so as to pay rates. Peter Barton, told the conference that Maori rates had ‘already been paid’ having sold much land to the Government for 2s 6d and 5s per acre which was now worth at least £5 an acre and Judge McCormick said the trouble for Maori ‘was to find the money’ for rates. Gabriel Elliot, described as ‘an advocate’ for Maori said that Maori objected to paying rates on unoccupied land particularly as the Government ‘held large areas of land on which no rates were paid’. He said that the word ‘Dominion’ in the Treaty of Waitangi ‘gave the Maori absolute dominion over his own lands and no suggestion of confiscation would be tolerable’. The chair of the conference then ‘denied that [this] was suggested’.⁸⁷

Further meetings continued to be held by Maori where rating was discussed. On 5 January 1928, the *Manawatu Herald* reported on what was considered to be ‘one of the most important conferences yet held by representatives of the Maori race’ which took place at Motuiti Marae, Foxton during the Christmas period 1927. Recorded as being in attendance were Hon Sir Maui Pomare, Hon Sir AT Ngata, Messrs Hapi Love (Petone) Hira Parata (Waikanae), Tohuroa H Parata (Waikanae), Arakatera (Otaki), Kipa Raera (sp) (Ohau) Rere Nicholson (Levin), Wiremu Kiriona (Poroatawhao [sp]), Taitoko Matai (Rangiotu) Hoeroa Marumaru (Bulls), Tere Iwikau (Halcombe), P Takarangi (Whanganui), H Pumipi (Whanganui), Tupito (Patea), Pouwharenui [sp] (Okaiawa), W Rangitanga (Mangapehi), Hira Te Akau (Taringamotu), Eriera Te Akau (Manunui), four representative from Rotorua, Hoani te

⁸⁶ Luiten, ‘Te Rohe Potae’, p. 44.

⁸⁷ *New Zealand Herald*, Volume LXIV, Issue 19725, 26 August 1927, p. 10.

Heuheu and Werihe Te Tui (Taupo), representatives from Mokai, Taite Te Tomo (Shannon), representatives from Poutu, representatives from Hawera, PH Jones (Whanganui), W Ngahana (Wellington), H Chadwick (Hawkes Bay), and Gladstone of Masterton.

The *Herald* stated:

Those assembled were present from all parts of the Dominion to seriously discuss matters of vital importance and the discussions were marked with an impressiveness and dignity which indicated that delegates were grappling with problems of vital importance.⁸⁸

The conference passed resolutions regarding the rating of Maori land. One of them was to introduce a land classification system where land was assessed to determine whether it could support rates. The resolution stated that legislation should be enacted that exempted all unoccupied Maori land and that the Maori Land Court, prior to making charging orders for rates already levied, should 'be perfectly satisfied that such lands can be profitably utilised'. The conference also asked that land where the Crown had issued a proclamation prohibiting alienations other than to the Crown also be exempted.⁸⁹

It was also noted that at the conference:

A special feature was made of the position of rates levied on Native Lands placed under proclamation by the Native Land Purchase Board or any other department. Obviously where lands not producing any revenue were placed under such an embargo it seems unfair to assume any capacity to assess the land or its owners to meet local or any taxation. The problem is most acute in the Taupo district.⁹⁰

It was shortly after this hui that Rere Nikitini, described as a chief of the Ngati Raukawa tribe (and chair of the Raukawa Maori Council and Health Councils), made a submission to the commission inquiring into the Otaki Borough where there had been much controversy about the rating of Maori land. He objected to the rating of Maori land that was not suitable for

⁸⁸ *Manawatu Herald*, 5 January 1928.

⁸⁹ *Ibid.*

⁹⁰ *Ibid.*

settlement and received no benefits from the Council. He also objected to the marked increase in rates noting that Otaki Maori would soon be unable to pay them particularly those who were unemployed.⁹¹

In 1930, at another large gathering of Maori at Waiomatatini Marae, Gisborne attended by Ngata, a number of resolutions were passed. These included a declaration of loyalty to the provisions of the Treaty of Waitangi and of trust and confidence in Ngata. With regard to the rating of Maori land, the hui also proposed a land classification system that would determine the lands ability to support rates. The resolution said:

In view of the more equitable rating of native lands, that such lands be classified and that native lands classified as waste land be exempt from taxation.⁹²

A classification system was, however, never implemented.

3.5 Native Rates Committee, 1933 and Exemptions

In April 1933, the government appointed a committee to ‘look generally’ into the rating of Maori land. The membership of the committee comprised three Pakeha: Hon A D McLeod (the chair) and a member of parliament who, Bennion notes ‘had often spoken in the House on rating issues’, Mr John Henry Reid and Judge of the Native Land Court, Robert Jones.⁹³

The document appointing the committee gave the background to its establishment:

Whereas complaints are made from time to time by local authorities within whose boundaries there exist areas of Native land, that difficulty is experienced in collecting rates in respect of such areas by various of various matters including inter alia the matters following, namely: - that such land is frequently owned by a number of individuals as tenants in common; that such land is unused, unoccupied or unproductive; that the Maori owners apparently do not fully appreciate the necessity

⁹¹ *Evening Post*, Volume CV, Issue 110, 11 May 1928, p. 14.

⁹² *New Zealand Herald*, Volume LXVII, Issue 20510, 11 March 1930, p. 12.

⁹³ *Ibid*, p. 58; Minutes of Native Land Rates Committee, 22 June 1933, pp. 611-622, ACIH 16093 MA 86 1/2 Native Land Rates Committee, Minutes of Evidence, 9 June – 29 September 1933, Archives New Zealand, Wellington. SW Document Bank, volume 1, pp.2-22.

for the payment of their rates; that the remedies at present conferred by the law for recovery of rates assessed upon such land are inadequate: And WHEREAS it is expedient that a Committee should be appointed to inquire and report with regard to the rating of Native Lands and what, if any, amendments are required in the law.⁹⁴

Specifically, the committee was to inquire into the following matters:

1. The operation of the existing law relating to the rating of Native lands.
2. In what way the present system of collecting rates on Native land could be improved,
3. The incidence of liability for rates imposed in respect of Native lands and how far the following matters or any of them should affect such incidence: -
 - (1) Ownership in common of land;
 - (2) The fact that land is unoccupied or is not producing revenue;
 - (3) The fact that land is without adequate means of access;
 - (4) The fact that land is reaping little or no benefit from the general expenditure of rates.
4. In view of the well known difficulty of collecting rates due upon Native lands, what (if any) re-adjustment is necessary or expedient in the system of granting of Government subsidies to local authorities for Hospitals and other purposes.
5. Whether any special provision should be made in respect of those local authorities in the district of which a large proportion of the rateable property is Native land.
6. Any other matter or thing necessary to elicit full information in the premises.⁹⁵

The members of the committee were authorised to conduct the inquiry at any place they thought expedient, to call evidence from any person they thought 'capable of affording them information' and to consult any documents such as rates books and maps that they deemed necessary. It had six months to enquire, report and make recommendations. Of note is that nowhere did it specify that the committee should speak to Maori. The committee's correspondence file indicates that the committee did, however, write to the Registrar of the Native Land Court at Rotorua advising him of the date the committee was sitting and asked him if he would notify Maori and 'others likely to be interested'. The Chief Judge also

⁹⁴ Appointment of Committee to inquiry into matters relating to the Rating of Native Lands, ACIH 16093 MA 86 2/5, Native Land Rates Committee, Correspondence, 1933, Archives New Zealand, Wellington. SW Document Bank, volume 1, p.

⁹⁵ Ibid.

advised MP Tau Henare of the time that the committee was meeting. There was no correspondence with Maori from the inquiry district.⁹⁶

Bennion confirms that the committee was ‘mainly a forum for the view of local bodies’. Three local authorities from the inquiry district gave evidence to the committee: Otaki Borough Council, Levin Borough Council and Horowhenua County Council. Discussion of their views are in the chapters specific to them, but generally speaking, both Otaki and Horowhenua wanted Maori land to be rated in the same manner as European land whereas Levin Borough Council representatives said there was no issue in Levin with most of the rates on the little Maori land in the borough being paid.⁹⁷

Bennion states that ‘in view of the uneven and perhaps diffident approach of councils and the committee to solutions ... no [new] legislation followed the committee report. Rather the existing law continued to be enforced, probably with gradually greater efficiency as recording systems improved and more land became individualised.’⁹⁸

Of note was that the committee’s report did conclude that there were ‘considerable areas of Maori land with no rateable value’ and that there was provision within the Act for such land to be exempted from rates. The committee noted, however, that ‘very little appears to have been done in that direction’. The committee said it was of the opinion that the Native Department together with the Valuation Department and local authorities should make far greater use of these provisions and recommended this accordingly.⁹⁹

Similarly, in 1937, Judges of the Native Land Court suggested amendments to Maori rating legislation which exempted more Maori land from rates. They noted that under present law ‘difficulties in the collection of rates did exist, but at the same time, rates were imposed upon many areas which should in fairness be exempted from rating or at least some concessions should be made in respect of the amount of rates levied thereon’. It was suggested that after the word ‘indigency’ in section 104 of the 1925 Act that the following words be added: ‘or the incapacity of the land in its existing state to produce a net revenue sufficient to pay the

⁹⁶ Ibid; Secretary, Native Rating Committee to Registrar, Native Land Court, Rotorua, 22 May 1933, Chief Judge to Tau Henare, 31 May 1933, ACIH 16093 MA 86 2/5, Native Land Rates Committee, Correspondence, 1933, Archives New Zealand, Wellington. SW Document Bank, volume 1, p.

⁹⁷ Bennion, p. 60.

⁹⁸ Ibid, pp. 62-63.

⁹⁹ Rating of Native Land, Report of Committee of Enquiry, AJHR 1933, G11.

amount of rates claimed'. They said that the local authority could apply for a classification order and the Court would have the power to ascertain whether the block should have been liable for rates.¹⁰⁰

Neither the recommendation of the Native Rates Committee or the Judges' suggestions were taken up. Most councils in the inquiry district did not immediately (or even latterly) set about assessing land and applying for exemptions and the Crown did not legislate or act to ensure this happened. The exceptions were the Otaki Borough Council and the Rangitikei County Council though it took the Otaki Borough Council until 1953 to exempt just two sections from rates (totalling around 9 acres and discussed in the Otaki Borough Council chapter). Exemptions made by the Rangitikei County Council were, however, more extensive. Located at the northern most point of the inquiry district, the Council exempted a large area of land from rates (almost 59,000 acres) in 1947 of which 353 acres 1 rood 20 perches was in the inquiry district. Details are recorded below but it is of note that four out of the five blocks were small blocks of less than two acres of which three were described as 'under tribal occupation as Native Reserve'. Just one block was of a significant size – the 300-acre Rakautaua No 9 block - described at the Native Land Court as comprising 'sand and lupin'. All but one of the sections is still Maori land.¹⁰¹

Attached to the order in council exempting the 59,000 acres from rates sent to the Governor for his signature was a note stating:

Some of these lands are small areas in Tribal occupation as Native reserves, others have been eroded by wind or water, and the remainder are either inaccessible mountainous blocks or unoccupied swamps and sand-dune area. The exemption is recommended by the chairman of the Rangitikei County Council.¹⁰²

The following table shows the land within the inquiry district exempted at this time:

¹⁰⁰ Under Secretary, Native Department to Native Minister, 29 June 1937, ACIH 16036 MA 1/408 20/1/14 Rates – Native Land – Miscellaneous papers, 1924-1927, Archives New Zealand, Wellington. SW Document Bank, volume 1, p.124.

¹⁰¹ *New Zealand Gazette* No 43, 7 August 1947, p 961; Tokaanu Maori Land Court Minute Book 28, 12 March 1946, pp. 156-158; Maori Land Online: <http://www.maorilandonline.govt.nz/>. See also Suzanne Woodley Taihape Rangitikei ki Rangipo Inquiry: Maori Land Rating and Landlocked Blocks Report, 1870-2015, 2015, pp. 147-154.

¹⁰² Note accompanying order in council for signing, August 1947, ACIH 16036 MA1/413 20/1/38 Rangitikei County - Exemption from rates - Section 104, Rating Act, 1925, 1925-1937, Archives New Zealand, Wellington. SW Document Bank, volume 1, pp. 56-81.

Table 6: Maori land in Rangitikei County exempted from rating under section 104 of Rating Act 1925 within Porirua ki Manawatu Inquiry District, 7 August 1947

Block	Comments made in Native Land Court, 1947	Location /Status in 2016
Paewhare No 4 (1 acre/.4047 ha)	‘Under tribal occupation as Native Reserve’	Maori land. Inland and close to Whangaehu river; next to Maputahi 2D (Crown land); 12 owners; not administered by a trust.
Rakautaua No 9 (350 acres/139.9825 ha)	‘Sandy section covered with lupin at mouth of Whangaehu. Not likely to be occupied. Sand and lupin.’	Maori land. Located at mouth of Whangaehu river; 1139 owners, administered by Rakautaua No 9 trust.
Ruataotahi section 6 (2 roods 24 perches)	‘Under tribal occupation as Native Reserve’	Alienation details unknown. No such section in MLOL
Kahikatea Section 7 (32 perches)	‘Under tribal occupation as Native Reserve’	Maori land. Also known as Turakina Maori reserve; inland on Turakina Beach road near Turakina river; not adjacent to any other Maori land though in the vicinity; 10 owners; not administered by a trust.
Parewanui No 35 (part) (1 acre 2 roods 4 perches/.6171 ha)	‘Eroded’	Maori land. Adjacent to other Parewanui blocks on Parewanui Road. Inland; just north of Rangitikei river; near Ohakea; 78 owners; not administered by a trust.

Source: *New Zealand Gazette* No 43, 7 August 1947, p 961; Tokaanu Maori Land Court Minute Book 28, 12 March 1946, folios 156-158; Maori Land Online: <http://www.maorilandonline.govt.nz/>.

Of note was how the Native Department and other officials interpreted these exemption provisions in section 104 of the Rating Act 1925 during the period prior to the mid 1960s. That is, although there was not much evidence of exemptions in the inquiry district, it was still seen as an option albeit in special circumstances. When the Kiwitea Council applied for the exemption of three Awarua blocks in 1944 (not in the inquiry district), the Under Secretary of the Native Department advised the Native Minister of the following:

The question of the exemption of Native lands from rates has been given a great deal of consideration in the past and the general policy has been that Section 104 of the Rating Act 1925, notwithstanding its wide terms, should be invoked only for the purpose of exempting waste lands or lands incapable of being brought into economic productivity, or lands required for afforestation, water conservation etc.¹⁰³

In 1952, the Secretary for Maori Affairs (Corbett) advised the chair of the Bay of Islands County Council that:

¹⁰³ Under Secretary, Native Department to Native Minister, 14 November 1944, ACIH 16036 MA 1 Box 411 20/1/34 Kiwitea County Council – Exemption from Rates, 1944-1953, Archives New Zealand. SW Document Bank, volume 1, p. 54.

.... land which is not capable of profitable occupation and is never likely to be revenue producing, can be exempted from payment of rates by Order in Council under section 104 of the Rating Act, 1925. If this were done, this County would have a more realistic picture of rateable lands and would be able to adjust its rate to meet the position thus disclosed.¹⁰⁴

In July 1953, the Secretary for Maori Affairs said that exemptions should only be used in exceptional circumstances. He said:

In cases where land is completely unusable, there is provision in the Rating Act whereby such land can be exempted from payment of rates.¹⁰⁵

He also stated that having no access to the land in question was not a valid reason for not paying rates and that exemptions applied only in extreme cases.¹⁰⁶

The difference in interpretation came in the mid 1960s. The Chief Judge of the Maori Land Court Ivor Prichard, told the Minister of Maori Affairs in April 1967 when commenting on proposed changes to rating legislation that the granting of exemptions from rates ‘should be applied sparingly’. He said too that ‘any grant of freedom from rates’ required continuous ‘watching’ and that exemption ‘should not be indefinite in time’. His view was also that blocks for which exemption from rates was requested should be ‘owned by the Crown which should pay a reasonable price’. Crucially, he said that Maori land that could not be leased should not be exempted but sold instead though if it could not be sold and the Crown would not purchase, then it could be declared non-rateable for a period of five years at a time – ‘not indefinitely’. As recorded in the Horowhenua County, Otaki Borough and Porirua City Council chapters, the Minister of Maori Affairs must have also professed to these views as he

¹⁰⁴ Secretary for Maori Affairs to Chairman of the Bay of Islands County Council, 25 July 1952, ACIH 16036 MA 1/405 20/1/1 part 6 Rating of Native Lands – General 1949-1952, Archives New Zealand, Wellington. SW Document Bank, volume 1, p. 42.

¹⁰⁵ Secretary for Maori Affairs to TM Hetet, 3 July 1953, ACIH 16036 MA 1/405 20/1/1 part 7 Rating of Native Lands – General 1953-1959, Archives New Zealand, Wellington. SW Document Bank, volume 1, p. 44.

¹⁰⁶ Ibid.

signed the very orders that enabled land, where leasing proved problematic and could not earn enough money to pay the rates, to be sold.¹⁰⁷

3.6 Maori Purposes Act 1950 & Maori Affairs Act 1963

The Rating Act 1925 remained in force until 1967. There were, however, amendments to legislation in the interim which affected the rating of Maori land. Bennion records that section 31 to 54 of the Maori Purposes Act 1950 Act dealt with Maori freehold land not subject to a valid lease or ‘valid contract to renew to grant a lease’ and was part of the National government’s ‘policy to utilise unproductive Maori land’. The legislation, he states, gave local authorities ‘further impetus’ to collect rates.¹⁰⁸

Under section 34, the Maori Land Court could ‘appoint the Maori Trustee as agent for owners to effect alienations in situations where land:

- was unoccupied and/or;
- not cleared of noxious weeds and/or;
- the rates have not been paid and the amount of rates had been charged against the land.¹⁰⁹

Applications for the appointment of the Maori Trustee could be made by local authorities. Bennion also notes that in the House it was explained that this policy ‘provided for the use of the land but retaining the fee-simple to the beneficial owners, as ‘alienation’ in the Act was intended to be only by lease. This provision was ‘repeated as section ... [387] of the Maori Affairs Act 1953’. Under section 387 the Maori Trustee could be appointed by the Court on the application of a local authority as agent to dispose of unproductive lands where there were noxious weeds and rates issues. The Maori Trustee had to, however, try to firstly lease the land. It also provided that if a ‘suitable offer’ was made, then the land was to be leased or sold to Maori. Section 387 was repealed by section 6 of the Maori Purposes Act, 1970.¹¹⁰

¹⁰⁷ Chief Judge Ivor Prichard to Minister of Maori Affairs, 18 April 1967, AAVN W3599 869 Box 116 22/2 part 2 Roothing Legislation and General Powers of the Maori Land Court, 1964-1969, Archives New Zealand. Note that this file is wrongly described in the Archives New Zealand catalogue and is actually called Rating on Maori Land, Policy, 1964-1978, reference 20/1 vol 1. SW Document Bank, volume 1, pp. 137-138.

¹⁰⁸ Bennion, p. 70.

¹⁰⁹ Ibid.

¹¹⁰ Ibid, p. 70.

Although not rating specific, section 438 of the Maori Affairs Act 1953, was used extensively in the inquiry district particularly by the Horowhenua County Council to sell Maori land and the proceeds used to pay for outstanding rates. Under section 438 Maori freehold land could be compulsorily vested in trustees appointed by the Court, including the Maori Trustee or a local authority representative 'for the benefit of Maoris'. Application could be made to the Court or the Court could decide to do so during the course of a hearing. Subject to terms outlined in the Court order vesting the land in trustees, the trustees could alienate the land as if they were the beneficial owners. Section 438, however, meant that the land could be simply sold without such considerations as leasing and/or selling to Maori. The land could also be vested in either the Maori Trustee or other trustees but did, however, require the consent of the Minister (though this provision was amended in 1967).

3.7 Rating Act 1967

In 1964, the Secretary for Internal Affairs advised the Secretary for Maori Affairs that a review of the Rating Act 1925 was being undertaken and asked for suggestions the Department wished to make regarding the rating of Maori land.¹¹¹ The Secretary for Maori Affairs responded that while they would prepare some suggestions, the subject was a 'very difficult one'. He said that it was known that:

... many local authorities find difficulties in administering the existing provisions of Part II of the Rating Act 1925 and many others seem to prefer to let their Maori land rates go by default rather than pursue the remedies which are there. The problems of multiple ownership are the complicating factor. The legislation has been studied on a number of occasions in the past by our Officers but they have found great difficulties in suggesting workable alternatives.¹¹²

¹¹¹ Secretary for Department of Internal Affairs to Secretary for Department of Maori Affairs, 28 January 1964, AAVN W3599 869 Box 116 22/2 part 2 Roding Legislation and General Powers of the Maori Land Court, 1964-1969, Archives New Zealand. Note that this file is wrongly described in the Archives New Zealand catalogue and is actually called Rating on Maori Land, Policy, 1964-1978, reference 20/1 vol 1. SW Document Bank, volume 1, p. 126.

¹¹² Secretary for Department of Maori Affairs to Secretary for Department of Internal Affairs, 24 February 1964, AAVN W3599 869 Box 116 22/2 part 2 Roding Legislation and General Powers of the Maori Land Court, 1964-1969, Archives New Zealand. Note that this file is wrongly described in the Archives New Zealand catalogue and is actually called Rating on Maori Land, Policy, 1964-1978, reference 20/1 vol 1. SW Document Bank, volume 1, p. 127.

In June 1964, the Department of Maori Affairs prepared a draft of proposed changes for the Department of Internal Affairs noting that it had been difficult to prepare due to the subject matter being 'highly controversial'.¹¹³ The Secretary then asked the Chief Judge of the Maori Land Court for comments. He eventually asked the other Judges for their suggestions in March 1965. He also took the opportunity to express his views:

I have felt for some time that it would be in keeping with other legislation if the Maori and the rating of his land was brought in line with Europeans and their land. There are few Maoris who do not know rates must be paid. If the land is leased by or farmed or lived on by a Maori, is there any reason why rates should not be levied, demanded and paid as with European land? If it is left idle the demands could be made and action taken under the Maori Affairs Act for enforcement as is provided. As regards demand once the name of an owner of European land is on the roll on 1 April a demand posted to him by ordinary post is sufficient, though he may never receive it. The roll is open for inspection and objection to the Magistrates' Court before it is final. Could not the same apply in each Maori Land Court Registry even if the owner first-named is shown on the roll. This could be adjusted if such were known to be dead or the land sold or leased. I pose this to you for thought and your reactions but it is not my final view on the matter.¹¹⁴

Judge Smith, Maori Land Court Judge for the Ikaroa District which then covered much of the Porirua ki Manawatu inquiry district, responded that as far as he was concerned, the levying and demanding of rates was already the same for Maori land as it was for European. With regard to enforcement he was in favour of retaining section 108 'et seq' (and what follows) which were the sections in the 1925 Act providing for charging orders, receiverships and vesting land in the Maori Trustee for the purpose of sale (all of which he had utilised). Judge Smith said that he did not favour extending to Maori land the provision whereby European

¹¹³ Secretary for Maori Affairs to Secretary for Department of Internal Affairs, 16 June 1964, AAVN W3599 869 Box 116 22/2 part 2 Roothing Legislation and General Powers of the Maori Land Court, 1964-1969, Archives New Zealand. Note that this file is wrongly described in the Archives New Zealand catalogue and is actually called Rating on Maori Land, Policy, 1964-1978, reference 20/1 vol 1. SW Document Bank, volume 1, p. 128.

¹¹⁴ Chief Judge, Maori Land Court to All Judges, Maori Land Court, 5 March 1965, AAVN W3599 869 Box 116 22/2 part 2 Roothing Legislation and General Powers of the Maori Land Court, 1964-1969, Archives New Zealand. Note that this file is wrongly described in the Archives New Zealand catalogue and is actually called Rating on Maori Land, Policy, 1964-1978, reference 20/1 vol 1. SW Document Bank, volume 1, p. 129.

land could be sold through the Registrar of the Supreme Court or Magistrates' Court for non-payment of rates as this could mean that owners could 'lose their land through default by a lessee'. He also felt that local authorities did not give sufficient attention to section 110 of the Act and find out for certain who the actual occupier of the land was. He felt that an amendment might be made to the Act whereby the local authority was 'required to take judgement in the Magistrates' Court against such person before applying to the M.L.Ct for a charging order'. He said that in recent months he had adjourned some charging order applications and 'made it clear to the local body' that he expected them to take proceedings in the Magistrates' Court against the occupier before further applications were made for charging orders. He also agreed with the Chief Judge's suggestions that a copy of the valuation roll should be deposited in each Maori Land Court registry and the Registrar to be statutory obliged to advise the District Valuer of any discrepancies as regards ownership and occupation between the roll and the Maori Land Court's records.¹¹⁵

The Chief Judge then advised the Secretary for Maori Affairs that generally the Judges were satisfied that 'now that most local bodies have been made to toe the line there is little difficulty'. He made few suggestions noting that he now doubted whether it was practical for valuation rolls to be available at each Maori Land Court registry given the number of local bodies in each registry and doubt over whether any Maori Land Court officer could 'spend any time on them'. As stated above, in 1967, the Chief Judge made further suggestions about the legislation stating that land that could not be leased should not be exempted but sold.¹¹⁶

Of note too was the input of the Porirua Borough Council into the discussion who wanted section 109 applications to be ordered without the consent of the Minister (though the Council had managed to have seven ordered in 1967 with the consent of the Minister). This request was acceded to with provisions in the 1967 Act whereby land could be vested in the

¹¹⁵ Judge Smith, Ikaroa Maori Land Court, Palmerston North to Chief Judge, Maori Land Court, 11 March 1965, AAVN W3599 869 Box 116 22/2 part 2 Roding Legislation and General Powers of the Maori Land Court, 1964-1969, Archives New Zealand. Note that this file is wrongly described in the Archives New Zealand catalogue and is actually called Rating on Maori Land, Policy, 1964-1978, reference 20/1 vol 1. SW Document Bank, volume 1, pp. 130-131.

¹¹⁶ Chief Judge, Maori Land Court to Secretary of Department of Maori Affairs, undated (circa April 1965), AAVN W3599 869 Box 116 22/2 part 2 Roding Legislation and General Powers of the Maori Land Court, 1964-1969, Archives New Zealand. Note that this file is wrongly described in the Archives New Zealand catalogue and is actually called Rating on Maori Land, Policy, 1964-1978, reference 20/1 vol 1. SW Document Bank, volume 1, p. 132.

Maori or any trustee for sale due to the non-payment of rates not requiring the consent of the Minister of Maori Affairs.¹¹⁷

This contrasted with the requests of the New Zealand Maori Council, who in 1967 made a submission regarding what had become the Rating Bill. The Council thought the proposed legislation was a ‘considerable advance on the 1925 Act’ as it was believed that the word ‘sale’ had been ‘somewhat played down and the preservation of Maori lands ... modestly accented’. The Council made a ‘slight criticism’ of current government policy stating that it paid ‘more attention to the collection of rates than to putting land into useful and advantageous production when the rate question will take care of itself’. The Council also noted that it had already made submissions to the government regarding schemes to better utilise Maori land in partnership with the government and the people. This, the Council believed, ‘could result in a considerable improvement in the rating situation’. The Council also stated that several members of the Council’s Land Committee had expressed the view that the power to sell Maori land for the non-payment of rates should be abolished. Other members, however, assumed that the provision for sale was ‘exercised in practice ... as a very last resort ... and that it applied also to European land’. It was decided not to press for this as it would ‘discriminate in favour of Maoris against Europeans’. Instead the Council asked for various safeguards to be attached to the provision including that the Maori Trustee only could be appointed to lease or sell land (under previous legislation a trustee could be any body such as a local authority); that preference should be given to the sale or lease of the land to an owner or a person of Maori descent and to that the provision whereby the Minister’s consent was required prior to a section 109 order be retained. Other suggestions made by the Council to the Bill included retaining the provision regarding the remittance of rates on proof of hardship or indigency (which had been removed from the Bill); increasing the amount of land of a burial ground that could be exempted from rates from five acres; and changing the provision whereby exemptions were subject to the consent of the local authority to exemptions being made having ‘regard to the views of the local authority’.¹¹⁸

¹¹⁷ RG Walsh, Town Clerk, Borough of Porirua, 12 May 1964, AAVN W3599 869 Box 116 22/2 part 2 Rooding Legislation and General Powers of the Maori Land Court, 1964-1969, Archives New Zealand. Note that this file is wrongly described in the Archives New Zealand catalogue and is actually called Rating on Maori Land, Policy, 1964-1978, reference 20/1 vol 1. SW Document Bank, volume 1, pp. 141-142.

¹¹⁸ JM Booth, New Zealand Maori Council to Secretary, Local Bills Committee, Wellington, undated (circa 1967), AAVN W3599 869 Box 116 22/2 part 2 Rooding Legislation and General Powers of the Maori Land Court, 1964-1969, Archives New Zealand. Note that this file is wrongly described in the Archives New Zealand

None of these suggestions were incorporated into the 1967 Act and the assumption that section 109 was only applied as a last resort was not supported by the actions of the Horowhenua County Council which had by the end of 1967, used the legislation in 30 instances, the Porirua City Council in seven instances and the Otaki Borough Council nine times.

Therefore, the Rating Act 1967 (sections 147 to 157) ‘followed earlier legislation with Maori freehold lands liable for rates ‘apart from specific exemptions (s 148)’. Section 149(1) allowed for lands to be exempted by order in council. This could be done ‘on the recommendation of the Maori Land Court with the consent of the local authority’ in whose district the land was situated. Under section 149(2) any unpaid rates levied prior to an order in council exempting land from rates could be released from payment of the whole or any part of the rate, and the local authority could ‘write off the rate accordingly’. These same provisions were continued in subsequent legislation - the Rating Powers Act 1987 (s 182(2-3)) and the Local Government (Rating) Act 2002 (s 116).¹¹⁹

With regards to the recovery of rates, charging orders continued with the 1967 Act providing:

Where any rate had not been paid within six months after the due date, the local authority could apply to the Land Court for an order charging the rate against the land. Parties could object to the rate before the Court. A charge had the effect of preventing any dealings by the owners with the land concerned (unless with the consent of the local authority). The charge remained effective even if the land became European land due to section 153. Where land was owed in common and one owner had paid rates in excess of the amount owed by that person, the court could make an order under section 154, granting a charge over the land in favour of that owner for the amount paid in excess.¹²⁰

While there was no longer provision for the appointment of a receiver, under section 155, Maori land could continue to be vested in trustees for the purpose of sale or lease. Section 155(6) stated that when the Maori Land Court made a charging order under section 153, and

catalogue and is actually called Rating on Maori Land, Policy, 1964-1978, reference 20/1 vol 1. SW Document Bank, volume 1, pp. 133-136.

¹¹⁹ Luiten, ‘Te Rohe Potae’, p. 40.

¹²⁰ Bennion, p. 72.

the charge remained unsatisfied after six months, the local authority could apply to the Court to ‘exercise in respect of the land its jurisdiction under this section’. Section 155 also stated that where the Maori Land Court had made a charging order under section 153, the Council should ‘also consider the future use of the land and the payment of future rates ... hear such evidence and such submissions as may be put forward by the local authority or by any owner of the land’. After considering these submissions the Court, if ‘satisfied that the alienation of the land ... whether by lease or sale or otherwise, would not be contrary to the interests of the beneficial owners and would facilitate the payment of future rates on the land’ could make an order under section 438 of the Maori Affairs Act 1953 (as substituted by section 142 of the Maori Affairs Amendment Act 1967) ‘vesting the land or any part thereof in a trustee upon trust to lease, sell or otherwise alienate it in accordance with the provisions of the separate trust order required to be made under that section’. Unlike section 109 of the Rating Act 1925 and section 438 of the Maori Affairs Act 1953, section 142 of the Maori Affairs Amendment Act 1967, such an order did not require the consent of the Minister of Maori Affairs. The order had to provide for the payment of the trustee and the payment of rates. In addition, the Court could, if ‘satisfied that it would not be contrary to the interests of the beneficial owners of the land’ make provision for the trustee to alienate the land, if an offer was received from an ‘owner or a Maori or a descendant of a Maori’. This was provided that the offer was ‘not less favourable in terms’ made by any other offer received by the Trustee. Also within the section (155(5)) was the provision that within two months of making an order under section 155 the Court would cancel the order if the owner satisfied the Court that all outstanding rates had been paid and provision had been made for the payment of future rates.

The legal draughtsman of the Act commented, when it was in Bill form, that what became section 155 (essentially section 438 of the Maori Affairs Act 1953), was a ‘simpler and more flexible provision than the procedure laid down in s. 387 of the Maori Affairs Act 1953, which also contains provisions for the recovery of unpaid rates’. He said that under 387 only the Maori Trustee could be appointed and that there was no such limitation with section 438/53; section 387 applied only to land used for agricultural purposes whereas section 438 could also be applied to residential land; and a section 387 order had no effect until approved by the Minister of Maori Affairs. Also, a section 438 order could “tailor” the trusts to suit

the circumstances of the case whereas one under s. 387 is tied to the rigid provisions set out in Part XXV of the Maori Affairs Act 1953'.¹²¹

He also noted that the Maori Affairs Department had advised that section 387 had not been used to any great extent:

... because of the rigidity of the conditions attaching to an order under that section, and the tendency has been to rely, with better results on the more flexible provisions of s. 438 which enables the Court to consider not only the question of the unpaid rates but also the question of suitable arrangements being made to ensure that rates will not again fall into arrear'.¹²²

Unfortunately for the owners of Maori land in the inquiry district, 'suitable arrangements' could mean the compulsory sale of their land.

In February 1974, Mrs Tirakatene-Sullivan, the Member of Parliament for Southern Maori and Minister for Tourism, asked for a report on the number of blocks of Maori land that had been sold due to the non-payment of rates. The request was for information in terms of the Rating Act of 1967 only (as opposed to the predecessor legislation section 109 of the Rating Act 1925). The Maori Affairs Department asked each district office to provide information on the blocks affected. It was noted that the request was in response to publicity about the amount of Maori land alienated because of non-payment of rates under the 1967 Act which specified the use of section 438 of the Maori Affairs Act 1953 (as substituted by section 142 of the Maori Affairs Amendment Act 1967). One example of this publicity was a newspaper article that claimed that thousands of acres of Maori land was being 'threatened by large rate demands'. In response, the Palmerston North District Office provided a schedule containing 27 blocks that were in the inquiry district. The local authorities concerned were the Horowhenua County Council, Porirua City Council and Otaki Borough Council. The schedule, however, was problematic in that the information provided did not reflect the true extent of vestings for sale due to non-payment of rates in the district (and the inquiry district). The schedule included land vested under section 438 from 1967 only so did not include the

¹²¹ Assistant Law Draftsman to Secretary, Maori Affairs, circa 1967, AAVN W3599 869 Box 116 22/2 part 2 Rooding Legislation and General Powers of the Maori Land Court, 1964-1969, Archives New Zealand. Note that this file is wrongly described in the Archives New Zealand catalogue and is actually called Rating on Maori Land, Policy, 1964-1978, reference 20/1 vol 1. SW Document Bank, volume 1, pp. 139-140.

¹²² Ibid.

six orders made under section 438 in 1963 and 1964 at the instigation of the Horowhenua County Council or the section 109 orders made prior to 1967 (thirty at the instigation of the Horowhenua County Council; seven at the instigation of the Porirua City Council and nine at the instigation of the Otaki Borough Council). The schedule also omitted at least six blocks vested for sale at the instigation of the Horowhenua County Council after 1967 (a full list is provided in the Horowhenua County chapter). The District Officer explained too that the schedule included applications made to ‘tidy up the title and covered land that previously had no proper title or was Maori customary land’. He said that the orders ‘were not necessarily made because of outstanding rates, but they enabled the local body to levy rates in the future’ a statement that not only seemed to assume that it was perfectly valid for a local authority to instigate the transfer of Maori land from customary land to freehold status without reference to Maori but assumed that once the land was no longer customary land, it should be sold and not retained by Maori in the expectation that the new owners would pay rates. Those blocks on the schedule deemed not to be rates related were not included in the final figures given to the Mrs Tirikatene-Sullivan and the Minister of Maori Affairs. This meant that the final (one page) summary (which included details of other districts) recorded that there were only 14 blocks affected within the Palmerston North District. The Secretary also down-played the numbers to the Minister of Maori Affairs stating that throughout New Zealand, ‘an average of about nine blocks a year were so sold’ which worked out at about ‘one block per district per year’ and that ‘some, at least, of these sales were to Maoris’. This discounted the fact that just four out of the nine districts were affected by the policy. These were Whangarei, Rotorua, Whanganui and Palmerston North though there had only (reportedly) ever been one instance in Whanganui. The Secretary suggested that the schedule be given to newspapers so as to allay the ‘fears’ of Maori.¹²³

As Stirling notes in respect to Northland, this issue was more of a problem ‘than the bland Maori Affairs summary sought to claim’. The impact in the Porirua ki Manawatu inquiry district was likely to have been on at least a par with Northland and Rotorua where 17 and 19 blocks respectively had been vested for sale under the 1967 Act by early 1974.¹²⁴

¹²³ Private Secretary, Office of the Minister of Tourism to Secretary, Maori and Island Affairs Department, 21 February 1974; *Sunday Herald*, 24 February 1974; Secretary, Maori and Island Affairs Department to District Offices, February 1974; Acting District Officer, Palmerston North to Head Office, Maori and Island Affairs, 26 February 1974 with schedule; Secretary for Maori Affairs to Minister of Tourism, circa March 1974 with schedule; Secretary, Maori and Island Affairs Department to Minister of Maori Affairs, 9 April 1974 AAVN 869 W3599/106 20/1/1 part 10 Rating of Maori land – General Correspondence 1972-1980, Archives New Zealand, Wellington. SW Document Bank, volume 1, pp. 46-52

¹²⁴ Stirling, p. 750.

3.8 Rating Powers Act 1988

In 1984, Maori Land Court Chief Judge Durie commented when the Rating Powers Act 1988 was in Bill form that:

I do not think the Rating Bill 84 adequately addresses some of the cultural and environmental issues of our time, or the occasional claim of Maori people in answer to environmentalists, that Rating forces Maori people to develop their land.¹²⁵

Indeed, Bennion notes that the Rating Powers Act 1988 did not considerably alter the existing system of levying and recovering rates on Maori land. Exemptions of five acres or 2.03 hectares for meeting houses, marae and Maori burial grounds continued as did the exemption of customary land. As stated above, the Act also provided for the issue of order in councils to exempt specific land from rates. There were, however, three areas of change identified by Bennion which were:

- Rates could be adjusted on Maori land for reasons of hardship (under section 178);
- The limitation of two years on charging orders for rates arrears was extended to six years (s 153(2));
- The Act incorporated, from the Maori Affairs Act 1953, provisions for a receiver to be appointed for land in rate arrears (s 188).¹²⁶

Significantly, the power to have Maori land sold for rates was also not included in the 1988 Act as a result of the Crown concluding that it was ‘contrary to the principles of the Treaty’. The process by which the Crown came to this conclusion is discussed in depth by Stirling. He records that after much discussion amongst officials and a review of Maori land rating law by Dr Kenneth Palmer, an ‘admission came from a Cabinet Minister responsible for local government’. Johnathan Hunt stated during the debate on the legislation that:

¹²⁵ Chief Judge Durie to MC Courbrough, Department of Maori Affairs, 15 June 1984, AAMK W3074 869 Box 689 a 19/4/1 Miscellaneous – Legislation – Rating Bill, 1983, Archives New Zealand, Wellington. SW Document Bank, volume 1, p. 83.

¹²⁶ Bennion, p. 73.

Submissions made to the committee contended that the provisions in the present Act for the forced sale of Maori land to recover unpaid rates were contrary to the Treaty of Waitangi. It is difficult to refute that view. In addition, it has become evident in recent years that this provision has not proved to be a remarkably effective means of enforcing the payment of rates.¹²⁷

Stirling also records that Dr Palmer again reviewed Maori land rating law after the passing of the 1988 Act and ‘again concluded that the sales for rates arrears had constituted a breach of Article Two of te Tiriti’. Dr Palmer stated:

The continued provision of rating sales to enforce the collection of the debts against Maori land is patently contrary to the express words of the Treaty of Waitangi, and contrary to the spirit and principles of the Treaty. [...] The acceptance of the submission by the Parliamentary Committee and the House [...] gives further endorsement to the Treaty of Waitangi. The promise by the Crown to safeguard undisturbed possession of Maori land [...] could not be reconciled with the former power of sale for rating default. At no time in the history of this country have the Maori people collectively consented to the imposition of rating liability leading, upon enforcement, to the risk of loss of land in this area.¹²⁸

3.9 Local Government Rating Act 2002

Exemption provisions remained in the Local Government Rating Act, 2002 as per the 1967 and 1988 Acts (Maori customary land and land used for a marae that did not exceed two hectares or is a reservation under section 340 of Te Ture Whenua Maori Act 1993). What is different about the 2002 legislation is that it required local authorities to ‘adopt a policy on the remission of rates on Māori freehold land’. This is also reiterated in the Local Government Act 2002. Under section 108, if such a policy was adopted that provided for the remission of rates and/or the postponement of the requirement to pay rates on Maori freehold land, then the policy must give the objectives to be achieved by this as well as the conditions and criteria to be met in order for the rates to be postponed. Of note is that it is not required

¹²⁷ Stirling, p. 820; New Zealand Parliamentary Debates, 7 June 1988, pp. 4163-4165 quoted in Stirling, p. 820.

¹²⁸ Ibid, pp. 820-821; Palmer, Dr Kenneth A., ‘Rating Powers Act 1988 and Maori Land’, Recent Law, September 1988, pp.287-292, quoted in Stirling, p. 821.

for a policy adopted under section 102 ‘to provide for the remission of, or postponement of the requirement to pay, rates on Maori freehold land’.

Luiten notes that the Local Government Rating Act 2002 provided an ‘extensive schedule of matters’ that were to be considered in the development of the policy. She states that this ‘led to the development by some local authorities of policies which allow for the partial or full remission of rates on different grounds, such as unoccupied Maori land in multiple ownership, or inaccessibility, or environmental preservation.’¹²⁹

Luiten also records that the Act has ‘given the Maori Land Court more discretion to determine occupier liability and further tightened up conditions that must be met before a charging order can be made.’¹³⁰ These include an assessment by the Court as to ‘whether the land is capable of producing an income that would enable the payment of rates on the land in the future; and heard evidence and submissions put forward by any owners of the land and by the local authority’ (section 108).

3.10 The Local Government Rates Inquiry, 2007

Stirling states that the report of the Local Government Rates Inquiry of 2007 made it ‘clear that the issues that have defined the rating debate since 1876 are still ongoing today’.¹³¹ Luiten has also summarised the findings of the inquiry. She states that the ‘overall tenor of the report was that serious fundamental and constitutional issues surrounding the rating of Maori land needed to be addressed, including the relationship between rating law and the Treaty of Waitangi’. Further:

Although it was acknowledged that local government had a role to play in better engaging with Maori landowners, the clear message from the report recommendations was that central government leadership was essential to address the complex issues, including the development of a consistent and coordinated approach to rates remission policies for Maori land.¹³²

¹²⁹ Luiten, ‘Te Rohe Potae’, pp. 40, 338.

¹³⁰ Ibid, p. 327.

¹³¹ Stirling, p. 834.

¹³² Luiten, ‘Te Rohe Potae’, p. 339.

Luiten states that it is ‘noteworthy that the 2007 Rates Inquiry Panel did not contemplate the removal of unproductive Maori freehold land from rates liability’. She says that it ‘looked instead to changing the model of valuation which would take into account the historical, cultural, legal and physical factors relating to Maori land’. Further:

The panel’s conclusion that there is no justification for Government responsibility for the payment of rate arrears is also interesting given its prior recommendation that the relationship between the Treaty of Waitangi and rating law be addressed, and the fact that the first three factors identified by the panel for the non-payment of rates are arguably directly attributable to past Crown policies and practice. [These were:]

- the land has poor soils, is isolated, landlocked, or has other characteristics that make it inherently unproductive and it therefore generates no income to pay rates.
- the land is potentially productive but there are barriers to realising its productive potential, including ownership issues and constraints on borrowing, with the result that it generates no income to pay rates;
- the land is in multiple ownership and has no governance structure; it is unclear who is liable for rates, and individual owners have no means and financial incentive to contribute towards rates.¹³³

All four district councils which now encompass the inquiry district - Kapiti Coast District Council, Horowhenua District Council, Manawatu District Council and Rangitikei District Council have rates remission policies. Of note is that these have not prevented complaints from Maori land holders in 2017 about the rating of their land. For instance, owners of the Manawatu Kukutauaki block located within the Horowhenua District Council and of Otaki lands within the Kapiti Coast District both have concerns about the rating of their land. These are discussed further in the relevant chapters.

3.11 Te Ture Whenua Maori Bill, 2016

Te Ture Whenua Maori Bill 2016, which is at the select committee stage in November 2016, includes changes to provisions around the rating of Maori land. It was reported that while

¹³³ Ibid, p. 340.

local authorities were already able to remit rates on both Maori and general land, the ‘proposed changes [would] clarify the law around the rating of unoccupied and unused Māori land’. The changes, would also ‘provide councils with the ability to remove rates arrears on unoccupied and unused Māori land where there is –

- a demonstrable commitment to use or occupy land
- there is little prospect of the land ever being used or occupied¹³⁴

The proposal had reportedly ‘arisen out of a review of Māori land law which aims to make it easier for Māori land owners to make decisions about their land while ensuring its retention. Rates arrears were identified as one of the major barriers to Māori land use at consultation hui held on the Ture Whenua Bill last year.’ In March 2016, Māori Development Minister, Te Ururoa Flavel, was reported to have said that the Bill would ‘create a “clean slate for owners who want to use or occupy undeveloped land but are laden with ratings debt”’. ¹³⁵

3.12 Town and Country Planning Legislation and Policy

Robyn Anderson, in her scoping report on inquiry district research requirements, identified the application of the Town and Country Planning Acts of 1953 and 1977 as an issue for claimants. She states that it:

... represented a restriction placed by the Crown on certain types of uses and activities that could be carried out on privately-owned land, including Māori-owned land. Administration of the Act was by local authorities and that of 1953 was particularly significant for Māori because it extended controls into rural areas. The legislation was designed (and Councils were concerned) to limit sporadic subdivision and sprawl in rural areas and ... [in 1977] protect the natural character of the coastal environment. The legislation had the effect of preventing development by Māori of their own lands and, in particular, papakainga housing. A cluster of houses around a marae might be on land that never had been partitioned into individual house lots; or existing houses might be on house site partitions, but additional houses would have to be on land

¹³⁴<http://www.stuff.co.nz/national/politics/77737140/mayors-hear-government-plan-to-wipe-rates-debt-on-unused-maori-land>; https://www.parliament.nz/en/pb/bills-and-laws/bills-proposed-laws/document/00DBHOH_BILL68904_1/te-ture-whenua-m%C4%81ori-bill

¹³⁵ Ibid.

owned by a wide group of people. Favours single-dwelling Pakeha farms over rural Māori papakainga, the Act was an effective barrier to improving Māori housing, with severe cultural effects on marae and their capacity to cater for the living needs of their respective communities.¹³⁶

This issue has been discussed by Jane Luiten in respect to the East Coast, and Grant Young et al in respect to other Ngati Raukawa lands. These reports have been utilised in the following summary of Town and County Planning legislation. Note that the Young report was still in draft form at the time of writing.¹³⁷

The Town and Country Planning Act 1953 introduced the concept of zoning. Luiten explains that under the Act, county councils were:

... required to prepare district planning schemes regulating land use through the application of zones – rural, industrial, residential and commercial – with a mix of permitted, conditional and prohibited usage for each. At the Ministry's [of Works] insistence, many district plans adopted a sub divisional standard to prevent the aggregation of settlement in rural zones; allowing only one dwelling per title, and insisting on a minimum section size of between 5 to 20 acres, with a minimum road frontage.¹³⁸

The Ministry of Works prepared planning regulations under the Act in 1960 which counties were obliged to consider. These stated that ten acres was the desirable minimum area in a rural zone. The regulations also said that councils could permit the subdivision of land 'so as to produce an allotment of less than the minimum standard area or frontage' if the applicant satisfied the council either that the 'substandard allotment' could be an 'independent economic farming unit', that it was appropriate to the proposed use and that approval was

¹³⁶ Robyn Anderson, Porirua ki Manawatu Inquiry: Historical issues Scoping Report for Hapu and Iwi Broadly Associated with Ngati Raukawa, December 2014, p. 64.

¹³⁷ Jane Luiten, 'Local Government on the East Coast', research report commissioned by HistoryWorks for the Crown Forestry Rental Trust, 2009, Wai 900 A69, East Coast inquiry; Grant Young, Eljohn Fitzgerald, Kiri Parata, Areti Metuamate, Tiratahi Taipana, Piripi Walker, Rachael Selby, Whatarangi Winiata, Taihakurei Durie, 'Draft Ngati Raukawa: Rangatiratanga and Kawanatanga, Land Management and Land Loss from the 1890s to 2000, A Ngati Raukawa Historical Issues Research Report prepared for the Porirua ki Manawatu Inquiry' and commissioned by the Crown Forestry Trust, February 2017.

¹³⁸ Luiten, 'East Coast', p. 23.

necessary to avoid 'undue hardship'. There were also two provisos. A 'substandard' allotment could not be permitted if:

- (a) It is likely to cause demand to be made for any extension which is not in the economic interests of the region or locality of any public service, or to cause existing or proposed public services to be uneconomically used; or
- (b) It is likely to lead to any obstruction to or other interference with the free movement of traffic on state highways or important traffic routes".¹³⁹

With respect to inquiry district lands, the district schemes of the Horowhenua, Kairanga and Oroua counties of the late 1950s and 1960s specified that land zoned rural could only be subdivided for housing purposes if it comprised five acres (Horowhenua) or ten acres (Kairanga and Oroua). This was later increased to 50 acres in the 1970s by both the Kairanga and Oroua counties. Horowhenua County increased its minimum area to ten acres also at this time.¹⁴⁰

The Town and Country Planning Act 1953 Act did not specifically mention Maori land. Section 173 of the Maori Affairs Act 1953, however, stated that the Maori Land Court, when partitioning land was required to 'have regard to the requirements of any district scheme approved in accordance with the Town and Country Planning Act 1953, and operative in the district' that the land to be partitioned was situated. As Young et al notes, the Court was 'not required to give effect to it and it was not bound by any scheme or any decisions of the local authority'. As will be seen with respect to applications to the Kairanga, Oroua and Horowhenua Councils during this period, the Maori Land Court when making partition orders did, for the most part, also seek the approval or views of the Council concerned.¹⁴¹

Indeed, in 1963 the Commissioner of Works said that there was an 'understanding with Chief Judge Pritchard that, as a matter of Court practice' partitions were referred by Judges to the

¹³⁹ Commissioner of Works to District Officer, Maori Affairs Department Palmerston North (and Maori Affairs Department, Wellington), 7 March 1962, AATC W3415 Box 63 20/45/4 Roding – Town and Country Planning – Oroua County Council, 1956-1967, Archives New Zealand, Wellington. SW Document Bank, volume 2, pp. 42-43.

¹⁴⁰ Resident Engineer, Ministry of Works Palmerston North to District Commissioner of Works, Whanganui, 21 February 1963; District Commissioner of Works, Whanganui to Resident Engineer, Ministry of Works, Palmerston North, 28 February 1963, AATC W3415 Box 85 72/54/9A/1/1 Management – State Highway 54 – Kairanga County, 1960-1971, Archives New Zealand, Wellington. SW Document Bank, volume 2, pp. 19-20.

¹⁴¹ Grant Young et al, p. 256.

local authorities concerned 'and as far as possible they co-ordinate proposals with the requirements of district schemes'. He pointed out that the Court could not always comply with the scheme stating that the Maori land system and the ownership system 'resulting from devolution and inheritance ... [made] it impossible to lay down absolutes under town and country planning'. Despite this, he concluded that:

The Department and the Maori Land Courts do, however, understand the need to conserve good farmland for production and are also opposed to ribbon development along state highways and other main traffic routes and so far as possible these principles will be observed. So far as possible, rural settlement will be guided into groups and sporadic subdivision will be avoided.¹⁴²

In 1967, the Maori Affairs Amendment Act 1967 changed the rules for the subdivision of Maori land in counties (as opposed to boroughs and town districts which were already affected). Young et al explain that the partition of Maori land in a county:

... now required the approval of a scheme plan by the local authority before partitions orders could be issued [by the Maori Land Court]. The district scheme under the Town and Country Planning Act 1953 was not a consideration for the Court in its decision but would be one for the local authority in deciding whether to approve a scheme plan of partition'.¹⁴³

The partitions to which this applied were those being subdivided for either sale or the construction of buildings (such as for housing).¹⁴⁴ This meant that from 1967, Maori had to apply to the Council first for approval of a scheme plan of a proposed partition before then applying to the Maori Land Court.

Other legislation which appears to have affected Maori land, particularly in the Kairanga and Horowhenua Counties, was section 23 (4) of the Counties Amendment Act 1961. This stated that where any land on a scheme plan of subdivision submitted to the Council for its approval had a frontage to a state highway or government road, the Council, before approving the plan,

¹⁴² Commissioner of Works to District Commissioner of Works, Hamilton, 4 April 1963, ABOB W4261 Box 28 148/28 Maori Land, 1957-1974, Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 161.

¹⁴³ Grant Young et al, pp. 257-258.

¹⁴⁴ Ibid, p. 258.

had to send a copy of the plan to the District Commissioner of Works for comment. If the Council approved the plan and this was contrary to the comments of the District Commissioner of Works, then the Council had to send notice of this to the District Commissioner. An amendment to the Maori Affairs Act 1953 made at the same time, however, said that this part of the Counties Amendment Act 1961, did not apply to partitioning completed under section 173 of the Maori Affairs Act 1953. It applied, however, after 1967 when this section of the 1953 Act (173 (4)) was repealed.¹⁴⁵

The Crown knew the potential impact of limiting the size of a partition to five or ten acres in a rural zone as early as 1961. When the Department of Maori Affairs was asked by the Ministry of Works to comment on the Kairanga and Oroua Counties district schemes under the Town and Country Planning Act 1953, officials stated that they had concerns about Maori being unable to obtain building permits for residential homes on rural land. The Department stated:

Any scheme which restricts the building of homes for rural Maori people to sections of not less than 5 acres is, in our opinion, not in the general interest of the Department nor do we think in the public interest.¹⁴⁶

It very often happens that a Maori with a family living under poor conditions has land, or an interest in land, in a County which is suitable for the erection of a home. One of the difficulties often encountered under District Schemes is the requirement of a minimum of 5 acres before a partition is agreed to. Very often these Maori families are not in a sufficiently good financial position to buy a section of a 1/5th or 1/4 acre in built-up areas where residential subdivision is acceptable, and it is felt that Maori people, in these circumstances, should receive favourable consideration for a partition of their land interests for house building, particularly when their application is sponsored by the Maori Affairs Department and the Board of Maori Affairs is prepared to lend money for the erection of a house on their land.

¹⁴⁵ Ibid, p. 257.

¹⁴⁶ Resident Engineer, Palmerston North to District Commissioner of Works, Ministry of Works, Whanganui, 6 December 1961, AATC W3415 Box 63 20/45/4 Roding – Town and Country Planning – Oroua County Council, 1956-1967, Archives New Zealand, Wellington. SW Document Bank, volume 2, pp. 39-41.

Usually we encourage Maori families to build homes near sources of permanent work and where educational and other social amenities are readily available. However, cases do arise when we consider it is in the best interests of the family for them to remain in the country, and we feel that special provision should be made in any District Planning Scheme to partition housing sites in Maori Blocks when they desire to build in a County and their application is supported by the Department of Maori Affairs.¹⁴⁷

The Commissioner of Works responded to the Maori Affairs Department about the view expressed - that it was not in the public interest to have a minimum sub divisional standard of five acres in rural areas and that special provisions should be made in district schemes to allow Maori to partition residential lots in Maori blocks where their application was supported by the Maori Affairs Department. The Commissioner argued instead that:

As you may be aware, the Town and Country Planning Appeal Board has held on several occasions that a minimum standard of subdivision of five acres in the rural zone is appropriate and ten acres is suggested as a suitable standard in the Town and Country Planning Regulations 1960. Any Council providing for a five or ten-acre minimum standard in its district scheme, is therefore, acting in accordance with established town and country planning principles. The aim of a five or ten acre minimum in the rural zone is to preclude urban or semi-urban development in essentially rural areas, to avoid the encroachment of urban development on land of high actual or potential value for the production of food, to preclude any demand for the extension of public services that is not in the economic interests of the region or locality or cause public services that already exist or are substantially committed to be uneconomically used and to prevent the establishment of pockets of sporadic or ribbon development along highways.

Most district schemes provide, however, that the Council may permit the subdivision of land so as to produce an allotment of less than the minimum standard area or frontage if the applicant satisfies the Council either that the substandard allotment can

¹⁴⁷ Resident Engineer, Ministry of Works, Palmerston North to District Commissioner of Works, Ministry of Works, Whanganui, 5 December 1961, AATC W3457 5114 Box 76 5/84/3/5 Kairanga County, 1954-1969, Archives New Zealand, Wellington. SW Document Bank, volume 2, pp. 3-6.

be an independent economic farming unit or that it is appropriate to the proposed use and approval thereof is necessary to avoid undue hardship.¹⁴⁸

He also quoted the two provisos mentioned above relating to economic interests and obstruction to state highways. He said these covered most cases where urban development could be 'reasonably permitted in rural areas'.¹⁴⁹

It does not appear that the Secretary for Maori Affairs was convinced as he told the Ministry of Works in April 1963 that the five or ten-acre minimum was 'quite inappropriate to the Maori situation' and that this 'should be recognised in town and country planning law and policy'.¹⁵⁰

Instead legislation introduced in 1967 had no such recognition and also made it compulsory for Maori to receive the permission of the Council concerned before proceeding with a partition application to the Maori Land Court.

The issue was again discussed in May 1975. District Commissioners of Works were sent from their Head Office a copy of a draft Town and Country Planning Bulletin on planning for Maori needs in rural areas. The bulletin indicated that the issue of a minimum area had again been raised by the Department of Maori and Island Affairs. Described as 'areas of hardship confronting the Maori people' it was noted that:

Many Maori families are being refused permission to build houses on their traditional land, in some cases even where settlements are close to employment and in the vicinity of maraes, because such areas are zoned rural under the district schemes of local authorities. Instead they are obliged to move into nearby towns and buy up sections in residential zones.

¹⁴⁸ Commissioner of Works to District Officer, Maori Affairs Department Palmerston North (and Maori Affairs Department, Wellington), 7 March 1962, AATC W3415 Box 63 20/45/4 Roding – Town and Country Planning – Oroua County Council, 1956-1967, Archives New Zealand, Wellington. SW Document Bank, volume 2, pp. 42-43.

¹⁴⁹ Ibid.

¹⁵⁰ JK Hunn, Secretary for Maori Affairs to Chief Town Planner, Ministry of Works, 1 April 1963, ABOB W4261 Box 28 148/28 Maori Land, 1957-1974, Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 160.

Until a few years ago, many houses were built on family land without a house site ever being partitioned out of the main block (some under the Maori Housing Scheme). Individual families therefore do not always own their homes but only have shares in them with all other owners of the land. In areas that are zoned rural, many householders are now prevented from having their house sites partitioned out because it is contrary to the district scheme. Previously partitions in rural areas were exempt from control of sub divisional standards, but since the passing of the Maori Affairs Amendment Act 1967, all partitions have now become liable under the Counties Amendment Act. Because a Maori householder cannot obtain a partition order, it makes it extremely difficult for him to raise a mortgage to do any maintenance on, or renovations to, his home.

Even where house sites have been partitioned out by the Maori Land Court for the purpose of housing, in many cases prior to the Town and Country Planning Act 1953, Maoris are often still refused building permits because their sites are below the sub divisional standards in the Code of Ordinances of district scheme.¹⁵¹

In 1976, the New Zealand Maori Council met with Ministry of Works officials about the matter. The Director of Town Planning reported that the main objection was:

... still the same: the refusal of building permits on Maori land in rural area, the non-recognition of Maori partitions as legal subdivisions, the refusal of local authorities to recognise minority interests, the high-handedness of designations, the costs of presenting the Maori point of view and of contesting local authority decisions through the planning process to appeal.¹⁵²

The Director said that he explained the new Act to the Council who asked if one of their representatives could meet with the Review Committee when the draft bill was available.

¹⁵¹ Ministry of Works, Draft Bulletin, Planning for Rural Maori Needs, circa May 1975, ACCL W5532 24576 Box 69 5/84/25 Miscellaneous – Town and Country Planning – Town and Country Planning Act 1977 (Planning for the Maori People), 1974-1988, Archives New Zealand, Wellington. SW Document Bank, volume 2, pp. 46-66.

¹⁵² GA Town Director, Town and Country Planning, to Commissioner of Works, 29 March 1976, ACCL W5532 24576 Box 69 5/84/25 Miscellaneous – Town and Country Planning – Town and Country Planning Act 1977 (Planning for the Maori People), 1974-1988, Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 67-68.

This was agreed to. The chair of the Council stated that Maori frustrations at local government control were running ‘very high’ and referred to an assurance made by the Prime Minister that ‘control of the use of Maori land would be taken out of local authority hands and placed in charge of a national organisation’. There was also criticism of the Town and Country Planning Act Review Committee’s report which the Council said, had ignored their submissions. The Council were also unimpressed that no Maori were on the review committee and also with the ‘consultation’ undertaken by the Maori Affairs Department on the issue. The Commissioner of Works later advised the District Commissioner of Works in Whanganui that he had assured the New Zealand Maori Council and Minister of Maori Affairs that the department would ‘assist as far as possible in explaining town and country planning procedures and in promoting contact between Maori groups and local planning authorities’.¹⁵³

In 1977, the Town and Country Planning Act was passed. Unlike the 1953 Act, the 1977 Act specifically mentioned Maori. Section 3 of the Act, entitled ‘Matters of national importance’, listed what local authorities should recognise and provide for in the ‘preparation, implementation, and administration of regional, district and maritime schemes’. Included in the list was ‘the relationship of the Maori people and their culture and traditions with their ancestral land’ (section 3(g)). Also included was ‘the prevention of sporadic subdivision and urban development in rural areas (section 3(3)). Marae, urupa ‘and other traditional and cultural Maori uses’ were also included under ‘Cultural facilities and amenities’ which were to be dealt with in regional schemes.

The 1977 Act also provided for Maori representation on the Regional Planning Committees of the Ministry of Works (section 6). The Waitangi Tribunal describes this as the ‘first small step towards making formal provision for Maori views to be heard at local government level’. It was restricted to membership of District Maori Councils and made Maori representation ‘an option in situations where there were “significant Maori land holdings”’. In 1987, the 1977 Act was amended in that it required ‘Maori representation in the form of “A representative of the tangata whenua of the region”’ (section 6(2)(e)). The statute did not specify the manner in which the appointment could be made but according to the

¹⁵³ GA Town Director, Town and Country Planning, to Commissioner of Works, 29 March 1976; Commissioner of Works, Wellington to District Commissioner of Works, Whanganui, 2 August 1976, ACCL W5532 24576 Box 69 5/84/25 Miscellaneous – Town and Country Planning – Town and Country Planning Act 1977 (Planning for the Maori People), 1974-1988, Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 69.

Commissioner of Works, it was clear that it was the responsibility of each united council' to appoint a tangata whenua representative to its regional planning committee.¹⁵⁴

Young et al note that concerns about the Act were still being expressed by the New Zealand Maori Council in the early 1980s. The Council criticised the 1977 Act stating that 'although the 1977 Act provided for the inclusion of Maori values, this had been of little value to Maori as planning rules failed to meet the needs of Maori communities'.¹⁵⁵

Partition applications within the Oroua, Kairanga and Horowhenua counties during this period are discussed in the chapters specific to those counties.

3.13 Resource Management Act, 1991

The Resource Management Act 1991 specified that the relationship between Maori and their 'ancestral lands, water, sites, wahi tapu and other taonga' were of 'matters of 'national importance' to which local bodies must recognise and provide for in the use, development and protection of natural resources'. Local bodies also had to have 'regard to the principle of "kaitiakitanga" regarding such resources ... and to take into account the principles of the Treaty of Waitangi'. A local authority could also 'delegate their functions and powers under the Act to an iwi authority'.¹⁵⁶

Luiten notes that this was the first time that local government was 'legally bound to take into account the principles of the Treaty of Waitangi' and that the Act also 'introduced a new duty to consult with tangata whenua'.¹⁵⁷

As with previous Town and County Planning Acts, the Resource Management Act 1991 also required all city and district councils (established in 1989) to have a district plan. The plan had to include 'objectives, policies, rules and standards – known as provisions – for land use

¹⁵⁴ Commssioner of Works to all United Councils, 30 October 1987, ACCL W5532 24576 Box 69 5/84/25 Miscellaneous – Town and Country Planning – Town and Country Planning Act 1977 (Planning for the Maori People), 1974-1988, Archives New Zealand, Wellington. SW Document Bank, volume 2, pp. 70-71; Waitangi Tribunal, *Tauranga Moana*, p. 338.

¹⁵⁵ Young et al, p. 262.

¹⁵⁶ Luiten, 'East Coast, pp. 323-324.

¹⁵⁷ Ibid, p. 330.

management’.¹⁵⁸ The Resource Management Act 1991 is discussed in relation to the Paraparaumu Airport which can be found in the Kapiti Coast District Council chapter.

3.14 Local Government Act, 2002

The Local Government Act 2002 provides local authorities with ‘principles and requirements ... intended to facilitate participation by Maori in local authority decision-making processes’. This is, according to section 4 of the Act ‘in order to recognise and respect the Crown’s responsibility to take appropriate account of the principles of the Treaty of Waitangi and to maintain and improve opportunities for Maori to contribute to local government decision making processes’.

These principles and requirements are within parts 2 and 6 of the Act. One of the principles is outlined in section 14(d) whereby ‘a local authority should provide opportunities for Maori to contribute to its decision-making processes’. In addition, under section 40(d) ‘a local authority must prepare and make publicly available ... a local governance statement that includes information on representation arrangements, including the option of establishing Maori wards or constituencies, and the opportunity to change them; and ... policies for liaising with, and memoranda or agreements with Maori’.

With respect to requirements when making decisions, under section 77 a local authority must ‘seek to identify all reasonably practicable options for the achievement of the objective of a decision; and ... if any of the options identified ... involves a significant decision in relation to land or a body of water, take into account the relationship of Maori and their culture and traditions with their ancestral land, water, sites, waahi tapu, valued flora and fauna, and other taonga’.

Under section 81 a local authority ‘must’ do the following:

- (a) establish and maintain processes to provide opportunities for Maori to contribute to the decision-making processes of the local authority; and
- (b) consider ways in which it may foster the development of Maori capacity to contribute to the decision-making processes of the local authority; and

¹⁵⁸ Kapiti Coast District Council website: <http://www.kapiticoast.govt.nz/Your-Council/Planning/District-Plan1/> accessed February 2017.

(c) provide relevant information to Maori for the purposes of paragraphs (a) and (b).

Section 82(1) outlines the principals of consultation for a local authority and 82(2) states that a local authority ‘must ensure that it has in place processes for consulting with Maori in accordance with’ these principals.

In addition, under section 36, a local authority must be a ‘good employer’. Part of being a ‘good employer’ entails the ‘recognition of - (i) the aims and aspirations of Maori; and (ii) the employment requirements of Maori; and (iii) the need for greater involvement of Maori in local government employment’.

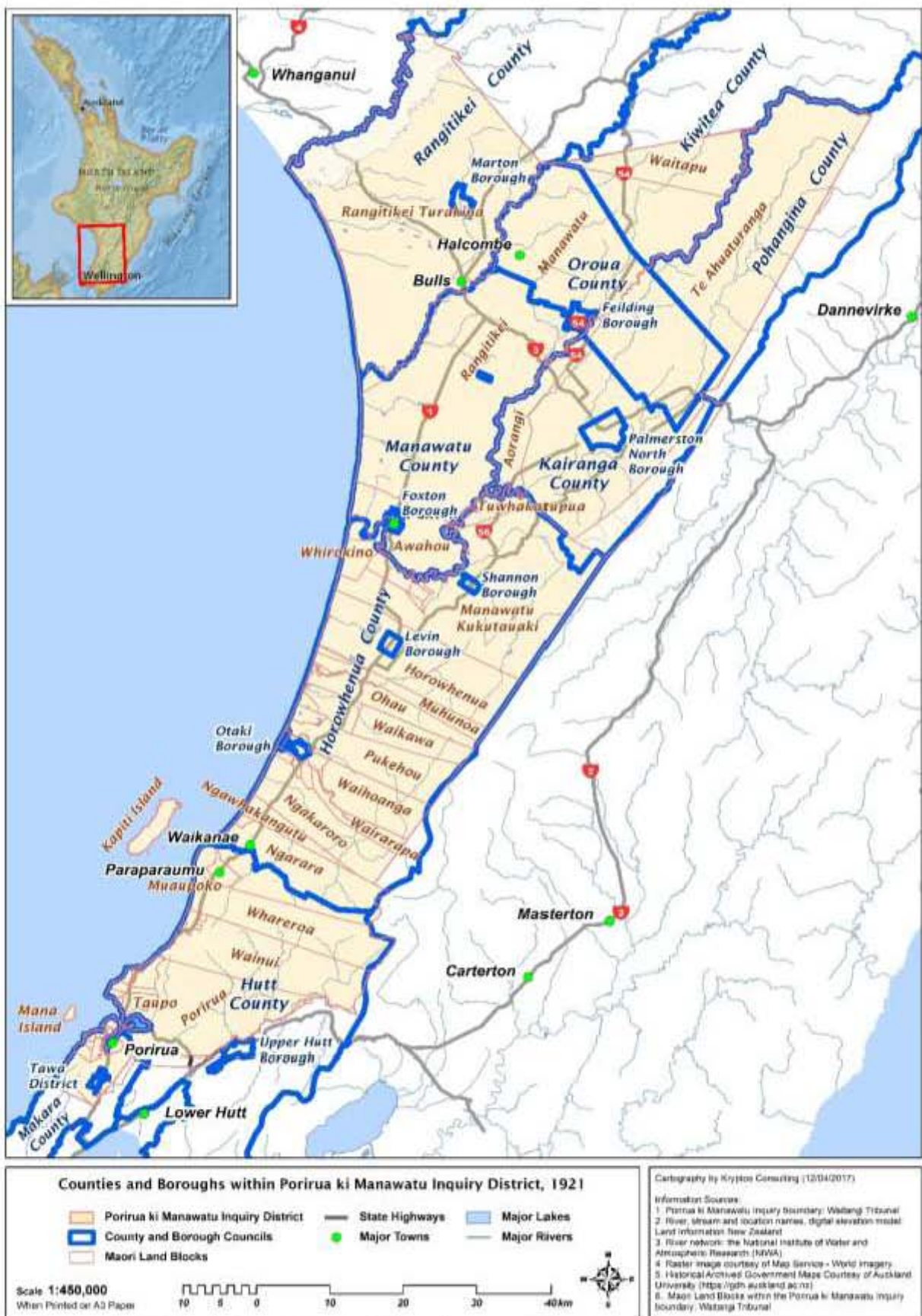
Schedule 10 outlines information to be included in long-term plans prepared by local authorities. This includes information on the development of Maori capacity to contribute to decision-making processes. In addition, under section 35, an annual report of a local authority must include a report ‘on the activities that the local authority has undertaken in the year to establish and maintain processes to provide opportunities for Maori to contribute to the decision-making processes of the local authority’.

This is discussed further in the Manawatu District Council and Kapiti Coast District Council chapters.

Map 1: Counties within Porirua ki Manawatu Inquiry District, 1876



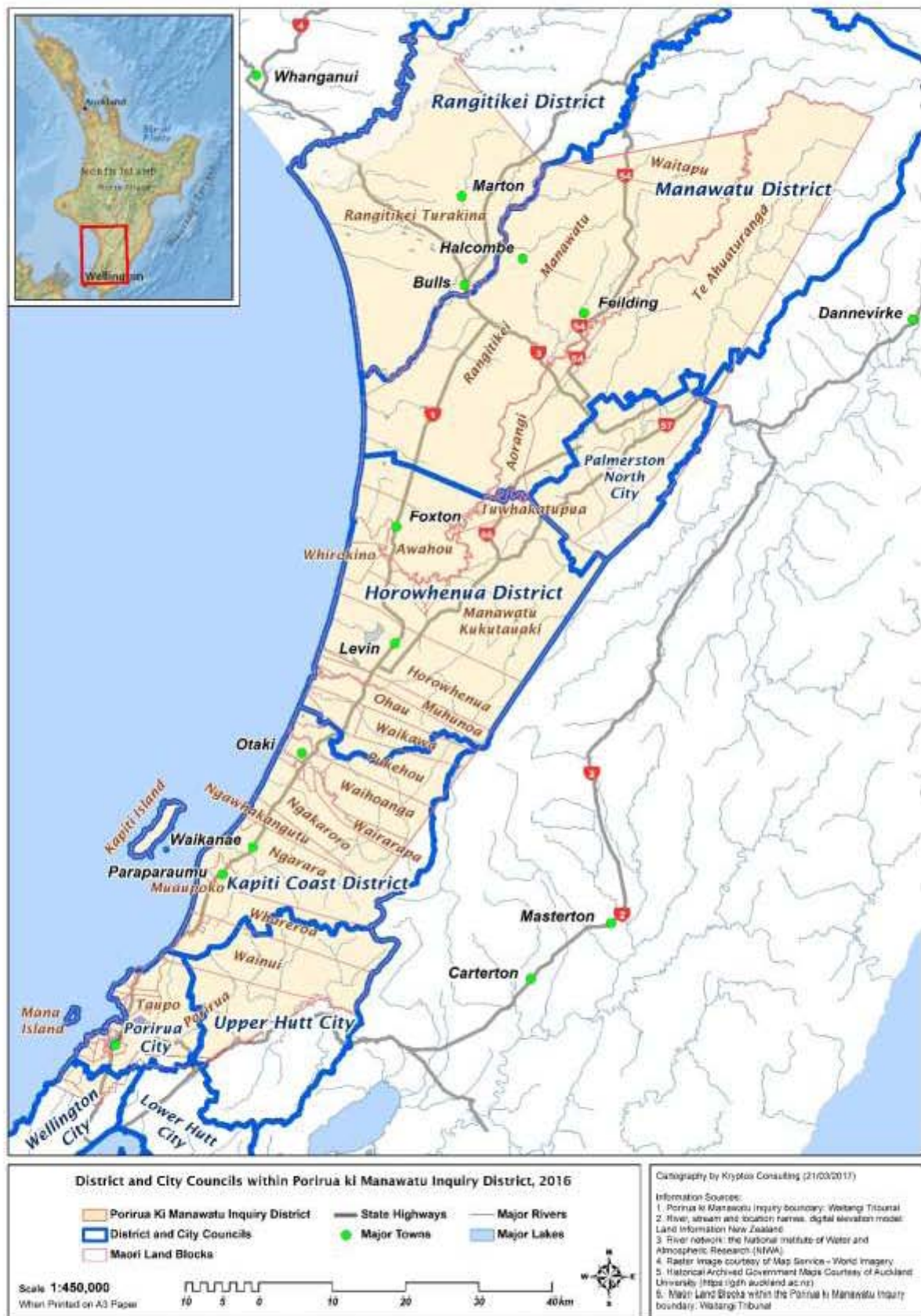
Map 2: Counties and Boroughs within Porirua ki Manawatu Inquiry District, 1921



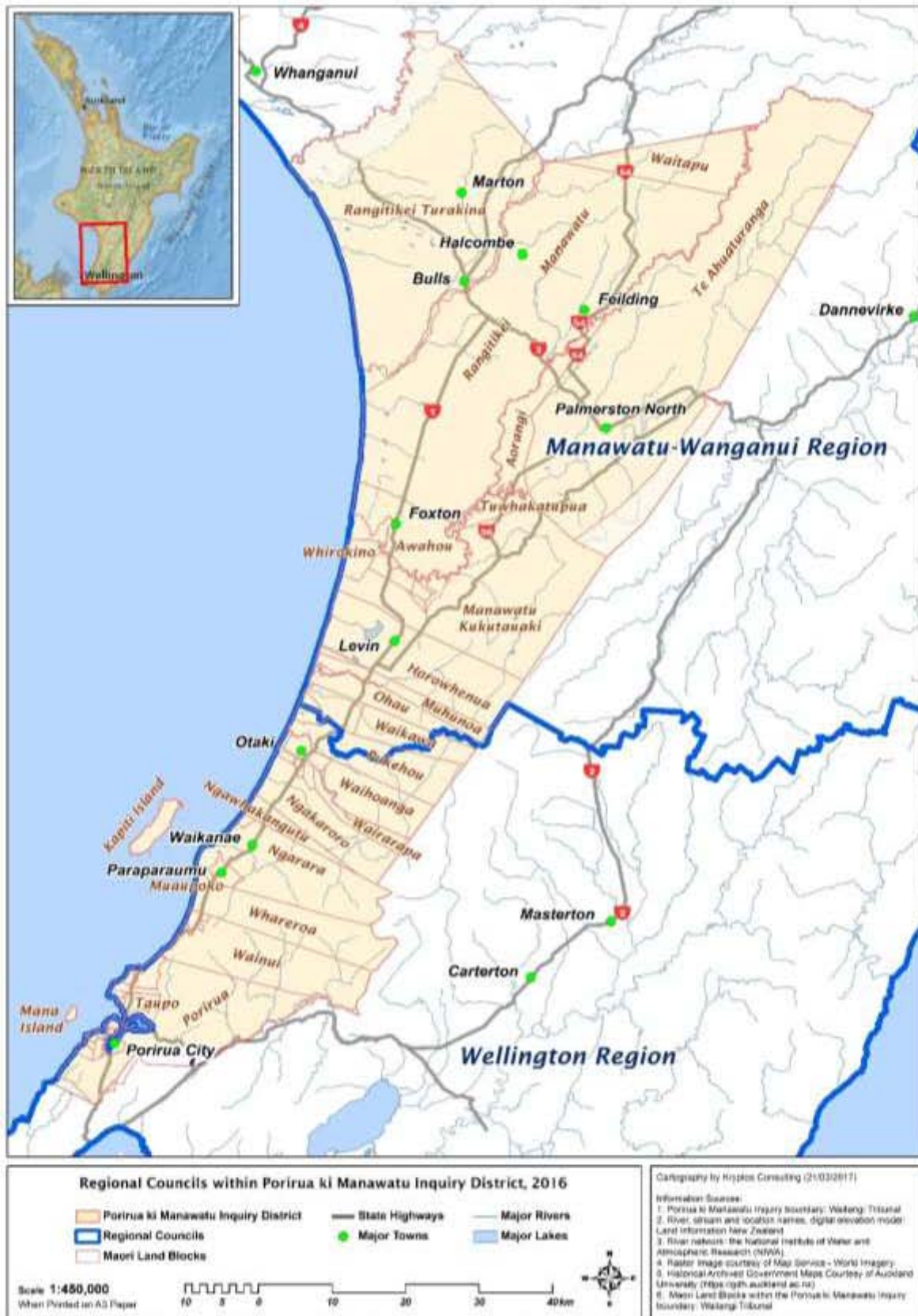
Map 3: Counties, Boroughs and City Councils within Porirua ki Manawatu Inquiry District, 1966



Map 4: District and City Councils within Porirua ki Manawatu Inquiry District, 2016



Map 5: Regional Councils within Porirua ki Manawatu Inquiry District, 2016



4. Manchester Road Board, 1876- 1903 and Oroua County Council, 1883-1989

4.1 Establishment and Membership of Oroua County Council

Oroua County Council was established in 1883. Like the Horowhenua County it was previously part of the Manawatu County Council. The County was situated inland between the Manawatu and Kairanga counties to the west with Feilding as the boundary between Oroua and Manawatu and what is now Waughs Road and the railway line forming the boundary line between the Oroua and the Kairanga County. The Pohangina and Kiwitea counties were to the east. Its northern boundary was the Rangitikei River and it extended to just south of the Manawatu and Pohangina Rivers. The Oroua River ran through the middle of the county. With regard to inquiry district Maori land, the Reu Reu and Tokorangi blocks were within its boundaries as well as small parts of the Aorangi and Toanui Ahuaturanga blocks. It was the Tokorangi and Reu Reu blocks of Maori land though that featured most prominently in county records.¹⁵⁹

Archives Central, who holds many of the County's records, states that when councilors stood to represent the Oroua County they 'did so on a platform of suspending the Counties Act [1876] within the Council's boundaries'. This had the effect of 'dispersing the powers of the Council to the Manchester, Kiwitea and Manawatu Road Boards and the Halcombe Town Board' and left the County Council 'effectively as a figure head with no staff or funds'. Therefore in 1884, the council 'ceased to have any staff or conduct any work', with all responsibilities devolved to the Road and Town Boards.¹⁶⁰

The Road Boards concerned, Manchester, Kiwitea and Manawatu and the Halcombe Town Board were established in 1876, 1882, 1872, and 1880 respectively. Discussed below is the Manchester Road Board as this was the Board that also dealt with Maori owners of the Reu

¹⁵⁹ Archives Central Website: <http://archivescentral.org.nz/> accessed September 2016. Archives Central is a 'fully-searchable catalogue of Council Archives, including a growing collection of digitised archives, sourced from participating New Zealand local authorities'. These local authorities include the Manawatu County Council which inherited the records of the Oroua County Council and Manchester Road Board.

¹⁶⁰ Ibid.

Reu and Tokorangi Blocks. (The Manawatu Road Board is discussed in the Manawatu County Council chapter).¹⁶¹

Archives Central notes too that by 1902, ‘the Manchester Road Board and the Halcombe Town Board were the only remaining Boards in Oroua County, the others having formed the Kiwitea, Pohangina and Kairanga Counties’. In 1902, the Manchester Road Board ‘petitioned for the Counties Act to be reinstated in what remained of the Oroua County’ and as a consequence in 1903, ‘the Road Board was dissolved and was used as the basis for reforming the Oroua County Council’.¹⁶²

Davies & Clevely, who wrote a centennial history of the Council, recorded that on 4 December 1903, ‘the members of the Manchester Road Board were constituted members of the first Oroua County Council’. They were Messrs GC Wheeler (chair), JH Vincent, OC Pleasants, T Rowling, HW Reid, E Boshier and MG Pearce. Mr Wheeler had previously been chair of the Manchester Road Board from 1888 to 1903 and continued as chair until 1911.¹⁶³

The names of councillors for the County from 1903 to 1980 are all European names which together with the lack of reference to any Maori councillors in this publication and the records examined for this report, suggests that there were not any. All councillors were men during this period apart from Tui Mayo (who was also Pakeha) who represented the Council from 1963.¹⁶⁴

The Oroua County Council operated until 1989 when it, along with other councils was merged to form the Manawatu District Council. The exception was the area of the Ashhurst Township which was ‘absorbed into the Palmerston North City Council’.¹⁶⁵

4.2 Establishment of Manchester Road Board

¹⁶¹ Ibid.

¹⁶² Ibid.

¹⁶³ DA Davies and RE Clevely, *Pioneering to Prosperity, 1874-1974, A Centennial History of the Manchester Block, Oroua County and the Feilding Borough*, Oroua County Council and Feilding Borough Council, 1981, p, 167.

¹⁶⁴ Ibid, pp. 148 & 168.

¹⁶⁵ Archives Central Website: <http://archivescentral.org.nz/> accessed September 2016.

In 1876, the Manchester Highway Board was established from the Manawatu Highways Board and in 1882 re-named the Manchester Road Board. At that time it came under the jurisdiction of the Manawatu County Council. In 1883, when Oroua County separated from the Manawatu County, jurisdiction for the Board came under the Oroua County Council. As noted above, in 1884 the Board ‘assumed the powers of a county when the operation of the Counties act was suspended within the boundaries of Oroua’.¹⁶⁶

Reports of the Manchester Road Board’s meetings in newspapers, particularly the *Feilding Star* for the late nineteenth century/early twentieth century have been viewed in order to examine the relationship between the Board and Maori who lived within the Board’s boundaries. For the most part, references to Maori are in relation to rates and roads through their land.

4.3 Road Board Rates

Details on the rating of Maori land by the Manchester Board are rather sketchy. What is known is that the Board received rates under the Crown and Native Lands Rating Act 1882, which, as described in the Legislative chapter, provided for the payment of rates on Maori land by the colonial treasurer until the Act was repealed in 1888. The Board received £245.15.3 for rates levied between 1882-1883 and 1883-1884. It also received £214.2.4 for rates on Maori Land from 23 July 1885 to 31 May 1886 and a further £163.15.9 for the period 1 June 1886 to 30 September 1887 (a total of £623.14.2). The Board was then advised that from 31 March 1888, the Crown would not pay any further rates on Maori land within the Board’s jurisdiction. The Board was also advised by Treasury that the circular regarding the non-payment of further rates on Maori land did not apply to ‘special rates on lands held as security’.¹⁶⁷

It is these ‘special rates on lands held as security’ that appear to account for subsequent payments to the Board by Treasury. In April 1889, the Board recorded the receipt of £64.1.19

¹⁶⁶ <http://thecommunityarchive.org.nz/node/219084/description>

¹⁶⁷ Payments to Local Bodies in inquiry district under Crown and Native Lands Rating Act, 1882, 23 July 1885 to 31 May 1886; AJHR, 1886, B15; Payments to Local Bodies in inquiry district under Crown and Native Lands Rating Act, 1882, 1 June 1886 to 30 September 1887, AJHR, 1887, Session II, B7; *Feilding Star*, Volume VIII, Issue 142, 7 June 1887, p. 2; *Feilding Star*, Volume IX, Issue 81, 7 February 1888, p. 3; *Manawatu Standard*, 20 April 1885, p. 3.

described as being rates on Native lands and in August 1890, the Board was advised by the Property Tax Department that a voucher for £89.5.3 being rates for Maori lands had been passed. There was also advice from the Commissioner of Property Tax that before rates on Maori lands for 1889-1890 could be passed, a list of properties was required. The following month, the Treasury informed the Board that the sums of £32.17.9, £56.7.6 and £1.8.9 had been placed to the credit of the Board for 'rates on native lands'.¹⁶⁸ In 1893, the Board received correspondence from the Land and Income Tax Department regarding special rates on Maori lands for the previous three years and asking for copies of the resolutions levying these rates.¹⁶⁹ In 1896, it was reported that Treasury had forwarded to the Board a voucher for £36.10.9 being rates on the Rangitikei native reserve and in 1903, it was reported that the Board would receive from the Land and Income Tax Department £28 for Maori rates covering the years 1900 to 1903.¹⁷⁰

It has not been possible to compile full information regarding these rates but a letter from the Valuation Department to the Oroua County Council (who had taken over from the Board) in 1906 provides some. The Valuation Department reminded the Council that the Crown only paid rates on 'loans raised during the currency of the Crown & Native Lands Rating Act 1882 which was repealed in 1888' (and not other rates it was trying to claim). It seems then that the Board had raised a loan during this period (1882 to 1888) and was able to claim rates on Maori land from the Crown presumably for the duration of the loan. Details of this particular loan have not been located. Other loans raised by the Board during this period, such as one for £3350 in 1888, were borrowed under the Loans to Local Bodies Act, 1886 which specifically exempted Crown land and Maori lands occupied by owners. This would have therefore precluded the receipt of rates under the 1882 Act in respect to this loan.¹⁷¹

The only information located as to what the Board spent the rates from Maori land on, was in February 1889 when the Board agreed that 'the native rates for 1888-89 be spent on the repairs of the Onepuhi bridge'. The Onepuhi Bridge (known by Maori as Onepuehu) had

¹⁶⁸ *Feilding Star*, Volume X, Issue 117, 9 April 1889, p. 2; *Feilding Star*, Volume XII, Issue 21, 5 August 1890, p. 3; *Feilding Star*, Volume XII, Issue 36, 9 September 1890, p. 3.

¹⁶⁹ *Feilding Star*, Volume XVIV, Issue 37, 9 May 1893, p. 2.

¹⁷⁰ *Feilding Star*, Volume XVII, Issue 180, 3 February 1896, p. 2; *Feilding Star*, Volume XXIV, Issue 284, 6 June 1903, p. 2.

¹⁷¹ *Feilding Star*, Volume X, Issue 24, 7 August 1888, p. 3; Valuation Department to Oroua County Council, 5 December 1906, MDC 00014: 4: 6 Valuation Department Oroua County Council 1906 – 1919, Archives Central Feilding. SW Document Bank, volume 3, p. 18.

been built around 1876 by the Wellington Provincial Government and in 1888 was damaged by floods. Repairs were made to it at this time in conjunction with the Rangitikei County Council. David Alexander states that the bridge had a ‘significant impact on the lives of Rangitikei River Maori’. It provided access across the Rangitikei River from the Reu Reu block and was also utilised by European settlers.¹⁷²

In April 1891, the Horowhenua County Council wrote to the Board calling attention to the ‘necessity of moving the Government to do something’ before Parliament met in regard to the rating of Maori land which it said, had not been paid since March 1890. The Board responded with a request to the Member of Parliament of the district to use his ‘best efforts to obtain the Rates on Native Lands’.¹⁷³

4.4 Road through the Tokorangi Reserve

The Manchester Road Board’s primary purpose was to build roads to support settlement and the little Maori land in the county was not immune to being utilised for this purpose. This did not always meet with the approval of Maori. One of the first references to roads being built through Maori land was in April 1883 when the Board discussed a request by a Mr McCrea to have a road laid off from Makino Road through the Tokorangi Native Reserve to his property. The Tokorangi Native Reserve was 211 acres in size and located near the Reu Reu block which ran adjacent to the Rangitikei River. It had been reserved from the Rangitikei-Manawatu purchase and a certificate of title issued in September 1887.¹⁷⁴

In December 1883, the Board received further petitions from ‘the ratepayers of Nos. 2 & 3 wards’ regarding a road being laid off through the Tokorangi Native Reserve. It was then resolved that the chair would write to the surveyor general and ‘explain the matter’ to him. The Board also received an engineer’s report on what was described as a government road through Tokorangi Native Reserve and several months later the subject was discussed again

¹⁷² *Feilding Star*, Volume X, Issue 90, 5 February 1889, p. 3. David Alexander, ‘Rangitikei River and its Tributaries Historical Report’, 2016, pp. 184, 188-189.

¹⁷³ *Feilding Star*, Volume XII, Issue 122, 7 April 1891, p. 2.

¹⁷⁴ *Feilding Star*, Volume III, Issue 89, 10 April 1883, p. 2; Robyn Anderson, Porirua ki Manawatu Inquiry: Historical Issues Scoping Report for Hapu and iwi Broadly associated with Ngati Raukawa, December 2015 (Wai 2200 #A128), pp. 85-88; Tokorangi Partition order, 1890, Tokorangi Block Order file, Porirua ki Manawatu Inquiry District Research Assistance Projects: Whanganui Maori Land Court Records (Block Order Files): Document Bank Project, volume 27, p. 182.

but no resolution passed. In 1884, the matter was further progressed with receipt of a letter from the surveyor general who was to be advised that the Board recommended that 'the road nearest through the Native Reserve be gazetted as the only practical one' ¹⁷⁵

By September 1888 (it has not been established what happened in the interim), the Board had agreed to a request from a Mr Macarthur, to have the survey through the 'Native Reserve' be completed so as to provide Mr McCrea with a road. The Board also agreed to pay the cost of the survey from 'Reid's line to Makino road'. ¹⁷⁶

It was at this time that Maori formally objected to the proposed road. In October 1888, a Maori deputation from Kakariki met with the Board about the road through to Mr McCrea's property. The *Feilding Star* reported that 'after the objections of the natives to the proposed road had been heard the matter was ordered to be left over' until the following meeting. At the 'following meeting', the Board appeared to have ignored Maori concerns and instead agreed that the chair take the necessary steps to have the road as laid off by the Board's surveyor, from the Makino road, through what was described as the 'Native and Half-caste reserves to Mr McRae's [sic] property, gazetted a public road under the Public Works Act'. The following month Eruini Paranihi and Winetti Te Tau [sic] met again with the Board regarding the road and were 'informed they would be kept fully advised as to what was being done under the Public Works Act'. ¹⁷⁷

At its meeting in September 1889, the Board considered correspondence from Ngati Waewae Maori at Reu Reu. They had received notice from the Board that a road was being made through Tokorangi and told the Board that they did not support the road. A similar letter was received from Mata, Te Ruwhi and Pipi Iwikau. Correspondence from WS Marshall and Tutu Totara indicated that Marshall was acting on behalf of Maori in respect to land being taken at Tokorangi. No comment was recorded from the Board at this meeting about the matter but the following month the Board received another letter from Maori 'at Reu Reu' about the matter. The letter gave permission to make the road through a portion of the reserve

¹⁷⁵ *Manawatu Standard*, 3 December 1883; *Feilding Star*, Volume IV, Issue 77, 1 December 1883, p. 3; *Feilding Star*, Volume V, Issue 14, 5 February 1884, p. 3; *Feilding Star*, Volume VI, Issue 37, 9 September 1884, p. 2.

¹⁷⁶ *Feilding Star*, Volume X, Issue 37, 4 September 1888, p. 3.

¹⁷⁷ *Feilding Star*, Volume X, Issue 52, 9 October 1888, p. 2; *Feilding Star*, Volume X, Issue 63, 6 November 1888; *Feilding Star*, 1 December 1888.

but objected to the road surveyed by the Board. The Board disagreed and decided that Maori would be advised that the Board could not 'alter [the] road line' and that the land would be taken by the Board under the Public Works Act. Further objection to roads traversing through both Te Reu Reu and Tokorangi Native Reserves were then received from Eruini Paranihi. Mr Paranihi also 'waited on the Board' using a Mr Ernest Wright as an interpreter to discuss the proposed road. It was noted that the purpose of the road was to give 'an outlet from Mr McCrea's property'. Mr Paranihi said that Maori objected to the road, 'unless it was carried through to Halcombe, in which case they would be willing to grant the land free for the purpose'. The chair, Mr Macarthur, then explained the Board view. He said:

... that it was a question for the Land Court to decide as to the amount the Board would have to pay for compensation, and it was not a question as to whether the Natives approved of the road going through their property or not. The land would be taken under the Public Works Act, which enabled public bodies to take land for roads by going through a certain procedure and paying whatever compensation was assessed by the Court. The Board had power to take the land for roads, and the owners had no means of preventing it, their only remedy being compensation. The Natives had no grievance against Europeans in the matter of existing roads, as they had the full benefit of the roads without paying anything towards them, and they had no status as ratepayers. If they thought they had any grievance their proper course was to bring it to court, with any claim they might have for compensation. The objections brought forward by the Natives were not strong enough to prevent the Board going on with the work if they decided to take a road through the Reserve. The Board, however, would probably be able to make some proposal which would obviate the matter coming before the Court for compensation'.¹⁷⁸

The chair and engineer also decided to make an inspection of the area so as to report on the matter.¹⁷⁹

Cleaver, in his Public Works report for the Taihape inquiry, notes that compensation was not provided for in the Public Works Act 1876 for takings of up to five percent of a block for

¹⁷⁸ *Feilding Star*, Volume XI, Issue 37, 10 September 1889, p. 3; *Feilding Star*, 8 October 1889; *Feilding Star*, Volume XI, Issue 73, 10 December 1889, p. 2.

¹⁷⁹ *Feilding Star*, Volume XI, Issue 73, 10 December 1889, p. 2.

roads but beyond that they were entitled. Compensation was also payable if the land taken comprised a pa, cultivation or urupa. There was also initially a time limit for free takings, which was later extended. This provision was 'continued for a number of years in later statutes, including the Public Works Acts 1882 and 1894'.¹⁸⁰

Given that the area to be taken comprised 2 acres 5 perches which was less than five percent of the total size of the block (211 acres), Maori were not entitled to compensation under this legislation though the subject was certainly discussed by the Board as if it was. In April 1890, (which was when the Board next discussed the road) it was agreed that steps should be taken to ascertain the compensation to be paid for taking a road through, what was described again as 'the Native and half-caste reserves at Tokorangi'. In the June meeting the engineer discussed the proposed route of the road. The Maori view was not mentioned. In the September, Mr McCrea, who owned the land to where the road was to provide access to, offered to pay one third of the cost of forming and metalling the road from his property to the Makino Road. This was agreed to by the Board who were also to advise him that it was the intention of the Board to complete the road during the summer. In the November, the Board agreed that tenders would be called for 'forming the road through the reserve to Mr McCrea's gate'. The road appears to have been formed around this period (a survey was said to be completed in 1890). Indeed, a sketch plan of the block circa 1891 shows a road line through the north-western portion of the block which comprised 2 acres 5 perches.¹⁸¹

In February 1907, after the Oroua County Council had taken over from the Board, the Council received advice from the Lands Department that the road said to have been surveyed through the western portion of the Tokorangi Native reserve in 1890 had actually never been taken or legalised.¹⁸²

¹⁸⁰ Philip Cleaver, 'Taking of Maori Land for Public Works in the Taihape District', Waitangi Tribunal, 2012, pp. 17, 19.

¹⁸¹ *Feilding Star*, Volume XI, Issue 122, 8 April 1890, p. 2; *Feilding Star*, Volume XI, Issue 149, 10 June 1890, p. 3; *Feilding Star*, Volume XII, Issue 36, 9 September 1890, p. 3; *Feilding Star*, Volume XII, Issue 59, 4 November 1890, p. 3; *Manawatu Standard*, Volume XLI, Issue 8199, 2 February 1907, p. 2; Sketch of Tokorangi Reserve, circa 1891, ADXS LS-W1 133 5412 Tokorangi Number 1 and 2, 1891, Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 83.

¹⁸² *Manawatu Standard*, Volume XLI, Issue 8199, 2 February 1907, p. 5.

This would suggest too that compensation had not been discussed further. It has not established from files relating to Tokorangi held at Archives New Zealand or Maori Land Court minute books for the period, when the road was formally taken and legalised.¹⁸³

Also of note is that while Mr McCrea received access to his land, it is evident from 2016 Maori Land Online images that no formed access was ever provided for Tokorangi 1B1 which was partitioned in 1926. This is one of just two portions of the Tokorangi block still in Maori ownership. (It is also the largest of these two portions at almost 60 acres (24.0952 ha) in size with 64 owners. Tokorangi 1A, the other portion is 3.1641 ha in size).

4.5 The Board and Early Roads through the Reu Reu block

The Board, and later the Council, also facilitated the building of a number of roads through the other Maori owned block in the county – the Reu Reu block. The Reu Reu block was originally said to comprise 4510 acres in total and was also one of the reserves from the Rangitikei Manawatu block purchase. The block skirts the eastern side of the Rangitikei River with Halcombe near its most southern point. It does not appear that title was formally awarded to Maori until 1896 when it was partitioned into three parts: Reu Reu No 1 (2546 acres, 229 owners), Reu Reu No 2 (1033 acres, 97 owners) and Reu Reu No 3 (517 acres, 97 owners) which totalled 4096 acres. Reu Reu No 3 was located in the north of the block, Reu Reu No 2 in the south and Reu Reu No 1 in the middle. By the time the block was initially partitioned however, roads had already been built and some legalised.¹⁸⁴

A cadastral map in a Lands and Survey file circa 1892 does not show any named or legal roads through the block. Formed and legal roads to the block were Gillett's Road in the south (near Halcombe) and Makino Road further north. In addition, the railway line went through the very southern end of the block which met with Kakariki Bridge which went over the Rangitikei River. Also shown on the map are what appears to be tracks through the block.

¹⁸³ Files consulted included: ADXS LS-W1 133 5412 Tokorangi Number 1 and 2, 1891; AATC 5114 W3457/215 14/182 Tokorangi Road Oroua County, 1959-1961; AEDK 18747 MA-WANGW2140/21 Wh. 352 Tokorangi - 31 January 1881 to 23 April 1954, 1881-1954; AECW 18683 MA-MT1/13 1890/340 Native Reserves From: Judge Ward, Marton Date: 9 July 1890 Subject: Tokorangi Reserve. Has Public Trust Crown Grant hereof, 1890; Archives New Zealand, Wellington; Whanganui Minutes Books 55-60, 1907-1910.

¹⁸⁴ Robyn Anderson, Porirua ki Manawatu Inquiry: Historical Issues Scoping Report for Hapu and iwi Broadly associated with Ngati Raukawa, December 2015 (Wai 2200 #A128), pp. 85-88; Walghan Partners, 'Porirua ki Manawatu Inquiry District Research Programme: Block research Narratives, Draft', research report commissioned by the Crown Forestry Rental Trust, 1 May 2017, volume 3, pp. 238-263.

One linked with Gillett's Road through European land into the southern part of the block. Another went from Makino Road through various European land, around the southern area of Tokorangi and into the block to Onepuehu (the Onepuhi Bridge). There were also tracks further north.¹⁸⁵

These tracks are probably what Eruini Paranihi was objecting to in 1889 (together with the road through the Tokorangi block). They were also referred to by the Lands and Survey Department in 1894 (when the entire block was being surveyed).¹⁸⁶ In January 1901, the Board asked the Native Minister, James Carroll how to secure title over a road the Board had already 'made' through the Reu Reu block. The Board said that the road led to the Kakariki combined Railway and Traffic Bridge and went through the Reu Reu block. The Board had found that the land had not been through the Native Land Court (which was in fact incorrect – it had just not been extensively individualised) and that there were a 'great number of those interested that cannot be found if alive'. The Board's clerk said that it was 'therefore impossible to get their signature or consent'. He noted too that Mrs Miki Matawha [sic] had 'waited on the Board & stated that the land taken for the road had been taken out of her portion, and asked the Board to pay her £10 for the land taken'. He then asked what steps the Board should take to get legal title to the road or the piece of land taken.¹⁸⁷

The Under Secretary of the Native Department suggested on behalf of the Minister that the Board 'follow the course prescribed by the Public Works Act, 1894, with regard to the taking of Native Lands for roads or other works'.¹⁸⁸ As noted above, Cleaver, in his Public Works report for the Taihape inquiry, states that compensation was not provided for takings of up to five percent of a block under the 1894 Act.¹⁸⁹

¹⁸⁵ Cadastral map, circa 1890s, ADXS 19483 LS-W1/173 8125 Te Reu Reu Block, 1892-1893, Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 93.

¹⁸⁶ *Feilding Star*, Volume XXI, Issue 84, 7 October 1899, p. 2; Assistant Surveyor General, Wellington to GLR Scott, Surveyor, Palmerston North, 14 September 1894, ADXS LS-W1 42 1829 part 1 Reu Reu Block, 1884-1896, Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 85.

¹⁸⁷ Charles Bray, Clerk, Manchester Road Board, Feilding to James Carroll, Native Minister, 17 January 1901, ACGS 16211 J1 653 bb 1901/79 From: Manchester Road Board, Feilding Date: 5 February 1901 Subject: That they have taken a road through Te Reu Reu Native Reserve, and wish to be advised of proper steps to secure title, 1901, Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 73.

¹⁸⁸ Under Secretary, Native Department to Clerk, Manchester Road Board, Feilding, 8 February 1901, ACGS 16211 J1 653 bb 1901/79 From: Manchester Road Board, Feilding Date: 5 February 1901 Subject: That they have taken a road through Te Reu Reu Native Reserve, and wish to be advised of proper steps to secure title, 1901, Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 74.

¹⁸⁹ Cleaver, pp. 17, 19.

The report of Bassett Kay Research on the application of the Public Works Act in the inquiry district may confirm compensation details (this was not available in time for inclusion in this report).

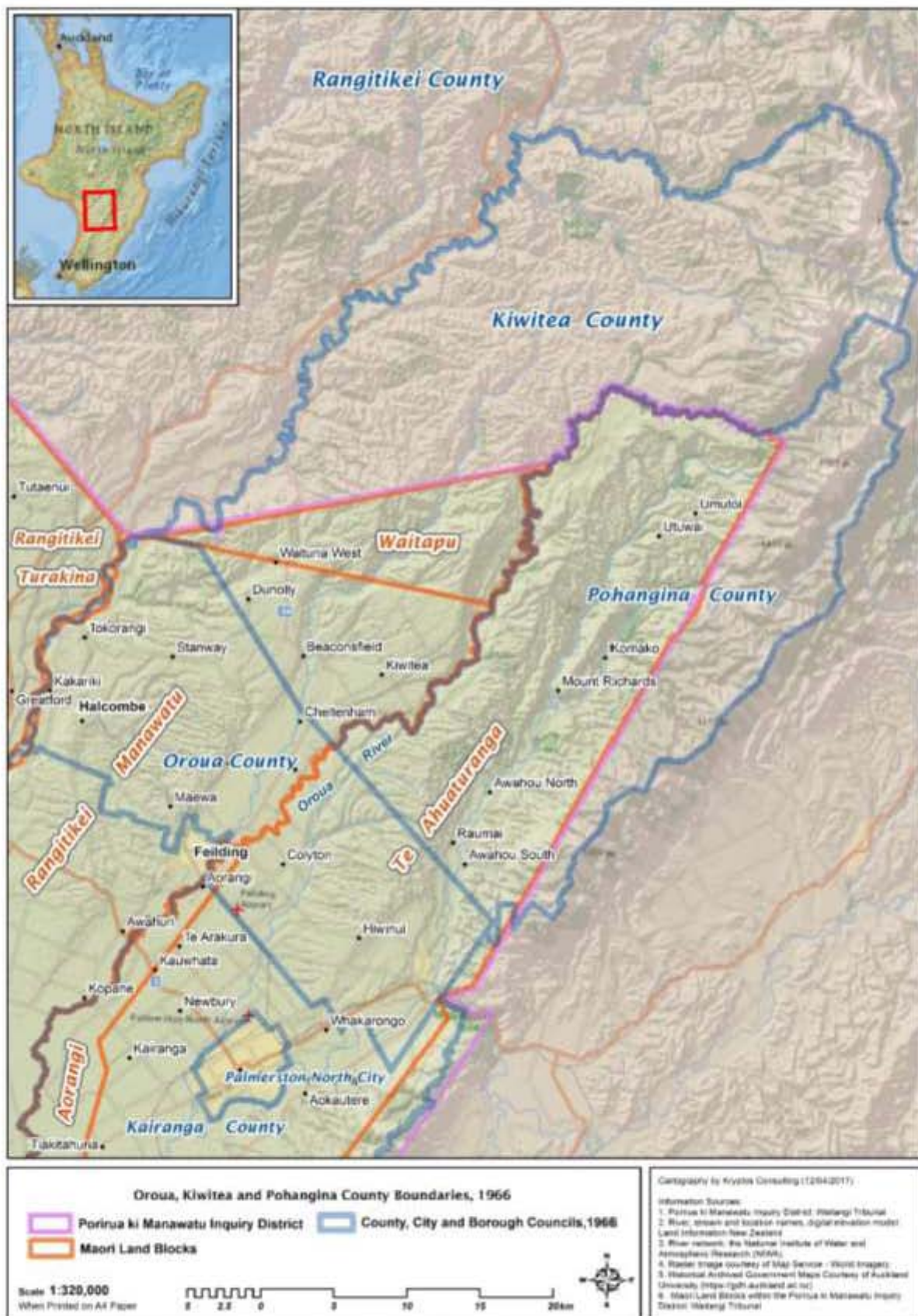
In November 1904, a letter was received by the Council from a JG Wilson who asked that the road closed by Maori fences adjacent to a Mr Pryce's land be opened. The council agreed that a survey would be taken and the road opened. Although it would appear that the roads being discussed were on Maori land and that closing the road with fences indicated an unwillingness to have the road made accessible to all, there is no mention of any consultation with Maori.¹⁹⁰

In 1907, concern was expressed by the Council regarding the legality of all existing roads through the Reu Reu block so it asked the Lands and Survey Department for a search to be made in case there were other roads through Maori land that had not been legalised. They particularly asked for the Kakariki Road besides the railway at Rangitikei to be checked. In February 1907, the council received advice from the Lands Department that roads in the Reu Reu block and the road at Kakariki were legal.¹⁹¹

¹⁹⁰ *Feilding Star*, Volume XXVI, Issue 121, 12 November 1904, p. 2.

¹⁹¹ *Manawatu Standard*, Volume XLI, Issue 8199, 2 February 1907, p. 5; Chairman, Oroua County Council to Surveyor General, Department of Lands & Survey, 22 December 1906, ACGT 18190 LS1/1576 16/890 Roads – Reu Reu Number 2A2 Block, 1901-1931, Archives New Zealand, Wellington. Document Bank, volume 2, p. 77-79.

Map 6: Oroua, Kiwitea and Pohangina County Boundaries, 1966



4.6 The Council and Roads through the Reu Reu block, 1905-1931

As noted above, the Oroua County Council took over from the Manchester Road Board at the end of 1903. One of the roads that the Oroua County Council instigated was through the Reu Reu block which was completed in conjunction with the Lands and Survey Department. The road was intended to traverse from the bottom of the block to the top.

In February 1905, the Council considered a petition received from settlers in the Reu Reu block asking that a new road be laid out in the vicinity. The petition was agreed to by the Council.¹⁹²

Several months later, a deputation of 12 Maori (who were not named) attended a Council meeting regarding roads through the Reu Reu block. The newspaper report of the meeting stated that they wanted to see the plans of the road and ‘settle any dispute that could arise as to the existence of roads’ through Maori lands. This suggests that Maori were willing to discuss the possibility of roads through the block though it is not clear whether they were prepared to have them taken under the Public Works Act for no compensation. It was also noted that the roads were not ‘fenced up’ suggesting that these roads were not blocked by Maori fencing. It was reported by the *Manawatu Standard* that at the meeting nothing was done about the matter ‘pending the receipt of another plan from the government’.¹⁹³

The following month, in May 1905, the chief surveyor applied to the Surveyor General for a warrant from the Governor under section 92 of the Public Works Act 1894 authorising GNC Gillett, a surveyor for the council, to take land for roads in Reu Reu No 1, No 2 and No 3. A month later, the Surveyor General forwarded to the Council the Governor’s Warrant enabling GNC Gillet to ‘enter upon and take lands for roads out of Reu Reu NR together with forms of notices for owners’. The Council was advised too that roads should be taken for ‘public purposes’ which meant that more than one property had to be served by a road. In addition, that notices should be ‘served in time to enable appearance on the ground and that the warrant

¹⁹² *Feilding Star*, Volume XXVI, Issue 189, 4 February 1905, p. 3.

¹⁹³ *Manawatu Standard*, Volume XLI, Issue 8057, 8 April 1905, p. 3.

and duplicates of the notices served be returned with the plan for record as evidence of proper taking'. The Council was also forwarded a list of owners, and the notice forms.¹⁹⁴

Consultation with Maori took the form of the chair, Mr Wheeler, riding with GLR Scott, another surveyor to the portions of the roads concerned in December 1906. He said that he was accompanied by an interpreter and that 'the notices were duly given to the Natives'. Mr Scott was authorised by a Governor's warrant in April 1907, to take a road through the Reu Reu Native reserve (on the application of the Council).¹⁹⁵

In March 1907, the chief surveyor sent a letter to the Oroua County Council complaining about the actions of the Council's surveyor, Mr Gillett. The chief surveyor noted that at the request of the Council, a warrant had been issued in May 1905 for Mr Gillett to take certain roads in the Reu Reu block. He said that when Gillett prepared his plan in preparation for the roads being proclaimed public roads, a discrepancy in the dates was discovered, 'it being some three months earlier than the date of his warrant, and being therefore unauthorised'. He said that Mr Gillett 'now naively explains that he does not recollect having the warrant with him on the ground at all'. Also, that it was 'evident that his [Gillett's] actual survey was made before he had legal authority to do so, and that he did not trouble to make it formal as he should have done by a visit of "taking" to the ground on a day pre-arranged with the owners after his authorisation'. Further: 'The road therefore is not taken or legal, and your Council, having now Mr Scott authorised in the same manner who is more accustomed to these procedures, had better direct him to complete the formalities over the whole of the road your Council wishes to make public'.¹⁹⁶

What is evident from this letter is that not only did Gillett not show his warrant to the owners while surveying the land but he surveyed it prior to being legally allowed to do so. His illegal survey prior to May 1905 may well have been what prompted the group of 12 Maori to come

¹⁹⁴ Chief Surveyor to Surveyor General, Lands & Survey Department, 1 May 1905, ACGT 18190 LS1/1576 16/890 Roads – Reu Reu Number 2A2 Block, 1901-1931, Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 76; Surveyor General to Oroua County Council, 5 June 1905, MDC 00014: 3 :10 Reureu Block Oroua County Council. 1907 – 1909, Archives Central, Feilding. SW Document Bank, volume 3, p. 2.

¹⁹⁵ Chairman, Oroua County Council to Surveyor General, Lands & Survey Department, 22 December 1906, ACGT 18190 LS1/1576 16/890 Roads – Reu Reu Number 2A2 Block, 1901-1931, Archives New Zealand, Wellington. SW Document Bank, volume 2, pp. 77-79.

¹⁹⁶ Chief Surveyor, Department of Lands & Survey to Oroua County Council, 5 March 1907, MDC 00014: 3: 10 Reureu Block Oroua County Council. 1907 – 1909, Archives Central, Feilding. SW Document Bank, volume 3, p. 3.

to the Board meeting in April 1905 and ask what roads were being planned on their land. Their visit may also have been because Mr Gillett and later GLR Scott, surveyed the road through Maori cultivations.

In October 1907, Mr Wheeler, chair of the Oroua County Council responded to the chief surveyor's reference in a previous letter about a protest from Maori owners of the Reu Reu block against the location of some parts of 'Mr Scots' Road'. Mr Wheeler said that it was the government surveyor who had laid off the road through the cultivations and alleged that they had only been planted recently with the hope of blocking the road. He wrote again the following month blaming again the government surveyor who surveyed the road 'many years ago' and said that it was not possible to alter this portion of the surveyed road as it would entail 'great expense'. He described the response from Maori as 'agitation ... merely worked up for purposes of obstruction'. About a week later he wrote again elaborating further on the matter. He was again scathing of the Maori response stating that Maori used the county roads and bridges (especially the Onepuhi Bridge) and asserted they paid no rates. Also, that the 'obstruction' had arisen just as Maori were 'now ... required to give [sic] some land to provide a thoroughfare through their reserve'. He said that 'one Maori wanted a road taken here, while another wishes it a chain over there', and that objections could 'soon be found, if wanted'.¹⁹⁷

Messrs Gillett and Scott's surveys also proved problematic to the Lands and Survey Department. The chief surveyor advised the Council on 7 January 1908 that he had 'gone carefully' into the matter and that he 'need hardly 'premise' that he was 'disposed to assist' the Council as far as he could in 'endeavouring to obtain connection by road in the public interest'. There were, however, two points which appeared to 'take any choice out of ... [his] hands'. He said that from the Council's letter, objections raised and from his Inspector's report that there were plantations on the road-line surveyed by Mr Scott that made his 'taking under simple warrant void' and which required a special order in council for their taking. The Surveyor noted that Mr Scott had declared on his plan that there were no such cultivations on the road-line and therefore he would require an explanation from him regarding this discrepancy. The second issue was that the Act required that wherever a road lay along the

¹⁹⁷ G Wheeler, Oroua County Council to Chief Surveyor, Department of Lands and Survey, 25 October 1907 and 18 November 1907, ADXS LS-W1 43 1829, part 3, Reu Reu Block, 1901-1909, Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 86-88, 90-91.

boundary of European and Maori land, that it should be taken 'equally from both if the ground allows it'. He said that that part of the road outside Reu Reu up to Mr Pryce's gate was Crown land, and not taken from any European owner so it appeared to him that there was 'no choice but to take the rest of it along this boundary, equally on each side'. Further:

This would no doubt entail compensation for some 6 acres of land to be taken from European as against some 60 acres to be taken from the Natives for nothing. This disproportion should surely balance your contention to which I grant some weight that Natives use the public roads without paying rates, and might therefore help with land. If this long road connection is of real public use, as it certainly appears to be, the compensation for 6 acres can surely be compassed by your Council, for the gift [sic] of the remaining 60 acres can only be obtained for some few years yet; after that, the right will expire, and the whole will have to be paid for'.¹⁹⁸

This referred to the time limit of 15 years specified in Public Works legislation (including the Acts of 1905 and 1908) whereby up to five percent of a block of Maori land could be taken for roads for no compensation. The 15 years was from the time that the land was either Crown granted or title had been investigated by the Native Land Court. It is also of note that the surveyor not only justified the proposed taking by arguing that Maori did not pay rates though used public roads, but also defined the compulsory taking of Maori land as a 'gift'.¹⁹⁹

The following month the chair was advised by the chief surveyor that he had asked Mr Scott for an explanation regarding the taking of the Reu Reu road through 'Native plantations and orchard' and why he did not report and show them on the plan. Mr Scott had replied that 'although he took the road under warrant', the portion of the road that passed 'through the orchard and cultivations was surveyed by Mr Gillett and that he only went over the road as surveyed by him'. Mr Scott also blamed Mr Gillett who he said 'should in the first place' have called his attention to the matter though 'no doubt' he was also 'at fault' in not drawing attention to the matter to the chief surveyor.²⁰⁰

¹⁹⁸ Chief Surveyor to Chairman, Oroua County Council, 7 January 1908, MDC 00014: 3: 10 Reureu Block Oroua County Council, 1907 – 1909, Archives Central, Feilding. SW Document Bank, volume 3, pp. 4-5.

¹⁹⁹ Cathy Marr, 'Public Works Takings of Maori Land, 1840-1981', Rangahaua Whanui National Theme G, Waitangi Tribunal, May 1997, pp. 69-71.

²⁰⁰ Chief Surveyor to Chairman, Oroua County Council, 4 February 1908, MDC 00014: 3: 10 Reureu Block Oroua County Council, 1907 – 1909, Archives Central, Feilding. SW Document Bank, volume 3, p. 6.

In October 1909, Mr Scott wrote to the chair of the Oroua County Council. He said that he had just received a report from Mr Mountfort as to the existence of a cultivation along the Reu Reu Road northwards of the Makino Road. He found too that at one point north of the Waituna Creek the road took in some part of the Pa and cultivation and did so when it was originally laid out by Mr Gillet. This part, he said, would require an order in council (signed by the Governor) to validate the taking which he would apply for shortly. He noted that the chair intended to 'drop the taking of the road southwards of the Makino road' and said that the remainder of the roads as surveyed by Gillett and taken by Scott could stand. He asked the chair if they were going to make certain deviations from the line as presently surveyed. If so, then the chair had 'better instruct Mr Scott to survey them and also to survey the Waituna branch road' which, he understood the chair also wanted taken.²⁰¹

Over a year later, in November 1909, the chief surveyor reported to the Secretary for Lands that some time previously, on the application of the Oroua County Council, GLR Scott was authorised by a Governor's warrant to take a road through the Reu Reu Native reserve and this had been done on 10 April 1907. He noted that on the line of the road taken, there were fences which probably fell under the heading of 'cultivations' or 'pa' in the Act and 'for taking a road through which an order in council is necessary'. He said that he had the road inspected on the ground and the improvements inspected by Mr Mountford. He said that the actual value of the fences was about £37.10.0 and the cost of moving them back between £8 and £14. Further:

The crops shown have been put in since the taking and issue of notices for the road and need not be taken into account. Mr Mountford also states that all the Natives he saw seemed anxious to have the road and have it formed.²⁰²

He asked that matters be put in train to obtain an order in council over Reu Reu No 1 and also noted that if compensation was 'necessary', the local body would be liable.²⁰³

²⁰¹ Chief Surveyor to Chairman, Oroua County Council, 27 October 1909, MDC 00014: 3: 10 Reureu Block Oroua County Council, 1907 – 1909, Archives Central, Feilding. SW Document Bank, volume 3, pp. 7-8.

²⁰² Chief Surveyor, Department of Lands and Survey, 15 November 1909, ACGT 18190 LS1/1576 16/890 Roads – Reu Reu Number 2A2 Block, 1901-1931, Archives New Zealand, Wellington. SW Document Bank, Volume 2, p. 80.

²⁰³ Ibid.

The foregoing discussion related to Public Works legislation, which prescribed that land being taken for roads which traversed 'pa, village or cultivation or any buildings, gardens, orchards, plantations or any burial or ornamental grounds' required the consent of the Governor. The order in council was duly prepared which stated that the Governor agreed to the taking and laying off of a road through Reu Reu which, it was noted, contained the above 'pa, village or cultivation'.²⁰⁴

It would appear then, that instead of re-routing the road line so it did not go through Maori cultivations, legislation was utilised so that it could.

In October 1910, the Council chair reported that the Reu Reu road had 'at last' been declared a public road. He said that for 'some years' there had been 'trouble' with Maori regarding the dedication of the road. The Council, he said, intended to proceed to have the road formed but as a Maori had planted a garden right across it there would 'probably be more trouble'. Also at the meeting the Engineer was instructed to commence the formation of the Reu Reu road at its junction with the Makino road and that notice be sent to those persons who had built fences across the road to remove them.²⁰⁵

Notice was also given on 8 September 1910, under section 93 of the Public Works Act 1908 that land had been taken for the laying off of roads in Reu Reu No's 1, 2 and 3. The amount of land totalled 65 acres 2 roods 30.5 perches.²⁰⁶

In January 1911, the engineer reported that a start had been made at clearing the road through the Reu Reu Native Reserve but that Maori had stopped the work. He did, however, intend to resume work the following week.²⁰⁷ In March 1911, Mr Harding, the county engineer, advised the Council that the work of clearing the road-line through the 'Reu reu native

²⁰⁴ Marr, p. 70; Granting to land being taken for a road through Native land, 2 December 1909, ACGT 18190 LS 1 1576 16/890 Roads – Reu Reu Number 2A2 Block, 1901-1931, Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 81.

²⁰⁵ *Manawatu Standard*, Volume XLI, Issue 9333, 6 October 1910, p. 2.

²⁰⁶ *New Zealand Gazette*, 8 September 1910.

²⁰⁷ *Manawatu Standard*, Volume XLI, Issue 9415, 14 January 1911, p. 6.

reserve' from the Makino Road to Waituna creek has been completed and formation work could be begun with as soon as desirable.²⁰⁸

Further issues arose regarding roads through the Reu Reu block in the 1920s but time constraints prevent the further examination of this.

It is also of note that there was a request from Taite Te Tomo in 1933 for a road to his land at Kakariki (in the Reu Reu block – the appellation was not given) but it was refused as according to the Public Works Department, who had asked the Oroua County about the matter, the section of the road in question was 'not a public road but only a private driveway so no action can be taken'.²⁰⁹

4.7 The Onepuhi Road and the Reu Reu Dairy Union

Maori also asked the Council for a road at Onepuhi to be re-built in 1913, but ended up building it themselves. In July 1913, it was recorded that a 'deputation' of Maori 'waited on the Council with a request that a roadway should be put through the Reu Reu block from Kakariki to Onepuhi (which was over the southern area of the block which linked the Kakariki and Onepuhi Bridges (known by Maori as Onepuehu) across the Rangitikei River). It was said that 30 or so years previously a legal road had been surveyed but the road had 'long since been closed'. It was decided that an inspection would be made by the engineer, a councillor, and the surveyor, and a special report submitted to a special meeting.²¹⁰

The *Fielding Star* gave some background to the request. The reporter said that Maori from the Onepuhi district had 'waited for a road out until hope deferred had made the heart sick' and that the residents beyond Tokorangi had been in a "sad fix" for want of a road to take out their stock and produce'. It was also reported that the previous road had been destroyed by flooding.²¹¹

²⁰⁸ *Feilding Star*, Volume V, Issue 1431, 3 March 1911, p. 2.3

²⁰⁹ Public Works Department to Taite te Tomo, 24 October 1933, AATC W3457 5114 Box 212 14/22 Reu Reu Road – Oroua County, 1927-1978, Archives New Zealand, Wellington. SW Document Bank, volume 2, pp. 35-36.

²¹⁰ *Manawatu Times*, Volume LXV, Issue 1964, 5 July 1913, p. 3.

²¹¹ *Feilding Star*, Volume XI, Issue 2378, 11 July 1914, p. 2.

At a meeting of the council held in early June 1914, Messrs Cockburn and Thoms who were likely to have been Pakeha lessees or had purchased parts of the block (alienation details available confirm only that George, Laura and Harriet Cockburn purchased Reu Reu 1 sections 28, 29, 30, 31 and 34B between 1916 and 1919) asked that the road through the Reu Reu block be formed to give them an ‘outlet’. The chair, Hugh Burrell, responded that the block of land where the road would go through was owned by Maori who had never paid any rates. Therefore, he did not ‘think it was fair to ask the Council to road their property’. He did, however, promise the deputation that the Council would look into the matter and see what could be done. A councillor, J Morrison, said that he understood that if the engineer laid out the road, Maori would ‘do the work as part payment for rates’. It was therefore decided to leave the matter to Mr Morrison and the engineer, Mr Harding.²¹²

The statement made by the chair is an example of the catch-22 situation Maori found themselves in. That is, if Maori paid no rates then they would receive no roads but if Maori received no roads, then why should they pay the rates levied?

On 2 June, Onepuhi Maori met at Pariki to discuss the road and the formation of a union. It was decided that the union would be known as the Reu Reu Dairy Farmers Union and its purpose was said to be not only for matters relating to dairying ‘but on any matters touching the affairs of the Onepuhi Natives or any other Natives if they think wise to interfere’. Tokoahu Hue, MG Gotty, D Arapere, M Karatea, Taonui Hue, H Paurini and TF Iwikau were elected to the committee with John Gotty appointed secretary and RH Te Huri and W Poni as president and treasurer respectively. The first topic discussed was the Reu Reu road where it was decided to ‘let the matter stand’ to see what effect a recent deputation to the Oroua County Council had (presumably that of Messrs Cockburn and Thoms).²¹³

Another meeting of the Union was held shortly after where it was decided (after a report of the Council had been read) to inform all Onepuhi Maori that if they waited for the Oroua County Council to ‘come to the rescue, [they would] perhaps ... have to wait a long time’. Therefore, Maori would ‘have to construct the said road on their own account, and that at once’. It was then agreed that the construction of the Reu Reu road would start on 8 June. In

²¹² *Feilding Star*, Volume XI, Issue 2374, 6 June 1914, Page 4; Walghan Partners, Draft, 1 May 2017, volume 3, pp. 238-263.

²¹³ *Feilding Star*, Volume XI, Issue 2378, 11 June 1914, p. 1.

addition, it was agreed that meetings of the Union be held monthly, that the Union would 'select a firm of auctioneers to carry on the Natives' business' and that 'a dairy expert be asked to come and inspect and report, and also to inform the Natives as to the best and latest methods to acquire successful dairying.' Of note is that while the Stout-Ngata Commission of 1909 had emphasised the need for training and development assistance for Maori, this had not yet occurred. The Commission also said that issues regarding the rating of Maori land would have largely been solved had more attention been paid to 'making Maori an efficient farmer and settler'.²¹⁴

Work was indeed started on the road on 8 June. It was also reported that Mr Morrison, when informed that Maori from Onepuhi had started to construct the Reu Reu road 'with a force of 22 strong', rang up the County's engineer to inspect the work, and also to lay out the road in a 'proper form'. It was reported too that Mr Harding, accompanied Mr Morrison, 'arrived on the scene ... while the work was in full swing'. After work was suspended for a short time, while the engineer explained and laid out the 'right grade for the road', work resumed again. Maori reportedly 'jokingly told Messrs Morrison and Harding that when the construction of the road was completed they had a good mind to tackle the construction of Onepuhi bridge!' (which was the bridge the Road Board said it would spend the Maori land rates of 1889 on).²¹⁵

The *Feilding Star* also reiterated at this time that following heavy floods washing the old road through the Reu Reu block away, all traffic was 'completely blocked' and consequently Maori were 'absolutely compelled to make a new road'. The newspaper said that when the engineer visited he said he would send a grading machine and expert to show them how to work it. It was evident that Pakeha settlers also supported the road with Edward Thoms sending two men to assist and contributing 'a sheep for the sustenance of the workers'. In addition, George Cockburn 'appeared on the scene with a bullock and a food contribution'.²¹⁶

²¹⁴ *Feilding Star*, Volume XI, Issue 2378, 11 June 1914, p. 1; Robert Stout & Apirana Ngata, 'Native Lands and Native Land Tenure', AJHR 1907, G1c, p. 15 and AJHR 1909, G1g, pp. 9-10; 'Apirana Ngata', <https://nzhistory.govt.nz/people/apirana-turupa-ngata> (Ministry for Culture and Heritage), updated 25 November 2015.

²¹⁵ *Feilding Star*, Volume XI, Issue 2378, 11 June 1914, p. 1

²¹⁶ *Feilding Star*, Volume XI, Issue 2379, 12 June 1914, p. 2.

The building of the road by Maori was also reported on 15 June 1914 by the *Wanganui Chronicle*. The article complimented Maori on their determination and ‘worthy spirit of pluck’ commented that it was rare for roadmaking to be ‘carried on in the Dominion under such unique conditions’.²¹⁷

On 7 July 1914, the *Feilding Star* elaborated further. The report said that when Messrs Morrison and Harding, had visited the Maori owners of the Reu Reu No 1 block they were informed by Mr Morrison that the Council could assist them, but only if the road was built in a different place. An offer of £70 in rates was also reportedly made by Maori but the Council refused to make the road (presumably where the owners wanted it). Reu Reu Maori then refused the Council’s assistance as they deemed the response to be ‘very unfriendly’ and were ‘forced to make the road on their own responsibility’. The newspaper also said that it was the collection of rates on the ‘Maori land untitled’ that was the ‘cause of the trouble’. The article concluded with the statement that the Maori owners ‘heartily’ thanked ‘all their pakeha friends who helped the roadmaking with money and food’. (The comment that the Reu Reu 1 block was ‘untitled’, was in fact incorrect. Reu Reu No 1 had been partitioned into 36 parts in December 1912. The partitions ranged from between 318 acres to two roods in size.)²¹⁸

At a meeting of the Council in July 1914, Mr Morrison spoke of the way in which Reu Reu Maori had ‘fulfilled their undertaking to themselves’ to make the road through the Reu Reu block. He said that he and the engineer had inspected the work recently, and had come to the conclusion that the road grader would assist them expedite the work. He proposed to them that they should have the grader, but they had ‘scorned the offer, preferring to do their own work’. He also said that the other landowners concerned were ‘helping by making donations of bullocks, etc’. The chair said he was very gratified at the outcome as he was rather dubious at first.²¹⁹

Also in July 1914, an article ‘contributed’ to the *Manawatu Times*, by an unnamed person, recorded that he and others had visited the road labour party engaged in making the road through the Reu Reu block. The writer reported that he and his party were ‘highly pleased

²¹⁷ *Wanganui Chronicle*, Issue 20104, 15 June 1914, p. 6.

²¹⁸ *Feilding Star*, Volume XI, Issue 2388, 7 July 1914, p. 2; Walghan Partners, Draft, 1 May 2017, volume 3, pp. 238-263.

²¹⁹ *Manawatu Standard*, Volume XLI, Issue 9845, 11 July 1914, p. 5.

with the vim and energy they [the workers] displayed in their labour and that the formation of the road completed had been done perfectly'. He said that they had taken 'great pains in grading and levelling, and in fact they being principally interested have done more work to the said road than any paid or disinterested party would have done' and that 'even the Council could not have done the work better'. The formation had been completed from Pine Bush to the Makino Road but that metalling would be an 'after consideration'. The writer said that it seemed that there was 'some trouble in collecting rates on this block, it not being clothed with titles'. Also, that as a result of the Council refusing to make the road when requested, Maori were 'absolutely forced to make it on their own responsibility'. The writer also reported that Maori were contemplating 'holding a social either at their meeting house or else at Stanway or Halcombe, for the purpose of raising funds to purchase culvert pipes for their road'. Further, as the purpose was 'a good one, to benefit not only themselves but also the public, they therefore hope and trust that the public will generously patronise the social.' It was also recorded that the Maori road party had 'jocularly remarked' that when they had completed the road through the Reu Reu block then they would repair the 'ruined Onepuhi Bridge For if they waited for the Council to do so they would have to wait until the Day of Judgement'.²²⁰

The writer also commented on the farming activity within the block stating that it was 'admirably suited for dairy farming'. Also, that the owners of the block had 'formed a union'. He said that there was between 40 and 60 cows on the block with sheds with 'up-to- date' appliances for dairying. Mr Nathan (of Joseph Nathan and Company, Limited) was described as a benefactor who had offered to supply Maori Reu Reu dairy farmers with the equivalent number of cows to those they owned and were milking. It was reported that Maori were very pleased with the offer.²²¹

Meanwhile several other meetings of Te Reu Reu Dairy Union were reported on by the *Feilding Star*. At the July meeting, Messrs Nathan and Dunford attended where Mr Nathan was thanked for his money contribution towards the road and his promise of a further sum on completion of the road. It was then agreed that Mr Nathan's cream cart would collect milk from all the union's 'milking places ... where it could'; that Mr Nathan would give the union the ruling market price of pounds for butter fat; that the union had the power to settle any

²²⁰ *Manawatu Standard*, Volume XLI, Issue 9857, 27 July 1914, p. 2.

²²¹ *Ibid.*

disputes of persons not members of the union; that the union attend a meeting at Makino; and that the union accepted Mr Nathan's offer to give members of the union as many milk cows as they were milking.²²²

Another meeting of the Reu Reu Dairy Union was held in August at Pariki. Present were Messrs Iwikau (chair), Gotty, Tokoahu, Hue, M. Karatea, H. Paurini, D. Arapere, and Taonui Hue. The following motions were agreed to:

From Tokoahu Hue and G. Gotty: In view of the movement to pay for butter-fat according to grade, that a Government dairy expert be asked to come and give information re grading of butter-fat, etc., because the testing of the cream as one of the methods to ascertain whether certain cream ought to be first or second grade is not satisfactory. From Tokoahu Hue and G. Gotty: That a Babcock tester be purchased.

From Tokoahue and D. Arapere: That Mr H. Iwikau be requested to look after the testing machine, and for him to acquire the knowledge of testing. From G. Gotty and Tokoahu Hue: That all pigs in the Onepuhi district be ringed [a nose ring that prevents the pig rooting]²²³

This is the last report on the Reu Reu Dairy Union meeting located from the *Fielding Star* though it is apparent it did continue for some time afterwards. In 1916, the *Feilding Star* congratulated members of the Reu Reu Dairy Union for their 'energy, industry, and stability which has met with the success it deserves'. The article said that on 'strolling through' the Reu Reu block, 'cultivations of lucerne, thousand-headed kale and Indian maize, and milk producing vegetation' were observed as well as 'good milking sheds and all the essentials requisite for dairying purposes'. Reu Reu Maori informed the reporter that they wanted to thank Mr Nathan (who was described as a 'true kaiwhakaora – benefactor') as well as his managers Messrs Murray and Dunford for their kindness.²²⁴

4.8 Roads Summary

²²² *Feilding Star*, Volume XI, Issue 2388, 7 July 1914, p. 4.

²²³ *Feilding Star*, Volume XI, Issue 2412, 7 August 1914, p. 1A

²²⁴ *Feilding Star*, Volume XII, Issue 3126, 23 December 1916, p. 3.

In the late nineteenth and early twentieth century, the relationship between the Board and then the Council with Maori was difficult due to the imposition of Board and Council wants in relation to roads taking precedence over Maori needs. The Board and Council were at an advantage as they were able to utilise legislation like the Public Works Act to impose their views.

Maori protests about the road through the Tokorangi Reserve in the 1880s were dismissed by the chair of the Board who stated that it did not matter that Maori did not agree with the road as the land was being taken under the Public Works Act. He said that Maori did not have the power to prevent it and that their only recourse was compensation which would be assessed by the Native Land Court (although there is no evidence this was payable and, if it was, if it was ever paid).

Maori protests about the road through the Reu Reu block were also dismissed by the Council who alleged that Maori were being deliberately obstructive. The Council said that the Maori response was not warranted claiming that Maori paid no rates but still utilised Council roads. The Council was adamant that it did not matter that the road had been surveyed through cultivations and an old Pa site as it asserted that Maori had planted the cultivations after the roads had been surveyed. Legislation was also available to the Council that allowed its actions.

The Council's refusal to provide the road that Reu Reu Maori wanted in 1914, was justified by the Council on a claim that Maori did not pay rates. That Maori decided to build the road themselves demonstrates their desire to provide what they needed (as opposed to what the Council wanted) despite the Council being the agency responsible for providing such roading services. The establishment of the Reu Reu Dairy Union was a Maori response to the Council's refusal to assist with building the road at Onepuhi. It was also to assist Maori with their dairy farms. It is of note that it was not the government or the Council who assisted Maori. Instead they were supported in the building of the road and with the operation of their dairy farms by local Pakeha settlers and businessmen particularly a Mr Nathan who provided practical advice and help in the form of more cows and the means to collect milk from Maori farms.

4.9 Oroua County Council and Rates, 1905-1927

Roads were not the only issue where there were difficulties between Maori and the Council. While it is not clear whether the Manchester Road Board actively pursued rates on Maori land (though it certainly clear that the Board received them under the 1882 Act), it is evident that the Oroua County Council did. This was particularly in relation to the Reu Reu block which as noted above was one of the few blocks of Maori land in the Oroua county of a reasonable size.²²⁵

When the Oroua County took over from the Board in late 1903, the Reu Reu block had only been partitioned into three parts by the Native Land Court. This meant that many owners held undivided interests in the 4000-acre block and there was not one particular person to levy rates against. In 1905, Reu Reu No 2 and No 3 were partitioned. Extensive partitioning did not occur within the largest block - Reu Reu No 1 block (2546 acres) until 1912. Indeed, legislation was enacted (section 6(c) of the Native Land Claims Adjustment Act 1910) whereby the Native Land Court was given jurisdiction to inquire into the list of owners of Reu Reu No 1 following a petition of Te Rangihopu Henare and others. Some partitioning occurred in 1913 and 1914 and there was another tranche of partitioning across Reu Reu No 1 between 1917 and 1919. The extent to which the Reu Reu block was being farmed by Maori at this time has not been established though it is known that some parts were. The extent to which these areas were also revenue producing is also not known. Certainly, this was not something that the council appeared to ever investigate nor the circumstances of the owners. In addition, no evidence has been located regarding any consultation involving Maori and the council about the payment of rates (as opposed to discussions arising from the levying of rates). The council's view appears to be that it should pursue rates on all Maori land and utilise all avenues available to it. For much of its life the Council used its solicitors to collect rates. The solicitors were Sandilands & Elliot, later Haggitt & Elliott then Haggitt, Elliott & Fawcett. They utilised the Magistrates' Court to secure judgements, registered liens against large areas of the Reu Reu block and obtained charging and receivership orders from the Maori Land Court.

²²⁵ Robyn Anderson, Porirua ki Manawatu Inquiry: Historical Issues Scoping Report for Hapu and iwi Broadly associated with Ngati Raukawa, December 2015 (Wai 2200 #A128), pp. 85-88.

4.10 The Rating of Reu Reu 2J3

The Council first began to pursue rates on Maori land circa 1909. Shortly after, the Rating Act 1910 was introduced which, as described in the legislative chapter, provided for the rating of all Maori land with few exceptions.

The partitioning of Reu Reu No 2 coincided with it being rated. One of the first instances of rating located was that concerning Hamapiri Tarikawa, who had with three others been awarded the Reu Reu 2J3 block in 1909. It comprised just under 52 acres. In October 1909, solicitors Field, Luckie, and Toogood, advised that they had been consulted by him in reference to rates demanded by the Council. The solicitors said that they were ‘under the impression that he was not liable to such a large amount, as several Maori held undivided interests in the Te Reu Reu block. The solicitors asked on what area the Council based its calculations and when they would be able to tell them from the Native Land Court records exactly what was owed. The response has not been located but it does raise the question of whether the rates were properly levied.’²²⁶

4.11 Court Judgements

At a meeting held in May 1912, the Council announced that further steps would be taken to collect rates on the Reu Reu block.²²⁷ This involved Maori being referred to the County solicitors who then took them to Court for non-payment of rates. At a meeting of the council held in May 1913, the county clerk prepared a statement showing how all outstanding rates were accounted for. It was recorded that uncollected rates on Maori lands totalled £74.8.3 and that for European land it totalled £58.16.10. It was also noted that with the exception of several ‘very small accounts’, all accounts for both rates on Maori and European lands had been placed in the hands of the council’s solicitors for collection.²²⁸

In July 1913, it was reported that a deputation of Maori had met with the Oroua County Council and ‘entered a mild protest against’ an unnamed Maori being ‘sued for a large amount of rates’. There were, according to the deputation, 232 Maori interested in this piece

²²⁶ *Feilding Star*, Volume IV, Issue 1004, 8 October 1909, p. 3.

²²⁷ *Manawatu Standard*, Volume XLI, Issue 9231, 4 May 1912, p. 7.

²²⁸ *Feilding Star*, Volume VIII, Issue 2064, 3 May 1913, p. 4.

of land - 'their holdings ranged from three-quarters of an acre to 50 acres'. This most likely referred to Reu Reu No 1 which, as noted above, had only just been partitioned (in December 1912).²²⁹ Similarly, a year later, the council considered a letter from Wirihana Karatea regarding rates on Reu Reu No 1. The letter said that he was not responsible for all the rates as there were 233 owners of the block. While no response to the letter has been located a letter from the council's solicitors, Sandilands & Elliott, stated that the judgement obtained against Wirihana Karatea operated as a 'separate judgement against each of the owners for his [or her] own proportion of the total rate together with the like proportion of the costs of the action'. The solicitors suggested that as this process of recovering judgement separately would be an expensive one, a better method of collection was to obtain an order against the land (a lien). The solicitors also understood that it had been suggested that no rates should be charged against the Reu Reu block on the grounds that title had not been investigated. The solicitors said that this objection could be 'disposed of by the fact that the title has been investigated and the Rating Act provides that where Native land has been investigated rates are payable and recoverable in terms of the Act'.²³⁰

Of note was that £2.13.0 in respect to the rates owed by Wirihana Karatea were collected from him by Sandilands & Elliott on 6 October 1915.²³¹

In April 1916, Sandilands & Elliott referred to £277 of rates due on Maori lands 'for which judgement had been obtained'.²³² In February 1917, the same solicitors advised that they had obtained payment of £136.10.11 in respect to rates on the Reu Reu block. The solicitors had also charged the council £21.8.0 in fees (to which the Council 'expressed surprise and dismay' describing it as a 'disagreeable shock' though this was later explained by Sandilands & Elliott as the Council wrongly thinking that £218.7.0. was owed to the solicitors). In their letter to the Board, Sandilands & Elliott also noted that the £136.10.11 was on account of the arrears of rates on the Reu Reu block to 1 April 1915. Together with court costs the total owed amounted to £218.7.0. They said that the rates for the period 1 April 1915 to 31 March

²²⁹ *Manawatu Times*, Volume LXV, Issue 1964, 5 July 1913, p. 3.

²³⁰ *Manawatu Standard*, Volume XLI, Issue 9845, 11 July 1914, p. 6; Sandilands & Elliot, Barristers & Solicitors to Oroua County Council, circa 1913-1914, MDC 00014:3:15 Sandilands – Barristers & Solicitors, Oroua County Council, 1905-1922, Archives Central, Feilding. Note that only part of this letter is on this file; the first page is missing. SW Document Bank, volume 3, p. 12.

²³¹ Sandilands & Elliot, Barristers & Solicitors to Oroua County Council, 6 October 1915, MDC 00014:3:15 Sandilands – Barristers & Solicitors, Oroua County Council, 1905-1922, Archives Central, Feilding. SW Document Bank, volume 3, p. 13.

²³² *Manawatu Standard*, Volume XLI, Issue 10352, 22 April 1916, p. 7.

1916 were still outstanding. They advised too that when they issued a summons for this against Kereti te Matina [sp?] and Anikau Hakopa [sp?] the bailiff reported that Kereti could not be found and that the Anikau had died indicating that the valuation roll was not being kept up to date. They asked that the Oroua County Council apply to the Valuation Department for the names of the nominated owners or nominated occupiers as per section 7 of the Rating Act 1910 and point out the situation. On receipt of the information they could take ‘further proceedings’.²³³

The solicitors reported to the Council on at least a yearly basis on the outstanding rates it had collected. For instance, in 1925 they reported that £23 had been received by TT Watt ‘per Ngahina Rewai’ and £18.9.5 received in respect to Reu Reu No 1 23D 2B.²³⁴

4.12 Liens under the 1913 Act

As noted in the legislative chapter, section 14 of the Rating Amendment Act 1913 provided for liens to be registered against Maori land by the District Land Registrar in respect to non-payment of rates. It is apparent that the Oroua County Council also utilised this provision in respect to all of Reu Reu No 1 (2546 acres) and that these liens, just as with charging orders subsequently issued by the Native Land Court, stayed on the title to the land until such time as the land was alienated or a title clear of encumbrances such as liens was required.

On 9 May 1916, two rating liens were registered in respect to the whole of Reu Reu No 1 block. These were known as lien No 123 which was for £139.4.5 dated 4 August 1915 and lien No 124 for £79.2.7 dated 9 May 1912. It is not known over what period these rates were levied so it is not possible to confirm whether or not the liens were for the same financial year as the rates the Council received when it sued for the period to 1 April 1915 (discussed above). The total for both the liens (£218.6.12) was, however, an almost identical amount to

²³³ *Manawatu Times*, Volume XL, Issue 13598, 15 January 1917, p. 2; *Manawatu Times*, Volume XL, Issue 13682, 12 February 1917, p. 7; *Feilding Star*, Volume XIII, Issue 3165, 12 February 1917, p. 4; *Manawatu Times*, Volume XL, Issue 13683, 13 February 1917, p. 3; Sandilands & Elliot, Barristers & Solicitors, 8 February 1917, MDC 00014:3:15 Sandilands – Barristers & Solicitors, Oroua County Council, 1905-1922, Archives Central, Feilding. SW Document Bank, volume 3, p. 14.

²³⁴ Haggitt & Elliott, Statement of rates receiver, 6 February 1925, MDC 00015: 1: 19 Haggitt and Elliott Oroua County Council, 1924 – 1930, Archives Central, Feilding. SW Document Bank, volume 3, p. 20.

the £218.7.0 said to be owed by Maori in 1916 of which the solicitors had already received £136.10.11 in 1916.²³⁵

In 1923, county solicitors Haggitt & Elliott advised the county clerk that they had completed several discharges of rating liens in connection with Reu Reu No 1 totalling £70.10.1. Of note, the solicitors said, was that in each case rates had been collected for a period of seven years and that the Council was therefore ‘very fortunate in obtaining payment of rates which would otherwise have been statute barred’. The rates were in respect to Reu Reu No 1 section 6C (£8.0.5), section 5A (£17.12.11), sections 19A, 20B, 21A and 23D2A (£28.5.3) and sections 5B and 10 (£14.8.5). In addition to this the solicitors reported that discharges had been prepared in respect of Reu Reu No 1 section 40 containing 21 acres 1 rood 35 perches and that the rates in respect of which the lien was registered amounted to £6.13.1 and paid in 1921. Stamps to this value were affixed to the transfer by the stamp department (which would indicate that the block had been sold and the rates deducted from the purchase money or paid for by the purchaser). The other discharge prepared affected Reu Reu No 1 section 36 and it was noted that the rates had also been paid for the years mentioned in the lien.²³⁶

That the amounts were in respect to seven years of rates suggests that other liens apart from those of 1916 were registered against the block. This is supported by an undated letter from the Native Trustee (from the 1920s) to Haggitt & Elliott which said that a voucher was passed in favour of the solicitors in payment of outstanding rates on Reu Reu No 1 sections 14, 2B1 and 2B2 the previous June and that the solicitors had advised that they would take action to cancel what was described as a lien on the land. It had since been ascertained, the Native Trustee said, that liens 123 and 124, which he described as ‘old liens’ were ‘in addition to the liens ... lodged against the sections’ the previous year. (Unfortunately, as the letter is undated it has not been possible to establish when these liens were registered and correspondence files of the solicitors do not provide any more details).²³⁷

²³⁵ Registrar, Maori Land Court to Oroua County Council, 20 September 1956, MDC 00018: 3: 2 Maori Affairs Department (see also Aotea Maori Land Board) Oroua County Council, 1948 – 1956, Archives Central, Feilding, SW Document Bank, volume 3, p. 38.

²³⁶ Haggitt & Elliott, Barristers & Solicitors to Clerk, Oroua County Council, 12 October 1923; Haggitt & Elliott, Statement of rates paid, 12 October 1923, MDC 00015 : 1 : 19 Haggitt and Elliott Oroua County Council 1923 – 1930, Archives Central, Feilding, SW Document Bank, volume 3, p.

²³⁷ Native Trustee to Haggitt & Elliott, Barristers & Solicitors, undated [circa 1920s] MDC 00015: 1: 19 Haggitt and Elliott Oroua County Council, 1923 – 1930, Archives Central, Feilding, SW Document Bank, volume 3, p. 21.

The Council also received another payment of seven years of rates (£59.3.10) in 1925 in respect of Reu Reu No 1 section 15C.²³⁸

Forty years later, in 1955, Haggitt, Elliott & Fawcett forwarded to the Council a ‘memorandum of satisfaction of rating liens 123 and 124’ in respect of Reu Reu 1 section 22 (41 acres 3 roods 36 perches). The solicitors also noted that liens had been entered on the title in 1916 but that they only affected Reu Reu 1 and not Reu Reu 2. As well, in 1956, the Registrar of the Maori Land Court wrote to the county clerk, regarding Reu Reu 1 section 26A2 (11 acres 3 roods 27 perches). The Registrar noted that a letter from the Council of 14 August advised that the only outstanding rates on the block were for the years ending 31 March 1953 to 31 March 1957 inclusive. The Registrar had, however, been advised by the District Land Registrar that rating liens No 123 for £139.4.5 dated 4 August 1915 and No 124 for £79.2.7 dated 9 May 1912 affecting the whole of Reu Reu No 1 had been registered on 9 May 1916. The District Land Registrar had advised him that ‘numerous partial releases as to various subdivisions have been registered since that date’. Therefore, the Maori Land Court Registrar had prepared a release for execution by the Oroua County Council. The Registrar of the Maori Land Court asked that the release be executed and returned to him.²³⁹

The lien over the entire 2033 acre Reu Reu No 1 block demonstrates the way that the legislation allowed for blanket rating over a large area of land without any attempt to differentiate between land that was revenue producing or undeveloped; whether owners were in a position to pay; or to discuss the issue with Maori. The legislation also provided for the lien to be paid over 40 years after it was registered.

4.13 The Native Land Court and Rates on Crown Lands

The Council also tried to get the Native Land Court to assist with the collection of rates. In January 1914, the Maori Land Board at Whanganui confirmed to the Council that an amount

²³⁸ Haggitt & Elliott to Oroua County Council, 26 May 1925; Statement of rates paid, 25 May 1925, MDC 00015: 1: 19 Haggitt and Elliott Oroua County Council, 1923 – 1930, Archives Central, Feilding. SW Document Bank, volume 3, p. 22.

²³⁹ Hallett, Elliott & Fawcett to Oroua Council Council, 8 August 1955, MDC 00122 : 1 : 2 Solicitors - Haggitt, Elliott & Fawcett Oroua County Council 1954 – 1959. SW Document Bank, volume 3, p. 71; Registrar, Maori Land Court to Oroua County Council, 20 September 1956, MDC 00018: 3: 2 Maori Affairs Department (see also Aotea Maori Land Board) Oroua County Council, 1948 – 1956, Archives Central, Feilding. SW Document Bank, volume 3, p. 38.

of money had been paid to the Board (presumably from the proceeds of an alienation) for survey charges arising from the partition of the Reu Reu block. The Board said that the amount of costs had not yet been ascertained so was unable to state whether there would be sufficient money remaining for payment of 'back rates'. In response, the County decided it would make a claim for all rates against the block. This most likely refers to the sale of Reu Reu No 1 section 31 (25 acres) which was vested in trustees to be sold to provide a fund for payment of survey costs. The block was sold for £439.5.7. The President of the Board told the chief surveyor in August 1914 that the amount was 'not sufficient to liquidate the total cost of survey'. It was therefore unlikely that rates were paid by the Court to the County with Maori money intended for survey costs as the county had requested.²⁴⁰

It was also in 1914, when Maori at Reu Reu offered £70 rates so that the Council would rebuild the Onepuhi Road. As discussed in a previous section, the Council refused so Maori built the road themselves and the county did not receive the £70 offered.

A few years later, a council treasurer's report of 1918 recorded that rates totalling £7247.9.4 had been levied by the County and of that, £7196.1.0 collected. The outstanding amount comprised £149.8.0 of rates levied on Maori land and £81.19.6 on European land. The amount outstanding from Maori land comprised 2 percent of the total amount levied. This percentage either indicates that Maori land made up a very small portion of that levied and/or that Maori were paying rates.²⁴¹

The Council was also concerned about the non-payment of rates on Crown land. In April 1919, the Council received from the Minister of Lands acknowledgement of a letter sent to him by the Council protesting against the non-payment of rates by the Crown on land purchased for soldier settlement.²⁴²

4.14 Nominated Owners

²⁴⁰ *Manawatu Standard*, Volume XLI, Issue 9697, 10 January 1914, p. 2; President, Aotea District Maori Land Board to Chief Surveyor, District Survey Office, Wellington, 25 August 1914, ADXS 19483 LS-W1 43 1829, part 5, Reu Reu Block, 1912-1917, Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 89.

²⁴¹ *Feilding Star*, Volume XIC, Issue 3517, 15 April 1918, p. 3.

²⁴² *Feilding Star*, Volume XV, Issue 3753, 12 April 1919, p.1.

In April 1916, Sandilands and Elliot, the County solicitors, advised the Council that the Maori land in the Reu Reu block (No 1) had been individualised (further partitioned) and that the Council 'now had the power and facilities for collecting rates'. It was not until 1918, however, that the Registrar of the Maori Land Court supplied the names of the Maori owners of land in the Reu Reu block to the solicitors and May 1919 when the lists were prepared.²⁴³

The previous month, in April 1919, the county engineer reported to the Council that together with councillor Morrison, they had visited the Native Land Board at Whanganui and asked that the appointment of nominated owners for Reu Reu No 1 and Reu Reu No 3 blocks proceed. An application to this effect had been gazetted, he said, and they had been assured that the matter would be dealt with at the next sitting of the Court on 29 April.²⁴⁴

The following month the Council received from the Native Land Court advice that a list of nominated owners of subdivisions of Reu Reu had been prepared. In June, the Council was advised that its application for nominated owners for Reu Reu No's 1 and 3 blocks had been adjourned but would be dealt with at the present sitting of the Native Land Court. It was reported that arrangements had been made for the council to be represented. Unfortunately, no further details have been located in Native Land Court minute books and newspaper articles about this.²⁴⁵

4.15 Deductions from purchase price and rent

Rates were also deducted from the purchase price when various Reu Reu blocks were sold. A series of alienations of Reu Reu No 1 sections followed the block's partitioning. In 1919, solicitor's Currie & Jack (probably acting for the purchaser), asked the Oroua County Council for the amounts of rates owing on Reu Reu No 1 sections 34A (9 acres 2 roods 30 perches) and 34B (16 acres 2 roods 20 perches) which were being sold. While the reply is not on file, handwritten notations indicate that rates had been paid for 1916 and 1917 but rates of 12/6 and £1.1.8 were owed on the respective sections. Currie & Jack advised that they would send the rates as soon as they were notified of the amounts owing, in order to comply with

²⁴³ *Manawatu Standard*, Volume XLI, Issue 10342, 10 April 1916, p. 7; *Feilding Star*, Volume XIC, Issue 3517, 15 April 1918, p. 3. 10 May 1919, p. 1.

²⁴⁴ *Feilding Star*, Volume XV, Issue 3753, 12 April 1919, p.1.

²⁴⁵ *Manawatu Standard*, Volume XLIII, Issue 1531, 12 May 1919, p. 2; *Manawatu Standard*, Volume XLIII, Issue 1561, 16 June 1919, p. 7.

the requirements of the Ikaroa Maori Land Board which facilitated the transaction for the owners. It is likely that the rates were deducted from the purchase price unless the owner included the payment of rates as part of the purchase agreement.²⁴⁶

Rates were also settled prior to leases being formalised. Currie & Jack also asked the Oroua County Council for the amount of rates owed during the previous four years on Reu Reu No 1 section 2A (48 acres) and Reu Reu No 1 section 33 (154 acres 1 rood). It was noted that section 2A was leased to Kathleen Pryce for 21 years from 1 November 1917. Section 33 had been subdivided with 5 acres 1 rood 3 perches sold to Tu Te Akau of Reu Reu and the balance (33B) leased to Henry Hartley for 42 years from 20 December 1917. It was noted that the lessees would 'of course be liable for the rates from the date of their leases' inferring that the owners would be paying the outstanding rates from the rental monies.²⁴⁷

4.16 Charging orders, 1927

As noted in the legislative chapter, section 9 of the Native Land Rating Act 1924 which became section 108 of the Rating Act 1925 provided for the Native Land Court, later the Maori Land Court, to issue charging orders in respect of rates against Maori land. The Oroua County Council first used these provisions in September 1927. An application was made to the Native Land Court for two charging orders in respect to two Reu Reu blocks (No 1 section 2B1 and No 1 section 2B2 & No 1 section 14). Both applications were dismissed as rates had been paid.²⁴⁸

The Council tried again two months later. In December 1927, it successfully prosecuted 55 charging orders for unpaid rates from 1 April 1925 to 31 March 1927. All the charging orders were in respect to subdivisions of the Reu Reu 1 and 2 blocks. The minutes of the hearing simply stated that the county clerk of the Oroua County Council made a declaration that rates had been levied, demanded and remained unpaid. There was no discussion as to whether the block was revenue producing, whether a nominated owner had been identified (and, if so,

²⁴⁶ Currie & Jack, Barristers & Solicitors to Oroua County Council, 28 November 1919, MDC 00014: 3: 10 Reureu Block Oroua County Council. 1907 – 1909, Archives Central, Feilding. SW Document Bank, volume 3, p. 9; Walghan Partners, Draft, 1 May 2017, volume 3, pp. 238-263.

²⁴⁷ Currie & Jack, Barristers & Solicitors to Oroua County Council, 14 February 1918, MDC 00014: 3: 10 Reureu Block Oroua County Council. 1907 – 1909, Archives Central, Feilding. SW Document Bank, volume 3, p.10; Walghan Partners, Draft, 1 May 2017, volume 3, pp. 238-263.

²⁴⁸ Whanganui Minute Book 87, 15 September 1927, p. 108.

correctly identified), if the rates had been properly levied and the notice received by an owner or nominated owner, whether owners were trying to farm the land, whether owners were in a position to pay the rates or whether there were marae or urupa on the land. Charging orders were instead made for all 55 blocks as shown in the table below. These 55 blocks comprised a total of 1487 acres 17 perches which was 41.5 percent of the Reu Reu No 1 and 2 blocks. The total area of Reu Reu No 1 affected was 1218 acres 38 perches (48 percent of Reu Reu No 1) and the total area of Reu Reu No 2 affected was 268 acres 3 roods 10 perches (26 percent of Reu Reu No 2). The extent to which the charging orders affected the Reu Reu block can also be seen in the map following the table.²⁴⁹

Table 7: Reu Reu blocks within Oroua County affected by charging orders, 1927

Name of Block	Area (acres, roods, perches)	Number of owners	Charging order (including costs)	Alienations or subsequent charging orders/receiverships	Status in 2106
Reu Reu No 1 sec 1A	50.2.16	3	£8.4.2	Leased for ten years from September 1929; and for a further ten years from 1939 to Cecil MH Thevenard	1A2 (49.2.16) is Maori land 98 owners
Reu Reu No 1 sec 1B1	38.0.27	Not given	£6.4.6		Maori land 90 owners
Reu Reu No 1 sec 1B2A	13.0.5	Patu Ngaparaki	£2.6.0	Europeanised	No longer Maori land
Reu Reu No 1 sec 1B2B	19.1.32	Maikura Keratea	£3.4.6		Maori land 75 owners
Reu Reu No 1 sec 3	25.0.2	7	£3.14.5	Reu Reu No 1 sec 3A Europeanised	3B (23.3.16) is Maori land 91 owners
Reu Reu No 1 sec 4A	44.2.32	Not given	£7.10.11	Leased to Kura Poutama for 21 years from 1952; Leased to Ruihi J Rowe & Torehaere Taite for 21 years from 1964	Maori land 150 owners
Reu Reu No 1 sec 4C2	16.1.9	Not given	£2.11.10	4C2B (14.2.8) leased to P Williams for ten years from 1953; leased to P Williams from 1968	4C2A (0.3.39) 61 owners and 4C2B (15.1.10) 148 owners; are Maori land
Reu Reu No 1 sec 5A	32.1.24	Rihi Iwikau	£6.14.11	Leased 1966 to M Green. Europeanised	No longer Maori land
Reu Reu No 1 sec 5B	18.0.25	Tutunui Rora	£3.7.8	Purchased by Irene Green for \$800 in 1967	No longer Maori land
Reu Reu No 1 sec 6B	17.2.10	Maraea Arapera	£3.1.7	Leased for 10 years to M Green from 1966. Europeanised	No longer Maori land

²⁴⁹ Whanganui Minute Book 87, 20 December 1927, pp. 247-258.

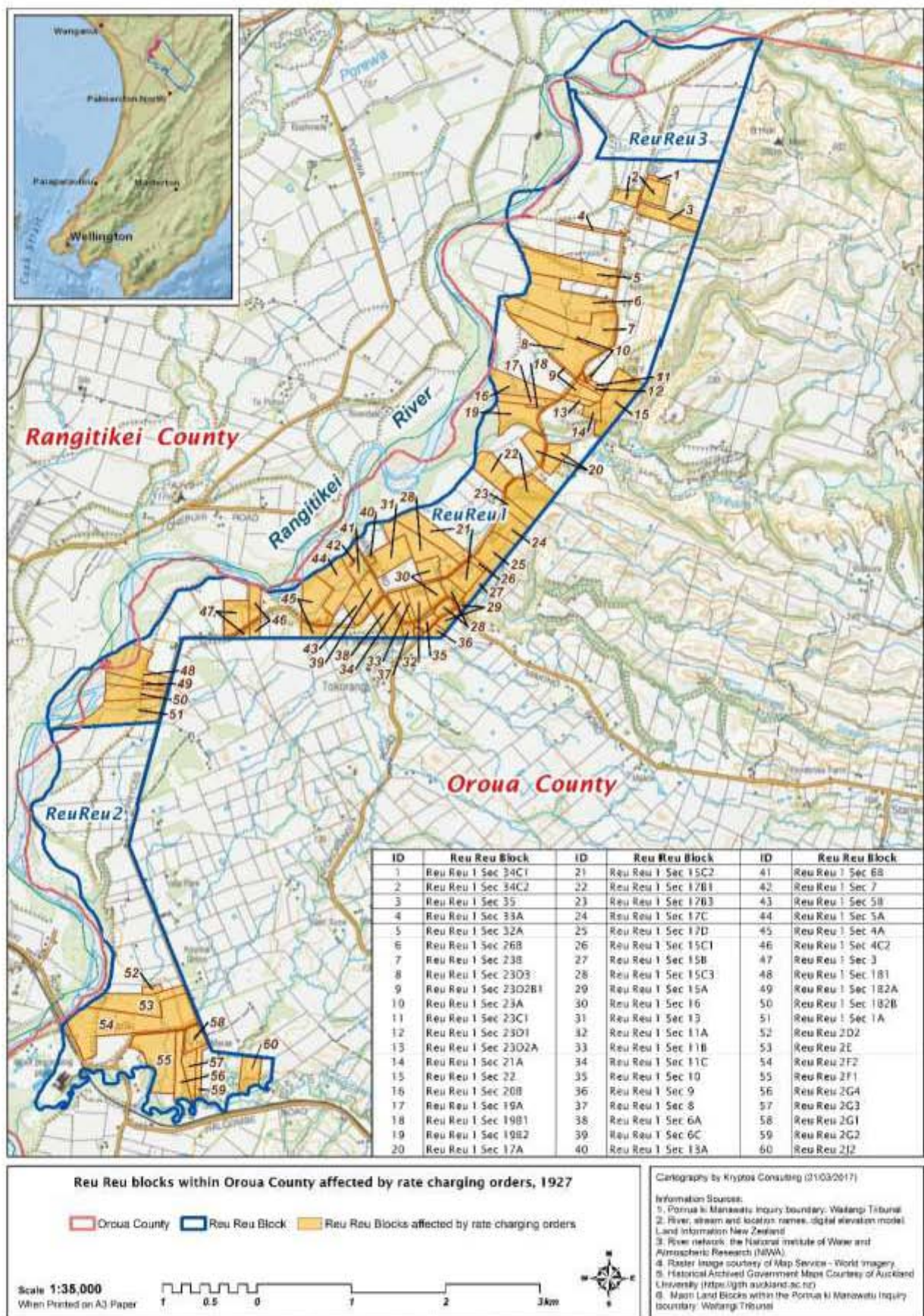
Reu Reu No 1 sec 6A	18.3.0	Pura Ruruhia	£4.5.3		6A1 (1.0.0) 2 owners; 6A2A (0.1.0) 4 owners & 6A2B (19.0.0) 32 owners; are Maori land
Reu Reu No 1 sec 6C	14.0.5	10	£3.1.7		6C1 (2.3.13) 37 owners; 6C2 (2.3.10) 37 owners; 6C3 (2.3.13) 1 owner; 6C4A (2.0.3) 6 owners; & 6C4B (3.2.6) 73 owners; are Maori land
Reu Reu No 1 sec 7, 8 & 9	9.3.5	Not given	£3.0.11	Te Tikanga Marae Reservation. Reserved 1953.	7A, 8A, 9A (9.3.5) Maori land (Marae Reservation)
Reu Reu No 1 sec 10	8.1.35	Tutunui Rora	£0.18.7	10 A Europeanised	No longer Maori land
Reu Reu No 1 sec 11A	15.1.9	2	£2.8.2		11A1 (11.3.15) 21 owners; 11A2 (12.1.5) 37 owners; are Maori land
Reu Reu No 1 sec 11B	4.2.15	Kumeroa Hinepoto	£0.13.4	Europeanised	No longer Maori land
Reu Reu No 1 sec 11C	9.2.31	2	£1.8.4		Maori land 27 owners
Reu Reu No 1 sec 13	27.0.6	Pipi Haruru	£4.19.6		13B (2.0.0) 9 owners; 13C (25.0.6) 43 owners (leased); are Maori land
Reu Reu No 1 sec 13A	2 acres	2	£0.6.5		Maori land 195 owners
Reu Reu No 1 sec 15A	7.3.23	17	£0.14.11	Europeanised	No longer Maori land
Reu Reu No 1 sec 15B	9.3.10	3	£0.10.1		Maori land 26 owners
Reu Reu No 1 sec 15C1 (3.0.38), 15C2 (51.2.10) & 15C3 (54.2.1)	109.1.7 (15C)	9	£13.11.7	15C3 (54.2.1) leased in 1960 for 10 years (Andrews), Europeanised	15C1 (3.0.38) 317 owners & 15C2 (51.2.10) 2 owners; are Maori land
Reu Reu No 1 sec 16	24.0.0	Tateakau (Kawae)	£3.12.1	Europeanised	No longer Maori land
Reu Reu No 1 sec 17A	29.1.21	Not given	£4.7.3		Maori land 13 owners
Reu Reu No 1 sec 17B1	62.0.21	Not given	£4.8.9	17B1 reduced by 3 roods 9.17 perches for Maori reservation with 17B2 in 1951	Maori land 25 owners

Reu Reu No 1 sec 17B3	9.3.34	Not given	£2.5.6	Leased in 1966 for 15 years (Forsyth)	Maori land 73 owners Leased with 17C
Reu Reu No 1 sec 17C	127.1.29	Not given	£18.13.0	Leased in 1965 for 15 years (Forstyth)	Maori land 82 owners Leased with 17B3
Reu Reu No 1 sec 17D	24.1.37	2	£1.14.7		Maori land 76 owners
Reu Reu No 1 sec 19A (12.0.0) & 21A (7.1.5)	19.1.5	Not given	£7.19.6	Purchased by Jean Mace Thomas in 1927	No longer Maori land
Reu Reu No 1 sec 19B1	1.2.0	Pipi Iwikau	£0.5.1	Possibly Europeanised	Maori land 25 owners
Reu Reu No 1 sec 19B2	17.2.9	Not given	£4.10.5	Europeanised	No longer Maori land
Reu Reu No 1 sec 20B	27.3.32	Not given	£3.11.3		Maori land 206 owners
Reu Reu No 1 sec 22	41.3.36	Not given	£3.3.4	Leased for 21 years to Kiekie Hikaka Hartley for 21 years from 1954. Nga Whenua rahui Agreement between Maori Trustee and Minister of Conservation in 2013; also leased.	Maori land 124 owners
Reu Reu No 1 sec 23A	1.1.33	20	£0.15.2	Te Kotuku Marae Reservation reserved 2012	Maori land 233 owners
Reu Reu No 1 sec 23B	66.0.0	3	£8.19.9		No longer Maori land
Reu Reu No 1 sec 23C1	3.2.1	Not given	£3.3.0		Maori land 39 owners
Reu Reu No 1 sec 23D1	3.0.1	4	£0.6.6	Europeanised	No longer Maori land
Reu Reu No 1 sec 23D2A	5.0.2	Hingaawatea Rangihoapu	£0.18.3		No longer Maori land
Reu Reu No 1 sec 23D2B1	12.2.3	2	£0.13.5	23D2B1A Europeanised (5.0.2)	No longer Maori land
Reu Reu No 1 sec 23D3	52.1.0	12	£7.10.4	23D3A Europeanised (15.0.12)	No longer Maori land
Reu Reu No 1 sec 26B	66.3.13	12	£9.17.6	Part 26B1 (1.0.0), 26B2A (0.1.32) and 26B2B Europeanised (3.0.28)	26B1 (12.0.16) 37 owners; 26B3 (50.3.16) 64 owners & leased; Maori land
Reu Reu No 1 sec 32A	58.2.0	Not given	£7.13.1	Leased to Patu & Myre Taumata Renata for 21 years from 1947 and to P & Taumata Renata for 10 years in 1968.	Maori land 13 owners
Reu Reu No 1 sec 33A	5.1.3	Maraea Arapera	£1.0.11	Sold to Puteakau in 1918; partitioned 1927. Leased to Leslie John Reily for 10 years from 1963.	No longer Maori land
Reu Reu No 1 sec 34C1	2.1.27	Pere Hiriweteri	£0.6.9		Maori land 1 owner

Reu Reu No 1 sec 34C2	23.3.3	10	£6.4.11	Reu Reu No 1 34C2A (9.2.30) sold to J & E WW Moore in 1939; 34C2C (10.2.8) sold to M Cummins, I & E Barnett in 1971	34C2B (3.2.5) Maori land 29 owners
Reu Reu No 1 sec 35	20.0.0	2	£2.11.10	Leased from 1962 to Leslie John Reily	Maori land 1 owner
Reu Reu 2D2	4.2.5	6	£2.11.11	Leased from 1978	Maori land 62 owners, leased
Reu Reu 2E	43.0.0	Not given	£10.16.9		Maori land 46 owners
Reu Reu 2F1	52.2.0	7	£6.4.3		Maori land 44 owners
Reu Reu 2F2	95.2.0	23	£10.12.0		2F2A (15.153 ha) 1 owner; 2F2B (22.767 ha) 122 owners; are Maori land
Reu Reu 2G1	12.0.18	2	£4.8.10	Reu Reu 2G1 (part) set aside as a Maori reservation in 1941 – Te Hiri Marae Reservation; charging order still on particulars of title at this time.	2G1A (0.1.7) 10 owners; 2G1B (8.2.20) 47 owners; 2G1 part (1.2671 ha/3 acres) 1 owner; are Maori land
Reu Reu 2G2	9.0.12	Amorangi Rahari	£3.7.3	Leased from 1993, Europeanised	No longer Maori land
Reu Reu 2G3	15.0.29	4	£4.9.2	Leased from 1993.	Maori land 140 owners
Reu Reu 2G4	19.0.21	18	£7.0.11	Leased from 1978.	Maori land 244 owners
Reu Reu 2J2	17.3.14	3	£3.6.5		Maori land 73 owners
Total	1487.0.17				

Sources: Whanganui Minute Book 87, 20 December 1927, pp. 247-258; Registrar, Aotea Maori Land Board to Clerk, Oroua County Council, 27 February 1928, MDC 00015: 2: 15 Maori Land Board Oroua County Council 1927 – 1928, Archives Central, Feilding. SW Document Bank, volume 3, p. 30; Walghan Partners, 'Porirua ki Manawatu Inquiry District Research Programme: Block research Narratives, Draft', research report commissioned by the Crown Forestry Rental Trust, 1 May 2017, volume 3, pp. 238-263; Otaki Minute Book 73, 15 November 1966, pp. 64-65; Otaki Minute Book 29 April 1968, p. 64; Maori Land Online: <http://www.maorilandonline.govt.nz/>.

Map 7: Reu Reu Blocks within Oroua County affected by rates charging orders, 1927



4.17 Rates Paid on Maori occupied and owned land

In 1933, the Council reported that it had received none of the rates on Maori land levied in 1931/1932 (£249.17.5); 1932/1933 (£202.7.0); and 1933/1934 (£167.6.0). (It is also not clear why the amount of rates levied reduced so significantly during this period though it is possible that land had been re-valued, there had been some purchasing in the block or Depression era reductions in rates applied though none of these possibilities have been confirmed).²⁵⁰ Similarly in 1941, the county clerk of the Oroua County Council advised that the amount of rates struck on Maori lands for 1939-1940 was £290.4.11 and the amount collected was £4.14.3. As with the figures from the 1930s it is apparent that the council did not include those rates received from Pakeha lessees of Maori land and the figure would have been that for Maori land occupied by Maori only. This was common practice among local authorities at this time and served to present Maori in a negative light.²⁵¹

4.18 Impact of Charging Orders

As with liens, one of the features of charging orders was that they remained on the land until paid or written off by the Council concerned. Indeed, those Reu Reu blocks that remained in Maori ownership when they were Europeanised and/or sold in the late 1960s early 1970s still had these rates charging orders from December 1927 on their memorial schedules.

For instance, when an area of the Reu Reu block (2G1) was reserved for Te Hiiri Pa it too still had the charging order registered against the title. In 1941, 3 acres and 21 perches of Reu Reu 2G1 consisting of 12 acres 18 perches was set apart as a Native Reservation under section 5 of the Native Purposes Act 1937 for the common use of Ngati Rangatahi as a meeting place. Of note was that in addition to a survey lien of £5.15.7 and interest at five percent from 31 January 1927, there was a rate charging order in favour of Oroua County Council of £4.4.10 and 4/- costs for unpaid rates between 1 April 1925 to 31 March 1927 on the land. Within the 3 acres and 21 perches was a meeting house, dwelling house, church and

²⁵⁰ County Clerk, Oroua County Council to County Clerk, Rotorua, 11 June 1934, MDC 00016: 2: 16 Subject file: N - O Oroua County Council 1931 – 1936, Archives Central, Feilding. SW Document Bank, volume 3, p. 35.

²⁵¹ County Clerk, Oroua County Council to Under Secretary, Native Department, 1 May 1941, ACIH 16036 MA 1 box 403 20/1/1, part 4, Rating of Native Lands - General, 1939-1945, Archives New Zealand, Wellington. SW Document Bank, volume 1, p. 40.

dining hall. This should in effect have made the area exempted from rates and raises doubts as to the validity of rates previously levied on the marae.

4.19 Court Judgements

As noted above, the Council applied for charging orders in 1927 but did not apply for them again until 1961. Correspondence between the council and its solicitors reveal that instead of going through the charging order process, civil remedies were pursued. This involved having the Court make a judgement against the owner.

The solicitors for the Council reported to the Council regarding the actions they were taking. For instance, in 1929 the solicitors advised that they had ascertained that a property previously leased to a N Blunden where rates were owing was in the name of three Maori who had died (indicating once again that title information and the valuation roll were not being kept up to date which would have resulted in improperly levied rates). The solicitors were therefore 'preparing a rating lien to lodge against the section'. It was also reported at this time that £5.2.6 had been received in rates in respect of Reu Reu No 1 section 14 from the Native Land Court.²⁵²

In 1929 and 1930, when the solicitors reported to the Council about their rate collecting, no mention was made of any Maori being issued a summons to attend Court. Indeed, throughout the early 1930s, correspondence from the council solicitors barely mentions rates on Maori land and Maori are not included in the list of those being taken to Court. In 1936, however, county solicitor's Haggitt, Elliott & Fawcett asked the county clerk for rates demands in respect to rates owing from 1933 to 1934 and 1935 to 1936 by J Hakaraia and Ngahuia Te Tomo as well as about 13 Pakeha. It was noted in respect of the arrears outstanding for 1933 to 1934 that it was necessary to immediately issue a summons as otherwise the 'rights of the council' in respect to the arrears would be lost. It was explained that if a summons was issued, it was set down to be heard about a month from that date and it

²⁵² Haggitt and Elliot, Barristers & Solicitors to County Clerk, Oroua County Council, 11 March 1929; Haggitt and Elliot, Statement regarding collection of rates, March 1929, MDC 00015: 1: 19 Haggitt and Elliott Oroua County Council, 1923–1930, Archives Central, Feilding. SW Document Bank, volume 3, pp. 25-26.

was therefore ‘necessary to obtain judgment within three years from the date in 1933 when the rate was publicly notified’.²⁵³

The Council also liaised with the Aotea Maori Land Board and then later the Maori Land Court about rates. The Council was kept informed of any alienations – both leases and sales – as arrangements could then be made for rates to be paid out of rental monies if leased or the purchase money if sold.²⁵⁴

4.20 Charging orders, 1960s

It was not until 9 August 1960 that the Council’s solicitors referred to making further applications for charging orders. This was in a general statement about the collection of rates arrears affecting both Maori and European land. The solicitors said that they were preparing a ‘Judgment Summons procedure’ against those whose Judgement in the Court had already been obtained as well as preparing applications for charging orders to be made to the Maori Land Court.²⁵⁵

On 11 July 1961, the County Clerk advised the Council’s solicitors Barltrop & Cobbe of the names of six Maori occupiers who had rates outstanding. The County Clerk asked the solicitors to take the ‘necessary steps to collect the rates’. A similar letter was sent in respect to six Maori occupiers in 1962.²⁵⁶

On 22 September 1961, the solicitors advised the council that the charging orders would be heard at the next sitting of the Court and explained that the applications ‘ordinarily lie in the

²⁵³ Haggitt and Elliot, Barristers & Solicitors to County Clerk, Oroua County Council, 11 March 1929 & 7 March 1930; Haggitt and Elliot, Statement regarding collection of rates, March 1929, MDC 00015: 1: 19 Haggitt and Elliott Oroua County Council, 1923–1930. SW Document Bank, volume 3, pp. 24, 27-28; Haggitt, Elliott & Fawcett to Oroua County Council, 26 March 1936, MDC 00016: 2: 2 Haggitt and Elliott - Solicitors Oroua County Council 1931-1936, Archives Central Feilding. SW Document Bank, volume 3, pp. 32-33.

²⁵⁴ Correspondence in MDC 00018: 3: 2 Maori Affairs Department (see also Aotea Maori Land Board), Oroua County Council, 1948 – 1956, Archives Central, Feilding. SW Document Bank, volume 3, pp. 37-38.

²⁵⁵ Barltrop & Cobbe to Oroua County Council, 9 August 1960, MDC 00020: 2: B2 Solicitors - Barltrop, Cobbe & Lockhard Oroua County Council 1960 – 1964, Archives Central, Feilding. SW Document Bank, volume 3, p. 56.

²⁵⁶ Oroua County Council to Barltrop & Cobbe, 11 July 1961 & 10 July 1961, MDC 00020: 2: B2 Solicitors - Barltrop, Cobbe & Lockhard Oroua County Council 1960 – 1964, Archives Central, Feilding. SW Document Bank, volume 3, pp. 57-58.

Court until the other civil remedies have been exhausted and we understood this could continue until the various Court processes had been carried out'.²⁵⁷

On 12 July 1961, three charging order applications were heard by the Maori Land Court Solicitors for the Oroua County Council, Messrs Barltrop & Cobbe, applied for them with regard to:

- Reu Reu No 1 Sec 14B & No 1 Sec 2B2A
- Reu Reu No 1 Sec 26B2A
- Reu Reu No 1 Sec 33B & accretion

The applications were struck out at request of Messrs Barltrop & Cobbe. The reason was not specified in the minutes of the hearing.²⁵⁸

Several months later, on 5 October 1961, the Maori Land Court heard further charging order applications from the Oroua County Council in respect to ten blocks:

- Reu Reu No 1 Sec 6C1 (2 acres 3 roods 13 perches)
- Reu Reu No 1 Sec 6C2 (2 acres 3 roods 10 perches)
- Reu Reu No 1 Sec 11A (15 acres 1 rood 9 perches)
- Reu Reu No 1 Sec 11B (4 acres 2 roods 15 perches)
- Reu Reu No 1 Sec 11C (9 acres 2 roods 31 perches)
- Reu Reu No 1 Sec 15C2 (51 acres 2 roods 10 perches)
- Reu Reu No 1 Sec 23B2 (63 acres 2 roods 11 perches)
- Reu Reu No 1 Sec 32B2 (54 acres 3 roods 25 perches)
- Reu Reu 2B3B2A (2 roods)
- Part Tokorangi 1B1 (60 acres)

Mr Jack, on behalf of Mr Barltrop, the County solicitor, said that he thought that there might have been some earlier orders in respect of some blocks. (Indeed, all except three blocks (Reu

²⁵⁷ Barltrop & Cobbe to Oroua County Council, 22 September 1961, MDC 00020: 2: B2 Solicitors - Barltrop, Cobbe & Lockhard Oroua County Council 1960 – 1964, Archives Central, Feilding. SW Document Bank, volume 3, p. 59.

²⁵⁸ Whanganui Minute Book 125, 12 July 1961, p. 113.

Reu No 1 Sec 32B2, Reu Reu 2B3B2A and Part Tokorangi 1B1) were subject to charging orders in 1927.) Mention was also made, though the minutes do not make it clear, that there had also been some action in the Magistrates' Court in respect to some of the rates due as well as judgement demands. The Court asked that Mr Jack tell his 'principals' of the Court's 'preference for appointment of receiver where rates not met within year or so of charging order' and that the Court did not wish to grant a 'succession of charging orders'. In two cases, the Court said, there were lessees and the lessees should pay. The charging orders were granted by the Court for amounts not recorded in the minutes with cost of 10/- in each case.²⁵⁹

In July 1962, the county clerk wrote to Barltrop & Cobbe stating that as he had advised previously, the matter of Maori rates was causing him 'some concern' and he felt that they should 'keep on top of this matter'. He suggested that after 25 July 1962, when the 1963 rates become overdue, that an application be made to the Maori Land Court to have the existing charging orders extended to cover unpaid rates for 1962 and 1963. He did not think that it would be necessary to again take Court proceedings for recovery of the rates before applying for an extension of the existing orders. He said that the applications would apply to the charging orders issued on 5 October 1961 (though Reu Reu No 1 Sec 11A and 11C were not listed). The amounts owed ranged between 15/2 and £18.6.6.²⁶⁰

In September 1962, the Maori Land Court asked for details regarding rates owned by RT Searancke in relation to Reu Reu No 1 section 23B2 (63 acres 2 roods 11 perches). Barltrop & Cobbe advised the Court via the Council that rates owing to 31 March 1961 amounted to £147.6.4 and that these were 'legally due' as they were protected by a judgement of the Magistrates' Court and portion of them under a 'Judgement Summons Order'. The total amount owed was £165.15.3 made up of the following:

- Rates to 31 March 1961: £147.6.4
- Court costs paid on summons, judgement summons order and charging order application: £18.3.6

²⁵⁹ Whanganui Minute Book 125, 5 October 1961, p. 227.

²⁶⁰ Barltrop & Cobbe to Oroua County Council, 20 July 1962, MDC 00020: 2: B2 Solicitors - Barltrop, Cobbe & Lockhard Oroua County Council 1960 – 1964, Archives Central, Feilding. SW Document Bank, volume 3, p. 60.

- Rates to 31 March 1962: £18.16.6
- Rates to 31 March 1963: £20.8.11
- Total: £204.15.3
- Less paid on account: £39.0.0
- Balance: £165.15.3²⁶¹

The solicitors noted too that the enquiry from the Maori Land Court was due to the ‘pending application for confirmation of transfer of the land to Searancke’s son’. Also, that they had arranged with the bank for the payment of £100 of the arrears as soon as the transaction as confirmed by the Court. They said that RT Searancke was to pay the balance as they were ‘having difficulty with him’ they would ‘no doubt have to call on the son to meet the arrears under charging orders’. The block is no longer Maori land and according to Walghan Partners alienated prior to 1990.²⁶²

4.21 Receiverships

In April 1963, the Oroua County Council took the Court’s advice and made applications for receivership orders in respect to six of the blocks over which charging orders had been made two years previously. The blocks were:

- Reu Reu 1 Sec 6C1; 2 acres 3 roods 13 perches (charging order of £19)
- Reu Reu 1 sec 6C2; 2 acres 3 roods 10 perches (charging order of £1.6.11)
- Reu Reu 1 sec 11C; 9 acres 2 roods 31 perches (charging order of £4.0.10)
- Reu Reu 1 sec 32B2; 54 acres 3 roods 35 perches (charging order of £21.8.4)
- Reu Reu Sec 2B3B2A; 2 roods (charging order of £21.16.11)
- Pt Tokorangi 1B1; 60 acres (aprox) (charging order of £14.5.2)

According to the minutes, the County Clerk, who was present at the hearing, showed that he could lease three of the blocks though he did not specify which three. The Court therefore

²⁶¹ Maori Land Court to Oroua County Council, August 1962; Oroua County Council to Barltrop & Cobbe, September 1962; Barltrop & Cobbe to Oroua County Council, 6 September 1962, MDC 00020: 2: B2 Solicitors - Barltrop, Cobbe & Lockhard Oroua County Council 1960 – 1964, Archives Central, Feilding. SW Document Bank, volume 3, pp. 61-62.

²⁶² Ibid; Walghan Partners, Draft, 1 May 2017, volume 3, pp. 238-263

ordered that AC Clark, the County Clerk be appointed as receiver under section 33 of the Maori Affairs Act 1953 to enforce rate charging orders on lands in every application. Barltrop & Cobbe advised the County Clerk that this empowered and authorised him to 'receive rents, income, revenues, and profits, therefrom and the proceeds of any alienation of any interest therein'. With respect to Reu Reu 1 sec 6C2, Reu Reu 1 sec 11C, Reu Reu 1 sec 32B2 and Part Tokorangi 1B1, the Court granted under section 33(4)/1953 leave for the receiver to lease by tender for a period not exceeding ten years to satisfy charges and rates to date and pay any balance after commission of five percent to the Maori Trustee. In addition, every lessee was to pay all rents to the receiver, the county clerk.²⁶³

The County Clerk advised Barltrop & Cobbe in September 1963 that JL Riley had been granted a lease over one of the aforementioned blocks that was subject to the receivership order. The block was Reu Reu 1 sec 32B2 (almost 55 acres partitioned out in 1941 with 65 owners) though the lease had yet to be confirmed by the Maori Land Court. Mr Riley felt that he should not be held responsible for the arrears of rates which the county clerk was 'inclined to agree' with. As receiver, he would be 'agreeable to the lease being confirmed ... provided some arrangement was made to have rate arrears met from rent payments'. Further, that he was 'much in favour of Mr Riley taking the place over because since he has occupied it (on the understanding that the lease had been granted to him) he has done an excellent job in clearing the very bad infestation of noxious weeds from the property'.²⁶⁴

In November 1963, confirmation of the lease over Reu Reu 1 sec 32B2 was heard by the Maori Land Court. The lessee, Mr Riley also wished to lease (or was currently leasing) Reu Reu 1 sec 33A (which was not subject to the receivership order). At the hearing, Mr Abraham appeared for Waiti Teimana, an owner of 32B2. Mr Abraham said his client sought confirmation of the lease of both 32B2 and 33A (5 acres 1 rood 3 perches) as she was the sole owner of the latter block and had no fence between the blocks. She had also not obtained anything from the 32B2 block in the past. The representative for the lessee mentioned that at a meeting of owners for 32B2, 5607 out of 8300 shares were represented and that the rent

²⁶³ Otaki Minute Book 70, 8 April 1963, pp. 61 & 77; Barltrop & Cobbe to Oroua County Council, 20 June 1963, MDC 00020: 2: B2 Solicitors - Barltrop, Cobbe & Lockhard Oroua County Council 1960 – 1964, Archives Central, Feilding. SW Document Bank, volume 3, p. 64.

²⁶⁴ County Clerk, Oroua County Council to Barltrop & Cobbe 5 September 1963, MDC 00020: 2: B2 Solicitors - Barltrop, Cobbe & Lockhard Oroua County Council 1960 – 1964, Archives Central, Feilding. SW Document Bank, volume 3, p. 65.

offered was £200 per annum being approximately 7 ½ percent of the valuation as at 1 November 1962. It was noted too that the lease of (the adjacent) 32B1 expired in 1976 and that it was the intention of the lessor that all three leases expire at the same time – in 1977. The Court said that the rent was adequate and that there was no undue aggregation. In both cases the lessee was to pay the Maori Trustee's commission and the first years rent within two months after he had paid all rates to 31 March 1964 and deducting these to 31 March 1963 out of rent. Evidence of payment of rates was to be produced with payment of balance of rent.²⁶⁵ Of note is that both Reu Reu No 1 sub 32B2 and 32B1 are still Maori land with 703 and 32 owners respectively. They are both leased. Reu Reu No 1 section 33A is no longer Maori land.²⁶⁶

On 25 November 1963, Barltrop & Cobbe were advised by the County Clerk that arrangements were being made to pay the arrears and current rates on sections 32B2 and 33A and therefore it would not be necessary to exercise his receivership indicating that leasing arrangements were already being made prior to the receivership hearing. The County Clerk noted that section 33A was covered by an old charging order dated 20 December 1927 amounting to £1.0.11 as well as rates owing from 1961, 1962, 1963 and 1964 making a total of £6.16.0. It was also noted that current rates of £11.6.10 were owed on 32B2. The County Clerk suggested that the Maori Land Court be advised that payment had been received and that the receivership had not been exercised and could be discharged.²⁶⁷

Shortly after, the Oroua County Council applied for receivership in respect to another Reu Reu block - No 1 sec 15C2 (51 acres 2 roods 10 perches) and over which a charging order had been made in October 1961. The County Clerk, AC Clark, said that he understood that Mana Hallett was an occupier but did not know whether he had a confirmed lease. Rates had been demanded from Mr Hallett and there had been Court proceedings with a judgement made at the Magistrates' Court. Mr Clark said he did not know what had been done to enforce judgement made at Feilding on 26 June 1961. He said too that Mr Hallett had sheep on the block. A rate demand for 1963 was produced showing Mr Hallett as the occupier and owner and the charging order for £32.16.10. The Court questioned whether a charging order was

²⁶⁵ Otaki Minute Book 70, 20 November 1963, pp. 255-256.

²⁶⁶ Maori Land Online: <http://www.maorilandonline.govt.nz/> accessed January 2017.

²⁶⁷ County Clerk, Oroua County Council to Barltrop & Cobbe, Solicitors, 25 November, 1963, MDC 00020: 2: B2 Solicitors - Barltrop, Cobbe & Lockhard Oroua County Council 1960 – 1964, Archives Central, Feilding. SW Document Bank, volume 3, p. 66.

possible when the occupier was liable and proceedings had been taken against him. The Court asked Mr Lockhart, who was representing the Council, to consider this and make a submission on the question. Later, Mr Lockhart said that he had ascertained from the District Solicitor that ‘development’ was finished and Mr Hallett was surrendering his lease. Also, that he had been declared bankrupt. The Court said that as there was a charging order in force the Court would appoint a receiver as it appeared unable to collect from the occupier. The County Clerk was then appointed receiver to enforce the charge of 5 October 1961 with leave to lease for period not exceeding 21 years.²⁶⁸

In April 1964, applications were filed by the county clerk of the Oroua County Council, Aluchus Charles Clark, to be discharged as receiver for three of the seven receiverships: Tokorangi 1B1 which was already being leased (to Rahu Royal from 1947 and again from 1968), Reu Reu 1 section 32B2 (where as noted above, a lease had already or was in the process of being arranged at the time the receivership order was made) and Reu Reu 1 section 15C2 (where the County Clerk had claimed the owner and occupier was surrendering the lease). This latter statement may have been incorrect as the reason given for the receiverships being discharged was that the charging orders made on 5 October 1961 and all rates to date plus costs had been paid. Solicitors, Messrs Barltrop & Cobbe advised that the receiverships had not been exercised. The Court then discharged the clerk as receiver. All three of these blocks comprised more than fifty acres. The remaining four in receivership were less than ten acres in size with the smallest comprising just two roods (half an acre). It is likely that the rates were paid by the owners as no leasing arrangements have been located. Therefore, in all seven cases, the County Clerk did not have to arrange a lease as owners had already done so or rates were paid.²⁶⁹

No further receiverships or charging order applications by the Oroua County Council have been located. There is also no evidence that the Oroua County Council ever applied for vesting orders under section 109 of the Rating Act 1925 whereby land could be vested in the Maori Trustee for sale due to the non-payment of rates.

²⁶⁸ Otaki Minute Book 70, 21 November 1963, pp. 265-266; 270.

²⁶⁹ Otaki Minute Book 71, 21 April 1929 & 29 April 1964, pp. 20, 23; Walghan Partners, Draft, 1 May 2017, volume 3, pp. 255-257.

4.22 Rates Summary

Within the Oroua County Council were the Maori owned Reu Reu and Tokorangi blocks with Reu Reu comprising over 4000 acres. No records have been located regarding any consultation involving Maori and the Council about the payment of rates (as opposed to discussions arising from the levying of rates). As with other counties, the Oroua County Council worked on the assumption that Maori should pay rates on all land regardless of whether it was revenue producing or not and spent time devising ways of trying to make this happen. The Council was frustrated as title to the Reu Reu block was not resolved and was still being re-investigated in 1910. After the title was settled and some partitioning and individualisation begun, the Council spent much of the 1910s putting pressure on Reu Reu owners to pay rates using the Council solicitors and taking Maori to the Magistrates' Court.

Maori responded in 1913 by protesting to the Council about certain owners being levied with large amounts of rates. This did not prevent the Council solicitors from collecting £136.10.11 for rates that the solicitors had sued for in 1916. Also in 1916, the Council registered two rating liens against the entire Reu Reu No 1 block – the first for £139.4.5 and the second for £79.2.7. It also appears that other liens were registered so that when various Reu Reu blocks were sold in 1923, as much as seven years of rates were deducted from the purchase price in order for the transfer to be registered. Similarly, in 1925 when a Reu Reu block was sold, rates liens registered on the title were deducted as they also were in 1955, when Reu Reu 1 section 22 was sold, forty years after the lien was registered.

The County also tried to persuade the Maori Land Court in 1914 to deduct an amount for rates from the purchase price of land sold specifically to pay survey liens. Despite Maori receiving £439.5.7 for the block in question this was not enough to cover the survey liens, let alone the rates.

The Oroua County Council had a different approach to the use of charging orders issued by the Maori Land Court than other Councils (such as Horowhenua County). The Oroua Council applied for them once over 55 blocks within Reu Reu No 1 and 2 in 1927 and then did not make any further applications until 1961. This may have been due to the Council considering that the legal costs of making the applications were not worth incurring given that the orders did not result in prompt payment. Fifty-Five Reu Reu blocks were issued with charging

orders in 1927 without any sort of assessment as to ability to pay, whether or not nominated owners had been identified, the circumstances of the owners, or if indeed they had a marae or urupa on the land (which some were later found to have). This demonstrates that just as with the imposition of the lien over the entire Reu Reu No 1 block, the Council used a blanket approach to the rating of Maori land. As with liens, charging orders also remained on the title until paid. This meant that these charging orders from 1927 were still on the title of the same lands being sold in the 1960s and 1970s.

Between charging orders, the Council took Maori to the Magistrates' Court for non-payment of rates. One of the difficulties with the Magistrates' Court as opposed to the Native/Maori Land Court was that the Land Court had the ability to check title records whereas the Magistrates' Court did not. The process relied on Council Maori land title records being accurate which was not always the case.

The use of charging orders by the Council in the early 1960s came about as the solicitors for the Council said that they had exhausted the civil remedies available to them. After 13 charging orders were issued, the Court told counsel for the Council that the Court's preference was for the appointment of receivers when a charging order was not paid. Indeed, seven receiverships were ordered in 1963 whereby the County Clerk, Mr Clark, was appointed receiver to enforce rate charging orders and/or to arrange leases for a period of not more than ten years to satisfy the rates charges in six instances and in one instance for 21 years. Of the seven receiverships, a lease was already being arranged over one of the largest blocks (Reu Reu 1 section 32B2 comprising almost 55 acres) and the receivership discharged in 1964. Two other receivership orders were discharged in 1964 both of which were in respect to blocks which were over 50 acres in size. The remaining four blocks ranged from between two roods and ten acres.

There is no evidence to suggest that the Oroua County Council ever applied for vesting orders under section 109 of the Rating Act 1925 or section 438 of the Maori Affairs Act 1953 for land to be vested in the Maori Trustee to be sold for non-payment of rates. There have also been no instances found where the Oroua County Council formally exempted any land from rates for reasons of owner indigency or the inability of the land to generate an income.

4.23 Town and Country Planning and its impact on Maori land in the Oroua County

As noted in the legislative section, the Town and Country Planning Act 1953 introduced the concept of zoning. Counties were required to prepare a district plan which specified which zone applied to each area within its boundaries. Under the Maori Affairs Act 1953, the Maori Land Court was obliged to take account or have regard to the district plan when making partition orders but did not have to have the express permission of the County. The Maori Affairs Amendment Act 1967, however, made it compulsory for Counties to approve a scheme plan before partition orders by the Maori Land Court could be confirmed. It was not until the introduction of the Town and Country Planning Act 1977, that 'local authorities [were obliged] to take account of Maori values in developing district plans'.²⁷⁰

In 1956, the Oroua County prepared its first district scheme. Under the scheme almost all of the Oroua County was zoned rural. The exceptions were the township zones for Ashhurst, Halcombe and Bunnythorpe. Subdivision of land within the rural zone for housing purposes was restricted, initially at this time to ten acres. This was later increased to 50 acres in 1973.²⁷¹

As is also noted in the legislative section, the potential impact of the rural zone restrictions on Maori was known very early on. In 1961, the Resident Engineer at Whanganui advised the District Commissioner of Works regarding feedback received by various bodies concerning the Oroua County's district scheme. This included a comment of the Department of Maori Affairs that explicitly stated that any district scheme that restricted the building of houses for rural Maori people to sections of not less than five acres was, in their opinion 'not in the general interest of the Department nor ... in the public interest'.²⁷²

Claimants have stated this policy impacted on owners of Reu Reu and Tokorangi blocks particularly those located around papakainga at Tokorangi, Poupatatea, Te Marae o Hine and

²⁷⁰ Grant Young et al, Draft Ngati Raukawa: Rangatiratanga and Kawanatanga, Land Management and Land Loss from the 1890s to 2000, A Ngati Raukawa Historical Issues Research Report prepared for the Porirua ki Manawatu Inquiry and commissioned by the Crown Forestry Trust, February 2017, pp. 255-260

²⁷¹ County Clerk, Oroua County Council to Commissioner of Works, 25 May 1956, Oroua County District Scheme, change No. 2, 2 July 1973, AATC W3415/63 20/45/4 Roding - Town and Country Planning - Oroua County Council, 1968-1974, Archives New Zealand, Wellington. SW Document Bank, volume 2, pp. 38 & 44.

²⁷² Resident Engineer, Palmerston North to District Commissioner of Works, Whanganui, 6 December 1961, AATC W3415/63 20/45/4 Roding - Town and Country Planning - Oroua County Council, 1956-1967, Archives New Zealand, Wellington. SW Document Bank, volume 2, pp. 39-41.

Te Hiiri (Kakariki Pa). They state that the inability to subdivide and build on their land meant that owners had to leave the County for Feilding, Marton or Palmerston North. Certainly, many of the Reu Reu blocks were less than 50 acres in size. Of the 55 blocks affected by charging orders in 1927, all but seven were less than 50 acres and just two comprised more than 100 acres.

Claimant statements regarding Maori moving away from Tokorangi and Kakariki during this period are supported by census statistics. Lange records that the population of Tokorangi and Kakariki declined ‘only a little’ between 1936 and 1961 from 208 to 183. In 1961, of the 418 Maori living in the Oroua County, 114 Maori lived at Tokorangi and 69 at Kakariki. Ten years later, of the 320 Maori living in the County, 41 lived at Tokorangi and 40 at Kakariki. This meant that the number of Maori living in this area reduced from 183 in 1961 to 81 in the ten-year period – so a reduction of more than half.²⁷³

Title research by Walghan Partners shows very little partitioning of the Reu Reu block in the 1960s and 1970s contrasting with 11 partitions of small areas between one rood and two acres which were ordered between 1952 and 1962. The last partition ordered in the Reu Reu 1 block was in 1962 (Reu Reu 1 section 3A (1 acre 28 perches) and 3B (23 acres 3 roods 16 perches)). There were no partitions of Reu Reu 2 blocks after 1952 until 1968 which was an adjustment of an existing partition (2C1A1 (1 acre) and 2C1A2 (28 acres 3 roods 18 perches) and 1976 (Reu Reu 2F2A and 2F2) where both sections comprised over 37 acres. This appeared to be for farming purposes and not for housing. There were also no partitions ordered over any Reu Reu 3 blocks after August 1964 (Reu Reu 3B2A (1 rood) and Reu Reu 3B2B (154 acres 3 perches)).²⁷⁴

Maori Land Court minutes have been examined in relation to these aforementioned partitions to assess Council involvement in the decision-making process at the time. In 1962, the Court heard an application for partition of a 1 acre 28 perch area for housing purposes from Reu Reu 1 section 3 (25 acres) The minutes record that the owners of Reu Reu 1 section 3 had

²⁷³ Raeburn Lange, *The Social Impact of Colonisation and Land Loss on the Iwi of the Rangitikei, Manawatu and Horowhenua Region, 1840-1960*, A report commissioned by the Crown Forestry Rental Trust, December 2000, Wai 2200, #A1, p. 175; New Zealand Census, 1961, p. 59; New Zealand Census, 1966, p. 48; New Zealand Census, 1971, p. 48.

²⁷⁴ Walghan Partners, Draft, 1 May 2017, volume 3, pp. 238-263; Donna Hall, Woodward Law, counsel for claimants, feedback on draft report, March 2017. Note that Tokorangi partition details were not available in time for consideration in the final report.

consented to the partition and that the partition for the house was to be on the corner of the block on Reu Reu Road. The house was to be financed by the Maori Affairs Department who had inspected and 'passed' the site. The 1 acre 28 perch block was vested in BJ & M Williams as joint tenants. The remainder of the block, Reu Reu 1 section 3B (23 acres 3 roods 16 perches), was awarded to the other 17 owners. The minutes also record that the County Council had agreed to the partition. Nothing further was noted and Council records regarding this have not been located. It is clear though that in 1962 a partition could still be ordered over rural land in the Oroua County that comprised less than ten acres.²⁷⁵

The application from Taruke Ngapaki for a partition of 1 rood (one quarter of an acre) from Reu Reu 3B2 which comprised 154 acres 1 rood 3 perches was also an example of a partition of less than ten acres being ordered during this period. It was heard at the Maori Land Court on 18 August 1964. The Court ordered that one rood be vested in AN and R Karatea jointly as per the applicant's request to provide them with a housing site. The block was to be called Reu Reu 3B2A. The remainder of the block was vested in the other 156 owners. Nothing in the minutes referred to the Oroua Council. When the partition was altered in 1966 to reflect an increased area caused by accretion, there was also no mention of the Council.²⁷⁶

The partition application made in 1968 in respect to Reu Reu 2C1A1 and 2C1A2 did not relate to a new partition but the amendment of a partition made in 1949 where there was an existing house. On 5 April 1949, Ngahuia te Tomo had vested one acre of Reu 2C1A in Huia Hakaraia for a housing site and partitioned out as Reu Reu 2C1A1. A house was built but on a portion of Reu Reu 2C1A2. In 1968, the Court ordered that the partition order of 1949 be cancelled and for the block to be re-partitioned so that an area of one acre on the Kakariki-Onepuhi Road could be cut out which incorporated the existing house. The order was made subject to the approval of the local body. Oroua County records regarding this have not been located but Maori Land Online gives the date of title for these blocks at 1968 indicating that the partition order was confirmed at this time.²⁷⁷

While examples of sub-division applications to the Council in respect to the Reu Reu block between 1964 and 1980 have not been located, one concerning the Taonui Ahuaturanga block

²⁷⁵ Whanganui Minute Book 126, 5 November 1962, pp. 348-349.

²⁷⁶ Otaki Minute Book 71, 18 August 1964, pp. 131-132; Otaki Minute Book 73, 24 November 1966, pp. 93-94.

²⁷⁷ Otaki Minute Book 74, 23 December 1968, p. 254; Maori Land Online: <http://www.maorilandonline.govt.nz/>.

has. Of note is that details of this application were located in a file containing solicitor's correspondence about rating as opposed to a separate application file of which none have been located for this period. The only sub-division application files located concerning Maori land are from 1980 (discussed further below). It is possible too that applications did not reach the Council and stopped during the Maori Land Court process (but prior to hearing) when it became clear that partitions would not meet the ten acres, and later, in 1972, the fifty-acre threshold.

The application in 1967 for a partition by Andrew Simeon in respect to Taonui Ahuaturanga 2B6 and 2B7 which both comprised a little over eight acres each, reveals the Council's position at this time and just preceeds the change in legislation whereby it was compulsory for the County to approve a scheme plan prior to partitioning by the Maori Land Court. The parent block of Taonui Ahuaturanga encompassed both the Kairanga and Oroua Counties but the block in question was within the Oroua County. It was located between Oroua and Durie Roads to the eastern side of Waughs Road and the Railway line which was the boundary line between the Kairanga and Oroua Counties. The solicitors for Mr Simeon, Barltrop, Cobbe & Lockhart, stated that Mr Simeon wished to transfer a four-acre area from the block so that he could build a new residence with finance from the State Advances Corporation. They asked for the Council's approval and noted that the house site had also been discussed with the County Health Inspector who had no objection to it. The County Clerk replied that the Council had considered the application and decided that approval could not be given to the subdivision because it did 'not comply with the provisions of Councils planning scheme which provides for allotments of a minimum area of 10 acres in a Rural area'.²⁷⁸

With respect to other partitioning of the Taonui Ahuaturanga block at this time, the only other partition made in the 1960s was in respect to Taonui Ahuaturanga 3A into 3A1(1 rood 38 perches) and 3A2 (44 acres 36 perches) on 26 July 1967. In this instance, it was the Kairanga Council who agreed to the partition as it was within its boundaries (the boundary between the two Councils went through the parent block). Despite the partition being less than ten acres and presumably being for housing purposes (though this wasn't explicit in the minutes), the Kairanga Council agreed to it. This demonstrates too how different Council's approached the

²⁷⁸ Barltrop, Cobbe & Lockhart, Barristers & Solicitors, Feilding to Oroua County Council with sketch plan, 15 June 1967; County Clerk, Oroua County Council to Barltrop, Cobbe & Lockhart, Solicitors, Feilding, 22 June 1967, MDC 00020: 2: B2 Solicitors - Barltrop, Cobbe & Lockhart Oroua County Council 1965 – 1972, Archives Central, Feilding. SW Document Bank, volume 3, p. 67-68.

subdivision of Maori land and the difficulty for Maori of having local authority boundaries which did not take into account the location of Maori land blocks.²⁷⁹

As noted above, no new partitions were made over Reu Reu block involving areas of less than ten acres for the period from 1964. A subdivision application in respect of the Reu Reu block in 1980 also supports the contention that the Council had, prior to this application, not always allowed the subdivision of Maori land zoned rural into small areas for housing purposes as it had to prepare new ordinances to enable the subdivision to happen. On 5 February 1980, Lloyd Evans of Barristers & Solicitors Barltrop, Cobbe & Evans wrote to the County Clerk on behalf of Mrs N Kiriona, the owner of Reu Reu 1 2B2A located on Pryces Line comprising around 30 acres (12.2 ha). The block had been Europeanised in the late 1960s/early 1970s so did not have to be considered by the Maori Land Court. Mr Evans noted that a transfer of two and a half acres of land adjoining Mrs Kiriona's land would be completed midway through the year. The two and a half acres contained two homes, one of which was occupied by Mrs Kiriona and the other by one of her daughters. Mrs Kiriona also wanted to subdivide her property with the intention of transferring approximately one quarter of the property to each of her four children so that they could build homes for their families. As the development involved 'substantial costs' Mr Evans said he wished to ask the Council if they would consider the proposal, at what was an early stage, and indicate whether an application for specified department would likely meet with the approval of the Council. He noted that this initial decision would not be binding but that it was important to ask the question particularly 'in view of the almost inevitable objections which will be raised by Council's town planning advisers'. In support of the application, Mr Evans stated that the land had been in the Kiriona family 'for generations and it seems that a development along the lines suggested would be reasonable in view of this fact'.²⁸⁰

In response, the County Clerk, IC Lovell, who had held the position since 1969²⁸¹, forwarded the request to Town Planning Consultants, Porter & Martin, stating that the Council was:

²⁷⁹ Otaki Minute Book 73, 26 July 1967, p. 289.

²⁸⁰ Barltrop, Cobbe & Evans, Barristers & Solicitors to County Clerk, Oroua County Council, 5 February 1980, MDC 00119 : 4 : W60 Subdivision: Pryces Line, M Kiriona Subdivide Reu Reu No 1 2B2A into Lot 1. Oroua County Council, 1980 – 1980, Archives Central, Feilding. SW Document Bank, volume 3, pp. 40-42; Walghan Partners, Draft, 1 May 2017, volume 3, pp. 238-263.

²⁸¹ Davies & Clevely, p. 167.

... sympathetic to the proposal, particularly as it may encourage increased population in this area which was once quite a strong Maori community.²⁸²

Mr Lovell said that the land was leased to a neighbouring farmer and that he would imagine that if the subdivision was given formal approval, that the land, apart from that required for housing, would be farmed in a similar way. He noted too that it was:

... also possible that when considering the matter of land subdivision in the rural areas, some special provision could be made in respect of Maori land.²⁸³

The Town Planning Consultant for the Council, Mr Porter, responded that while it was evident that the proposal did not comply with the district scheme review, he would like further information on the circumstances of the applicant and her family so that an evaluation could be made as to 'whether a modification in Council planning policy ... could be justified'. He also said that it was not a matter for a section 74 application (this section of the 1977 Act related to applying for a specified departure from the district scheme which was only applicable in cases where there was 'little town and country planning significance' or where it was considered not contrary to the public interest).²⁸⁴

The following month, Mr Porter advised the County Clerk that he had given the matter further consideration but that the subdivision amounted to creating 'small and isolated residential subdivision in the rural zone' which was contrary to the following objectives of the District Scheme (as per 4.1.2 of the scheme statement):

(b) to ensure that land does not become fragmented into areas which are uneconomic or unsuitable for farming purposes

(e) to contain urban growth within the existing towns and boroughs²⁸⁵

²⁸² County Clerk, Oroua County Council to DG Porter, Messrs Porter & Martin, Wellington, 26 February 1980, MDC 00119 : 4 : W60 Subdivision: Pryces Line, M Kiriona Subdivide Reu Reu No 1 2B2A into Lot 1. Oroua County Council, 1980 – 1980, Archives Central, Feilding. SW Document Bank, volume 3, p. 43.

²⁸³ Ibid.

²⁸⁴ Porter and Martin, Registered Architects and town Planning Consultants to County Clerk, Oroua County Council, 3 March 1980, MDC 00119 : 4 : W60 Subdivision: Pryces Line, M Kiriona Subdivide Reu Reu No 1 2B2A into Lot 1. Oroua County Council, 1980 – 1980, Archives Central, Feilding. SW Document Bank, volume 3, p. 44.

²⁸⁵ Porter and Martin, Registered Architects and town Planning Consultants to County Clerk, Oroua County Council, 9 April 1980, MDC 00119 : 4 : W60 Subdivision: Pryces Line, M Kiriona Subdivide Reu Reu No 1

He said that it was also contrary to section 3(3) of the Town and Country Planning Act 1977 which set out matters of national importance which had to be recognised and provided for in district scheme. This was ‘the prevention of sporadic subdivision and urban development in rural areas’. As the subdivision was to provide for two members of the family who worked elsewhere with sites for houses, the subdivision had to be ‘considered as for residential use of an urban nature’. He continued:

There is no way the proposal could be granted consent in terms of the District Scheme or as a specified departure. There is also no way of making provision for such subdivision in the District Scheme in view of Section 3 (e) quoted above, unless there were special local circumstances justifying special provision for Maori people in terms of item (g) of section 3. This reads:

(g) The relationship of the Maori people and their culture and traditions with their ancestral land.²⁸⁶

He said, that from his knowledge of the situation, he could not see that this would be sufficient to justify the proposal and to ‘override item (e)’. (That is, his interpretation was that the matter of national importance relating to sporadic subdivision and urban development in rural areas took precedence over the relationship of Maori with their land.) He was, however, ‘anxious to do all that is possible to meet the particular requirements of the Maori people within the restraints of the legislation’. He suggested that the matter be given ‘individual consideration in the proposed study of small rural properties’ (not located).²⁸⁷

On 19 May, the County Clerk advised Mr Porter that the Council has considered the matter further and thought it was ‘desirable that some consideration should be given to the requirements of the Maori people in the vicinity of the Tokorangi area’. He said that the

2B2A into Lot 1. Oroua County Council, 1980 – 1980, Archives Central, Feilding. SW Document Bank, volume 3, pp. 45-46.

²⁸⁶ Ibid.

²⁸⁷ Ibid.

Council suggested that an ordinance be drafted in accordance with section 3(g) of the Act (as noted above) which would allow for closer settlement in the vicinity of Marae'.²⁸⁸

The following day, the County Clerk forwarded Mr Evans (solicitor for Mrs Kiriona) the report received from the Council's Planner (Porter & Martin) and said that there appeared little that the Council could do at this time. He said that the Council had asked the Planner to draw up an 'ordinance in accordance with section 3(g) of the Town & County Planning Act' but that some time would elapse before the matter was further considered.²⁸⁹

Later that month, Mr Porter, reported to the County Clerk that he had driven out to the block and to Tokorangi. He thought that 'some settlement in the area would be advantageous' but that a change to the district scheme to allow housing in the vicinity of the Marae would not assist in this instance as the property was 'some distance by road from the Marae'. He would, however, draft a clause that may assist in other cases and draft a clause that 'would allow special consideration to be given to persons who have special affiliation with the land to erect houses on their land'. He said that there was 'some precedent for this in Waiapu County' who they firm also acted for and where 70 percent of the population was Maori.²⁹⁰

Mr Porter said that he had studied two cases that had come before the Planning Tribunal the previous year concerning the building of houses for Maori in rural zones that were remote from urban areas. Although the cases were not directly relevant, they did give some grounds for giving favourable consideration to the proposal of Mrs Kiriona, using section 3(g) of the Town and Country Planning Act as the basis for a decision. Though this clashed with item (e) which as noted above was 'the prevention of sporadic subdivision and urban development in rural areas', he considered that 'the remoteness of the site and the reasonable proximity of the Marae and the circumstances of the applicant all give weight to the proposal'. He suggested that the solicitors for Mrs Kiriona be advised to make an application for planning consent to

²⁸⁸ County Clerk, Ororua County Council to Messrs Porter & Martin, 19 May 1980, MDC 00119 : 4 : W60 Subdivision: Pryces Line, M Kiriona Subdivide Reu Reu No 1 2B2A into Lot 1. Ororua County Council, 1980 – 1980, Archives Central, Feilding. SW Document Bank, volume 3, p. 47.

²⁸⁹ County Clerk, Ororua County Council to Messrs Bartrop, Cobbe & Evans, 20 May 1980, MDC 00119 : 4 : W60 Subdivision: Pryces Line, M Kiriona Subdivide Reu Reu No 1 2B2A into Lot 1. Ororua County Council, 1980 – 1980, Archives Central, Feilding. SW Document Bank, volume 3, p. 48.

²⁹⁰ Porter and Martin, Registered Architects and Town Planning Consultants to County Clerk, Ororua County Council, 9 April 1980, MDC 00119 : 4 : W60 Subdivision: Pryces Line, M Kiriona Subdivide Reu Reu No 1 2B2A into Lot 1. Ororua County Council, 1980 – 1980, Archives Central, Feilding. SW Document Bank, volume 3, pp. 45-46.

be publicly notified and when doing so, provide full information of the background so as to allow him to ‘write a report based on a reasonably detailed knowledge and understanding of the situation’.²⁹¹

The solicitors for Mrs Kiriona were forwarded the above letter on 25 June 1980. While there is nothing further on that particular Council file, another Council file contains correspondence from Mr Porter about the same block of land. Mr Porter advised the County Clerk in 1981 about the proposed subdivision on what he called the Karatea Estate on Pryces Line (Reu Reu 1 2B2A 2B1). The proposal, he said, was to ‘subdivide out an area of 1.18 ha., containing two dwelling houses from one lot and attach it to another adjoining lot [Reu Reu 1 2B2B], with the new boundary following the fence line’. The situation on the ground was said to remain unchanged, and that the application could be considered a ‘boundary adjustment in terms of Ordinance III, Clause 4 (1).’ (this particular ordinance has not been located and there is nothing further on this Council file either).²⁹²

While this application appears to have been approved it also appears to be a boundary alteration only and not the subdivision of the block for housing purposes. Maori Land Online records that the blocks were re-named Reu Reu 1 section 37 (25.96 ha) in 1981, section 38A (3.15 ha) in 1993, section 38B1 (3.647 ha) in 1995 and section 38B2 (6.783 ha) also in 1995. Of the four sections, just one, Reu Reu 1 section 38B1, contains a house. This suggests that not only did the land become Maori land again at some point but that the subdivision for housing applied for in 1980 did not proceed at this time. There is nothing further on the Oroua County files regarding this.

What is clear, however, is that Maori experienced difficulty in having subdivision applications approved by the Oroua Council due to the restrictions imposed in its district

²⁹¹ County Clerk, Oroua County Council to Messrs Barltrop, Cobbe & Evans, 20 May 1980, MDC 00119 : 4 : W60 Subdivision: Pryces Line, M Kiriona Subdivide Reu Reu No 1 2B2A into Lot 1. Oroua County Council, 1980 – 1980, Archives Central, Feilding. SW Document Bank, volume 3, p. 48.

²⁹¹ Porter and Martin, Registered Architects and Town Planning Consultants to County Clerk, Oroua County Council, 19 May 1980, MDC 00119 : 4 : W60 Subdivision: Pryces Line, M Kiriona Subdivide Reu Reu No 1 2B2A into Lot 1. Oroua County Council, 1980 – 1980, Archives Central, Feilding. SW Document Bank, volume 3, p. 47.

²⁹² County Clerk, Oroua County Council to Messrs Barltrop, Cobbe & Evans, 25 June 1980, MDC 00119 : 4 : W60 Subdivision: Pryces Line, M Kiriona Subdivide Reu Reu No 1 2B2A into Lot 1. Oroua County Council, 1980 – 1980; Porter & Martin, Architects and District & Regional Planning Consultants, 30 September 1981, MDC 00119 : 4 : W51 Subdivision DP 49985: Pryces Line, Est Iwa Karatea Subdivide Reu Reu 1 2B2A 2B1 and accretion thereto into 1 Lot. Oroua County Council 1978 – 1982, Archives Central, Feilding. SW Document Bank, volume 3, pp. 49-52.

schemes prepared under the Town and Country Planning Acts. The absence of partitions made over the block in the late 1960s and 1970s reflects this.

5. Kairanga County Council, 1902-1988

5.1 Establishment

In 1902, the Manawatu Road Board and the Fitzherbert Road Board amalgamated to form the Kairanga County Council which was established under the Kairanga County Act 1902. The boundaries of the county were the Oroua River and Manawatu County in the north-west; the Oroua County and Feilding in the north-east; the Horowhenua County in the south-west and the Pahiatua County in the east. Kairanga County Council territory surrounded the then borough of Palmerston North and the Manawatu River ran through the middle of the county. Maori land blocks in the inquiry district within the county included Awahuri, Aorangi, Ngawhakaraua and Taonui Ahuaturanga.²⁹³

The first meeting of the council was held on 14 May 1902. The councilors were Messrs Luxford, Were, Voss, Nathan and Manson (Taonui Riding) and Greerg and Conlan (Fitzherbert Riding). Mr Luxford was unanimously elected chair. In November, a new council was elected which comprised Messrs Luxford, Voss, Were, JC Nathan, Mason, Greer, M Moody and Bryant – all it would seem, Pakeha men. Subsequent searches on councilors has not revealed any Maori names though it has not been possible to locate a list of councilors who served the council over the years with no history of the council available.²⁹⁴

In 1988, the council was amalgamated with the Manawatu County to form the first Manawatu District Council. In 1989, most of the Kairanga County territory was incorporated with that of the Palmerston North City Council.²⁹⁵

5.2 Sources

²⁹³ Kairanga County Act, 1902; Map of Kairanga County, HRC_00237_1_2919_18, 1919, Archives Central, Feilding; Archive Central website, accessed, September 2016. SW Document Bank, volume 3, p. 73.

²⁹⁴ *Manawatu Standard*, Volume XL, Issue 7295, 14 May 1902, p. 3; *Manawatu Standard*, Volume XL, Issue 7459, 26 November 1902, p. 3.

²⁹⁵ Archives Central Website: <http://archivescentral.org.nz/> accessed October 2016.

Summaries of Council meetings were published in the *Manawatu Standard* and it is these dated from the Council's inception until 1923 that have been examined for references to Maori.

In addition, records of the Kairanga County Council held at the Ian Matheson Archive in Palmerston North and Archives Central, Feilding have been examined. Comparatively few files relating to Maori land and Maori were located particularly regarding the rating of Maori land. Files relating to housing at Kai Iwi Pa on the Aorangi block from the late 1950s and early 1960s have been examined as have some regarding proposed subdivisions on Maori land in the 1960s and 1970s.

5.3 Early Council Involvement with Maori, 1902-1910

The first meeting of the council was held on 14 May 1902. None of the business discussed related to Maori. The first mention of Maori or Maori land at a Council meeting was in July 1902 when the Council received a request from the Tauranga County Council for the Kairanga Council's 'co-operation with the view of having native lands placed on equality with European lands for rating'. The request was granted. While nothing else was mentioned that specifically concerned Maori in 1902 it was decided in September 1902 that the Council would sue for 'all rates' outstanding after 1 October.²⁹⁶

In April 1903, the Council set the rate for the year at 3/4d in the pound. Councilor Nathan wanted the amount increased 'in order to be able to carry out many small works which settlers had applied for'. The chair pointed out that the money for these should be obtained by special rates on the districts affected.²⁹⁷

Nothing further relating to Maori has been located from these early meetings (to 1910) apart from that concerning the Oroua river in 1905 (discussed below).

²⁹⁶ *Manawatu Standard*, Volume XL, Issue 7317, 10 June 1902, p. 3; *Manawatu Standard*, Volume XL, Issue 7318, 11 June 1902, p. 4; *Manawatu Standard*, Volume XL, Issue 7841, 8 July 1902, p. 3; *Manawatu Standard*, Volume XL, Issue 7394, 9 September 1902, p. 3.

²⁹⁷ *Manawatu Times*, Volume XXVII, Issue 7696, 27 April 1903, p. 2.

5.4 Roads

Little has also been discovered regarding the Council taking Maori land for roads. What has been discovered reveals a reluctance in 1911 on the part of the Council to take Maori land for a road as they did not want to pay for it or to build a road on land that remained Maori owned. This related to a road through Maori land to give settlers living on Boness Road an outlet. As the County had made a road down to the river from the settler's properties, the settlers had to take their milk across the Oroua River. When the river flooded, however, the outlet could not be used. The chair of the Council, Mr Wilson, said that he recognised how difficult the situation was but that it was not the fault of the Council. He said that he had 'spent a lot of time and trouble in endeavouring to get a settlement of the difficulty' and that Boness Road 'only went just past the creek and from thence to the river was Maori land'. The land for the road, he said, could 'only be taken under the Public Works Act' and that it was necessary to raise a loan to provide the funds to take the land and make the road. The Maori owner of the road had been asked to give the land and then the Council would make the road but had replied that he had no objection to the council making the road but he would not sell. It was reported that the matter was then dropped.²⁹⁸

In 1912, there was also a discussion about a request by WBV Pearce for a public road where a Maori track was said to have existed along the banks of the Oroua stream near its junction with the Manawatu river. It is not known what the outcome of these discussions was if any.²⁹⁹

A further mention of roads through Maori land was in 1921, when the Alve Brothers of Rangiotu wrote to the Council pointing out that the road leading from the main road, Rangitane, was in a 'bad state'. They asked for it to be fixed by the Council. The engineer responded that the road referred to was not a county road but part of a road laid out in 1865 to give access to the navigable portion of the Manawatu river. He said that although the public might have 'acquired a right of way it had never been dedicated' and remained a strip of Maori land. The letter was simply 'received'. Nothing further about the matter has been located.³⁰⁰

²⁹⁸ *Manawatu Standard*, Volume XLI, Issue 9556, 6 July 1911, p. 2.

²⁹⁹ *Manawatu Standard*, Volume XLI, Issue 9339, 12 November 1912, p. 6.

³⁰⁰ *Manawatu Standard*, 14 September 1921, p. 3.

5.5 The Oroua River Bank, 1905 and taking of land for river improvements

One of the only examples located of Council engagement with Maori during the first years of the council's life concerned the Oroua River bank. In 1905, it was reported that J Saunders and the Kairanga County Council engineer, Mr Bastin, had visited the Oroua River bank and what was described as the 'Kai Iwi Maori pah' which was located about three miles from the Awahuri bridge. The visit was said to have been undertaken for the purpose of inspecting a 'serious breach made in the river bank' caused by a recent flood. It was reported that ten acres of 'very valuable land' (it did not specify whether it was Maori or European land) had been washed away and the protective works put in by a Mr Saunders (a settler) several years before to prevent the river 'getting into a low depression there – part of the main depression running through the Kairanga county' was threatened. The article said that unless steps were taken to prevent their destruction, 'very serious damage to property' would take place. If the matter was left there was no doubt that the river would 'cut into the depression' and it was feared would then 'cut its course through the county' resulting in 'incalculable loss of life in stock and damage to property in addition to the excessive risk of losing human life'. Mr Saunders considered that steps should be taken to obtain a meeting of ratepayers to deal with the matter and he intended to write to the County Council about it.³⁰¹

The letter from Mr Saunders, which drew attention to the 'havoc the Oroua river is causing at Kai-iwi, near Awahuri' was considered by the Council later that month. Mr Saunders said that if something was not done at once 'no one could venture to imagine what the dreadful damage may be to the farmers of the Kairanga'. He said that the river had 'cut in behind the protective- piles at the top end of the protective works that were put in some eight years ago' and that the river was 'running straight onto the piling and eating out the willows'. Also, that if it was allowed to continue, it would go 'through into the lagoon at the Maori pah [sic] and then down past the Awahuri Dairy Factory'. He further stated that:

The damage then to the Kairanga settlers no one could venture to imagine. The thing is staring any man of understanding straight in the face.³⁰²

³⁰¹ *Manawatu Standard*, Volume XLI, Issue 8028, 1 July 1905, p. 5.

³⁰² *Manawatu Standard*, Volume XLI, Issue 8042, 18 July 1905, p. 8.

He considered it 'one of the most serious and dangerous things he had seen in the district.' He said that if the river was 'once allowed to break through, the fall is so great that it would be impossible to put it back onto its course'. The County engineer, however, responded that he did not think the County should undertake the work as 'willows had been planted there and the settlers had allowed stock to break in and trample them down'. It was recorded that after much discussion, the Council decided that those interested should hold a meeting and raise a loan themselves. It was also agreed that if the river did break through it would 'never be got back to its course' with councillor Bryant pointing out that it 'only had a bank of about 20 feet to breakthrough'. It was therefore decided by the Council that it was 'inadvisable at this time to carry out the works, and that a meeting of settlers interested should be called with reference to raising a loan for works that are for the protection of their own property if they think fit'.³⁰³

Later that month a meeting of settlers (there is no mention of Maori being in attendance) held at Taonui school room decided to recommend to the Kairanga County Council not to spend funds protecting the banks of the Oroua river above the Awahuri Bridge near Kai Iwi.³⁰⁴

It was then reported in May 1912, that Kairanga County Council workmen were busy repairing the bridge over the Oroua River at Awahuri. The article also noted that the river was 'hugging the land very close on the side near the Maori pa at present' and had 'scoured away a large portion of the native's land'. It was said that if something was not done shortly to check the inroads of the river 'considerable damage will be recorded'.³⁰⁵

The extent of the damage to Maori land at Kai iwi by the Oroua River has not been investigated but it was still an issue in the 1930s when the Council decided to take Maori land for Oroua river protection works. This was despite Maori objections. In 1932, Richard Drummond, a settler, wrote to the Native Department on behalf of some of the owners of section D Awahuri Pt 273 (or Lot 273 DP 29, part section 145, Township of Sandon) block which he noted that the council wished to take. Mr Drummond said that the owners did not

³⁰³ *Manawatu Standard*, Volume XLI, Issue 8042, 18 July 1905, p. 8.

³⁰⁴ *Manawatu Times*, Volume XXVIII, Issue 436, 26 July 1905, p. 2.

³⁰⁵ *Feilding Star*, Volume VI, Issue 1792, 13 May 1912, p. 2.

wish to lose their land but were 'quite willing to let the council plant willows if they wish to within that section along the river bed'.³⁰⁶

A report was prepared on the matter by JH Flowers of the Native Department. He said that the area referred to was four acres in size and was declared a 'protected area' under section 277 of the Public Works Act and gazetted 31 January 1929. The land had been 'planted with lupin, willow and gums' and served as a 'protection to the Awahuri Bridge'. The land had 'not been used for gardening or other cultivation' by Maori in the past and both the Kairanga County Council and Highways Board objected to the breaking of the surface for such a purpose particularly as approximately £300 had been spent on protective works. Mr Flowers said that he understood that Mr Drummond had been 'offending by running cattle on the area which destroy[ed] the young willows' and the suggestion that the council take the land so as to give them 'better control of the area came from the Public Works Department'. Mr Ronayne of the Public Works Department was 'conversant with the matter' and had a plan of the area made from which it could be seen that only part of the Maori land was required for river protection purposes. He said too that he had been unable to get in touch with Mr Drummond but as far as he could ascertain there seemed to be 'no special reason why the County Council should not acquire the land for river protection purposes'.³⁰⁷

The Under Secretary of the Native Department also sought clarification from the Public Works Department who responded that they had received no application from the Kairanga County Council for a proclamation taking the land nor was he aware whether the council was taking the preliminary steps to acquire the land under the provisions of the Public Works Act 1928. He also suggested that clarification be sought from the council itself.³⁰⁸

³⁰⁶ Richard Drummond to Under Secretary, Native Department, 21 July 1932, ACIH 16036 MA1/345 19/1/46 Kairanga County Council - Awahuri D. Part - Kairanga Survey District, Block 1, Section 273 Part, 1932-1934 (Upper Aorangi No 1 block), Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 101.

³⁰⁷ JH Flowers, Native Department to Registrar, Ikaroa Maori Land Board, Wellington, 9 September 1932, ACIH 16036 MA1/345 19/1/46 Kairanga County Council - Awahuri D. Part - Kairanga Survey District, Block 1, Section 273 Part, 1932-1934 (Upper Aorangi No 1 block), Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 102.

³⁰⁸ Under Secretary, Native Department to Under Secretary, Public Works Department, 28 September 1932; Under Secretary, Public Works Department to Under Secretary, Native Department, 5 October 1932, ACIH 16036 MA1/345 19/1/46 Kairanga County Council - Awahuri D. Part - Kairanga Survey District, Block 1, Section 273 Part, 1932-1934 (Upper Aorangi No 1 block), Archives New Zealand, Wellington. SW Document Bank, volume 2, pp. 103 & 111.

The county clerk then advised the Native Department that the Council was 'not anxious to obtain control over the whole of the area referred to' but proposed to take steps to secure 'one chain [about twenty metres] in width along the river frontage of the section for the purpose of planting willows for river protection'. This information was then passed on to Mr Drummond. The Native Department also asked him whether the owners would object to this proposal as it would be 'of advantage to the remainder of their section as well as to the other land in the vicinity'.³⁰⁹

Mr Drummond responded that they did not object to the council 'securing' one chain along the river frontage for the purpose of planting willows for river protection and were willing to help plant the willows and fence them in. Prior to writing to the Native Department, however, he and the owners were going to plant potatoes on part of the section but the engineer would not allow them to clear the lupins within five chains of the river frontage (though he thought that this could have said six or seven chains). The Engineer told them that the council owned that part. Mr Drummond also happened to see in the paper that the council was applying for this part of the section to be declared Crown land. Mr Drummond explained that the river had changed its course over their land. At one time the river was the boundary but the river now ran right through the centre of the block. He asked what would happen if they were to allow one chain to be declared Crown land and then the river changed again. By allowing the county to plant their willows, he said, the owners could still have their land 'at any time the river changes'.³¹⁰

About a month later the engineer for the Council complained to the Public Works Department about the actions of Maori who, he said, owned cattle that had been found within the protected area. The cattle, he said, had caused 'serious damage to the new growth of willows recently planted'. He wished to prosecute but could find not legislation in which to do so. He also noted that the Maori owners had consulted their solicitors who had advised them that there was no legislation under which they could be prosecuted. He said that unless there was

³⁰⁹ County Clerk, Kairanga County Council to Under Secretary, Native Department, 13 October 1932; Under Secretary, Native Department to R Drummond, Feilding, 15 October 1932, ACIH 16036 MA1/345 19/1/46 Kairanga County Council - Awahuri D. Part - Kairanga Survey District, Block 1, Section 273 Part, 1932-1934 (Upper Aorangi No 1 block), Archives New Zealand, Wellington. SW Document Bank, volume 2, pp. 104 & 112.

³¹⁰ R Drummond, Feilding to Under Secretary, Native Department, 23 October 1932, ACIH 16036 MA1/345 19/1/46 Kairanga County Council - Awahuri D. Part - Kairanga Survey District, Block 1, Section 273 Part, 1932-1934 (Upper Aorangi No 1 block), Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 105.

redress to the ‘offenders’ there was no point proceeding with further protection work. The District Engineer was of the opinion that as the Council had spent £800 in the previous two years on protecting the river and that there should be some security for the money spent.³¹¹

The Council then instructed the engineer to immediately acquire the freehold of the property in occupation by Maori and to negotiate to acquire the river accretion that adjoined the land. The Council advised the Public Works Department that they wished to have the land taken under the Public Works Act. The county clerk noted that this position had arisen as a result of a conversation with the Land Purchase Officer of the Department who said that it was the ‘best procedure’ in view of the large number of Maori involved.³¹²

In June 1933, a letter was sent to the Kairanga County Council from Haimona Renao. It said that due to the ‘trouble experienced with the Pakeha, and Natives outside Kauwhata Tribe in wrongfully grazing our land, namely part section 273 CT 96/97 Block 1 Kairanga Survey District’. It said he was willing, as a ‘member of the Kauwhata’ to sell to the Kairanga County Council that section of section 273 that was ‘now isolated & without legal access on the eastern side of Oroua River for bridge and river protection works’. This seemed to infer that Maori who were not Kauwhata had been ‘wrongfully grazing’ Kauwhata land and given that the land had become isolated and without access (probably due to the shift in the river) Haimona Renao was willing to sell. No response has been located to this letter and there is no evidence that negotiations were entered into with him.³¹³

Instead, on 30 September 1933, the Council wrote to the Under Secretary of the Native Department advising that they were taking steps under the Public Works Act to acquire 7 acres 3 roods 28.7 perches of Part lot 273 (DP 29) being part of section 145 township of Sandon. The council said that the land was to be taken for the purpose of river protection at Awahuri near the Awahuri bridge and a plan of the property had been approved by the chief

³¹¹ Acting Engineer, Kairanga County Council to District Engineer, Public Works Department, Wellington, 16 November 1932, PNCC K3/4/4 : 7 : 35 Awahuri Bridge Protection (land taken for river protection purposes), Kairanga County Council 1928 – 1938, Ian Matheson Archives, Palmerston North. SW Document Bank, volume 4, pp. 3-4.

³¹² County Clerk, Kairanga CC to The District Engineer, Public Works Department, Wellington, 15 February 1933, 10 June 1933 PNCC K3/4/4 : 7 : 35 Awahuri Bridge Protection (land taken for river protection purposes), Kairanga County Council 1928 – 1938, Ian Matheson Archives, Palmerston North. SW Document Bank, volume 4, pp. 5-6.

³¹³ Haimona Renao to Kairanga County Council, 1 June 1933, PNCC K3/4/4 : 7 : 35 Awahuri Bridge Protection (land taken for river protection purposes), Kairanga County Council 1928 – 1938, Ian Matheson Archives, Palmerston North. SW Document Bank, volume 4, p. 7.

surveyor. A search of the certificate of title revealed that there were three owners (Peri Turi, Kooro Renao and Hori Te Mataku) all of whom had died, though in the case of Kooro Renao, his son, Haimona Renao had succeeded his interests. It was also recorded that there was no mortgage over the property. The county clerk said that in view of the provisions of section 22(3), it was necessary to serve notice on the owners of the property where the title was registered under the Land Transfer Act and a similar notice be published in the *Kahiti*. He asked what procedure his council should take in view of the fact that the registered proprietors of the land were deceased and whether it was sufficient if notice of the council's intention to take was served on Haimona Renao. With regard to compensation as provided for under section 104, the council would not make application to the Native Land Court until the provisions of the Act regarding taking the land had been finalised.³¹⁴

The Under Secretary of the Native Department advised the County Clerk that part section 273 (7 acres 3 roods 30 perches) was with section 272 included in a partition order dated 21 October 1920 in favour of 18 people, ten of whom had died. The order had not been registered. One of the owners, Hoore Renao, had been succeeded to by the first 7 persons and Hori Te Mataku by the last 10 persons leaving Peri Turi the only original owner. Renao Te Kooro, Noenoe Te Kooro, Ngawai Te Kooro, Peri Turi, Rawiri Mataku and Arapera Mataku had died but their interests had not been succeeded to. The Under Secretary said that he was unable to advise authoritatively but as the Act required the service of notice on the owners and occupiers 'as far as they can be ascertained possibly if it is served on the living owners or the bulk of them it would be sufficient'.³¹⁵

Letters stating that the Council intended taking the land were sent out to a number of owners on 26 October 1933. The owners lived in Awahuri, Palmerston North, Wairoa and Manakau. Several of the owners then visited the Council office to meet with the county clerk but he was not there. No details of what the owners wished to discuss are recorded though another letter

³¹⁴ County Clerk, Kairanga County Council to Under Secretary, Native Department, 30 September 1933, ACIH 16036 MA1/345 19/1/46 Kairanga County Council - Awahuri D. Part - Kairanga Survey District, Block 1, Section 273 Part, 1932-1934 (Upper Aorangi No 1 block), Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 109.

³¹⁵ Under Secretary, Native Department to County Clerk, Kairanga County Council, Palmerston North, 4 October 1933, PNCC K3/4/4 : 7 : 35 Awahuri Bridge Protection (land taken for river protection purposes), Kairanga County Council 1928 – 1938, Ian Matheson Archives, Palmerston North. SW Document Bank, volume 4, p. 7.

was sent to one of the owners which explained when compensation would be assessed. A notice of intention to take was also gazetted at this time.³¹⁶

A proclamation was issued under the Public Works Act 1928 in February 1934 in respect to lot 273 DP 29 being part Section 145 Township of Sandon. The land was taken for 'river-protection purposes' and comprised 7 acres 3 roods 28.7 perches. It was to 'vest in the Chairman, Councillors, and Inhabitants of the County of Kairanga' from 19 February 1934.³¹⁷

Also in February 1934, the Council made a formal application to the Native Land Court to ascertain the amount of compensation to be paid to the owners. The county clerk noted that the 'Main Highways Board' was 'anxious that the acquisition' be finalised as soon as possible so that the Council could take 'definite steps to carry out required protection work on the left bank of the Oroua River to safeguard the approach to the Awahuri Bridge'.³¹⁸

It is of note that the acting engineer, when asking the valuer general for valuations 'so that a fair value as compensation may be made to the Native Trustees and others', said that the land was being taken 'as a safeguard against destruction (more particularly by cattle)' of the protective works (groynes and willow planting).³¹⁹ This would suggest that the Council deemed it preferable to take the land rather than engage further with the Maori owners about the protection of the river.

At the compensation hearing, the matter was adjourned so that Maori could apply for the accretion to the block. This was required before the land could be taken under the Public Works Act. In 1935, the 1934 notice was partly revoked, declaring an area of 3 acres 25.7

³¹⁶ County Clerk, Kairanga County Council to Mrs Poanganga, Palmerston North, October 1933 & February 1934, PNCC K3/4/4 : 7 : 35 Awahuri Bridge Protection (land taken for river protection purposes), Kairanga County Council 1928 – 1938, Ian Matheson Archives, Palmerston North. SW Document Bank, volume 4, pp. 9-10; *New Zealand Gazette*, 1933, p. 2644, sourced from Bassett Kay Research, 'Porirua ki Manawatu Inquiry District, Public Works Issues, Draft Database', 2017.

³¹⁷ *New Zealand Gazette*, 6 February 1934, p. 199; sourced from Bassett Kay Research, 'Porirua ki Manawatu Inquiry District, Public Works Issues, Draft Database', 2017.

³¹⁸ County Clerk, Kairanga County Council to Registrar, Native Land Court, Wellington, 19 February 1934, PNCC K3/4/4 : 7 : 35 Awahuri Bridge Protection (land taken for river protection purposes), Kairanga County Council 1928 – 1938, Ian Matheson Archives, Palmerston North. SW Document Bank, volume 4, p. 11.

³¹⁹ Acting Engineer, Kairanga County Council to Valuer General, 28 May 1934, PNCC K3/4/4 : 7 : 35 Awahuri Bridge Protection (land taken for river protection purposes), Kairanga County Council 1928 – 1938, Ian Matheson Archives, Palmerston North. SW Document Bank, volume 4, p. 12.

perches not required. A further area of Maori land was taken in 1936 (1 rood 13 perches) from part subdivision 5B1 Upper Aorangi No 1 block along with two areas of the riverbed.³²⁰

Also in 1935, the Council advised the Native Department about the additional area of 1 rood 13 perches of sub 5B1 Upper Aorangi No 1 block to be taken. The Council asked for information regarding the addresses of the owners to which the Registrar of the Maori Land Court responded that he did not know (which would have made it difficult for notice to be served).³²¹

5.6 Rating

While the records of the Kairanga County Council relating to the rating of Maori land are minimal, what has been located suggests that this county did not use the Magistrates' Court until 1921 or the Native or Maori Land Court from 1924 to collect any outstanding rates on Maori land.

It took the Council some time to establish a culture of rate payment from all county constituents. In September 1903, it was reported that about £1750 was overdue on general rates and as a result that Council had decided to take legal proceedings. In January 1904, it had reduced to £1200. It was not specified at this time how much of this was made up of Maori land if any.³²²

A possible reason for this initial lack of action by the Council was that a relatively small proportion of the rates outstanding in the county were for those on Maori land. The first set of Maori land rating data located from April 1914, recorded that £15.13.6 was outstanding in the Taonui riding of the council and £15.5.2 owed from the Mangaone riding for rates on Maori land (it did not record how much was levied).³²³

³²⁰ Sourced from Bassett Kay Research, 'Porirua ki Manawatu Inquiry District, Public Works Issues, Draft Database', 2017.

³²¹ County Clerk, Kairanga County Council to Under Secretary, Native Department, 1 November 1935, Under Secretary, Native Department to County Clerk, Kairanga County Council, 16 November 1935, ACIH 16036 MA1/345 19/1/46 Kairanga County Council - Awahuri D. Part - Kairanga Survey District, Block 1, Section 273 Part, 1932-1934 (Upper Aorangi No 1 block), Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 110 & 113.

³²² *Manawatu Times*, Volume XXVII, Issue 7816, 17 September 1903, p. 2; *Manawatu Times*, Volume XXVII, Issue 7914, 29 January 1904, p. 2.

³²³ *Manawatu Standard*, Volume XLI, Issue 9770, 8 April 1914, p. 7.

This did not prevent the Council from engaging with other councils about the rating of Maori land. In April 1917, the New Zealand Counties Association acknowledge receipt of a letter from the Council regarding rates on Maori land and said that as requested, it would be treated as a remit for the next conference of the association. The details of the letter have not, however, been located.³²⁴

Also, later the same year, the Council endorsed the Hokianga County Council's proposal to have the law amended with regard to the rating of Maori land. The Hokianga County Council claimed that it was losing a large amount of rates every year and proposed that unpaid rates should be registered against title in the Native Land Court. This provision, it was recorded, would 'secure the Council against rates being non-receivable by lapse of time and would make unpaid rates an asset regardless of the length of time rates of Native lands may be in arrears'. Notwithstanding the apparently very limited extent of Maori rates arrears locally, the chair and councillors of the Kairanga County Council claimed that the amendment was 'very necessary'. In 1920, the council received from the Bay of Islands County Council a request for support for their resolution that the Prime Minister be urged to introduce legislation that allowed local authorities to enforce the payment of rates on Maori land or provide for payment of rates on Maori land by government. No comment by the council about this was recorded in the summary of the meeting provided by the *Manawatu Times* or *Manawatu Standard*.³²⁵

In 1921, the Council changed the way they were dealing with unpaid rates on Maori land. The council decided that outstanding rates by Maori land owners would be recovered by legal action and that other outstanding rates would be 'left in the hands of the secretary and chair to deal with'. This may have been prompted by an increase in the amount of unpaid rates. It was recorded that £132.1.3 was unpaid though this appears to be from both Maori and European land. Another article regarding the same meeting where this decision was made reported that the council had decided to 'take advantage of the law regarding native rates outstanding'. With regard to the debts of 'other defaulters' it was decided by the council that they would be 'carefully enquired into by the chairman and members for the particular ridings'. Councillor Small, who was responsible for the resolution, also pointed out that the council should 'use

³²⁴ *Manawatu Standard*, Volume XLII, Issue 1079, 3 April 1917, p. 6.

³²⁵ *Manawatu Standard*, Volume XLII, Issue 10190, 4 September 1917, p. 6; *Manawatu Times*, Volume XL, Issue 1372859, 5 September 1917, p. 2; *Manawatu Standard*, volume XLIII, Issue 1836, 9 June 1920, p. 7.

its discretion in cases of hardship in the county'. Consideration of cases of hardship were not mentioned in relation to Maori land owners.³²⁶

Later that year it was reported that the Council's 'apprehension with regard to the collection or rates' had been considerably 'allayed' as despite the 'talk of depression and slump', rates to date had 'come in even better' than in previous year.³²⁷

Despite this, on 6 June 1922, it was recorded that judgement was given in the Magistrates' Court presided over by JL Stout for the plaintiff 'by default' (meaning that the defendant did not appear at Court) in the cases of Kairanga County Council (represented by Mr Innes) versus Te Aira Winiata of Kai Iwi for £2.3.8 plus costs of £1.16.6 and Tautari Wiremu of Kauwhata for £6.19.6 plus costs of £2.3.0. These modest orders were the only two cases brought by the Council on this occasion and it can be assumed that as it was the Council taking action it was for unpaid rates.³²⁸

Likewise, on 17 July 1923, it was recorded that undefended civil cases had been 'disposed of' by Messrs J Bett and JA McLeavey, Justices of the Peace, at the Magistrates' Court. Judgement for the plaintiff 'by default' was entered in respect of Kairanga County Council (represented by Mr Laurensen) versus Heni Karehana for £2.9.4 plus costs of £1.18.6 and Miria Hoeta 'and others' for £4.7.11 plus costs of £2.3.6. Judgement was also made in respect to one European, C Whitaker, for £6.19.7 plus costs of £2.0.6, which was also likely to have been for unpaid rates.³²⁹

In 1927, it was reported that the amount 'lost' by the Kairanga County Council on the rating of Maori land each year was £60 (which could be viewed as fairly minimal). Of note was that the census of 1926 had recorded just 120 Maori within the County which was a considerable decrease from the 168 counted in 1921.³³⁰

The next set of data located on rates levied and received on Maori land was for the early 1930s which shows that for the 1931/32 financial year 87 percent of rates on Maori land were

³²⁶ *Manawatu Standard*, volume XLIII, issue 317, 10 May 1921, p. 5; *Manawatu Times*, volume XLII, issue 1813, 11 May 1921, p. 4.

³²⁷ *Manawatu Times*, volume XLVI, issue 1943, 11 October 1921, p. 4.

³²⁸ *Manawatu Standard*, 6 June 1922, p. 5.

³²⁹ *Manawatu Standard*, 17 July 1923, p. 5.

³³⁰ *Evening Post*, Volume CIV, Issue 84, 6 October 1927, p. 8; *Evening Post*, 21 May 1926, p. 9.

being paid though this had reduced to 39 percent by 1933/1934 (which could well be accounted for by the depression). The figures were as follows:

1931/32

Rates struck: £239.4.10; Rates paid to 31/3/1934 £207.19.7; unpaid £31.5.3

1932/33

Rates struck: £205.5.3; Rates paid to 31/3/1934 £109.3.5; unpaid £96.1.10

1933/34

Rates struck: £204.8.11; Rates paid to 31/3/1934 £81.7.7; unpaid £123.1.4³³¹

The data was produced in response to a query from the Rotorua County Council who wanted the legislation with regard to the rating of Maori land changed. While providing the data to the Rotorua County Council, the Kairanga County Council told the Rotorua County Council that Kairanga would not contribute financially to the expenses incurred in obtaining an amendment to the rating legislation.³³²

The county clerk of the Kairanga County Council advised that the rates on Maori land for the year 1940-41 in the county were as follows:

[Maori] Land occupied by Maori: £241.3.2 struck; £183.2.5 paid

[Maori] Land occupied by Europeans: £89.17.1 struck; £85.12.4 paid.

Total struck: £331.1.1; total paid: £268.14.9³³³

Therefore, 81 percent of the rates levied were paid which was, in comparison to counties such as Oroua (1 percent) and Horowhenua (3 percent) at this time, very high.³³⁴

³³¹ County Clerk, Kairanga County Council to County Clerk, Rotorua County Council and statement of rates struck, 13 June 1934, PNCC K3/4/1 : 33 : 3 Native Rates (Conference 1934) Kairanga County Council 1935 – 1938, Ian Matheson City Archives, Palmerston North. SW Document Bank, volume 4, pp. 14-15.

³³² Ibid.

³³³ County Clerk, Kairanga County Council to Under Secretary, Native Department, 29 April 1941, ACIH 16036 MA 1 box 403 20/1/1, part 4, Rating of Native Lands - General, 1939-1945, Archives New Zealand, Wellington. SW Document Bank, volume 1, p. 39.

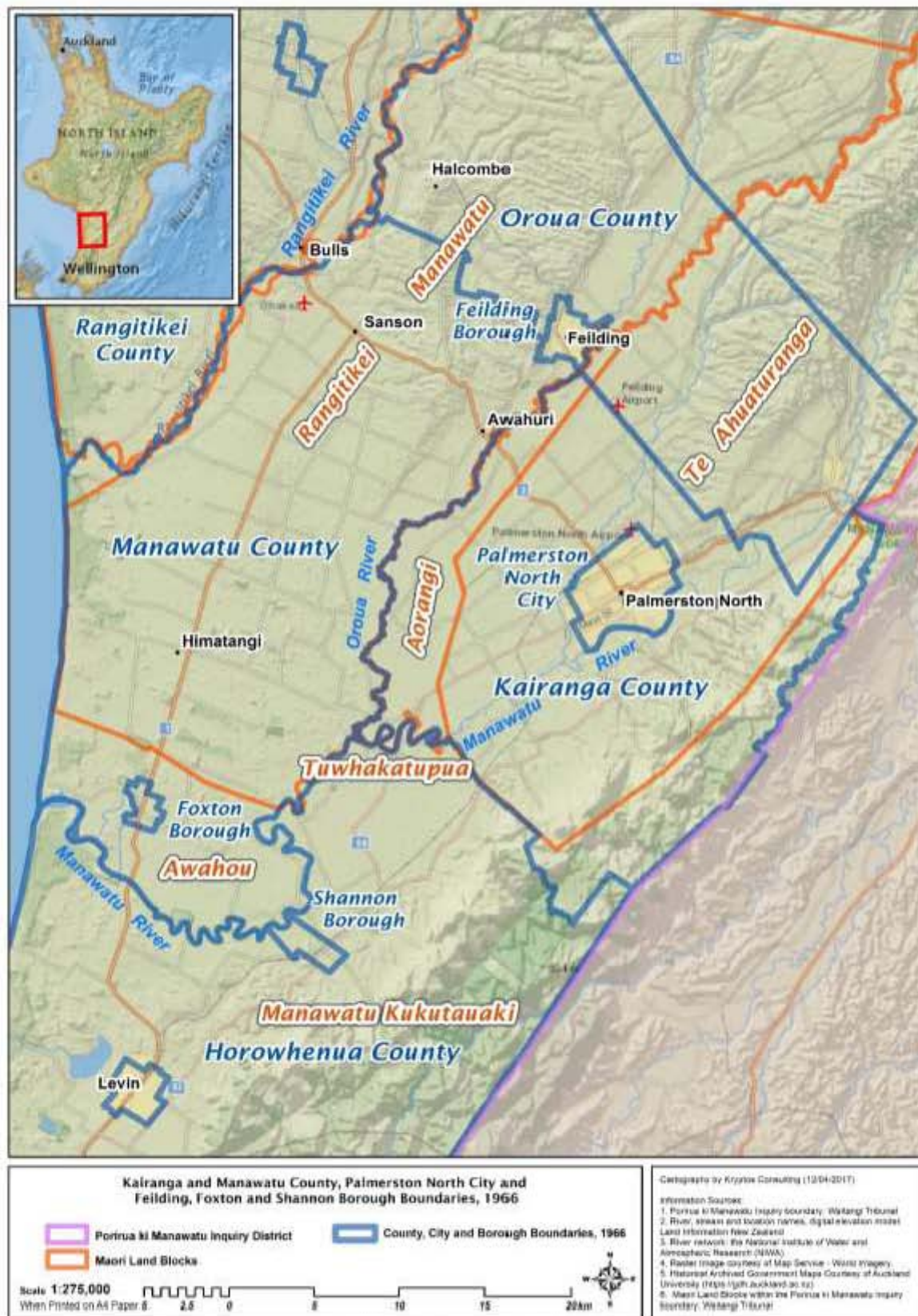
³³⁴ Horowhenua County Council evidence to Native Land Rates Committee, 23 June 1933, ACIH 16093 MA 86 1/2 Native Land Rates Committee, Minutes of Evidence, 9 June – 29 September 1933, Archives New Zealand, Wellington. SW Document Bank, volume 1, pp. 2-22. Note that the 3% figure was based on Maori land occupied by Maori and did not include Maori land occupied by Europeans.

No charging (section 108), receivership (section 108) or vestings under sections 109 of the Rating Act 1925 or section 438 of the Maori Affairs Act 1953 were located in the block order files for the Aorangi, Awahuri or Taonui Ahuaturanga blocks which were the main Maori blocks within the boundaries of the county. Maori Land Court minute books viewed also did not refer to such orders. Another indicator that these provisions were not used was that in the late 1950s no charging orders were on the lands at Kai Iwi Pa on the Aorangi block despite it being known that rates were not being paid.³³⁵

This suggests that if the Kairanga County Council did pursue unpaid rates on Maori land it was not through the Maori Land Court process. Evidence of unpaid rates being pursued through civil remedies (judgements made in the Magistrates' Court or correspondence from county solicitors) has also not been located for this later period though solicitor's files of the Kairanga County Council held at the Ian Matheson Archives in Palmerston North may provide more details. (These were unable to be examined due to time constraints.)

³³⁵ CJ Stace, Commissioner to District Officer, Wellington, 2 April 1959, ACIH MAW2459 Box 122 9/10/3 part 1 Housing Survey (Kai Iwi Pa) Feilding, 1956-1962, Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 130-132.

Map 8: Kairanga and Manawatu County, Palmerston North City, and Feilding, Foxton and Shannon Borough Boundaries, 1966



5.7 Kai Iwi Pa and Re-location of Maori, 1955-1962

5.7.1 Statement of claim

One of the issues raised in a statement of claim and at claimant hui concerned the Kairanga Council's involvement with housing at Kai Iwi Pa (or Kauwhata Marae) on the Aorangi block in the 1950s. Claimants for the Kauwhata Treaty Claims Komiti, Te Marae Komiti o Kauwhata Trust and Nga Uri Tangata o Ngati Kauwhata, stated that:

The Crown did not act or intend to act in the best interests of Ngati Kauwhata when offering members of Ngati Kauwhata loans to purchase housing in Feilding and Palmerston North.

The Council also encouraged members of Ngati Kauwhata to move away from their papakainga.

The Crown and Council actions resulted in the dispersal of a lot of Ngati Kauwhata people who moved away from their traditional homelands.³³⁶

Further:

In the 1950s Maori Affairs gave the people of Ngati Kauwhata loans to purchase housing in Feilding and Palmerston North. The dispersal and displacement was also initiated by the Council, who told Ngati Kauwhata people that if the river flooded their houses would be washed away.³³⁷

There are few Council records regarding Maori housing and little to suggest much Council involvement until the 1950s. The earliest reference located to discussions of the Kairanga County Council regarding housing conditions at papakainga within the County was in 1919. The Tauranga Hospital and Charitable Aid Board wrote to the Council 'drawing attention to the insanitary condition of native pas, and recommending that provision be made for the inauguration of an adequate sanitary system in all native villages'. The Council decided to

³³⁶ Statement of Claim of Ngati Kauwhata, Wai 972 # 1.001(b); Hui with Suzanne Woodley and Te Hono ki Raukawa, Otaki, 20 April 2017.

³³⁷ Statement of Claim of Ngati Kauwhata, Wai 972 # 1.001(b).

support the Board 'in bring about the desired improvement'.³³⁸ No further details regarding any improvements made to papakainga in the Kairanga county at this time have been located. In 1951, J Cribb of Awahuri was advised by the sanitary inspector for the Council that a recent inspection of the dwelling owned and occupied by him had revealed that it was neglected with no proper amenities provided nor was there any drainage. He therefore asked that Mr Cribb carry out a list of works to improve the property within six weeks of the date of the letter. Again, details of the outcome of this request has not been located. This could well be because the records of the County Health Inspector are only available from 1962 which was when the inspector first worked from (had an office in) the County office.³³⁹

The Council's involvement at Kai Iwi in the late 1950s was encouraged by the Department of Maori Affairs and Health Department, the former having instigated a survey of housing at Kai Iwi in 1956. The council became involved in 1958 with issuing repair notices or requisitions, closing and demolition orders as only the Council (and not the Health or Maori Affairs Departments) were legally able to do this at the time. The legislation concerned, section 23 of the Health Act 1956, enabled County Councils to issue closing orders whereby a house could no longer be inhabited unless repairs outlined by the council were completed. Councils could also issue demolition orders which meant that a house had to be destroyed.

5.7.2 Housing Survey, 1956

In early 1956, a housing survey of Kai Iwi Pa, located near Fielding on the Aorangi 1 block (3A & 5A subdivisions) was completed by M Tamihana, a Welfare Officer for the Department of Maori Affairs. This showed that the housing at Kai Iwi was sub-standard. Discussion ensued between officials of the Department at both at district and head office level about possible solutions. Medical Officers of the Department of Health at Palmerston North also became involved as did the Kairanga County Council several years later.

In order to provide the context to the Kairanga Council's involvement, correspondence of the Department of Maori Affairs has been examined. This reveals that on 4 April 1956, the author of the survey, Mrs Tamihana forwarded it to the District Officer of the Department of

³³⁸ *Manawatu Standard*, volume XLIII, Issue 1480, 11 March 1919, p. 6.

³³⁹ Sanitary Inspector, Kairanga County Council to J Cribb, Awahuri, 13 June 1951, PNCC K3/26/1 : 1 : 1 County Health Inspector Records - Correspondence and Subject files - Maori Housing - Kai Iwi Pa Kairanga County Council 1957 – 1962, Ian Matheson Archives, Palmerston North. SW Document Bank, volume 4, pp. 17 -18. Archives Central website: <http://archivescentral.org.nz/> accessed October 2016.

Maori Affairs in Wellington. The housing survey said that in nearly all cases the houses were 'very overcrowded and substandard, and the amenities... primitive'. The survey included proposals for improved housing and notes regarding the 'varying interest' of those concerned. She said that all the Maori people living in the Kai Iwi neighbourhood and some who lived further away (31 families in total) had been interviewed personally 'for the purpose of ascertaining their housing needs and interest in bettering their housing conditions'.³⁴⁰

Mrs Tamihana reported that ten applications had been made for financial assistance including one from a person who did not live at Kai Iwi but thought he might build there. Eight of the applications had been made as a result of her visit. The two applications previously made had been held up for between one and two years because of a lack of a building site in one case and lack of finance in the other case. One of the houses that was being lived in by one of these two applicants was described by her as 'not fit for pigs'. She asked that the two applicants be advanced to the 'construction stage' though noted that they both had sites outside the Kai Iwi Pa neighbourhood and that it would therefore 'be necessary to build other homes for the purpose of encouraging those living in the district to become proud of home ownership'. She said that the number of newly lodged applications clearly showed that interest in building was strong. Another resident was a returned serviceman and he intended to apply to the State Advances Department for a housing loan and another person was going to apply for a state rental house. Another returned serviceman said that after his divorce was finalised and he re-married he could apply to the State Advances Department with a view to taking out a housing application. A third ex-serviceman was interested in building and wished to apply to State Advances and another person said she was keen to build. Another resident said that were unsure what they might do and may return to another area to farm. Twelve of those who were interviewed were also unsure and some 'categorically affirmed that they did not wish to build or move into a better house'. Several people, described as elderly, did not need a house. She said that of the sixteen people who indicated that they were interested in building, seven said that they would build at the Pa area, one would build anywhere and five would not build there. Three had given no indication as to where they wanted to build.³⁴¹

³⁴⁰ M Tamihana, Welfare Officer to District Officer, Wellington, 4 April 1956, ACIH MAW2459 Box 122 9/10/3 part 1 Housing Survey (Kai Iwi Pa) Feilding, 1956-1962, Archives New Zealand, Wellington. SW Document Bank, volume 2, pp. 115-116.

³⁴¹ Ibid.

She stated that the income position was 'good in the main' and provided that those interested prosecuted their applications 'steadily, persistently and energetically, the housing conditions in ... the area should improve in the near future'. She also thought the health of the people in the area was good, as were the 'moral conditions' though she criticised the drinking culture of several residents.³⁴²

There were twelve families she said who presented varying problems. She felt that Mason Durie (chair of the Raukawa Tribal Executive who lived in the area and also known as Hoani Meihana Te Rama Apakura), the (Kauwhata) tribal committee, the Maori Women's Welfare League and other interested people besides the officers of the Department would all need to help one another if those twelve families were to be properly housed. One of the issues was whether in some instances a freehold, leasehold or deferred payment lease would be satisfactory. She suggested that a better arrangement would be a more 'generous allocation of State Rental houses by State Advances or failing this, the Department [could] perhaps build a block of houses on a rental basis for people who needed it'.³⁴³

She apologised for the delay in finishing the report noting that interviewing all those concerned had taken time. She also stated that no record of any other housing survey or discussion about housing of the area had been located in the records of the department.³⁴⁴

Mrs Tamihana also noted in a separate letter that titles to the land were complicated as there were multiple owners who she said, 'had no knowledge of whether they have succeeded to their parent's interest'. She confirmed that nine of the owners had applied for an advance to build and asked for particulars of title and a valuation to be supplied for the land concerned. A sketch map of the area prepared at the time showed the houses around the marae and church which was located on the two acre Aorangi 1 section 3A3C (which Maori Land

³⁴² Ibid.

³⁴³ Ibid. '[Mason] Durie was the chairman of the Kauwhata Tribal Committee and the parent Raukawa Tribal Executive until his death, and when the Ikaroa District Council was formed he was nominated as its first chairman'. From: Mason Durie. 'Durie, John Mason', from the Dictionary of New Zealand Biography. Te Ara - the Encyclopedia of New Zealand, updated 7-Jun-2013. URL:

<http://www.TeAra.govt.nz/en/biographies/4d25/durie-john-mason>

³⁴⁴ Ibid.

Online in 2016 shows is on Te Arakura Rd and has been reserved for marae purposes since 1935).³⁴⁵

The proposals of Mrs Tamihana were based on her interviews with the residents of Kai Iwi, many of whom wanted to remain at Kai Iwi. This was a different approach to that of the Assistant District Officer, R Jones, who told the District Officer at Wellington a week later that unless there was the likelihood of a leader emerging, he ‘would not all be sanguine about building up such a Pa’. His reaction, he said, was to ‘scatter the homes rather than perpetuate the Pa, which, even it ... [was] renewed, would in a few years become squalid again’. He said that the ‘best thing to do’ where an area was set aside for the ‘Pa proper’ which in this instance was Aorangi 1 section 3A3C was to ‘use the area for community purposes, such as an Assembly hall or meeting house, sports grounds and tribal cemetery’. Any surplus area, he said, could be used for ‘community cropping or for leasing purposes, rent to go towards community projects’. He also stated that except for the Tait and Graham families it was difficult to associate the applicants with the actual owners of the various subdivisions and that this could ‘only be done on the spot’. Applicants with their own lands could build on them and those without lands could be ‘encouraged to build nearer their work’. He also said that generally the deterioration of Kai Iwi was ‘due to lack of leadership in the people of the Pa, and to depleted land resources around the Pa’. A note on the bottom of the page suggested that the District Officer might discuss the matter with Mr Mason Durie, for his views.³⁴⁶

An internal memo outlined what was required from the Court in order to progress matters. The first phase was for the application of succession orders to be progressed for all those owners of land at Kai Iwi who had died and the second phase was to ‘work out the exchanges and partitions’.³⁴⁷

In May 1956, the Assistant Secretary for the Department of Maori Affairs (head office) wrote to the District Officer in response to the District Officers report of 3 May 1956 (not located).

³⁴⁵ M Tamihana, Welfare Officer to Mr Love, District Officer, circa April 1956, Sketch of Kai Iwi, circa 1956, ACIH MAW2459 Box 122 9/10/3 part 1 Housing Survey (Kai Iwi Pa) Feilding, 1956-1962, Archives New Zealand, Wellington. SW Document Bank, volume 2, pp. 117-119.

³⁴⁶ Assistant District Officer to District Officer, Department of Maori Affairs, Wellington, 12 April 1956, ACIH MAW2459 Box 122 9/10/3 part 1 Housing Survey (Kai Iwi Pa) Feilding, 1956-1962, Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 120.

³⁴⁷ M R Love to Mr Kelly, Maori Affairs officials, undated, circa May 1956, ACIH MAW2459 Box 122 9/10/3 part 1 Housing Survey (Kai Iwi Pa) Feilding, 1956-1962, Archives New Zealand, Wellington. SW Document Bank, volume 2, pp. 121.

He said that the District Officers 'line of action' appeared sound. As suggested by the District Officer, head office was 'exploring the possibility of getting four or five sections in Feilding ... for people who are willing to move there'. The Assistant Secretary noted that in the final page of the survey four families who lived at Awahuri might build at Kai Iwi. He said that of the four families, 'two at least' were 'unlikely to improve the general tone of the Pa, and the one family that seems sound would be fighting against heavy odds in resisting the influence of the other residents'. Further, that unless the District Officer knew of:

... weighty reasons to the contrary in any individual case people not now living in Kai Iwi should be discouraged from settling there – when the Pa is 'cleaned up' the Board [of Maori Affairs] may be willing to consider loans for housing newcomers, but even then it would be chary of putting in people of doubtful stability.³⁴⁸

The Assistant Secretary also asked whether the health authorities or local body were interested in the settlement and noted that as the people were all in receipt of 'reasonable incomes, ... the threat of closing orders might ... without imposing hardship, bring about a change of attitude in those who will not do anything about housing'. He suggested that this be investigated.³⁴⁹

The Assistant Secretary also agreed with the District Officer that the problem was 'largely a welfare one' and that as well as what was already being done and suggested by head office, 'main efforts must ... be devoted to improving the outlook of the people'. He said that the District Officer should therefore ensure that Kai Iwi was kept under the 'close attention' of the welfare section. As well, he stated that a member of the Board of Maori Affairs, Mason Durie, lived close by and it was proposed to discuss the situation with him. Consideration would also be given to the suggestion of a visit to Kai Iwi by senior officers of head office.³⁵⁰

Several months later, the Deputy Registrar wrote to the District Officer that he had met with Mrs Tamihana to go through the lists of owners for the Aorangi blocks. An afternoon was also spent with Mason Durie checking titles information that he had kept over the years. They

³⁴⁸ Assistant Secretary, Department of Maori Affairs to District Officer, Wellington, 24 May 1956, ACIH MAW2459 Box 122 9/10/3 part 1 Housing Survey (Kai Iwi Pa) Feilding, 1956-1962, Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 124.

³⁴⁹ Ibid.

³⁵⁰ Ibid.

also visited another ‘elder’ called Mac Royal and he too had ‘knowledge of the local Maori people’. Arising from this was information to process 12 successions. It was suggested that steps should be taken to bring the elders to Court to substantiate the evidence. With successions completed, the next state of the scheme could be proceeded with (‘exchange, partitions etc’). He said that Part XII of the Maori Affairs Act 1953 should be utilised and that the Maori Trustee be requested to buy any “uneconomic interests” of those owners who were living away from the district.³⁵¹

In August, the Secretary for the Department of Maori Affairs noted to the District Officer, Wellington that as had been indicated in a discussion between officials Messrs Love and Newman, the Secretary wanted ‘consideration to be given to the possibility of improving conditions at Kai Iwi as an alternative to locating the people elsewhere’. To that end, the District Officer was asked to submit a plan of the area so that the land utilisation officer could draw up a scheme of re-subdivision and roading. He noted that the district office had ‘arrangements in hand in that direction’ and asked what progress had been made in the matter ‘with regard to Kai Iwi generally’.³⁵²

The District Officer at Wellington then asked the Welfare Officer at Levin for a progress report including regarding applications for state rental housing. He noted that the Welfare Officer would have received a copy of the District Officer’s note for the Housing Officer (not on file). The problem, he reiterated, was ‘very largely a Welfare one’ and that efforts should be ‘devoted to improving the outlook of the people’. The Welfare Officer, he said, would no doubt be paying close attention to Kai Iwi. He noted that of the families living at Kai Iwi, less than half had made applications for loans and in two cases, loans had been approved and construction due to start. He said that they were planning to obtain through head office four or five Crown sections in the Feilding area and that the Welfare Officer’s task would be to encourage applicants to ‘save for this day should [it] proceed’. He noted too that it was possible that the health authorities or local bodies might be interested in the settlement and it had been suggested that Maori Affairs should ‘seek their aid to impose closing orders so that a change of attitude may be brought about in those who will not do anything about housing of

³⁵¹ Deputy Registrar, Maori Land Court to District Officer, 23 July 1956, ACIH MAW2459 Box 122 9/10/3 part 1 Housing Survey (Kai Iwi Pa) Feilding, 1956-1962, Archives New Zealand, Wellington. SW Document Bank, volume 2, pp. 125-126.

³⁵² Secretary, Department of Maori affairs to District Officer, Wellington, 10 August 1956, ACIH MAW2459 Box 122 9/10/3 part 1 Housing Survey (Kai Iwi Pa) Feilding, 1956-1962, Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 127.

their own will'. He said that they did not want her to take action along these lines as yet but wanted her thoughts on the value of such action.³⁵³ Her response is not on file.

By September 1956, it was clear that despite the Secretary of Maori Affairs request for consideration to be given to building at Kai Iwi, it was the preference of the District Officer, who was co-ordinating the housing improvement, for houses to be built on land that was not at Kai Iwi Pa itself. The District Officer told head office that it was his opinion that 'to build there [at Kai Iwi] should only be a last resort'. He argued that employment for Kai Iwi residents was based at Feilding (mostly at the freezing works), not Kai Iwi, which was about four miles away and that this required transport by private car and truck. As there was only 'limited employment facilities ... available near and around Kai Iwi' the children of those who built at the Pa would 'inevitably have to leave home to seek good and permanent employment in industries other than the Freezing Works and casual farm labouring'. He did recognise, however, that they may 'of necessity have to consider building at Kai Iwi' but would prefer to await the results of action in obtaining four or five Crown sections 'scattered in the Feilding area'. He noted that these might be difficult to procure but that the 'provision of a small supply' in the area would enable them to make a much earlier start on the issue. He also advised that one house was under construction and another would commence shortly for two residents of Kai Iwi Pa and that these sections were away from the Pa. Lack of cash, he said would 'prevent others from purchasing suitable sections in other districts'.³⁵⁴

The District Officer also told head office that they were proceeding on two lines: encouraging saving for a deposit for a house and encouraging state rental applications. He said that they had only 'limited success ... but general welfare educational action' was proceeding. The District Officer said that if head office thought that they should instead proceed with the building at Kai Iwi then the first step would be a survey of the area by the Land Utilisation Officer who could draw up a scheme of subdivision followed by the 'clearing' of titles (succession and partition orders).³⁵⁵

³⁵³ District Officer, Wellington to Welfare Officer, Levin, 31 August 1956, ACIH MAW2459 Box 122 9/10/3 part 1 Housing Survey (Kai Iwi Pa) Feilding, 1956-1962, Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 128.

³⁵⁴ District Officer to Head Office, Department of Maori Affairs, 20 September 1956, ACIH MAW2459 Box 122 9/10/3 part 1 Housing Survey (Kai Iwi Pa) Feilding, 1956-1962, Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 129.

³⁵⁵ Ibid.

Unfortunately, there is a gap in the correspondence for almost a year so it is not known what the response of Head Office was though from later correspondence it is apparent that no building at Kai Iwi had progressed during this time. What is known is that in November 1957, the Health Department became involved with housing at Kai Iwi. At this time, another Maori Affairs Welfare Officer based at Levin, Mr Smiler, wrote to the District Health Officer at the Health Department in Palmerston North regarding what was described as 'sub-standard housing in Kai Iwi Pa, a depressed area'. He provided a list of the names of the residents living in some of the homes and the owners of the homes. Of note was that one of the homes where the Kairanga County Council was later involved was said to be occupied by a Mr Ropoama who was the brother in law of the Inuwai Lawton, one of the owners. Mr Lawton said that he was 'quite prepared to have the house demolished as soon as his brother-in-law was housed'. Mr Smiley doubted whether this was a 'satisfactory arrangement' as it was possible others related to the other owners would 'move into the old house and so continue the nuisance situation'. He considered that some 'firm arrangement concerning the breaking down of the old house ... necessary in this case'.³⁵⁶

Mr Smiler also stated that there were other houses in the Feilding area that were of a 'very sub-standard nature and leave much to be desired from a health point of view'. He said that it was hoped that the District Health Officer could assist the Maori Affairs Department in 'dealing with the demolition of the old shacks and hovels, not only in the Kai Iwi Pa area but also in the surrounding district'. He explained that since around February 1956, the department had been 'trying to centre on improving the housing conditions in the Feilding area' and that they had some success in 'taking some of the families out of the deplorable living conditions that they were living under'. The department was 'anxious to bring about further improvements in the housing conditions in that area'. He said that they had tried to 'instil a sense of responsibility and a desire within those who were living in deplorable conditions, but there ... [were] a few who though in some cases they have started saving with us, have after about 8 or 9 months withdrawn their housing deposits and consequently we are no further ahead'.³⁵⁷

³⁵⁶ W Smiler, Welfare Officer, Department of Maori Affairs to District Health Officer, Health Department, Palmerston North, 14 November 1957, PNCC K3/26/1 : 1 : 2 County Health Inspector Records - Correspondence and Subject files - Maori Housing - Kai Iwi Pa Kairanga County Council 1957 – 1962, Ian Matheson Archives, Palmerston North. SW Document Bank, volume 4, pp. 19-20.

³⁵⁷ Ibid.

He noted too that the department had sponsored state rental applications, constructed houses, negotiated for the purchase of Crown sections and endeavoured to get people to save. Despite this, there remained a 'hard core of problem applicants' who Mr Smiler said appeared to want to improve their housing but had not done anything practical to change their situation. He concluded by stating that he hoped that the Health Department could do something, either by closing orders or the demolition of the houses 'so that a change of attitude may be brought about in those who will not do anything about their housing of their own will'.³⁵⁸

In response, another housing survey was carried out of Kai Iwi this time by the Inspector of Health and Kairanga County Health Inspector, JW Dickinson. He advised the Medical Officer of Health (Department of Health) at Palmerston North on 1 May 1958 that he had completed the survey of the seventeen houses located at Kai Iwi Pa. (Of note is that while the County Health Inspector was an employee of the Council, he did not have an office at the Kairanga County Council until 1962 and would appear to have been based at the Health Department). The survey included details such as the name of the owner, number of occupants and rooms, whether there was a water supply, heating or a bathroom and toilet. It was also noted whether there were other housing options available to the dwellers. Most, but not all of the houses were described as dilapidated. Likewise, most, but not all had no bathroom. One house had two bedrooms and was occupied by 19 people. Of the seventeen houses, seven were occupied by the owner and family, six were occupied by those with the same surname as the owner or known to be related and three were occupied by those who were non-owners or whose relationship to the occupiers is not immediately apparent from the files examined. The owner and occupier was not known in one instance. It was also recorded that one family had applied for a state house at Feilding, one family was preparing to build but waiting for a succession to some land, one family had applied for a building loan and would build as soon as money became available, and negotiations were under way in one case to build a new dwelling under the direction of the Maori Affairs Department when a section became available. One house was described in good order throughout and another was being completely re-decorated. Therefore, six of the 17 families were in the process of having their housing improved. In total, there were 99 people living in the 17 houses. One person was being treated for tuberculosis.³⁵⁹

³⁵⁸ Ibid.

³⁵⁹ Inspector of Health and Kairanga County Health Inspector to Medical Officer of Health, Palmerston North, 1 May 1958, Kai Iwi Housing report (individual houses), 1958, PNCC K3/4/9: 2 : 4 Maori Housing - Kai Iwi Pa

The Kairanga County Health Inspector reported that generally, the houses were in a 'poor state of repair inside and out' and that in most cases the dwellings had a 'reasonable water supply, but few other facilities regarded as being essential' particularly that of a hot water supply, bathroom or 'other sanitary services'. Toilets were provided for in all dwellings but the majority were in 'bad disrepair'. The Health Inspector blamed the condition of the dwellings on a lack of maintenance and the practice of letting property to people rent free provided that the tenant maintained the property and did all the repairs.³⁶⁰

On 6 June 1958, Mr Lawton, the owner of one of the houses (known as house 4 and previously occupied by the Ropoama whanau)) was given notice by the Kairanga County Health Inspector that he was required to rectify the 'deficiencies' of the premises which included a lack of water supply, disposal system for refuse water, sanitary conveniences and a bathroom. It was also noted that the house was vacant and that until the work and repairs were carried out he was prohibited from allowing any person to occupy the house. Failure to comply with the requisition would compel the inspector to take legal proceedings against him. A similar letter was sent to Mrs Rangi Whiley in respect to the house occupied by the Pene whanau (known as house 5) though it would appear that the house was still occupied.³⁶¹

Mrs Whiley responded to the Health Inspector on 20 June. She said that one of the occupiers, Mr Charlie Pene came to see her at Kai Iwi six years previously and asked if he could live in her old home. As it was vacant at the time she said he could. She noted too that different families had lived in her old home at different times. Mr Pene said he would do the house up 'so that was that'. She said that she did not see why she should alter and repair the house as

(file kept by County Clerk Kairanga County Council, 1958, Ian Matheson Archives, Palmerston North. SW Document Bank, volume 4, p. 29. Archives Central website: <http://archivescentral.org.nz/> accessed October 2016.

³⁶⁰ Inspector of Health and Kairanga County Health Inspector to Medical Officer of Health, Palmerston North, 1 May 1958, Kai Iwi Housing report (individual houses), 1958, PNCC K3/4/9: 2 : 4 Maori Housing - Kai Iwi Pa (file kept by County Clerk Kairanga County Council, 1958, Ian Matheson Archives, Palmerston North. SW Document Bank, volume 4, p. 29.

³⁶¹ Kairanga County Health Inspector to Mrs Rangi Whiley, 6 June 1958; Kairanga County Health Inspector to Mrs Lawton, 6 June 1958, PNCC K3/4/9: 2 : 4 Maori Housing - Kai Iwi Pa (file kept by County Clerk Kairanga County Council, 1958, Ian Matheson Archives, Palmerston North. SW Document Bank, volume 4, pp. 30-31.

Mr Pene did not pay any rent – ‘it was just a roof over their heads’. The dwelling was vacant and she hoped it remained so.³⁶²

Also in June, the Medical Officer of Health wrote a lengthy letter to the County Clerk of the Kairanga County Council about the issue. He said that at the last conference of public health nurses it was reported that due to the ‘deplorable conditions under which Maori families were housed at Kai Iwi Pa in the Kairanga County, it was impossible for nurses to carry out their duties’. As a result, he said, the ‘control of tuberculosis, and the general care and health education particularly of children’ was being neglected and that nurses had ‘lost all interest in this important work’.³⁶³

He noted too that the matter had been taken up with the Department of Maori Affairs who with their welfare officers had endeavoured to improve conditions and ‘induced, after considerable trouble, to deposit money with the Maori Affairs Department, and where a reasonable amount had been saved it could be accepted as a deposit on a house and a loan could then be arranged to permit building’. Unfortunately, he said, savings had been spent on other things and therefore the position remained the same. He said that Maori at Kai Iwi earned ‘good money’ but did not spend their money on housing. He also gave the example of several occupiers – a young couple with a baby who were living in one of the ‘shacks’ with a dirt floor. The young man explained to the official that it suited them and had said: ‘anyway we are not married’. A meeting had recently been held with the welfare officers of the Department of Maori Affairs in an ‘endeavour to curb the delinquency ... occurring in the area’ which was blamed, in part, on housing conditions. The Welfare Officer had visited the Medical Officer of Health and asked for some assistance. He had told the Medical Officer of Health that although dwellings at Kai Iwi were ‘unfit for habitation’, when they became vacant, ‘Maori families moved into them and so the unsatisfactory conditions were perpetuated and the building of houses delayed’.³⁶⁴

The Medical Officer of Health had also explained to the Welfare Officer that:

³⁶² Mrs Rangi Whiley to County Health Inspector, 20 June 1958, PNCC K3/4/9: 2 : 4 Maori Housing - Kai Iwi Pa (file kept by County Clerk Kairanga County Council, 1958, Ian Matheson Archives, Palmerston North. SW Document Bank, volume 4, p. 32.

³⁶³ Medical Officer of Health, Palmerston North to County Clerk, Kairanga County Council, 18 June 1958, PNCC K3/4/9: 2 : 4 Maori Housing - Kai Iwi Pa (file kept by County Clerk Kairanga County Council, 1958, Ian Matheson Archives, Palmerston North. SW Document Bank, volume 4, pp. 33-34.

³⁶⁴ Ibid.

... under provisions of the Health Act, 1956, the local authority of the district was charged to promote and conserve the public health within its district and were empowered and directed to comply with specified requirements, among which nuisances and conditions likely to be injurious to health or offensive are included.³⁶⁵

The Welfare Officer was also advised that the difficulties experienced by local authorities in these matters would be 'well appreciated' but that the matter would be investigated and taken up with the Kairanga County Council 'with a view to any improvements possible'.³⁶⁶

The County Clerk was told that a housing survey had been completed by the County Health Inspector (quite possibly indicating that the Inspector operated separately to the Council at this time). He summarised the survey thus:

... housing structures are poor and dilapidated; there is grow over-crowding; plumbing and drainage almost entirely absent and water supplies inadequate There is no possibility of repairing, improving or providing essential amenities at most of the existing dwellings, and any action therefore must be to encourage and possible force the Maoris to provide for themselves with the aid of housing loans possible through the Maori Affairs Department.³⁶⁷

The Medical Officer of Health suggested that the Kairanga County Council 'could and should do their best by the issue of Closing Orders under section 42 of the Health Act, 1956, to cover at least the worst of the premises'. He said that there was one 'great difficulty with this'. That is, the law required that 'all persons having a registered interest in the land under any mortgage or encumbrance must be served with a copy of the required repaid notice and later a copy of the closing order. In some instance as many persons may require to be notified and there is difficulty in ascertaining who they actually are. A search of titles is necessary'. The Maori Affairs Officer said that the Department could assist. Further:

³⁶⁵ Ibid.

³⁶⁶ Ibid.

³⁶⁷ Ibid.

Regarding the closing orders: it is not suggested that after issue of the orders action through the Courts is made to enforce them. Once applied the order continues in force and when, for any reason the existing occupants vacate, it is an offence for any person to occupy or permit any other person to occupy.

Thus, eventually closing orders applied would become operative and in addition the effect of their use may greatly assist the Maori Affairs Department in inducing families to save money for a housing loan rather than squander it as appears is now the case.³⁶⁸

The Medical Officer of Health concluded that the position was ‘truly difficult’ but it was considered that the suggestions made would be of some help and that the Kairanga County Council would have the ‘satisfaction of trying to carry out their responsibility under the Health Act’.³⁶⁹

The Medical Officer of Health also corresponded with the District Officer of the Department of Maori Affairs in Wellington at this time. He commented that Mr Smiler (the welfare officer) had met with him to discuss the housing conditions at Kai Iwi and reiterated much of what was in Mr Smiler’s letter from the previous year including the issue of other families moving into vacated houses which were considered unsatisfactory. He said that ‘whilst this state of affairs existed progress was not possible’. The Medical Officer of Health then asked whether the Department of Health could prevent re-occupation of these ‘unsatisfactory premises’. Further:

It is agreed some pressure should be brought to bear and those responsible made to realise their responsibilities; also that improved housing conditions are necessary. Further, unsatisfactory dwellings should be closed and/or demolished and families prevented from re-occupying once they became vacant. There are, however, considerable difficulties. Firstly, the local authority of the area is charged under the Health Act 1956 to promote and conserve the public health of their district and are empowered and directed to do certain specified things, among which is to cause inspection to be made to ascertain if nuisances exist and, if so, to see they are abated

³⁶⁸ Ibid.

³⁶⁹ Ibid.

(section 23). The maintenance of dwellings, their closure and demolition are among these duties. It is only when a local authority fails to carry out these duties that the Department of Health can take action. In some cases local authorities in this Health District have endeavoured to carry out their duties and apply Closing Orders for unsatisfactory premises. The Act, however, requires that before a Closing Order or Demolition Order can be applied, a repair notice must be served upon all persons having a registered interest in the land under any mortgage or other encumbrance. This entails considerable time and cost; also in the case of many Maori properties reveals a host of interested persons who cannot be located. So great has been the confusion that the local authorities have refused to proceed.

Another insurmountable obstacle is that Closing and Demolition Orders usually have to be enforced through the Courts and the Magistrates first comment is: "Have you alternative accommodation for this family? I won't turn them out on to the street." It is practically impossible for local authorities to provide alternative accommodation, hence applications for orders are adjourned sine die.

It is little wonder that local authorities have lost interest. Some time prior to the visit of Mr Smiler to this office complaint had been received from the Public Health Nurse operating in the Feilding District that owing to the deplorable housing conditions and lack of interest in their general welfare, she was unable to make any progress with the Maori families situated at Kai Iwi Pa.³⁷⁰

He stated that the survey made by the Health Inspector for the County stemmed from this and that in the previous week Kairanga County Council had been supplied with a copy together with a request from the Medical Officer of Health that some action be taken. He noted that it was recommended that the Council not proceed beyond repair notices and closing orders. When the dwelling became vacant, he said, the closing order would 'automatically apply' and the 'trouble of re-occupation would be overcome'.³⁷¹

³⁷⁰ Medical Officer of Health, Palmerston North to District Officer, Department of Maori Affairs, Wellington, 30 June 1958, PNCC K3/26/1 : 1 : 2 County Health Inspector Records - Correspondence and Subject files - Maori Housing - Kai Iwi Pa Kairanga County Council 1957 – 1962, Ian Matheson Archives, Palmerston North. SW Document Bank, volume 4, pp. 21-23.

³⁷¹ Ibid.

It was also noted that Mr Smiler had offered assistance with locating title information and made a request for this to be done as it was thought that the Council would turn down the request for action if they were required to do this themselves. He noted too that two dwellings at Kai Iwi had become vacant and ‘efforts ... made to prevent their re-occupation’. This included affixing notices on to doors’ which stated that the house was condemned and any person occupying it would be prosecuted. Without the issue of a closing order, he said, ‘this was of ‘little value’ might have some ‘deterrent effect’. It also might have value in ‘influencing the Kairanga Council that results may be immediate if action is not delayed.’³⁷²

The County Clerk responded to the Medical Officer of Health on 4 July 1958. He said that the Council was willing to co-operate with the Department along the lines suggested but that certain formalities as provided in section 42 of the Health Act 1956 had to be first complied with. He said that the Council considered that the County Inspector should carry out the requirements in regard to the service of the requisition to carry out the required repairs. With regard to the further procedure involving the issue of closing orders, the Council would be ‘glad to accept the assistance of the Maori Affairs Department in securing ownership information of the various titles involved’. He asked that this information be made available. The County Clerk also noted that at a later date it might be necessary for members of the Council to make an inspection of the premises in question before a closing order was issued.³⁷³

Meanwhile on 2 July 1958, Mr I Lawton was issued with a notice to carry out repairs to his house (known as house 4) under the Health Act 1956. Mr Lawton was told that the repairs had to be carried out before he could allow any other people to re-occupy the house and was prohibited to do so until the repair notice was complied with to the satisfaction of the Council. Later that month, Mrs Whiley was given a list of requirements for her house (known as house 5) including the provision of water and sanitary conveniences. It was also pointed out that despite receiving no rent, she was still the owner and responsible for the maintenance

³⁷² Ibid.

³⁷³ County Clerk, Kairanga County Council to Medical Officer of Health, Department of Health, Palmerston North, 4 July 1958, PNCC K3/4/9: 2 : 4 Maori Housing - Kai Iwi Pa (file kept by County Clerk Kairanga County Council, 1958, Ian Matheson Archives, Palmerston North. SW Document Bank, volume 4, p. 35.

and repair of the premises under section 39 of the Health Act 1956. The list of repairs was extensive.³⁷⁴

In August, the Medical Officer of Health advised the Department of Maori Affairs that two houses at Kai Iwi (those mentioned above) had recently become empty and that the Health Department had been 'successful in preventing further tenancies in these cases'. In addition, the Kairanga County Council 'although favourable to issuing Closing orders' was not prepared to search titles to the properties concerned so asked the Department for assistance with this.³⁷⁵

On 9 September, the Medical Officer of Health forwarded a memorandum received from the Registrar of the Maori Land Court and a plan of the Kai Iwi area to the Maori Affairs Department in Palmerston North. He said that as far as could be ascertained, the two houses that were empty in respect to which closing orders were desired were houses 4 and 5 on the survey. The land on which house 4 stood (Aorangi 1 section 3A3D2) appeared to be leased by Mr J Bennett who paid rates to the Kairanga County Council for the land. The house was not rated independently as far as was known and rated on the unimproved value. In addition, the sister of the owner had rung the office seeking permission to occupy the house. This was refused until repairs and improvements had been satisfied. Since then, no further communication by Mr Lawton had been received and the house remained unoccupied. It was most desirable, he said that a closing order was quickly applied by the council.³⁷⁶

The Department of Maori Affairs was also advised that the house owned by Mrs Whiley (house 5) was also leased to Mr J Bennett and that there was no record of the house being independently rated (it was also rated on the unimproved value). Also, that a notice had been served to the owner calling for repairs and improvements. The Department was asked if a

³⁷⁴ Health Inspector, Kairanga County Council to I Lawton, Camerons Line, Feilding, 2 July 1958; Health Inspector, Kairanga County Council to Mrs Rangi Whiley, 17 July 1958, PNCC K3/4/9: 2 : 4 Maori Housing - Kai Iwi Pa (file kept by County Clerk Kairanga County Council, 1958, Ian Matheson Archives, Palmerston North. SW Document Bank, volume 4, pp. 36-40.

³⁷⁵ Medical Officer of Health to District Officer, Maori Affairs Department, 26 August 1958, PNCC K3/26/1 : 1 : 2 County Health Inspector Records - Correspondence and Subject files - Maori Housing - Kai Iwi Pa Kairanga County Council 1957 – 1962, Ian Matheson Archives, Palmerston North. SW Document Bank, volume 4, p. 24.

³⁷⁶ Medical Officer of Health to Office in Charge, Maori Affairs Department, Palmerston North, 9 September 1958, Medical Officer of Health to District Officer, Maori Affairs Department, 26 August 1958, PNCC K3/26/1 : 1 : 2 County Health Inspector Records - Correspondence and Subject files - Maori Housing - Kai Iwi Pa Kairanga County Council 1957 – 1962, Ian Matheson Archives, Palmerston North. SW Document Bank, volume 4, pp. 24-25.

search of the titles could be made so that the necessary notices under the Health Act could be served on every person who had a 'registered interest in the land under any mortgage or other encumbrance'. It was 'thought wise to deal with the two house that were vacant'.³⁷⁷

These details must have been received as in October, the Council issued formal repair requisitions under the Health Act in respect to the two vacant houses located on Aorangi 1 section No 3A3D1 block and Aorangi 3A3D2 block. The notices outlined the repairs required to be completed to prevent a closing order being issued. The repairs required for the two houses were again extensive.³⁷⁸

On 14 November 1958, the County Health Inspector advised the County Clerk of the notices that he had served. With respect to section 3A3D2, he said that Inuwai Lawton was 'taken as being the principal owner' and that the 'repairs notice' was served on him. A copy was also served on ten others who had a 'registered interest in the property'. He noted that the last day on which the owners on both Aorangi 1 sections 3A3D1 and 3A3D2 could begin their repairs was 17 November and that he would inspect the premises on that day. He also asked if he could attend the Council meeting the following day so as to report to the Council. He said that he would bring with him the necessary papers so that he could proceed with issuing closing orders on the properties. It was noted that both houses were vacant and the 'prevention of their re-occupation' was 'most desirable'.³⁷⁹

As promised the inspections were carried out on 17 November 1958. The County Health Inspector, Mr Dickinson, advised the Kairanga County Council that the inspection of the premises situated on Aorangi 1 sections 3A3D1 and 3A3D2 revealed that none of the matters mentioned in his repairs requisitions had been complied with. 'No effort [he said] had been made to do any repairs whatsoever, in fact, part of one of the premises has already been

³⁷⁷ Medical Officer of Health to Office in Charge, Maori Affairs Department, Palmerston North, 9 September 1958, Medical Officer of Health to District Officer, Maori Affairs Department, 26 August 1958, PNCC K3/26/1 : 1 : 2 County Health Inspector Records - Correspondence and Subject files - Maori Housing - Kai Iwi Pa Kairanga County Council 1957 – 1962, Ian Matheson Archives, Palmerston North. SW Document Bank, volume 4, p. 25.

³⁷⁸ County Health Inspector, Kairanga County Council, repair notices and details of repairs notices of 20 October 1958 in respect of sections 3A3D1 and 3A3D2, Aorangi block, PNCC K3/4/9: 2 : 4 Maori Housing - Kai Iwi Pa (file kept by County Clerk Kairanga County Council, 1958, Ian Matheson Archives, Palmerston North. SW Document Bank, volume 4, p. 41.

³⁷⁹ County Health Inspector, Kairanga County Council to County Clerk, Kairanga County Council, 14 November 1958, PNCC K3/4/9: 2 : 4 Maori Housing - Kai Iwi Pa (file kept by County Clerk Kairanga County Council, 1958, Ian Matheson Archives, Palmerston North. SW Document Bank, volume 4, p. 42.

demolished and some of the fittings removed'. With regard to the premises situated on section 3A3D1 owned by Mrs Whiley, since his last inspection, some of the ceiling linings had been torn, windows broken, down-pipes, concrete water tank, kitchen stove and an outbuilding removed. The toilet had also been demolished and not replaced and the only water storage tank remaining would not hold water. No repairs had been done. With regard to the premises situated on section 3A3D2 and owned by the Lawton whanau, windows had been broken, wall linings damaged and the only water tank removed. In addition, the toilet had been demolished but not replaced. No repairs had been done.³⁸⁰

Several days later the County Clerk advised the County Health Inspector that the Council had decided to proceed with the issue of closing orders in respect to the two dwellings.³⁸¹

(Of note is that in 2017, Aorangi 1 sections 3A3D1 and 3A3D2 are both still Maori land comprising 0.653 ha each with 13 and 17 owners respectively. Access is from Te Arakura Road. Maori Land Online images reveal no buildings or housing on the land. The land is in grass and no details of any leases are given.³⁸²)

Discussion by Department of Maori Affairs officials about possible solutions to the sub-standard housing at Kai Iwi continued. Mrs Tamihana advised Commissioner Stace (whose role appears to have been to do with consolidation though this is not entirely clear from the files) that Ngati Kauwhata were currently endeavouring to 'accumulate sufficient funds' to build a small dining room and renovate the meeting house at Kai Iwi. In addition, the Kauwhata Maori Women's Welfare League had installed a water-pump and the cost was subsidised by the Department. She said: 'If this Tribe is encouraged to live away from their Pa, it would be a waste of time improving it'.³⁸³

³⁸⁰ County Health Inspector, Kairanga County Council to County Clerk, Kairanga County Council, 17 November 1958, PNCC K3/4/9: 2 : 4 Maori Housing - Kai Iwi Pa (file kept by County Clerk Kairanga County Council, 1958, Ian Matheson Archives, Palmerston North. SW Document Bank, volume 4, p. 43.

³⁸¹ County Clerk, Kairanga County Council to County Health Inspector, Kairanga County Council 20 November 1958, PNCC K3/4/9: 2 : 4 Maori Housing - Kai Iwi Pa (file kept by County Clerk Kairanga County Council, 1958, Ian Matheson Archives, Palmerston North. SW Document Bank, volume 4, p. 44.

³⁸² Maori Land Online: <http://www.maorilandonline.govt.nz/> accessed October 2016.

³⁸³ M Tamihana, Maori Welfare Officer to CJ Stace, Commissioner, 2 April 1959, ACIH MAW2459 Box 122 9/10/3 part 1 Housing Survey (Kai Iwi Pa) Feilding, 1956-1962, Archives New Zealand, Wellington. SW Document Bank, volume 2, pp. 130-132.

(Indeed in 1955, the Kauwhata Tribal Committee had applied for funds to be used for the installation of a pumping system to reticulate water from a bore that had been recently driven to supply water for the marae. The committee had raised funds for the completion of the project.³⁸⁴)

In support, Commissioner Stace commented to the District Officer in early April 1959 that the Welfare Officer, Mrs Tamihana, felt that ‘more could be done to interest the people in improved housing if the Department were prepared to build at Kai Iwi rather than in Feilding (and other places?) for those who have to could get (by succession or other vesting, or by partition) sites there’. He asked whether Kai Iwi was strictly a ‘depressed area’ given that it was only a few miles from Feilding, and education, employment was ‘readily available’. If it was not, then it seemed possible that the Board (of Maori Affairs) might agree to lend if the matter was put to it. He asked too whether the Board had already decided against it. From the file, he said, the question seemed to have gone no further than the ‘District Officer’s predecessor’.³⁸⁵

He also noted from the file that the Health Department were taking action with a view to clearing the derelict houses as they became vacant and had made a recent survey for that ‘and possibly other, purposes’. Further, that Mrs Tamihana said that she was also concerned that the land around the marae was unleased and unproductive and doubted whether rates were being paid. She feared that the owners might ‘lose their land, or the control of it, for that reason’. It was, however, noted that up to a few weeks previously, ‘no charging orders or receivership applications were current’.³⁸⁶

He said that he ‘took it that in that normal run a matter such as this was not one for the Titles division unless it was raised by another section and referred by the writer to the District Office’. As it happened, however, Aorangi was:

³⁸⁴ District Officer to Secretary, Department of Maori Affairs, 16 February 1955, ABJZ W4615 6878 Box 21 25/6/2/10 part 1 Committees & Councils – Kauwhata Maori Committee, 1954-1978, Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 152.

³⁸⁵ CJ Stace, Commissioner to District Officer, Wellington, 2 April 1959, ACIH MAW2459 Box 122 9/10/3 part 1 Housing Survey (Kai Iwi Pa) Feilding, 1956-1962, Archives New Zealand, Wellington. SW Document Bank, volume 2, pp. 130-132.

³⁸⁶ Ibid.

... on the fringe of the area that we have covered by consolidated orders – and, in any case, it may be that application for consolidated orders for the Aorangi blocks could be a desirable means whereby the Department could bring the matter before the owners with a view to proper utilisation of the land whether or not it now seemed or was ultimately found to be a case for conversion.

From a tracing on another file, it seems to me that the present partitions are unsatisfactory. If so, part at least of the answer may be cancellation and repartition. This would need the agreement of the owners, or the majority, and should be preceded by an inspection and report of the quality of the land and its best utilisation. It may be for instance that because of the nearby derelict Pa and the apparently stony nature of the soil, an occupier would be difficult to find.³⁸⁷

Possibly, he said, there was some action the District Officer had in mind. If there was not, he suggested the following:

- (1) The position as to rates, and any pending action for recovery, be ascertained from the Kairanga County Council, Palmerston North;
- (2) A field report be obtained from Mr Romminger on the quality of the land and the best use for it;
- (3) Consideration be given to applying for consolidated orders for all blocks concerned and holding a meeting of the owners to discuss rates, utilisation and the desirability of conversion and/or repartition.³⁸⁸

He also noted that Mrs Tamihana was to discuss the question with Mason Durie with a view to him initiating action by the owners, who ‘look to him for advice as a Tribal Elder’ but that she felt that he was too ill to trouble with such a matter at present. He also said that he would be glad to help in any way possible.³⁸⁹

The District Officer of the Department of Maori Affairs, Palmerston North had other ideas to Commissioner Stace and Mrs Tamihana. His report a week later, said that Kai Iwi Pa had

³⁸⁷ Ibid.

³⁸⁸ Ibid.

³⁸⁹ Ibid.

been classified by the department as a 'depressed area' for housing purposes as well as a 'depressed area from a drainage point of view'. The department said that they had investigated the possibility of building a house on Aorangi No 1 section 3A4A3 No 1 but found that it was 'impossible to get sufficient drainage for a septic tank'. The Health Department was said to be concerned about the lack of drainage at Kai Iwi as a portion of the area was subject to flooding. The department noted too that the Board of Maori Affairs was not prepared to make advances for housing purposes at Kai Iwi Pa on the basis that 'better community and economic facilities' were available in Feilding. Houses had been built near the Pa area 'but only where there was security of employment and where the sections fronted formed legal roads'. He also stated:

It would be in the interests of the people at Kai Iwi Pa to improve their housing conditions but not very many of them are saving for this purpose. Our Welfare Officers over the last eighteen months have spent a considerable amount of time with the Kai Iwi people and those that are left include those who are not prepared to try and help themselves or their families.

The Aorangi titles will come forward for consolidation purposes in the reasonably near future and the result of this may be to improve the possibility of leasing some of the sections and so bringing income to the owners. The present partitions are not very satisfactory.

We will continue our efforts through the Welfare Officers to improve the housing conditions.³⁹⁰

Confirming this stance, was another report by the District Officer to Head Office, Wellington made four months later. Head Office was advised that Kai Iwi had recently been surveyed again by the Welfare Officer. The District Officer said that as the nature of the land was similar to Opiki (which had also been surveyed), that is, of a 'low lying nature' there would

³⁹⁰ District Officer, report to Commissioner Stace and Mrs Tamihana, 9 April 1959, ACIH MAW2459 Box 122 9/10/3 part 1 Housing Survey (Kai Iwi Pa) Feilding, 1956-1962, Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 133.

be no further housing construction in the area and ‘prospective applicants’ were instead being ‘encouraged to move to Feilding or Awahuri’.³⁹¹

The survey, he said, indicated that there were four families from Kai Iwi willing to live in Feilding and four families who were willing to leave and live in the Awahuri area. According to the Welfare Officer, the remaining people required further visits and that when those who were leaving had vacated their homes, ‘the majority of the remainder ... [would] follow suit’. Also, that there were 87 people affected. There were two satisfactory houses and 15 ‘unsatisfactory’ houses. The number of houses urgently required numbered eight and the number ‘less urgent[ly]’ required numbered seven. Five houses had been provided by the Department by this time.³⁹²

In December 1959, the Department of Maori Affairs’ policy of encouraging Maori applicants requiring sections for housing to build in towns was again reiterated by an official, S Mihaere. He was also a Welfare Officer and noted that all Crown sections in Feilding had been allocated to Maori applicants. Mr Mihaere said that there had been a number of applicants requiring sections due to the policy and that they now required at least seven sections in Feilding. If possible, he said, four could be purchased in Awahuri but only if the Ministry of Works felt that the sections would be suitable. This was due to ‘quite a few’ applicants from Kai Iwi preferring to live in Awahuri than in Feilding. Whatever was decided, he said, seven sections were required for the area.³⁹³

In March 1960, discussions commenced between Department of Maori Affairs officials as to the demolition of houses at Kai Iwi. The Maori Land Court was asked for particulars of title so that notices could be served on all owners to remove the ‘sub-standard dwellings’ from their land. The land concerned was: Aorangi 3A3D, 5A2A1, 5A2A3, 5A1A4, 5A1A3,

³⁹¹ District Officer, Palmerston North to Head Office, Department of Maori Affairs, 31 August 1959, ACIH MAW2459 Box 122 9/10/3 part 1 Housing Survey (Kai Iwi Pa) Feilding, 1956-1962, Archives New Zealand, Wellington. SW Document Bank, volume 2, pp. 134-135.

³⁹² TS Mihaere to Mr Hatshorne, Housing Survey Kai Iwi Pa, undated, circa 1959, ACIH MAW2459 Box 122 9/10/3 part 1 Housing Survey (Kai Iwi Pa) Feilding, 1956-1962, Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 139.

³⁹³ S Mihaere to Housing Officer, Department of Maori Affairs, 23 December 1959, AAMK 869 W3074/255/b 9/9/14 part 1 Maori Purposes Fund Board - Crown Sections – Feilding, 1956-1963, Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 156.

5A1A2, 5A1A1, 5A2B, 3A3C. There was also some discussion about locating the addresses of the owners.³⁹⁴

Then in April 1960, the department forwarded to the Medical Officer of Health a schedule showing the ownership details of the various sections of Kai Iwi Pa together with known addresses. This was to enable the Medical Officer to 'issue repair and closing notices in some of the cases'. Apologies were sent for not having all the addresses, and the Medical Officer told that if there was 'any other way' in which the department could help him remove the 'sub-standard buildings at Kai Iwi Pa' then to let the department know.³⁹⁵

It was then that the Kairanga County Council became involved again. The Medical Officer of Health responded to the Department of Maori Affairs that the issue of repair notices and closing orders was a county matter under the Health Act 1956. (A closing order could be issued under the Health Act 1920, section 40 (1) (b) by a local authority when premises were considered of an 'insanitary condition ... unfit for use or occupation in their existing state'. The closing order made it illegal for anyone to live in that house. This subsequently extended to section 42 of the Health Act 1956). Further:

In a previous instance the Kairanga County Council were somewhat difficult to get moving but having prepared all the necessary documents ready for signature, they eventually signed them. The same course will probably be necessary in this instance, but it will take time.

If any further help is required this will be requested, as it is most desirable conditions at the Pa should be cleaned up as early as possible.³⁹⁶

A letter was then sent to the Kairanga County Council by the Medical Officer of Health. It said:

³⁹⁴ District Officer, Palmerston North to Maori Land Court, Wellington, 9 March 1960; File notes between officials, March 1960, ACIH MAW2459 Box 122 9/10/3 part 1 Housing Survey (Kai Iwi Pa) Feilding, 1956-1962, Archives New Zealand, Wellington. SW Document Bank, volume 2, pp. 137-139.

³⁹⁵ IW Apperley, District Officer to Medical Officer of Health, Palmerston North, 29 April 1960, ACIH MAW2459 Box 122 9/10/3 part 1 Housing Survey (Kai Iwi Pa) Feilding, 1956-1962, Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 140.

³⁹⁶ AW Satchwell, for Medical Officer of Health to Department of Maori Affairs, 3 May 1960, ACIH MAW2459 Box 122 9/10/3 part 1 Housing Survey (Kai Iwi Pa) Feilding, 1956-1962, Archives New Zealand, Wellington. SW Document Bank, volume 2, pp. 141-142.

The Maori Affairs Department have written to this Department pointing out the unsatisfactory housing conditions existing at the above Pa. They point out that they have put in a considerable amount of work and effort to induce persons occupying houses at this Pa to put money aside for new housing. In some cases they have been successful and new homes have been erected away from the Pa. Yet the position has not improved, for, on a house becoming vacant it is immediately filled with other Maoris. They ask if steps can be taken to prevent this, also if persons occupying unsatisfactory houses can be made to face up to their responsibilities as citizens. Further, they state that while they are permitted to remain in these unsatisfactory and unsanitary houses they will not take advantage of the opportunity to secure proper housing under the advantageous terms offered by the Department.

In 1958 your Council issued Closing Order[s] on houses at this Pa and it appears some further action is necessary. I shall be pleased if your Council will favourably consider your Health Inspector investigating the conditions existing and, if found desirable and necessary, to take action under the Health Act 1956.³⁹⁷

In response, the County Clerk forwarded the letter to the Department of Health and asked on behalf of the Council that the Medical Officer made a 'full investigation of the housing conditions at the Kai Iwi Pa and furnish a report' to the Council. Following this the Council would discuss the matter further.³⁹⁸

A schedule showing ownership of the various sections and the addresses of the owners known to the Department was then sent to the County Clerk by the Department of Maori Affairs.³⁹⁹

³⁹⁷ Medical Officer of Health to County Clerk, Kairanga County Council 3 May 1960, ACIH MAW2459 Box 122 9/10/3 part 1 Housing Survey (Kai Iwi Pa) Feilding, 1956-1962, Archives New Zealand, Wellington. SW Document Bank, volume 2, pp. 141-142.

³⁹⁸ County Clerk, Kairanga County Council to Department of Health, 20 May 1960, PNCC K3/4/9: 2 : 5 Maori Housing - Kai Iwi Pa (file kept by County Clerk) Kairanga County Council, 1960, Ian Matheson City Archives, Palmerston North. SW Document Bank, volume 4, pp. 46-47.

³⁹⁹ District Officer, Department of Maori Affairs to County Clerk, Kairanga County Council, 13 June 1960, ACIH MAW2459 Box 122 9/10/3 part 1 Housing Survey (Kai Iwi Pa) Feilding, 1956-1962, Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 143.

On 24 June 1960, the Inspector of Health reported to the Medical Officer of Health that they had completed another survey of the 17 houses at Kai Iwi. In general, conditions were as described in the 1958 survey 'with the consequential deterioration brought on by a further two years use of the premises and exposure to the weather'. He noted that houses 4 and 5 had closing orders on them and remained vacant. House 5 was being demolished and house 4 partly demolished at the rear. Several other houses appeared to be coming vacant in the near future.⁴⁰⁰

On 28 June 1960, the Welfare Officer, TS Mihaere reported that four families were leaving Kai Iwi (houses No 1, 2, 10 and 16), one person was willing to leave and their application for housing was under consideration (house 3); two families were willing to leave and live in the Awahuri area and that sections were being arranged for them (houses 12 and 17) and two families were under consideration for state rental housing (houses 7 and 8).⁴⁰¹

In September 1960, the Board of Maori Affairs granted authority for the expenditure of £1800 for the purchase of three sections at Feilding. These sections had become available from the Feilding Borough Council who had offered them for £600 each. The Land Purchase Officer was instructed to purchase the sections and transfer them to the Department of Lands and Survey for allocation to nominees on deferred payment licenses.⁴⁰²

In October 1960, the County Health Inspector advised the County Clerk of the Kairanga County Council that the investigation of Maori housing in the Kai Iwi Pa area had been completed. He summarised the situation thus:

The housing in this area had been of an extremely sub-standard state for many years and continued habitation of some of the dwellings can only bring lowered resistance to disease to the occupants. Also the bringing up of children in an environment such

⁴⁰⁰ Inspector of Health to Medical officer of Health, Palmerston North, 24 June 1960, PNCC K3/26/1 : 1 : 3 Maori Housing - Kai Iwi Pa (file kept by Department of Health, Palmerston North) Kairanga County Council 1960, Ian Matheson Archives, Palmerston North. SW Document Bank, volume 4, pp. 26-27.

⁴⁰¹ TS Mihaere, to Mr Hartshorne, Housing Survey Kai Iwi Pa, 28 June 1960, ACIH MAW2459 Box 122 9/10/3 part 1 Housing Survey (Kai Iwi Pa) Feilding, 1956-1962, Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 144.

⁴⁰² District Officer, Department of Maori Affairs to Land Purchase Officer, Ministry of Works, Whanganui, 2 September 1960, AAMK 869 W3074/255/b 9/9/14 part 1 Maori Purposes Fund Board - Crown Sections – Feilding, 1956-1963, Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 157.

as this could only encourage the children to be content with such an environment for their own children.

Further to this the lack of proper toilet and ablutionary fittings with the homes of these children must tend to lower their personal cleanliness and habits.

There is therefore, a great need for the housing of these Maori families under better conditions and there is also a greater need for these people to understand that it is up to themselves to do something about it and not spend their substance on the things that produce squalor and disease.⁴⁰³

Later in October, the County Clerk asked the Medical Officer of Health to request the Director General of Health to apply a closing order over one of the houses (House 7 on Aorangi No 1 3A3A owned by Mrs Hikiringa Lewis) without first serving the required repair notice. This was because the dwelling had become vacant and was in a 'dilapidated condition'. This was completed under section 42 of the Health Act 1956 on 4 November and the County Clerk advised on 9 November that the Director General had directed that the Council issue a closing order under section 102 of the Health Act 1956. The order was issued on 1 December 1960.⁴⁰⁴

On 12 December 1960, the District Officer advised the County Clerk that the 'shack formerly occupied by Mr and Mrs Tangimoana and family, situated on section 3A3C Aorangi No 1' was now being occupied by Mr William Pokaia and family. The house that the Pokaia family had vacated belonged to Mrs Hikiringa Lewis. The Department suggested that a 'closing order be issued immediately to prevent another family moving in'. The Department also said:

Our work in moving Maori families to good houses needs the help of the County Council in preventing other families moving into the vacated sub-standard dwellings.

⁴⁰³ County Health Inspector to County Clerk, Kairanga County Council, 21 October 1960, PNCC K3/4/9: 2 : 5 Maori Housing - Kai Iwi Pa (file kept by County Clerk) Kairanga County Council, 1960, Ian Matheson City Archives, Palmerston North. SW Document Bank, volume 4, p. 48.

⁴⁰⁴ County Clerk, Kairanga County Council to Medical Officer of Health, Department of Health, Palmerston North, 25 October 1960; Director General of Health to County Clerk, Kairanga County Council, 4 November 1960, PNCC K3/4/9: 2 : 5 Maori Housing - Kai Iwi Pa (file kept by County Clerk) Kairanga County Council, 1960, Ian Matheson City Archives, Palmerston North. SW Document Bank, volume 4, p. 49.

As only the local authority has the power to issue Closing or Demolition Orders, we ask for your help in closing the vacant shacks at Kai Iwi.⁴⁰⁵

In response, Mr Milligan, County Clerk, advised the Department that a closing order had been issued for the Lewis house at Kai Iwi Pa. The county was also 'in the process of issuing repair notices for several of the other old places there' and that further closing orders would be issued in the new year.⁴⁰⁶

This was confirmed on 5 January 1961 when Mr Satchwell, Medical Officer of Health at Palmerston North advised the Department that a closing order on the dwelling vacated by the Pokaia family was issued by the Inspector for the Kairanga County Council on 23 November 1960.⁴⁰⁷

In February 1961, the District Officer of the Department of Maori Affairs advised the Land Purchase Officer for the Ministry of Works that approval had been obtained to vary the price to be paid for sections purchased on the open market in certain areas. The variation was 'necessary to cope with the upward trend in market values'. They were still working within the original authority for the expenditure of £13,040 and had therefore decided not to buy in certain areas and to use the money saved to boost the acreage and maximum prices in other areas where sections were more urgently required. The Land Purchase officer was asked to purchase two sections in Foxton, two sections in Longburn and two in Awahuri. It was noted that the sections needed to be in an area zoned 'urban' under the Town and Country Planning Act and have existing formed legal roads. Also, that three sections had already been purchased in Feilding under the current authority. The prices in Palmerston North, however, were 'so high' that they had decided not to purchase on the open market at present. To

⁴⁰⁵ IW Apperley, District Officer, Department of Maori Affairs to County Clerk, Kairanga County Council, 12 December 1960, ACIH MAW2459 Box 122 9/10/3 part 1 Housing Survey (Kai Iwi Pa) Feilding, 1956-1962, Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 145.

⁴⁰⁶ File note, Department of Maori Affairs, 20 December 1960, ACIH MAW2459 Box 122 9/10/3 part 1 Housing Survey (Kai Iwi Pa) Feilding, 1956-1962, Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 146.

⁴⁰⁷ AW Satchwell, Medical Officer of Health to District Officer, Department of Maori Affairs, 5 January 1961, ACIH MAW2459 Box 122 9/10/3 part 1 Housing Survey (Kai Iwi Pa) Feilding, 1956-1962, Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 147.

purchase at market value would, he said, ‘in most cases, be buying outside the repayment capacity of our clients’.⁴⁰⁸

Again, there is a gap in the correspondence at this point with the files of the Kairanga County Council that have been located, finishing. As well, Department of Maori Affairs correspondence does not resume until April 1962 when the department advised the Medical Officer of Health that one of the dwellings at Kai Iwi Pa (occupied by Mrs Love) would be vacated in a week’s time. It was noted that there had been an arrangement with Mr Satchwell ‘whereby when a dwelling was vacated a closing order was issued’. He asked that this arrangement continue noting that there had been other dwellings vacated within the last few months and in one case, the ‘old dwelling was reoccupied’. That said, the other dwellings were still empty.⁴⁰⁹

Another survey was completed in 1962 by the Department of Maori Affairs which revealed that of the 17 houses at Kai Iwi, five were vacant and that four families had left since the last survey. Also, that another two families were considering leaving.⁴¹⁰

The government’s policy concerning Kai Iwi is also reflected in census data which shows that in 1956, there were 98 people recorded as living at Kai Iwi. Ten years later, in 1966, this had fallen to 12.⁴¹¹

Nothing further has been located on Kairanga County Council files (correspondence stops at the end of 1960) or the Maori Affairs Department file (correspondence ends in 1962). Of note, however, is the statement by Maureen Lawton, an owner of Aorangi 1 section 5A2A3 located across the road from the Kauwhata marae. She provides a personal view of how government policy impacted on her family. The almost 28-acre Aorangi 1 section 5A2A block had been divided into two portions of around 11 acres and one of five and a half acres

⁴⁰⁸ District Officer, Department of Maori Affairs to Land Purchase Officer, Ministry of Works, Whanganui, 13 February 1961, AAMK 869 W3074/255/b 9/9/14 part 1 Maori Purposes Fund Board - Crown Sections – Feilding, 1956-1963, Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 156.

⁴⁰⁹ District Officer, Department of Maori Affairs to Medical Officer of Health, 10 April 1962, ACIH MAW2459 Box 122 9/10/3 part 1 Housing Survey (Kai Iwi Pa) Feilding, 1956-1962, Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 148.

⁴¹⁰ TS Mihaere to Housing Officer, 8 June 1962; Housing Survey, Kai Iwi Pa, 1962, ACIH MAW2459 Box 122 9/10/3 part 1 Housing Survey (Kai Iwi Pa) Feilding, 1956-1962, Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 149.

⁴¹¹ New Zealand Census, 1956 and 1966.

in 1918 specifically so that her and her sisters could build on their land. Her family were living in town (Feilding) and wanted to return to Kai Iwi to build a house on their land in the late 1950s. She recalls that the family were thwarted by the Maori Affairs Department from the very beginning and told they could not receive finance to build because the land was located too far away from where there was employment (the marae is about 3 kilometres from Feilding). The land was later Europeansied under the Maori Affairs Amendment Act 1967 and no housing has ever been built there. Mrs Lawton's sister sold her portion and later a Pakeha farmer was able to build a house on this land.⁴¹²

5.7.3 Kai Iwi Summary

The evidence is quite clear that housing at Kai Iwi in the 1950s was in a bad way. The Department of Maori Affairs Welfare Officer for the area, Mrs Tamihana, undertook a survey and spoke to all concerned about how they wished to improve their housing situation. Her view was that new housing should be built at Kai Iwi for those who wanted it (and many did). Although officials at Head Office asked for consideration to be given to improve conditions at Kai Iwi instead of locating people elsewhere, the District Officer, who appeared to be ultimately making the decisions, advised Head Office in 1956 that it should be a 'last resort'. His argument was that employment of Kai Iwi residents was at Feilding and so this was where they should live. Another view was that if the papakainga was 'perpetuated' then it was likely that it would become 'squalid again'. The issue of building at Kai Iwi was still being discussed in 1959 when the District Officer was told again that Mrs Tamihana thought that more would be done to interest people in improved housing if the Department was prepared to build at Kai Iwi and not Feilding or other places. Again, the District Officer was adamant in his response arguing that Kai Iwi was a depressed area from both a housing and drainage point of view with it being impossible for houses to get sufficient drainage for septic tanks. There was also concern by the Department of Health about an area at Kai Iwi that flooded. It was noted too at this time that the Board of Maori Affairs was not prepared to make advances for housing purposes at Kai Iwi as it was believed that there were 'better community and economic facilities' available at Feilding. The District Officer said that some houses had been built near the 'Pa area' but this was only where employment of the occupants was secure and sections were on formed legal roads. This stance was confirmed

⁴¹² Conversation between Maureen Lawton and Suzanne Woodley, 4 April 2017; Otaki Minute Book 54, 28 October 1918, pp. 303-305.

later that year when officials stated that there would not be further housing construction in the area and applicants were being encouraged to move to either Feilding or Awahuri. Therefore, it was the policy of the Department of Maori Affairs that anyone at Kai Iwi who wanted the assistance of the Department to obtain improved housing had to move elsewhere.

The Kairanga County Council became involved at the end of 1957 when the Department of Maori Affairs wrote to the Health Department where County Health Inspectors were based. They appeared to operate quite separately to other County staff (such as the County Clerk) at this time. The tenor of the letter was that the Department hoped that closing and demolition orders could be issued so that attitudes about housing were (forcibly) changed by those considered unwilling to do anything about their situation. Closing orders meant that no one could live at a house until repairs were made and demolition orders were issued when this was not done. One of the issues at Kai Iwi was that when a house was vacated, another family moved in, thereby perpetuating those living in poor housing conditions. If a closing order was issued, however, the house had to be improved before anyone could move back in. If it was demolished, then the problem was permanently 'solved'.

The Kairanga County Health Inspector undertook another survey of the 17 houses at Kai Iwi where 99 people lived which again confirmed the poor conditions under which Maori were living. In June 1958, two undefined notices were issued by the inspector to the owners of two houses stating that deficiencies identified had to be rectified by a certain time. It was also at this time that the County Clerk was advised and asked for his help with the issuing of closing and demolition orders which, under the legislation, could only be issued by the County. By August, two houses had become empty and in November closing orders were issued so that they could not be re-occupied. Both houses remained vacant. In 1960, the Council again became involved at the request of the Medical Officer of Health who complained that Maori were still moving into some of the houses at Kai Iwi when they became vacant and were therefore unlikely to 'take advantage of the opportunity to secure proper housing under the advantageous terms offered by the Department' (which was not at Kai Iwi). Further closing orders were issued after two other houses became vacant and other repair notices were issued. The issuing of closing orders appeared to continue each time a house became vacant. By 1966, the population at Kai Iwi had reduced to 12 and in 1971 no separate count of Maori at Kai Iwi was made.

Therefore, while it was not the decision of the Kairanga County Council not to assist in the provision of new houses at Kai Iwi, the Council was the agency who helped the Crown pursue its policy through the issue of closing and demolition orders.

5.8 Town and Country Planning and its impact on Maori land in the Kairanga County

5.8.1 Introduction

As noted in the legislative section, the Town and Country Planning Act 1953 introduced the concept of zoning. Counties were required to prepare a district plan which specified which zone applied to each area within its boundaries. Under the Maori Affairs Act 1953, the Maori Land Court was obliged to take account or have regard to the district plan when making partition orders but did not have to have the express permission of the County. The Maori Affairs Amendment Act 1967, however, made it compulsory for Counties to approve a scheme plan before Maori Land Court partition orders could be confirmed. It was not until the introduction of the Town and Country Planning Act 1977, that ‘local authorities [were obliged] to take account of Maori values in developing district plans’.⁴¹³

In 1956, the Kairanga Council gave notice that a district scheme was being prepared. The scheme comprised two sections: the Palmerston North Extra Urban Section (so in close proximity to Palmerston North) and the Rural Section which essentially covered the rest of the County including the Maori land blocks of Aorangi and that part of Taonui Ahuaturanga within the County (part was in the Oroua County). The codes of ordinances in the Council’s district scheme specified that the minimum standard area of subdivision in the rural zone was ten acres (4 ha) with a minimum standard frontage of 330 feet (100 metres). The Council could, however, permit the subdivision of the land to provide for an allotment of less than this minimum standard if it could be proved that the allotment could be an independent economic unit, was ‘necessary to avoid undue hardship’ or if the smaller section would not obstruct the ‘free movement of traffic on state highways or important traffic routes’.⁴¹⁴

⁴¹³ Grant Young et al, Draft Ngati Raukawa: Rangatiratanga and Kawanatanga, Land Management and Land Loss from the 1890s to 2000, A Ngati Raukawa Historical Issues Research Report prepared for the Porirua ki Manawatu Inquiry and commissioned by the Crown Forestry Trust, February 2017, pp. 255-260.

⁴¹⁴ Commissioner of Works to Surveyor General, 22 May 1956; Kairanga County District Scheme Schedule, 1956 ABWV W5021 6095 Box 714 25/743/72 part 1 Wellington Land district – Town and Country Planning Act 1953 – Kairanga County District Scheme, 1956-1982; Town and Country Planning Appeal Board (Ministry of Works vs Kairanga County Council, 1963, AATC W3457 5114 Box 76 5/84/3/5 Kairanga County, 1954-1969, Archives New Zealand, Wellington. SW Document Bank, volume 2, pp. 7-10.

In May 1971, a new Kairanga County Council district scheme became operative. The minimum area of a subdivision in the rural zone was increased from ten acres to fifty acres (20.23 ha) and the minimum standard frontage to 660 feet (201 metres). The scheme retained the aforementioned provisions in respect to ‘undue hardship’. Again, no allowance was made for papakainga housing. The increase in the minimum area to 50 acres was due, according to the chair of the Council, to an ‘increasing incidence of subdivision of productive and economic farms for purposes other than the realisation of their productivity potential’. This, he said, was causing the Council concern. He said that there could be ‘no justification ... for any encouragement of residential subdivision in the county at the expense of the productivity which ... [was] essential to the country’s economy’. His statement was in response to objections from ‘land-owners’ to the increase which were subsequently ignored.⁴¹⁵

Claimants have stated that this policy impacted on owners of Taonui Ahuaturanga and Aorangi blocks particularly those located around papakainga at Kai Iwi Pa (Kauwhata Marae) located on Te Arakura Road (Aorangi 1 section 3A3C) and Aorangi Marae on the corner of Camerons Line and Waughs Road (Taonui Ahuaturanga 3A2). They state that the inability to subdivide and build on their land meant that owners had to leave the County for Feilding, Marton or Palmerston North.⁴¹⁶

Census statistics confirm that between 1951 and 1966, the Maori population of Kai Iwi Pa (Kauwhata Marae) reached a peak of 98 in 1956. The population then reduced to 52 in 1961 and to 12 in 1966. No count of the area was made for the 1971 census. Of note is that the housing policy discussed in the previous section whereby residents of Kai Iwi could only get funding for housing outside the proximity of the marae and the demolition of houses there, is likely to have had a large impact on the population. The Maori population in the Aorangi vicinity of the Kairanga County fluctuated from 52 (1951) to 9 (1956) to 15 (1961) to 34 (1966) and to 15 in 1971. Maori at Aorangi were also counted in separate Oroua County statistics (as noted the boundary between the two Counties went through the Taonui Ahuaturanga block). These show an increase in population between 1951 and 1961 from 21

⁴¹⁵ Kairanga County District Scheme, Variation No 2, July 1970, AATC W3415 Box 63 20/45/1 Roading – Town and Country Planning – Kairanga County Council, 1970-1972; Resident Engineer, Ministry of Works to District Commissioner of Works, Whanganui, 9 July 1971 & 2 February 1979, AEWC 5114 W5653 180 54/16/9/54 Highways - Major District - Limited Access Roads - No 9 District - State Highway 54, 1968-1986; *Evening Standard*, 22 September 1970. SW Document Bank, volume 5, pp. 4-11, 16-17, 20-22.

⁴¹⁶ Donna Hall, Woodward Law counsel for claimants, feedback on draft report, March 2017. Note that complete Aorangi partition details were not available in time for consideration in the final report.

to 41 and then a reduction to 32 in 1966 and to 12 in 1971. Total Aorangi statistics show that the Maori population reached a peak in 1951 with 73 then reduced to 46 in 1956, increased again to 57 in 1961 and 66 in 1966 but fell sharply to 27 in 1971.⁴¹⁷

As is also noted in the legislative section, the potential impact of the rural zone restrictions on Maori was known very early on. In 1961, the District Officer of the Department of Maori Affairs at Palmerston North was asked to comment on the Kairanga County's district scheme. The District Officer advised the Resident Engineer at Palmerston North that 'one of the difficulties often encountered under district schemes ... [was] the requirement of a minimum of 5 acres before a partition will be agreed to' (though in the case of Kairanga it was ten acres). He said that very often Maori families were not in a financial position to buy a section comprising one-fifth or one quarter of an acre in a built-up area where residential subdivision was acceptable and it was therefore felt that in these circumstances, Maori should 'receive favourable consideration for a partition of their land interest for house building, particularly when their application is sponsored by the Maori Affairs Department, and the Board of Maori Affairs is prepared to lend money for the erection of a house on their land'. He suggested that special provision be made in the district planning scheme for Maori to partition housing sites in Maori blocks when they wanted to build in a county and their application was supported by the Department of Maori Affairs. No alteration, however, was made to the plan at this time.⁴¹⁸

5.8.2 Kauwhata Marae (Aorangi 1 3A3C)

Title research by Walghan Partners shows that there were four partitions involving small areas of the Aorangi 1 block between 1949 and 1964 and one in 1971. Partitioning did not resume until 1981. As well, no further partitions were ordered after 1949 with respect to the remaining Maori land (as at March 2017) located within close proximity to Kauwhata Marae including the block on which the marae is located (Aorangi 1 3A3C (.8068 ha) which was partitioned out in 1913 and set aside as a Maori reservation in 1935). The blocks next to the marae (Aorangi 1 3A3D1 (.653 ha) and 3A3D2 (.653 ha)) were partitioned out in 1949. Other blocks near the marae (on the same side of the road) include Aorangi 1 3A3B (.4032 ha),

⁴¹⁷ New Zealand Census, 1951, 1956, 1961, 1966, 1971.

⁴¹⁸ District Officer, Department of Maori Affairs, Palmerston North, Palmerston North to Resident Engineer, Ministry of Works, 20 October 1961, AATC W3415 Box 63 20/45/1 Roding – Town and Country Planning – Kairanga County Council, 1961-1969, Archives New Zealand, Wellington. SW Document Bank, volume 5, p. 12.

Aorangi 1 3A3F1 (3.97 ha), Aorangi 1 3A2 (2.0155) and Aorangi 1 3A5A3A (3.398 ha). These were all partitioned out between 1887 and 1935. Only one of these blocks, apart from the marae block, contains buildings and all are less than ten acres (4 ha) in size – which was the minimum requirement for a subdivision from 1956. The Aorangi 1 blocks still in Maori ownership in 2017 located across the road from the marae (Aorangi 1 5A1A1, 5A1A2, 5A1A4, 5A1B1, 5A2A, 5B2B and 5B1) were also partitioned out well before the 1960s – between 1918 and 1930. Just one of these blocks contains buildings in 2017 (Aorangi 1 5A1A4) and all are less than ten acres (4 ha) in size except for Aorangi 1 5B2B which is 6.0323 ha in size.⁴¹⁹

While applications for partitions of these blocks in close proximity to the Kauwhata Marae have not been located, details of several applications in respect to areas of the Aorangi block with frontage to Camerons Line have as well as applications in respect to the nearby Taonui Ahuaturanga block have. These show the views and decisions of both the Maori Land Court and the Council during the 1960s and 1970s and how this impacted on Maori land within the County.

5.8.3 Aorangi 1 section 4C1B

On 20 November 1962, the Maori Land Court heard two applications from Jean Kipa in respect to the Aorangi 1 4C1B block. She asked for her interests in the block to be vested in her solely and for these to be partitioned out from the main block. The block, which was located on Camerons Line, which formed part of State Highway 54, comprised 9 acres 3 roods. The Court minutes record that the Kairanga County Council was considering the application and had asked the Ministry of Works for their approval as the land was on the highway. It was noted too that an old house was being demolished and that the applicants wished to build a new house. The Court made the vesting order subject to compliance with conditions relating to her application for finance for a house and the partition order for half acre of an area with road frontage subject to the consent of the Kairanga County Council.⁴²⁰

The application for subdivision of the Aorangi No 1 section 4C1B block was also made to the Kairanga Council in November 1962 by Mrs Kipa. The solicitors for the applicant, Jacobs, Gilliland & Florentine and Prichard, advised the Council that Mr and Mrs Kipa wished to

⁴¹⁹ Maori Land Online: <http://www.maorilandonline.govt.nz/>; Walghan Partners, Draft, 1 May 2017, volume 2, pp. 25-32.

⁴²⁰ Otaki Minute Book 70, 20 November 1962, pp. 8-9.

partition out approximately half an acre with a road frontage of 1 ½ chains (about 30 metres) and asked for approval to do so. The County Clerk forwarded the application to the Resident Engineer at the Ministry of Works in Palmerston North and asked that he forward his comments on the application noting that the block fronted State Highway 54.⁴²¹ The Resident Engineer noted that the land was zoned rural and that the Council's code of ordinance specified that the minimum size of an allotment in a rural zone was ten acres. He said that as the County Clerk was aware, 'the policy of National Roads Board is directed towards the prevention of sporadic development and of areas of ribbon development along State Highways'. He also stated:

It is considered that the best interests of the Board as the controlling roading authority will be served by your Council's adherence to the requirements of its planning scheme, namely the 10 acre sub divisional requirement.⁴²²

He then asked that the proposal be rejected.⁴²³

In response, the solicitors for Mrs Kipa asked the Resident Engineer to reconsider the application. They noted that the Maori Land Court had made the partition order conditional on receipt of consent of the Kairanga County Council and that the Council had advised them that as the property fronted State Highway 54 the matter would have to be referred to the Ministry of Works for consideration (even though, as noted in the legislative section, this was not required in respect to Maori land until 1967). The solicitors had been told that the reason why the Ministry of Works had rejected the application was because the subdivision requested would lead to 'pockets of sporadic development and areas of ribbon development' alongside a state highway and that the minimum size of an allotment was ten acres. The solicitors asked for clarification as to whether all schemes for subdivision involving an area of less than ten acres were automatically rejected or whether there were other circumstances taken into account. The solicitors explained that their clients faced several difficulties in that they were already occupying a house situated on Aorangi No 1 section 4C1B a distance of about 200 yards from the area of land which was to be partitioned. This house, however, was

⁴²¹ Jacobs, Gilliland, Florentine & Prichard, Barristers & Solicitors, Feilding to County Clerk, Kairanga County Council, 2 November 1962; County Clerk, Kairanga County Council to Resident Engineer, Ministry of Works, Palmerston North, 14 November 1962, AATC W3415 Box 85 72/54/9A/1/1 Management – State Highway 54 – Kairanga County, 1960-1971, Archives New Zealand, Wellington. SW Document Bank, volume 2, pp. 12-14.

⁴²² Resident Engineer, Ministry of Works, Palmerston North to County Clerk, Kairanga County Council, 12 December 1962, AATC W3415 Box 85 72/54/9A/1/1 Management – State Highway 54 – Kairanga County, 1960-1971, Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 15.

⁴²³ Ibid.

‘almost uninhabitable’ and was ‘literally falling down around the occupiers’. A new house therefore needed to be built. He said that Mr and Mrs Kipa were farming Aorangi No 1 section 4C1B in addition to several surrounding blocks totalling between 40 and 50 acres. It had been suggested that they purchase all of Aorangi No 1 section 4C1B thereby making the sub-division unnecessary but from a ‘purely financial point of view’ they were not in a position to do this. As well, the financial resources of the ‘lessor owners’ were much the same and they were not in a position to build a new home for Mr and Mrs Kipa. The only alternative that their clients had was to obtain a mortgage from a lending institution for the purpose of building their own home but this required a freehold section. The solicitors noted too that as the old house would be demolished, no new exit to state highway 54 would be created. They asked whether there was any chance that the matter could be considered again.⁴²⁴

The District Commissioner at Whanganui responded that he fully supported the engineer’s rejection of the subdivision. He noted, however, that the engineer had not given an indication as to whether the Council would act on their recommendation. If they approved the plan, he said, then the Council was ‘bound to notify the Ministry in writing’ though he assumed that this stage had not been reached. He said that it occurred to him that the parties, ‘possibly for their own ends’ had taken too much notice of the ten-acre requirement. He said that it was true that the Town and County Planning Regulations of 1960 in their suggested standards for codes of ordinances (adopted by Councils) put ten acres as the desirable minimum in a rural zone and that this standard had been adopted by the Kairanga Council. There was no obligation, however, for them to adopt ten acres as their standard and that it was ‘worth mentioning’ that the Kiwitea County had adopted a minimum of five acres and that in Oroua it was two acres (though the District Commissioner must have meant another County to Oroua as Oroua had adopted a minimum of ten acres as well).⁴²⁵

The District Commissioner went on to say:

I think you will agree that the essence of the Department’s objection is not the mere reduction in area as such but the purpose for which the reduction is being made. Our

⁴²⁴ Jacobs, Gilliland, Florentine & Prichard to Ministry of Works, 14 February 1963, AATC W3415 Box 85 72/54/9A/1/1 Management – State Highway 54 – Kairanga County, 1960-1971, Archives New Zealand, Wellington. SW Document Bank, volume 2, pp. 16-18.

⁴²⁵ Resident Engineer, Ministry of Works Palmerston North to District Commissioner of Works, Whanganui, 21 February 1963; District Commissioner of Works, Whanganui to Resident Engineer, Ministry of Works, Palmerston North, 28 February 1963, AATC W3415 Box 85 72/54/9A/1/1 Management – State Highway 54 – Kairanga County, 1960-1971, Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 19.

main concern is with the creation of a residential subdivision in a rural zone on a State highway and the resultant tendency towards interference with the normal free flow of traffic.

I appreciate the difficulties faced by Mr and Mrs T Kipa and I feel that if Kairanga County decides to approve the subdivision we would not have a strong case for appeal.

Nevertheless, if you are satisfied that the subdivision is wholly undesirable from our viewpoint you should inform the solicitors accordingly.⁴²⁶

The Resident Engineer then advised the applicant's solicitors that while the proposals had not been the subject of a formal application to the Council, the District Commissioner had interpreted the referral of the application to him as a reference to section 23(4) of the Counties Amendment Act 1961 and had made comments accordingly. As noted above, section 23 (4) of the Counties Amendment Act 1961 stated that where any land on a scheme plan of subdivision submitted to the Council for its approval had a frontage to a state highway or government road, the Council, before approving the plan, had to send a copy of the plan to the District Commissioner of Works for comment. If the Council approved the plan and this was contrary to the comments of the District Commissioner of Works, then the Council had to send notice of this to the District Commissioner. The difficulty with the District Commissioner's statement, however, was that an amendment to the Maori Affairs Act 1953 which was also made in 1961, said that this part of the Counties Amendment Act 1961, did not apply to partitioning completed under section 173 of the Maori Affairs Act 1953. It applied, however, after 1967 when this section of the 1953 Act (173 (4)) was repealed.⁴²⁷

The solicitors then sought further clarification from the resident engineer as to whether his letter meant that the Department was not prepared to allow the subdivision. He eventually responded that the approving authority was the Council and that the proposals had only been

⁴²⁶ District Commissioner of Works, Whanganui to Resident Engineer, Ministry of Works, Palmerston North, 28 February 1963, AATC W3415 Box 85 72/54/9A/1/1 Management – State Highway 54 – Kairanga County, 1960-1971, Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 20.

⁴²⁷ Resident Engineer to Messrs Jacobs, Gilliland, Florentine and Prichard, 22 March 1963, AATC W3415 Box 85 72/54/9A/1/1 Management – State Highway 54 – Kairanga County, 1960-1971, Archives New Zealand, Wellington. SW Document Bank, volume 2, pp. 21-22.

referred to the District Commissioner for comment under section 23(4). Further enquiries, he said, should be directed to the Council.⁴²⁸

On 19 March, the vesting and partition applications were heard by the Maori Land Court again. The solicitor for Mrs Kipa reported that the money had still not been paid for the block as the consent of the County Council had been withheld until approval had been given by the Ministry of Works. The Court responded that it had made the vesting order conditional on the payment of the purchase money and not on the Council's consent. The partition order, however, was conditional on the consent of the Kairanga Council but not the Ministry of Works. The Court said that the house concerned was being demolished and a new one built in its place. It was to enable a dairy farmer to live close to his farm and 'for finance purposes' a separate title was required. Further:

The Court has given the fullest regard for any scheme plan in existence and still is of opinion this sub-division for housing purposes should be completed and a new house erected thereon.⁴²⁹

The Court then amended the orders by extending the time for completion to 30 June 1963 (later extended to 31 March 1964) in respect to the vesting order conditions (regarding finance) and removed the condition about securing the permission of the Council from the partition order decision. The partition order was therefore made without the consent of the Council. This was, at this time, allowed under the legislation.⁴³⁰

Despite this, the application continued to be considered by the Ministry of Works and the Council. In April 1963, the solicitors submitted a scheme plan to the Council which was again sent to the District Commissioner of Works who instructed the Resident Engineer to submit another comment on the proposal. He noted again to the County Clerk that the land was zoned rural and that the minimum size of an allotment permitted was ten acres. As well, he again stated that the policy of the National Roads Board was 'directed towards the prevention of pockets of sporadic development and of areas of ribbon development along State Highways'. He said that the 'creation of residential subdivisions has a resultant tendency to interfere with the normal free flow of traffic'. Also, it was considered that 'the

⁴²⁸ Jacobs, Gilliland, Florentine and Prichard to Resident Engineer, Ministry of Works, Palmerston North, 2 April 1963; Resident Engineer, Palmerston North to Messrs Jacobs, Gilliland, Florentine and Prichard, 10 May 1963, AATC W3415 Box 85 72/54/9A/1/1 Management – State Highway 54 – Kairanga County, 1960-1971, Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 23.

⁴²⁹ Otaki Minute Book 70, 19 March 1963, p. 33.

⁴³⁰ Ibid, p. 33; p. 286.

best interests of the Board as the controlling authority' would be served by the Council's 'adherence to the requirements of its planning scheme', that is, the ten-acre sub divisional requirement. He asked that the residential subdivision be rejected by the Council.⁴³¹

Several days later the District Commissioner of Works advised the County Clerk that he had changed his view. He said that although the Department was not in favour of small subdivisions on state highways, he had reconsidered and advised that approval could be given to the subdivision under the 4th schedule, ordinance III, clause 3 of the Town and Country Regulations 1960 'as appropriate to the proposed use and necessary to avoid undue hardship'. No mention was made of the fact that the Maori Land Court had already made the partition order.⁴³²

The Council met on 24 September 1963 and the resolution approving the subdivision was made. Maori Land Online images of 2017 show that there is a house still on this land though it is no longer Maori land.⁴³³

5.8.4 Aorangi 1 section 4A2A

An application to the Council for a quarter acre subdivision for housing purposes from RM Pou was made in May 1966 in respect to Aorangi 1 section 4A2A. This block was also located on Camerons Line (SH 54). Although not required under the legislation, the County Clerk forwarded the application to the Ministry of Works for comment. The Resident Engineer enquired into the matter and it was found that others, apart from Mrs Pou had interests in the block. He also reported that the Maori Land Court had made the partition 15 years before and that during the previous few years, partitions made by the Maori Land Court were required to be registered and building work begun within twelve months, otherwise they would be cancelled. It therefore appeared to the Engineer that the partition of a quarter of an acre for Mrs Pou made 15 years previously with the intention of building a house was still legal. He said that the Ministry of Works could still object to the building on the section but

⁴³¹ Resident Engineer, Ministry of Works to Kairanga County Council, 19 August 1963, AATC W3415 Box 85 72/54/9A/1/1 Management – State Highway 54 – Kairanga County, 1960-1971, Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 26.

⁴³² District Commissioner of Works, Whanganui to County Clerk, Kairanga County Council, 23 August 1963, AATC W3415 Box 85 72/54/9A/1/1 Management – State Highway 54 – Kairanga County, 1960-1971, Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 27.

⁴³³ Maori Land Online: <http://www.maorilandonline.govt.nz/>; District Planning & Health Committee decision, 9 September 1963, MDC 00113 : 2 : 266 Subdivision: Camerons Line, Mrs J H Kipa Subdivide Pt Sec 4C I 82 being part Aorangi No 1 Block II Kairanga S D. May not have been approved. Kairanga County Council, 1963, Archives Central Feilding. SW Document Bank, volume 3, p. 75.

that legal access had to be provided in any case. He therefore recommended that no objection be made.⁴³⁴

Maori Land Online records that in 1978, the partition of Aorangi 1 section 4A2A lots 1 and 2 made in 1951 were cancelled. Images show no buildings or housing on the block in 2017.⁴³⁵

Of note is the Resident Engineer also responded to another request for a subdivision on Camerons Line in May 1967 but in respect to European land. He said that since the subdivision was to provide accommodation for assistance in running a farm the Department had no objection to it (no other details have been located as to the size of the subdivision). What was significant, however, was his comment that the Department was concerned at the number of subdivisions taking place along the Camerons Line section of the state highway. He said that ‘strong action must be taken to oppose the ribbon development that ... [was] taking place’. There was certainly the case in the 1970s.⁴³⁶

5.8.5 Taonui Ahuaturanga 3A2

The only partitioning by the Maori Land Court of that part of the Taonui Ahuaturanga block in the Kairanga County after 1953 until the late 1970s was in 1967 in respect to Taonui Ahuaturanga 3A. Unlike the application in respect to Taonui Ahuaturanga in the Oroua County, however, this application was approved. Significantly, that part of the block on which the subdivision was requested did not have frontage to state highway 56.

The application in respect to Taonui Ahuaturanga 3A was heard on 26 July 1967 by the Maori Land Court, which was just prior to the passing of the Maori Affairs Act 1967 (on 22 November 1967) which made it compulsory for Maori to seek the permission of the Council if they wanted to partition their land. That said, the Council’s permission had already been sought prior to the partition order being made. The application was by Hoani Meihana Te Rama Apakura (John Mason Durie) who wished to give half an acre to his daughter Mahuenoa Meihana Paewai and her husband Lui Tatere Paewai (presumably for a house though this was not specified). It was noted in the Court minutes that there was a mortgage

⁴³⁴ Registered Surveyor to Clerk, Kairanga County Council, 24 May 1966; Kairanga County Council to District Commissioner of Works, April 1966; Resident Engineer to District Commissioner of Works, 22 July 1966, AATC W3415 Box 85 72/54/9A/1/1 Management – State Highway 54 – Kairanga County, 1960-1971, Archives New Zealand, Wellington. SW Document Bank, volume 2, pp. 28-31.

⁴³⁵ Maori Land Online: <http://www.maorilandonline.govt.nz/>.

⁴³⁶ Resident Engineer, Ministry of Works to County Clerk, Kairanga County Council, 16 May 1967, AATC W3415 Box 85 72/54/9A/1/1 Management – State Highway 54 – Kairanga County, 1960-1971, Archives New Zealand, Wellington. SW Document Bank, volume 2, pp. 32-33.

over the land to the Maori Trustee who was prepared to execute a discharge in respect to the half-acre section. He produced the consent of the Kairanga County Council to the proposed partition and scheme plan of subdivision. It showed that the half acre concerned had frontage to the Feilding to Bunnythorpe Highway (Waughs Road) and not to the state highway (which as noted above was significant as the Ministry of Works was very reluctant to approve subdivisions with frontage to state highways). The Court made the order vesting Taonui Ahuaturanga 3A1 comprising 1 rood 38 perches in the applicant's daughter and husband. The remainder of the block was vested in Meihana Te Rama and named Part Taonui Ahuaturanga 3A2 (44 acres 36 perches). The Aorangi Marae is situated on this block which was gazetted as a Maori reservation in 1983.⁴³⁷

The order made in 1971 by the Maori Land Court was in respect to Aorangi 1 section 3A4A3 was in respect to naming the balance of the block. In 1965, a vesting order had been made by the Court whereby 1 rood of the 1 acre, 2-rood, 26.6 perch block was vested in an owner for the purpose of a house site. The partition was named Aorangi No 1 section 3A4A3 No 1. The Court said that it had not been proposed by the chief surveyor that the balance of the block be called Aorangi 1 section 3A4A3 No 2. The plan was approved by the Court and the order made 'evidencing title to a defined parcel of land'. No involvement was recorded by the Council most likely because any such input would have occurred in 1965 when the Council was supporting such applications.⁴³⁸

Applications for further sub-division of Taonui Ahuaturanga 3A2 in the early and mid-1970s were, however, declined. This was despite the proposed subdivision being for an existing house. In May 1972, Graham & Reed, solicitors for the Estate of John Mason Durie (who had died in 1971), applied to the Kairanga Council for a subdivision of Part Taonui Ahuaturanga 3A2 which comprised 44 acres 36 perches. The solicitors said that the trustees for the estate wanted to sell the house on the property together with an area of about two roods (half an acre) to a grandson of the late Mr Durie (Dr Mason Durie). This area was located on the corner of the block so on both Camerons Line (State Highway 54) and Waughs Road. A handwritten note on the bottom of this letter by a Council official stated: 'Limited access on state highway. Conflicts with Ministry of Works requirements'.⁴³⁹

⁴³⁷ Otaki Minute Book 73, 26 July 1967, p. 289; Maori Land Online:

⁴³⁸ Otaki Minute Book 76, 15 September 1971, p. 120.

⁴³⁹ Graham & Reed, Barristers & Solicitors to Kairanga County Council, 26 May 1972, MDC 00112 : 2 : 62 Town and Country Planning: Durie Edward Matawha, Taipana Kahu Aurihia Paewai Mahuena Meihana (Est

This referred to the four-mile (about six and a half kilometres) portion of State Highway 54 from Feilding (South Street) to Te Arakura corner having been declared a limited access road by the National Roads Board in 1968 under section 4 of the Public Works Amendment Act 1963. The Kairanga County Council was advised of this prior to the declaration being gazetted and noted that every owner and occupier would be served with a copy of the notice 'together with a license authorising an existing access to the highway or nominating a new access where none exists'. The Council was asked to assist in preserving the state highway as an 'efficient arterial route by ensuring that if and when subdivision ... [took] place adjacent to the State Highway, the sub divisional roading pattern ... [was] designed to achieve a future side road spacing along the State Highway of not less than 40 chains [800 metres] and that wherever possible all parcels of land have their access from sub divisional roading only'.⁴⁴⁰

The County Engineer advised Messrs Graham & Reed several months later that the Council had considered the application. While not specifically declining the application, he said that under the district scheme of the county, the minimum standard area for new allotments in a rural zone was 50 acres. A smaller dwelling house allotment could, however, be created provided an application for conditional use had first been approved by the Council in terms of the ordinance governing residential use in a rural zone. Generally, he said, this was for 'persons employed predominantly on rural activities within the zone or who ... [were] required to live in rural areas'. He added that the application should be accompanied by a scheme plan and sufficient information to assist the Council in considering the proposal. Formal application, he said, would also involve the completion of procedures including advertising and notification to persons interested. As one frontage of the block was to a limited access state highway, this would include advising the District Commissioner of Works.⁴⁴¹

Three years later, in September 1975, another application was made for the subdivision by Graham & Reed on behalf of the Estate of Mason Durie with Matawha Edward Durie, Kahu Hurihia Taipana and Mahuenoa Meihana Paewai named as trustees. The County Engineer

John Mason Durie) Kairanga County Council 1975 – 1975, Archives Central, Feilding. SW Document Bank, volume 3, p. 77.

⁴⁴⁰ Resident Engineer, Ministry of Works, Palmerston North to District Commissioner of Works, Whanganui, 14 June 1968, 2 August 1968, AEWG W5653 5114 Box 180 54/16/9/54 Highways – Major District – Limited Access Roads – No 9 District – State Highway 54, 1968-1986, Archives New Zealand, Wellington. SW Document Bank, volume 5, pp. 14-15.

⁴⁴¹ County Engineer to Messrs Graham & Reed, 21 July 1972, MDC 00112 : 2 : 62 Town and Country Planning: Durie Edward Matawha, Taipana Kahu Aurihia Paewai Mahuenoa Meihana (Est John Mason Durie) Kairanga County Council 1975 – 1975, Archives Central, Feilding. SW Document Bank, volume 3, p. 84.

immediately advised Graham & Reed that the application did ‘not come within the scope of any conditional use in the District Scheme Ordinances ... and would constitute a departure from the scheme’. Also, that the ‘establishment of separate residential sites for sale in rural zones by “Specified Departure” procedure’ had not previously been approved by the Council so as to ‘avoid any conflict of policy or precedent in the fragmentation of rural land’. This suggests therefore that the Council had not either received or approved similar applications. It was also noted that under the Counties Amendment Act, the County was required to submit copies of subdivision proposals in respect to land fronting state highways for comment to the District Commissioner of Works.⁴⁴²

On 23 September, the formal application under section 35 of the Town and Country Planning Act 1953 for the consent of the Kairanga County Council to a specified departure from the operative district scheme to allow Lot 1 part Taonui Ahuaturangi 3A2 comprising 6111m² (one and a half acres) to be subdivided for the ‘purposes of sale to a registered medical practitioner as prospective purchaser’ was submitted. It was noted that the property was zoned rural; that the proposed use was ‘neither a permitted nor a conditional use’ under that zoning; that the prospective purchaser would live in the premises and provide a medical service to the surrounding community; that there was a ‘serious and continuing need for medical practitioners in Feilding and elsewhere’; that the proposal would promote ‘health, safety and general welfare of the inhabitants’; and that the premises already situated on the land and the access would remain unaffected.⁴⁴³

The application was then forwarded to the Ministry of Works and Development for comment. The Engineer’s report to the District Commissioner was clear that as Camerons Line was a limited access road, no subdivision should be allowed. The District Commissioner of Works then told the Kairanga County Council that the Ministry was ‘strongly opposed’ to the subdivision. He said that Camerons Line on SH 54 was a ‘limited access road and as such [was] not a road for subdivision’. The District Commissioner said that if the subdivision was to proceed because alternative legal access was available from Waughs Road, the National Roads Board would ask that the Council, when issuing building permits, to ensure that all

⁴⁴² County Engineer, Kairanga County Council to Messrs Graham & Reed, 10 September 1975, MDC 00112 : 2 : 62 Town and Country Planning: Durie Edward Matawha, Taipana Kahu Aurihia Paewai Mahuenoa Meihana (Est John Mason Durie) Kairanga County Council 1975 – 1975, Archives Central, Feilding. SW Document Bank, volume 3, p. 75.

⁴⁴³ Application for specified departure, 23 September 1975, MDC 00112 : 2 : 62 Town and Country Planning: Durie Edward Matawha, Taipana Kahu Aurihia Paewai Mahuenoa Meihana (Est John Mason Durie) Kairanga County Council 1975 – 1975, Archives Central, Feilding. SW Document Bank, volume 3, p. 4307.

access was to Waughs Road. Licensed access points to the state highway (the limited access road) would then be cancelled after a suitable period of time to allow for the alternative access to be provided'. It was also 'necessary to make provision for a 30 metre splay on the corner of S.H.54/Waughs Road to allow for future road improvements' (meaning land would have to be taken for this purpose).⁴⁴⁴

He concluded:

It is noted that your County's code requires new lots to have a minimum area of 50 acres [20.23 ha] and a minimum frontage of 660 feet [201 metres]. The proposed Lot 1 has an area of 1.5 acres and a frontage of 81.29 metres and the balance of the property will have an area of 42.5 acres. Both are below code.⁴⁴⁵

In response to a query from the Council, the applicant, Dr Durie, who, it was noted, was a psychiatrist, advised that he would not be planning to conduct a medical practice with regular surgery hours on the property, that the main reason for purchasing the property was to 'maintain and renovate a family homestead without intention to rebuild in the foreseeable future' and 'to maintain close contact with the adjacent Marae and to supervise its maintenance and use'.⁴⁴⁶

This did not change the Council's mind as on 4 March 1976, the County Clerk advised Graham & Reed that the Council had considered the points raised in Dr Durie's letter but had resolved that the application be 'declined on the grounds that the proposal was contrary to the principles of the Kairanga District Scheme'.⁴⁴⁷

⁴⁴⁴ Resident Engineer to District Commissioner of Works, 5 November 1975, AEW 5114 W5653 180 54/16/9/54 Highways - Major District - Limited Access Roads - No 9 District - State Highway 54, 1968-1986, Archives New Zealand, Wellington. SW Document Bank, volume 5, pp. 18-19. District Commissioner of Works, Whanganui to County Clerk, Kairanga County Council, 21 November 1975, MDC 00112 : 2 : 62 Town and Country Planning: Durie Edward Matawha, Taipana Kahu Aurihia Paewai Mahuenoa Meihana (Est John Mason Durie) Kairanga County Council 1975 – 1975, Archives Central, Feilding. SW Document Bank, volume 3, p. 81.

⁴⁴⁵ District Commissioner of Works, Whanganui to County Clerk, Kairanga County Council, 21 November 1975, MDC 00112 : 2 : 62 Town and Country Planning: Durie Edward Matawha, Taipana Kahu Aurihia Paewai Mahuenoa Meihana (Est John Mason Durie) Kairanga County Council 1975 – 1975, Archives Central, Feilding. SW Document Bank, volume 3, p. 81.

⁴⁴⁶ MH Durie, Psychiatrist to Loughnan, de Cleene & Co, Barristers & Solicitors, 10 December 1975, MDC 00112 : 2 : 62 Town and Country Planning: Durie Edward Matawha, Taipana Kahu Aurihia Paewai Mahuenoa Meihana (Est John Mason Durie) Kairanga County Council 1975 – 1975, Archives Central, Feilding. SW Document Bank, volume 3, p. 82.

⁴⁴⁷ County Clerk, Kairanga County Council to Messrs Graham & Reed, Barristers & Solicitors, Feilding, 4 March 1976, MDC 00112 : 2 : 62 Town and Country Planning: Durie Edward Matawha, Taipana Kahu Aurihia Paewai Mahuenoa Meihana (Est John Mason Durie) Kairanga County Council 1975 – 1975, Archives Central, Feilding. SW Document Bank, volume 3, p. 83.

In November 1978, just over two years later (and five years after the original application) the trustees applied again for a specified departure from the operative scheme under section 74 of the Town and Country Planning Act 1977 to enable the block to be subdivided 'for the purpose of sale to a registered medical practitioner as prospective purchaser'.⁴⁴⁸ This time the application when commented on by the Resident Engineer at the Ministry of Works in Palmerston North was viewed favourably. The Resident Engineer stated that although the department was 'not in favour of the proposed subdivision' that the Minister would not be formally objecting to the proposal (and the final date for objections had passed). He stated that it was presumed that the subdivision could proceed because it had an alternative access to Waughs Road that did not rely solely on the State Highway (Camerons Line). He suggested that the Council consider making the approval conditional on all access being from Waughs Road and that crossing places on State Highway 54 be cancelled after a suitable period of time to allow for the alternative access to be provided. He said too that the intersection would be upgraded in the future and a triangular piece of land across the corner with 10-metre-long sides would be 'required for future road use'. It was also noted that the subdivision would produce a balance of land that was under the 50-acre minimum specified in the district scheme.⁴⁴⁹

In February 1979, seven years after the original application was made, the subdivision to enable 6111 square metres, where a house already stood, to be subdivided from the estate's property described as part Taonui Ahuaturanga 3A was approved by the Council subject to the condition that all access was from Waughs Road and that crossing places on state highway 54 be cancelled after a 'suitable period of time to allow for the alternative access to be provided, as recommended by the Resident Engineer'.⁴⁵⁰

Later that year, the Resident Engineer advised the District Commissioner of Works that Mr Durie had closed off various crossing places on state highway 54 but wished to retain a crossing place for access to the areas on opposite sides of state highway 54 that he farmed. It

⁴⁴⁸ Application for planning consent, 25 November 1978, MDC 00112: 2 : 81 Town and Country Planning: Durie Estate Kairanga County Council 1978 – 1978, Archives Central, Feilding. SW Document Bank, volume 3, p. 86.

⁴⁴⁹ Resident Engineer, Ministry of Works and Development, Palmerston North to County Clerk, Kairanga County Council. 18 December 1978, MDC 00112: 2 : 81 Town and Country Planning: Durie Estate Kairanga County Council 1978 – 1978, Archives Central, Feilding. SW Document Bank, volume 3, p. 87.

⁴⁵⁰ County Clerk, Kairanga County Council to Messrs Graham & Reed, 1 March 1979, MDC 00112 : 2 : 81 Town and Country Planning: Durie Estate Kairanga County Council 1978 – 1978, Archives Central, Feilding. SW Document Bank, volume 3, p. 88.

was noted too that the marae and his house would obtain access from Waughs Road. Approval was given for this.⁴⁵¹

It is not clear from Council records exactly why the Council changed its mind and why the Engineer was so supportive of a proposal his colleague had vehemently opposed several years before. While the 1977 Act specified that local authorities were obliged to take account Maori values when developing district plans this was not specifically given as a reason for agreeing to the subdivision. It is possible, though, that it arose as a result of a query made to the Member of Parliament, LW Gander by Mrs K Taipana (one of the trustees) concerning the subdivision of what was described as a Maori land block at Aorangi in 1978. This had been referred to the Minister of Works and Development, WL Young. The Minister told Mr Gander, that while he had received insufficient information regarding the application to comment specifically, he assumed that the local authority, the Kairanga County Council, had not permitted the subdivision of the land because it did not comply with the provisions of the district scheme prepared under the Town and County Planning Act. Without having further information, he said, he was unable to ascertain for certain. He did say, however, that:

The Ministry of Works and Development has encouraged local authorities, in their planning, to give consideration to the needs of the Maori people, and in 1975 issued a bulletin on the subject. The bulletin ... includes some reference to the possibility of a need under some circumstances for special zoning in respect of Maori land.⁴⁵²

He suggested that Mrs Taipana consult her solicitor regarding possible action that could be taken under the Town and Country Planning Act, 1977.⁴⁵³

Maori Land Online images show the area around the house partitioned from the main block is no longer Maori land and that there has been no further subdivision of the 44-acre block. There are, however, several other houses on the block with frontage to Waughs Road.⁴⁵⁴

5.8.6 Summary

⁴⁵¹ Resident Engineer to District Commissioner of Works, 22 May 1979, AEWC 5114 W5653 180 54/16/9/54 Highways - Major District - Limited Access Roads - No 9 District - State Highway 54, 1968-1986, Archives New Zealand, Wellington. SW Document Bank, volume 5, p. 23.

⁴⁵² WL Young, Minister of Works and Development to Hon LW Gander, Parliament House, 8 December 1978, AADX W3149 889 Box 31 149/60 part 2 Kairanga County, 1971-1980, Archives New Zealand, Wellington. SW Document Bank, volume 5, p. 25.

⁴⁵³ Ibid.

⁴⁵⁴ Maori Land Online: <http://www.maorilandonline.govt.nz/>.

From the examination of these subdivision applications, it would appear that prior to 1968 they were considered reasonably favourably by the Court and the Council with the Court bypassing the need for Council consent in the case of Aorangi 1 section 4C1B as the partition was considered necessary by the Court. The Council subsequently agreed to it on the basis that the partition was necessary to avoid 'undue hardship'. The application in respect of the first subdivision of Taonui Ahuaturanga 3A (into 3A1) also appeared to be straightforward because access was not from the state highway (Camerons Line). In the 1970s, however, it took seven years and three sets of applications for the Council to agree to partition off an existing house because it was located on the state highway. That this was Maori land on which a marae stood and that the subdivision was for an owner who had undertaken to look after the marae was not taken into consideration by the Council or the Ministry of Works to whom the application had been referred. There was a change in the Council's position, however, in the late 1970s. This was possibly due to Dr Durie's willingness to change the access routes from the state highway to Waughs Road but could also be put down to the involvement of the Minister of Works who in 1978, advised one of the trustees of the land to consult a solicitor and take action under the Town and County Planning Act 1977. This Act provided that consideration should be given to the needs of the Maori people.

What is also clear is that there was never any subsequent partitioning of the Taonui Ahuaturanga blocks close to the Aorangi Marae and in any of the Aorangi blocks close to the Kauwhata Marae. There is also only a minimal amount of housing around Kauwhata marae.

6. Manawatu Highways Board, later Road Board, 1872- 1902 and Manawatu County Council, later Manawatu District Council, 1876-2017

6.1 Establishment

The Manawatu Highway Board was established in 1872. It was one of eight Highway Boards formed at this time by the Wellington Provincial Government. Archives Central notes that the Board was ‘the first unit of local government in the inland Manawatu district’ and that its territory ‘originally included the Foxton, Sanson and Fielding districts’. During the 1870s and 1880s these districts formed their own road boards and the territory of the Manawatu Road Board was ‘confined to the land between the south bank of the Oroua River and the crest of the Tararua Range’. In 1882, under the Road Boards Act 1882, the Manawatu Highway Board was renamed as a Road Board.⁴⁵⁵

Holcroft notes that in 1889, the Manawatu Road Board's territory was ‘further divided, with the Fitzherbert Road Board being established to control the land between the south bank of the Manawatu River and Tararua Range, leaving the Manawatu Road Board the land between the south bank of the Oroua River and the north bank of the Manawatu River. The Manawatu Road Board remained as a separate administration until 1902, when it was amalgamated with the Fitzherbert Road Board to form the new county of Kairanga.’⁴⁵⁶

In 1876, the Provincial Government was disestablished and replaced by a system of counties. The Manawatu County Council (Manawatu County Council), which was established in 1876, was one of 63 such councils formed at this time.⁴⁵⁷ Holcroft, who wrote a centennial history of the council notes that:

In Manawatu the newly formed council was now responsible for an area of 1,804 square miles, stretching from Waikanae in the south to the Rangitikei River. It was a coastal region, largely without roads and with much of it still under forest.

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⁴⁵⁵ Archives Central website: <http://archivescentral.org.nz/> accessed 2016.

⁴⁵⁶ MH Holcroft *The Line of the Road: A History of Manawatu County 1876-1976*, Manawatu County Council by John McIndoe Limited, Dunedin, 1977, p. 35.

⁴⁵⁷ Archives Central website: <http://archivescentral.org.nz/> accessed 2016.

The county ... began its work in 1877, when the map showed only a few roads, tentative probings along the edges of forest, but advancing more strongly across scrubland, as in a road from Feilding to Awahuri, with small arms reaching towards Palmerston in one direction, and to Sanson in another. In that year, however, locomotives were already running from Foxton to Palmerston North, and from Palmerston to Feilding. This line was being extended from Feilding to Halcombe, and onwards to Marton. Another line was coming slowly down from Whanganui, and eventually would complete the link with Foxton'.⁴⁵⁸

The large territory under the jurisdiction of the Manawatu County Council was gradually reduced with many parts of the county breaking away and forming their own counties or boroughs. First was the Palmerston North Borough Council established in 1877 followed by the Feilding Borough Council in 1881. In 1883, around half of Manawatu County separated to form the Oroua County Council, which encompassed the area within the Manchester, Kiwitea and Taonui ridings, and the Horowhenua County Council (established in 1884) which had jurisdiction over the area of land south of the Manawatu River as far south as the Waikanae River. In addition, the Foxton Borough Council was formed in 1888.⁴⁵⁹

By 1902, the council's territory encompassed the area between the Manawatu and Rangitikei rivers with the sea on the west. The Kairanga County (which included most of the Aorangi block) was the eastern boundary and Oroua County and Fielding Borough were to the north-east. Parent Maori land blocks within the Manawatu County were Awahou and Rangitikei Manawatu. Blocks within these parent blocks that feature in the Manawatu County Council record include Carnarvon (Sandon), Himatangi, Puketotara, Rangitikei Manawatu and Te Whakawehe Reserve.

In 1988, the County was 'amalgamated with neighbouring Kairanga County to form the first Manawatu District Council'. A year later, the Oroua, Kiwitea, Pohangina Counties and the Fielding Borough Council also became part of the Manawatu District Council. The District now extends from the Ruahine Ranges in the east to Himatangi Beach in the south and the

⁴⁵⁸ Holcroft, p. 10.

⁴⁵⁹ Ibid, p. 35; Archives Central website: <http://archivescentral.org.nz/> accessed 2016.

Rangitikei River in the north. It includes Feilding from where the District is administered. The population of the Manawatu District in 2016 is approximately 29,300 people.⁴⁶⁰

Few records of the Manawatu Road Board have been located so this chapter mainly concentrates on the Manawatu County Council and its involvement with Maori.

6.2 Manawatu County and Manawatu District Councillors

Holcroft, in his history of the Manawatu County, records that the first meeting of the County Council was held on 4 January 1877 at Palmerston North. The nine councillors in attendance were Ernest Stephen Thynne, John Watson Liddell (both representing Awahou), Arthur Follett Halcombe and Douglas Hastings MacArthur (representing Manchester), Henry Sandon (Oroua), George Matthew Snelson (Taonui), John Wright Gover (Kawakawa), Henry McNeil (Kiwitea) and Hector Macdonald (Horowhenua). Ernest Thynne was elected chair. He was a civil engineer, owner of a sheep run at Kawaroa and ‘had been a member of the Wellington Provincial Council’. There are no Maori names in the list of councillors between 1877 and 1977 provided by Holcroft. This, and that there has been no mention of a Maori councillor in any of the records perused suggests that there were no Maori councillors during this time. A list of councillors and mayors of the District Council from 1989 to the present day also does not reveal any Maori names though it is acknowledged that this is not an exact way of establishing for certain an absence of Maori councillors.⁴⁶¹

According to Holcroft, the focus of the Council’s early meetings were roads (beginning with Carnarvon (Himatangi) to Sandon and Awahuri to Bulls), bridges and flood protection. Attention was also given to the provision of ferries across the Rangitikei, Otaki, Ohau, Foxton and Waikanae rivers. These were also issues that Maori were involved with.⁴⁶²

⁴⁶⁰ Archives Central website: <http://archivescentral.org.nz/> accessed 2016; Manawatu District Council Annual Report for the year ended 30 June 2016, Manawatu District Council website: www.mdc.govt.nz accessed 2016.

⁴⁶¹ Holcroft, p. 12; Manawatu District Council, Roll of Members, 1989-2013 and Mayor and Councillors, 2016, Manawatu District Council website: http://www.mdc.govt.nz/Your_Council/Council_History; Mayor and Councillors 2016; http://www.mdc.govt.nz/Your_Council/Mayor_and_Councillors

⁴⁶² Holcroft, pp. 14-16, 31.

6.3 Foxton to Otaki Road (the Inland Road)

One of the first issues that concerned both Maori and the Manawatu County Council was the road from Foxton to Otaki which was also known as the Inland Road. This was prior to the formation of the Horowhenua County Council which, when established in 1885, took over jurisdiction of the area that this road encompassed. One of the first references located to this road and the need for Maori consent in the matter was in November 1878 when Mr Thynne, chair of the Council said, at a public meeting that the road from Foxton to Otaki would be ‘pushed on directly the native ownership question was settled’. He said too that Maori ‘feared that if a road were permitted a railway would be carried through without their permission’.⁴⁶³

At a meeting of the Council several months later, a letter was read from Roera Hukik [sic] and others who offered land for the road from Foxton to Otaki. The value of the offer was questioned by one councillor, Dr Rockstrow. Another councillor, Mr Halcombe responded that when Maori consented to a road they would ‘not afterwards interfere’. It was also apparent that Maori consent was conditional on Maori working on the road. Several councillors felt that it was ‘inconvenient’ not to call for tenders for the work but as it was a condition, arrangements would be made with Maori. It was then proposed by another councillor, Mr Kebbell, and the following agreed to by the council:

... that the inland road from Otaki to Foxton be surveyed by the County Engineer at once, commencing at Otaki, and from thence to a point on the south bank of the Manawatu River at or near Oturoa: that the road be taken across the Ohau River at the place most suitable for throwing a bridge across it hereafter; and that the Engineer is hereby authorised to obtain professional assistance if necessary to carry out the said survey’.⁴⁶⁴

Further mention was made of the agreement with Maori in a newspaper article of February 1879. According to the article, Maori had promised a chain wide for the road ‘on condition that each tribe have the option of doing the work at a fair price over their own land’. It was also reported in May 1879 that ‘for the most part’ the work was being done by Maori though

⁴⁶³ *Manawatu Herald*, 5 November 1878, p. 2.

⁴⁶⁴ *Manawatu Herald*, Volume I, Issue 41, 17 January 1879, p. 2.

one or two Pakeha had been employed.⁴⁶⁵ In the same month, however, it was reported that the roadmaking was an ‘all-absorbing matter’ for Maori and that there was ‘considerable jealousy and ill-feeling’, which has culminated in Maori ‘publicly declaring that the public road now being made from this village [Otaki] to join the Inland Road to Foxton shall not be proceeded with, until they have a proper understanding with the County Council’. The article claimed, that it was ‘generally felt that an unfair advantage ... [was] being taken of the general body by a few of their young leading chiefs’ but the article did not give a source for this “feeling” nor identify the supposedly obstructive rangatira.⁴⁶⁶

The matter appears to have been temporarily resolved with reports in July 1879 that Maori were ‘pushing on with the inland road between Otaki and Foxton’.⁴⁶⁷ A month later the situation had changed again and it was reported that the survey of the Otaki-Foxton Road had been stopped at Poroutawhao by Maori. The engineer said he went there and ‘after a long talk arranged with them [Maori] to carry it through their land’. He believed that the line was completed and that ‘as far as the native difficulties ... [were] concerned, the natives throughout the whole length (except a short distance at Otaki) having agreed to let the Road be made’. Bush felling, he said, was still being carried out by Maori.⁴⁶⁸

In December 1879, the *Manawatu Herald* reported that the Inland Road was proceeding slowly with about three miles of what was described as ‘Hakaraia Bevan’s contract’ at Waikawa nearly finished, and the contract of Hema te Ao for one mile of road at Otaki also nearly finished. The *Manawatu Herald* thought, however, that it would be a ‘long time’ before the Inland Road from Otaki to Foxton was completed.⁴⁶⁹

In May 1880, Renao Te Whare Pakaru/Pukaru [both spellings are used] and Hoeta Kahuhui [sic] asked the Council for information about the road that crossed Maori land at Pukehou (which was north of Otaki). The letter said that they agreed to ‘let the road go’ but required payment at the rate of £3 per acre for the land. Councillor Kebbell ‘expressed his surprise’ at the request as he understood from Alex McDonald, who was described as ‘agent for the natives’, that the matter had been settled. It was then agreed by the Council that all matters

⁴⁶⁵ *Wanganui Chronicle*, Volume XXI, Issue 3357, 3 February 1879, p. 2; *Wanganui Chronicle*, Volume XXI, Issue 4044, 19 May 1879, p. 2.

⁴⁶⁶ *Manawatu Herald*, Volume I, Issue 75, 20 May 1879, p. 2.

⁴⁶⁷ *Evening Post*, Volume XVIII, Issue 11, 12 July 1879, p. 2.

⁴⁶⁸ *Manawatu Herald*, Volume II, Issue 14, 10 October 1879, p. 2.

⁴⁶⁹ *Manawatu Herald*, Volume II, Issue 30, 5 December 1879, p. 2.

relating to Maori be dealt with through the chair and not individual councillors. Also, that Mr McDonald be asked to explain the agreement made with Maori about the road at a meeting he had with them and Mr Booth. At the same meeting a letter was read from Dr Buller which enclosed a translation of a letter sent by Major Kemp to Ihaia Taueki asking him to allow the Horowhenua road to go ahead.⁴⁷⁰

Also in May 1880, the engineer of the county (Mr Haynes) reported to the Council that bush felling and clearing from Otaki to the Horowhenua block was almost completed. He also asked for authority from the Council to call tenders for felling bush through the Horowhenua block as Maori were 'not willing to do the work except at an exorbitant figure'. The Council agreed to authorise the engineer to do so. The following month Horowhenua Maori decided that road works should not go on until a settlement as to the price of the road had been agreed to.⁴⁷¹

An explanation was offered in June 1880 by a Mr Cootes, who had been employed on the road, regarding the issue. According to his statement the trouble was a result of the action of the county engineer, Mr Haynes. The *Manawatu Herald* reported:

The different sections of natives who have hitherto been engaged on the road have received 25s per chain for bush felling and clearing. They have not, however, done the work themselves, but in most cases have employed Europeans, to whom they paid 20s per chain for the work, and pocketed the remaining 5s per chain as their profit on the job. This arrangement the Horowhenua natives were quite willing to accept and instructed Mr Cootes to employ the necessary men to push on with the work in their district. This Mr Cootes did, and he had the men engaged and ready to start when Mr Haynes [the Council engineer] announced to the Horowhenua natives that he would not allow them the 25s per chain, as it could be done much cheaper by tender. Since then tenders have been called and the work let at 20s and 24s per chain. This explanation certainly puts a different complexion on the matter. The natives at Horowhenua, according to Mr Cootes' statement, were quite willing to do the work, and asked only the same terms as the Otaki natives had already received. Why a

⁴⁷⁰ *Manawatu Herald*, Volume II, Issue 72, 4 May 1880, p. 2.

⁴⁷¹ *Manawatu Herald*, Volume II, Issue 72, 4 May 1880, p. 2; *Manawatu Herald*, 7 May 1880, p. 2; *Manawatu Herald*, Volume II, Issue II, 8 June 1880, p. 2.

difference should have been thought necessary in their case we cannot understand, especially as Mr Cootes is extremely positive that the bush is heavier in the Horowhenua district than it is near Otaki. It will be remembered that an arrangement was made with the natives through which the road will pass that each hapu would be allowed to construct the road across its own land. This arrangement should be adhered to, and no favour shown. If Mr Haynes has hitherto allowed the natives 25s per chain for the work, it appears a mistaken policy to refuse the Horowhenua people the same terms, provided they are willing to do the work'.⁴⁷²

In June 1880, tenders for Horowhenua road bush felling had been accepted 'subject to no obstruction being offered by native owners' and in July 1880 that a letter was received at the meeting of the Manawatu County Council from several Maori from Poroutawhao which informed the Council of their claim to the land through which the Foxton to Otaki road would pass. The chair 'explained that the course proposed to be undertaken in regard to the matter was to do the same as they had done in regard to the road from Foxton to the beach [discussed in the next section] and take the land under section 2 of the Public Works Act and let the natives claim compensation'. It was then proposed by one of the councillors that the chair be requested to take such steps as required by the Public Works Act 1876 to secure the title for the land necessary for the road from Foxton to Otaki' (as well as for the land required for the road from Foxton to the beach).⁴⁷³

In July 1880, the engineer reported that the bush felling on the Foxton to Otaki road was nearly all completed with the exception of that portion traversing through the Horowhenua block. This work, he said, was stopped by Maori. The following month, he reported that the position had changed with Maori giving permission to take the Foxton to Otaki Road through the Horowhenua block. He also noted that the survey of the road from Otaki to Waikanae through Maori land had been consented to by Wi Parata of Waikanae. This meant, he said, there remained one piece of land where Maori objected which was the Makahure block No 2 (about 15 chains across). The 'principal man' was Henaratewe [sic] and he would not allow the surveyor to go through his block.⁴⁷⁴

⁴⁷² *Manawatu Herald*, 15 June 1880, p. 2.

⁴⁷³ *Manawatu Herald*, Volume II, Issue 83, 11 June 1880, p. 2; *Manawatu Herald*, Volume II, Issue 90, 6 July 1880, p. 2.

⁴⁷⁴ *Manawatu Herald*, Volume II, Issue 90, 6 July 1880, p. 2; *Manawatu Herald*, Volume II, Issue 99, 6 August 1880, p. 2.

Then in September 1880, the chair reported that he had consulted with Messrs Izard and Bell and asked for a legal opinion with regard to the Inland and Beach roads (the latter is discussed in the next section) but ‘as the matter involved grave considerations, Mr Bell would require some time before giving a legal opinion’. It was also reported that ‘a whole mass of correspondence claiming compensation was then waded through [by the Council], the reading alone occupying a couple of hours’. The Council then agree that having heard and considered the objections to the Inland Road from Foxton to Otaki, it was of the opinion that it was ‘expedient that the proposed work should be executed, and that no private injury will be done thereby, for which due compensation is not provided by the Public Works, 1876 Part III and the replies to that effect to be sent to parties sending the objections’.⁴⁷⁵

In the meantime, Hoani Amorangi and 62 others published a letter in the *Manawatu Herald* addressed to the Manawatu County Council. It stated that the 40 days agreed to with the Council had passed and that the Council had not responded to their letters regarding compensation. As a result, Maori would close the road through Horowhenua on 1 October.⁴⁷⁶

The Council met the following month. In response to the letter from Hoani Amorangi, the chair said that Horowhenua Maori had not sent their objections ‘according to the Public Works Act’. This was despite, he said, the Council asking that all Maori with objections to ‘appear and substantiate the same’. Councillor Kebbell asked if a copy of the resolution passed at the previous meeting had been sent to Horowhenua Maori. The chair (Mr MacArthur) said it had not but that all those who had sent in objections according to the schedule of the Public Works Act would be answered within 60 days. He said that a form was provided but as Horowhenua Maori ‘did not follow it’ he had ignored them. The Act, he said, ‘distinctly drew a difference between persons who objected and those who desired compensation’.⁴⁷⁷

At the same Council meeting held in October 1880 a letter was read from the Native Office of 30 September 1880, answering the County’s query as to whether any provisions existed in the ‘grants of the blocks of land set forth in the list enclosed for a reservation of a right of

⁴⁷⁵ *Manawatu Times*, Volume IV, Issue 69, 8 September 1880, p. 2.

⁴⁷⁶ *Manawatu Herald*, 28 September 1880, p. 3.

⁴⁷⁷ *Manawatu Herald*, Volume III, Issue 10, 5 October 1880, p. 2.

road through the lands'. The Native Office said that they had asked the Native Land Court office in Auckland to obtain further information on the subject. The Council also received a letter from the Public Works Department drawing attention to various sections of the newly passed Public Works Act 1880 which it said would 'materially simplify the mode of procedure regarding the exchange, sale or stoppage of roads, and enable local bodies to complete these matters without direct reference to the Public Works Department, as heretofore'.⁴⁷⁸

It was also reported in early October that Horowhenua Maori had carried out their threat to stop the formation of the Inland Road. Several Maori, led by Ben Stickles, 'cleared' road contractors working on the road stating that the County Council had 'not answered their claim to compensation'. It was reported that it was 'not probable the Council will take any action in the matter as far as the natives are concerned ... as the engineer will probably visit the road line, take over the work already done, and pay the men'. It was predicted that the road was likely to stop for the present.⁴⁷⁹

In February 1881, the Native Office advised the Council that it was considered desirable that both the Foxton to Otaki Inland Road (and the Foxton Beach Road) should be 'dedicated to the public', and that the Surveyor General's Department would 'take action in the matter towards the attainment of that object'. The chief surveyor, Mr Marchant, would:

... receive instructions to visit the ground in company with the County Engineer as suggested by the Council, and will at the same time be provided by the Native Department with the services of an interpreter for the purpose of explaining to the natives the powers possessed by the Government to take the roads. Also the results of these preliminary proceedings are to be reported to the Government before deciding to advise the Governor to issue the warrant appointing and empowering a person to actually take the roads on behalf of the public.⁴⁸⁰

Indeed, in June 1881, it was reported that a gazette notice had been published authorising Frank W Knowles (the Under Secretary for the Public Works Department) to 'take and lay

⁴⁷⁸ *Manawatu Herald*, Volume III, Issue 10, 5 October 1880, p. 2.

⁴⁷⁹ *Manawatu Herald*, 5 October 1880, p. 2.

⁴⁸⁰ *Manawatu Herald*, 22 February 1881, p. 2.

down roads under the Crown Grants Act 1866 over certain lands between Foxton and Paikakariki [sic] including the Manawatu-Kukutauaki, Pukehou, Horowhenua, Muhunua, and other blocks'. The proclamation would 'facilitate the construction of the inland road from Foxton to Otaki'.⁴⁸¹

A second gazette notice, of 20 July 1881, authorised the taking and laying down of roads over Maori land under the Native Lands Act 1873, the Native Land Act Amendment Act 1878 (No 2) and Public Works Act 1880 and authorised Frank William Knowles to take and lay down roads.⁴⁸² The Maori land concerned was:

Block	Area (acres, roods, perches)
Oturoa	10-1-16
Aratangata	7-2-18
Manawatu Kukutauaki 7D	16-2-18
Horowhenua	42-1-21
Muhunua No 3	3-0-3
Muhunua No 1	6-0-33
Manawatu Kukutauaki 4E	4-0-3
Manawatu Kukutauaki 4D	2-2-16
Manawatu Kukutauaki 4D	3-0-11
Manawatu Kukutauaki 4B	3-3-14
Manawatu Kukutauaki 3A	7-2-15
Pukehou No 4	15-0-28
Pukehou No 5A	2-0-19
Pukehou No 5L	5-0-8
Pukehou No 5K	5-0-16
Total:	134-2-39 ⁴⁸³

It is unlikely that compensation was paid as the Acts listed in the gazette notice were those that empowered up to five percent of a block to be laid off for roads without compensation.⁴⁸⁴

The actions of the Council suggest that it was not prepared to keep negotiating with Maori in order to obtain Maori consent but that it wished instead to pursue legislative solutions

⁴⁸¹ *Manawatu Herald*, Volume III, Issue 84, 21 June 1881, p. 2; *New Zealand Gazette* 1881, pp. 755-756, sourced from Bassett Kay Research, 'Porirua ki Manawatu Inquiry District, Public Works Issues, Draft Database', 2017

⁴⁸² *New Zealand Gazette* 20 July 1881, p. 958; SO Plan 11574, sourced from Bassett Kay Research, 'Porirua ki Manawatu Inquiry District, Public Works Issues, Draft Database', 2017.

⁴⁸³ SO Plan 11574, sourced from Bassett Kay Research, 'Porirua ki Manawatu Inquiry District, Public Works Issues, Draft Database', 2017.

⁴⁸⁴ Marr, pp. 63, 69.

available to it to ensure that it secured land for roads. The legislative solution meant that the Council did not have to secure Maori consent which it had been finding increasingly difficult to obtain due in part to the Council's reluctance to agree to compensation or engage meaningfully with Maori.

6.4 Foxton Beach Road and the Ferry lease

At around the same time as the Inland Road difficulties there were also difficulties associated with the Foxton ferry which was being run by a Pakeha settler at the behest of the Council. The ferryman objected to Maori using their own canoes to transport themselves across the Manawatu River and had taken legal action against them. Maori were frustrated at this action which they expressed in a letter published in the *Manawatu Herald* on 12 December 1879. The authors of the letter were Ihakara Tukumarū, Kereopa Tukumarū and Natana Pipito 'for all the tribe' (Ngāti Raukawa). It was addressed to Walter Johnston, Esq MHR, the Manawatu County Council and the public. The writers said that they wished to give notice of their 'disapproval of the law' as it related to the Foxton ferry. They said that the law pressed 'heavily upon ... [those] living opposite the ferry' and that they had been 'summoned [to Court] for crossing to the Town in ... [their] own canoes'. Further.

Now, in payment for such hardship inflicted upon us, we wish to give due notice. That in a week from this, namely on the 19th December, we shall close the road that passes through our land from the Ferry on the south side of the Manawatu River.⁴⁸⁵

The *Manawatu Herald* referred to the authors of the letter as 'three of the most influential' Maori living on the west bank of the Manawatu River. The reporter said that 'instant action' from the County Council was called upon. The background to the letter was explained further:

As is well known, a considerable number of natives reside opposite to Foxton, on the west bank of the Manawatu River. These natives are constantly crossing to the township in their canoes, sometimes bringing over their friends with them. The Foxton ferryman, Mr Bowe, has made several claims upon them for the ferry tolls and

⁴⁸⁵ *Manawatu Herald*, Volume II, Issue 32, 12 December 1879, p. 3.

believing that he had a good case, went to law, but on each occasion was defeated on a technical point. Vexed and annoyed by this course, the natives now threaten to take revenge by entirely stopping the road from the ferry to the beach. That they have the power to do this cannot for one moment be doubted. The road has never been legally declared a Government road; the natives claim the land through which it passes, and assert they never parted with it; and it would be, we believe, impossible to establish any right-of-way on the ground of custom. To forcibly maintain a road to the beach through their land would be impolitic, as it would create ill feeling in the minds of the natives, who have at all times shown themselves to be both peaceable and law-abiding. At the same time the stoppage of the road would be fraught with grave inconvenience to all persons coming to or going from Foxton, as it would necessitate the removal of the ferry to the mouth of the river.⁴⁸⁶

A few days later it was reported that Maori had agreed to extend the date of the closure of the road until 1 February. This had transpired after the County chair, Mr MacArthur, met with several Maori at Foxton. He was assisted by Reverend Duncan who, according to the *Manawatu Herald*, was held in high esteem by Maori. Maori were reportedly 'very determined' but following assurance that 'no injustice would be done them' and that their expenses would be recouped they agreed to delay the closing of the road. It was reported too that Maori were 'determined' that they would not give up the road 'without a considerable payment in money'. Mr MacArthur decided that he would 'lay the whole matter before the Government', and ask that an officer of the Native Department 'arrange the matter with them'.⁴⁸⁷

The matter was again discussed at a meeting of the Council in early March 1880. A letter was received from the Native Department, who, on behalf of the Native Minister, informed the Council that its previous letter was written under the impression that Maori wanted the road laid off to 'allow them to fence', but that it had since transpired that other 'complications' existed. The letter said that the government had done all that it could reasonably do in the matter and suggested that the council 'take the usual means provided by law to have a road laid off' (which meant utilising the provisions of the Public Works Act). If any further assistance was required of the Department then the Council should apply to TW Lewis, the

⁴⁸⁶ *Manawatu Herald*, Volume II, Issue 32, 12 December 1879, p. 2.

⁴⁸⁷ *Manawatu Herald*, Volume II, Issue 33, 16 December 1879, p. 2.

Under Secretary of the Native Office. Councillor Halcombe, however, 'spoke strongly in favour of leaving the whole matter in the hands of the government' which was also supported by councillor Kebbell. As a result, the council declined to 'accept the responsibility of obtaining a title to a road line' through Maori land and instead asked the Government to 'take action to define and acquire the necessary right of road'.⁴⁸⁸

Not only did the Council want the government to take responsibility for securing the road but they also did not want to be accountable for any revenue lost by the ferryman in the event that Maori closed the road. It was agreed by the Council at the March meeting that the following clause be added to the lease:

That should the natives close the road line, or offer any serious obstruction to traffic across the native land on the south side of the Manawatu River, the County Council shall not be held responsibility for any loss which may occur to the lessee of the ferry on account of such obstruction and the lessee shall in case of such obstruction or stoppage of the road line have the right to determine his lease on giving 14 days' notice to the Chairman of the county Council of his intention to do so.⁴⁸⁹

In addition, it was agreed that the tender of Messrs Guerin and McGorley for the lease of the Foxton ferry (and public pound) be accepted. Nothing was mentioned at the meeting about allowing Maori to continue to use their canoes for transport across the river unimpeded.⁴⁹⁰

By 18 March it had been reported that a coach had been stopped by Maori when it had reached the road between the Manawatu River and the beach. The Maori group had refused to allow the coach to proceed until a toll for the coach and horses had been paid as well as sixpence per passenger. The amount was 'paid under protest' and the coach was allowed to continue. It was also reported that the matter had been 'brought under the notice of Government'.⁴⁹¹

⁴⁸⁸ *Manawatu Herald*, Volume II, Issue 35, 23 December 1879, p. 2; *Manawatu Herald*, Volume II, Issue 55, 5 March 1880, p. 2.

⁴⁸⁹ *Manawatu Herald*, Volume II, Issue 55, 5 March 1880, p. 2.

⁴⁹⁰ *Manawatu Herald*, Volume II, Issue 55, 5 March 1880, p. 2.

⁴⁹¹ *Taranaki Herald*, 18 March 1880, p. 3.

The *Manawatu Herald* explained in an article published the day after Maori had set up their toll gate that it was not just unimpeded access across the river that was concerning Maori. Prior to this, horses owned by Maori had been impounded by someone described as a ‘neighbouring squatter’. This had, according to the *Herald*, created the ‘feeling of dissatisfaction at Europeans using their road’ and resulted in Maori, led by Natana, Kereopa and Ihakara, warning the Council that they would close the road line with a fence. In response, the County chair (Mr MacArthur) had written to the government asking them to sort out the situation with Maori but ‘no notice was taken of the communication’. The *Herald* said that had the matter been dealt with then, it was likely that there would have been no further trouble but then the ‘bother occurred through the ferryman taking legal proceedings against ... [Maori] for evading the ferry tolls’. Instead Maori had again warned they would close the road. The *Herald* also commented that after the meeting between ‘principal’ Maori, councillors and Reverend Duncan the closure of the road was deferred until the government had ‘arrange[d]’ the matter. Mr Ward, the Resident Magistrate then ‘took the matter up’. He found, however, that Maori ‘had the whip hand’ (the advantage) and therefore made a ‘most exorbitant claim’ which Mr Ward refused. Maori then had notices printed stating that the road would be closed in one weeks time. Mr Ward, however, counselled them not to take such ‘extreme action’ until further news was heard from the government. The next communication from the government was that referred to above of March 1880 which the *Herald* said was ‘so palpable an attempt by the Native Office to shirk its duty, that the Council had no other course open than to refuse to deal with the matter’. The *Herald* said that as no ‘satisfactory answer’ was received by Maori, nor any arrangements made with them, they had ‘now taken the extreme course of closing the road’. The *Herald* further argued that it was not the fault of Maori or the Council but the fault of the government that the situation had arisen. It stated:

The above history of the matter will show that the natives have throughout acted patiently, and that the course they have taken in demanding tolls, is only just, and evidently adopted as a protest against the Europeans using their land for road purposes without payment. They consider they have been wrongly treated in the matter of the ferry, and conscious of their position, have determined to exercise their rights, by obtaining payment from persons who use the road. The action of the Government in attempting to “shunt” the matter on to the County Council is both impolitic and unfair. That body knows (comparatively speaking) nothing of the

question. It was created only some four years ago, whereas the road in question has been used by the public for many years. The Council took over the line on the assumption of there being a clear title to it, and with no idea of a monstrous claim being at some future time made for the right of road. We therefore consider that the Government has acted most unfairly in casting the whole onus of this intricate and difficult matter on the Council. To take the necessary land and make a road through it under “The Public Works Act” (As suggested in Mr Lewis’ letter) is, we believe, impracticable, as, the land not having been passed through the Court, the names of owners are unknown, and therefore could not be gazetted. At the same time we believe the Government could, owing to its superior influence, arrange the matter satisfactorily. That the natives have asked an exorbitant price for the road we admit. Still it would be better for the Government to pay a large sum for year or two, and in the meantime push on rapidly with the inland road to Otaki.⁴⁹²

The statement regarding not being able to compulsorily take Maori customary land at this time was in fact incorrect. At this time, customary land could be taken compulsorily but unlike Maori freehold land where five percent of a block could be taken without compensation, compensation had to be paid and the Native Land Court required to identify those to whom it was to be paid.⁴⁹³

The Herald also explained the logistical significance of the road, noting that it was an ‘important link in the chain of communication between Wellington and whole West Coast’. The road carried the mail from Wellington to both the West Coast and Napier. The article concluded that government:

... procrastination has led to the unpleasantness which has eventuated, and it is most unfair to dilly-dally over question of this kind until it has become involved to a degree, and then calmly turn around and say, “we thought it was only a small matter, but now we find it is a large one, and you must settle it as best you can.”⁴⁹⁴

⁴⁹² *Manawatu Herald*, 29 March 1880, p. 2.

⁴⁹³ Cleaver, pp. 15, 17.

⁴⁹⁴ *Manawatu Herald*, 29 March 1880, p. 2.

In April, a meeting took place at the county office, Foxton, regarding the road. Mr MacArthur represented the Council and Ihakara Tukumarū, Natana Pipiti and several other Maori attended on behalf of Maori. Reverend Duncan acted as interpreter. Mr MacArthur ‘fully explained the law on the question’ and informed Maori that the Council was ‘determined to carry a line of road through the land’ (from the Foxton Ferry to the Beach) and that the owners would have ‘fair compensation’ awarded to them by a Court. Maori were also reportedly ‘very determined on the matter, and said that until the £600 they asked was paid, they would allow no road line to be made, but would continue to charge [a] toll, and that if any surveyors were sent on the ground they would drive them off’. Mr MacArthur replied that if they did so they would be liable for a £50 fine. The Maori group responded that they would ‘stand the consequences’. When advised that the engineer, Mr Haynes with the assistance of Mr Owen, would begin the survey of the road on 4 May, Maori at the meeting ‘express[ed] themselves fully determined not to permit the survey to proceed’. They also stated that ‘one of their old women will throw the chain into the river if a surveyor attempts to lay off the line of road before their claim for utu is satisfied’.⁴⁹⁵

A month later, the Council received a letter from the Public Works Office which authorised Mr F Owen of Feilding ‘to enter upon such native lands as may be necessary for the purpose of surveying a road from the Foxton ferry to the beach’ under section 78 of the Public Works Act, 1876. In addition, it was proposed at the Council meeting in June that the chair be requested to take such steps as required by the Public Works Act 1876 to secure the title for the land required for the road from Foxton to the beach’.⁴⁹⁶

The ‘vexatious tollgate’ was still in existence in July but by August, it was reported that it had been removed by Maori the previous week. Alexander McDonald, the newly appointed Native Lands Purchase Commissioner had arrived in Foxton on his way to Otaki and had reportedly interviewed Maori with the result that they had charged the mail coach driver the usual toll but immediately afterwards removed the gate.⁴⁹⁷

The *Manawatu Herald* reported that by September, Mr McDonald had convinced Ihakara, described as the chief of the tribe, to withdraw all opposition to the Foxton Beach road and

⁴⁹⁵ *Manawatu Herald*, 20 April 1880, p. 2.

⁴⁹⁶ *Manawatu Herald*, Volume II, Issue 72, 4 May 1880, p. 2; *Manawatu Herald*, Volume II, Issue 83, 11 June 1880, p. 2; *Manawatu Herald*, Volume II, Issue 90, 6 July 1880, p. 2.

⁴⁹⁷ *Manawatu Herald*, 16 July 1880, p. 2; *Manawatu Herald*, Volume II, Issue 98, 3 August 1880, p. 2.

toll gate. In addition, a letter was received from Ihakara asking for £50 a year for the ‘privilege of allowing the mail to travel through his paddock’. Mr McDonald appeared before the Manawatu County Council and said that he had been instructed by the Native Minister to ‘give all the assistance in his power to the Council’. Mr McDonald had met with Ihakara who he said ‘expressed the deepest regret at the opposition which had been shown to the Council in the past’. Also, that Ihakara ‘could not understand how he came to find himself in antagonism with Europeans, after the number of years in which he had lived in harmony with them’. Mr Donald said that:

...although there was a claim made for £50 a year, and it was a matter for the Council itself to say whether or not it should make the grant, he was prepared to maintain that no person whatsoever, whether Native or European, had any right to stop the road, and whoever did so acted at their own peril. The track along which the coach went had been used for that purpose thirty years to his knowledge, and consequently had become public by right of usage. The Council must bear in mind that these remarks had reference to the old original track – that is, the one over which the coach passed at present – and not to any other which it might be proposed to make. Whether the amount asked for in Ihakara’s letter were granted or not, he (Mr McDonald) would guarantee that there should be no further obstruction, for although the old Chief’s brother, Kereopa, and other members of the tribe, had given him a formal protest against the taking away of the gate, he believed Ihakara’s influence was quite sufficient to restrain any hostile action which might be contemplated.

Mr McDonald also:

... confessed that he had been somewhat taken by surprise as he had, until within a few weeks been under the impression that the land in question had passed through the Lands’ Court, although now he discovered that such was not the fact. However, he would guarantee to the Council that at its next sitting he would be able to give all particulars with regard to title etc.⁴⁹⁸

⁴⁹⁸ *Manawatu Times*, Volume IV, Issue 69, 8 September 1880, p. 2.

Also at the meeting was TU Cook who represented Maori described as ‘a number of the tribe who ... [were] opposed to Ihakara in this matter’. Mr Cook said that Ihakara ‘stood alone, the whole of the rest of the tribe being anxious that the matter should be left entirely in the hands of their solicitor, Mr Hawkins, to whom they had paid £50 on account’. He said that Kereopa and all the other members were ‘highly incensed at the action of Ihakara’.⁴⁹⁹ It was also said those Maori acting under the advice of Mr Cook had:

... placed their case in Mr Hawkins’ hands, to whom £50 and all the tolls had been already paid to try the case legally.⁵⁰⁰

The matter was then held over until the following meeting.⁵⁰¹

The objections, however, were not considered until December after a ‘lengthy opinion’ from solicitors Izard and Bell was read. Mr McDonald also addressed the council ‘at length’. He pointed out ‘the difficulty of deciding the matter, owing to the involved nature of the native title, and urging that a small sum should be paid to Ihakara, who had promised to keep the road open’. The Council decided to ‘leave the matter open’ as they considered any payment made to Ihakara would ‘probably compromise future arrangements’. It was noted too that should the tollgate be re-erected a special meeting of the council would be held to ‘take the necessary steps to acquire the land for the road’.⁵⁰²

The question of a payment being made to Ihakara was, however, never resolved as he died in January 1881, having been ‘ailing for some months past’.⁵⁰³

In February 1881, the Native Office advised the Council that it was considered desirable that the Foxton Beach Road should be ‘dedicated to the public’, and that the Surveyor General’s Department would ‘take action in the matter towards the attainment of that object’. The chief surveyor, Mr Marchant, would ‘receive instructions to visit the ground in company with the

⁴⁹⁹ *Manawatu Times*, Volume IV, Issue 69, 8 September 1880, p. 2; *Manawatu Herald*, 10 September 1880, p. 2.

⁵⁰⁰ *Manawatu Times*, Volume IV, Issue 69, 8 September 1880, p. 2; *Manawatu Herald*, 10 September 1880, p. 2. Of note is that TU Cook was married to a Maori woman (whose name is not given in her obituary) but who was related to Te Rauparaha and Ihakara. *Manawatu Herald*, 11 March 1897, p. 2.

⁵⁰¹ *Manawatu Times*, Volume IV, Issue 69, 8 September 1880, p. 2.

⁵⁰² *Manawatu Herald*, Volume III, Issue III, 21 December 1880, p. 2.

⁵⁰³ *Manawatu Herald*, 21 January 1881, p. 2.

County Engineer as suggested by the Council, and will at the same time be provided by the Native Department with the services of an interpreter for the purpose of explaining to the natives the powers possessed by the Government to take the roads'. In addition, the results of these 'preliminary proceedings' were to be reported to the Government before 'deciding to advise the Governor to issue the warrant appointing and empowering a person to actually take the roads on behalf of the public'.⁵⁰⁴

Further research is required to establish what the outcome was but it is apparent that the Council did not ensure that Maori rights concerning travelling across the river were protected. Also, that the Council were willing and able to utilise legislation such as the Public Works Act to prevent Maori from exerting their authority over their land. The advice from government to local authorities was indeed to utilise the legislation – not to engage in a consultation process that ensured that the Maori view was not ignored.

6.5 The Pound at Otaki

Another issue that concerned Maori at the end of the 1870s was a proposed pound at Otaki. In 1879, the Manawatu County Council received a letter from Otaki Maori (who were not named by the newspaper reporter) which was written in Maori. It asked that a pound (for stock) not be built at Otaki. The response was dismissive. One of the councillors, Dr Rockstrow, moved: 'That as the Councillors of this County are not conversant with the native language, it is necessary that any memorial from the natives be accompanied with an attested translation; and that this memorial be returned to the sender'. He also referred to the fact that several Pakeha had signed the document and thought that they should 'send their letters in English'. Councillor Kebbell responded that in the past Maori letters had been received and that it would be 'disrespectful to return the letter'. He asked that the words after 'translation' be withdrawn. The newspaper correspondence then recorded that 'eventually, Dr Rockstrow withdrew the last clause, and the resolution as altered, was passed'. The matter did not end there, however, as the acting chair, Mr Sanson, ruled that the document was a 'memorial, and therefore must be rejected, not having been presented by a Councillor'.⁵⁰⁵

⁵⁰⁴ *Manawatu Herald*, 22 February 1881, p. 2.

⁵⁰⁵ *Manawatu Herald*, Volume II, Issue 21, 4 November 1879, p. 2.

In May 1880, the Manawatu County Council received a petition (presented by councillor Kebbell) from a number of Maori residents at Otaki protesting against the proposed building of a pound there. The petition was simply recorded as having been received. Mr Kebbell noted that the Otaki Highways Board had asked for a pound on the grounds that without one, the ratepayers' money would be 'uselessly expended' (or wasted) maintaining roads that wandering cattle then damaged. Maori, he said, did not want a pound and, he claimed, were not ratepayers.⁵⁰⁶

As can be seen in the section on the Otaki Highways Board in chapter 7, while a pound was not built immediately, the Board took action by agreeing to get the constable to take to Court anyone with wandering stock.

6.6 Dog Tax

The relationship between the Council and Maori was also not enhanced by the actions of the dog tax collector. At a Council meeting held in June 1883, a letter was read from the Native Office. It said that the Native Minister had been advised by Horowhenua Maori of a notice they had published in the *Manawatu Herald*, 'warning the dog tax collector from going within their boundaries'. The government had also been informed that 'the dog tax collector for the district named was personally obnoxious' to Maori. In addition, a letter was read from the Inspector of Police 'drawing attention to the fact that the Foxton Constable had incurred mileage in serving summonses on the Horowhenua natives'. As the prosecutor (Knocks) had not appeared, the 'cases were dismissed against him with costs'. The Inspector of Police asked that the Council 'pay the amount under section 25 of the Act'. It was 'agreed to call on Knocks to attend the Council meeting and explain his conduct'.⁵⁰⁷

6.7 Early Contact Summary

The nature of Maori engagement with the Council at this time was troubled, to say the least. These examples of early contact with the Council showed that in order to be heard, Maori had to threaten or proceed with action that would inconvenience Pakeha. One of the first roads the

⁵⁰⁶ *Manawatu Herald*, 7 May 1880, p. 2.

⁵⁰⁷ *Manawatu Times*, Volume VIII, Issue 281, 6 June 1883, p. 2. The dog tax was not a 'tax' per se, but a registration fee, similar to that still in force today.

Council undertook to build was the Inland Road between Foxton and Otaki. Some attempt was made to get the consent of Maori and the Council and Maori came to an agreement whereby Maori would build some of the road and be paid for this. For a time, this seemed to work but when the Council refused to confirm with Maori that they would be paid for land taken for the road (which was not required under the legislation), the road was closed by Maori. Likewise, Maori closed the Foxton Beach Road in protest at being charged and taken to Court for not paying the ferryman employed by the Council to cross the Manawatu River preferring instead to use their own canoes.

The actions of the Council suggest that it was not prepared to keep negotiating with Maori in order to obtain Maori consent in regard to the Inland Road but that it wished instead to pursue legislative solutions available to it to ensure that it secured land for roads. The legislative solution available meant that the Council did not have to secure Maori consent which it had been finding increasingly difficult to obtain due in part to the Council's reluctance to agree to compensation. In addition, the Council was able to deliberately ignore Maori protest and deem it invalid on the basis that Maori had not used the correct form.

It was apparent too that the Council did not ensure that Maori rights concerning travelling across the river were protected. When Maori closed the Foxton Beach Road in protest, the solution of the Council was not ongoing consultation with Maori but seeking the advice of government who again advised to utilise the compulsory provisions of the Public Works Act which prevented Maori from exerting their authority over their land.

Maori also resented the imposition by the Council of a pound at Otaki and the actions of the dog tax collector. The Council response to their petition regarding the pound at Otaki was particularly revealing. One councillor objected to the petition being in the Maori language and then the Council disregarded the objections because of a Council procedure or rule that such a petition (or 'memorial') had to be presented by a councillor.

6.8 Rates and the Manawatu Road Board and Manawatu County Council, 1882-1888

As noted in the legislative chapter, between 1882 and 1888 rates levied on Maori land were reimbursed by the Crown. It was reported in 1885 that the Colonial Treasurer had paid

£330.15.8 to the Manawatu Road Board, £49.1.8 to Sandon and Carnarvon Road Board and £1123.13.5 to the Manawatu County Council on Maori land for the years 1882-83 and 1883-84.⁵⁰⁸

The large amount paid to the Manawatu County Council reflected its large area of jurisdiction at the time. The Horowhenua County Council was established in 1884 and took over a considerable amount of the Manawatu County Council's area (south of the Manawatu River to Waikanae) resulting in a reduction in the sums paid to the Manawatu County Council.

In addition, other payments were made as follows:

Table 8: Payments to Local Bodies in inquiry district under Crown and Native Lands Rating Act, 1882, from 23 July 1885 to 31 May 1886

Local authority	Crown	Maori	Total
Manawatu Road Board	£67.1.0	-	£67.1.0
Manawatu County Council	£31.13.2	£588.4.8	£619.17.10

Source: Payments to Local Bodies in inquiry district under Crown and Native Lands Rating Act, 1882, 23 July 1885 to 31 May 1886; AJHR, 1886, B15

Table 9: Payments to Local Bodies in inquiry district under Crown and Native Lands Rating Act, 1882, from 1 June 1886 to 30 September 1887

Local authority	Crown	Maori	Total
Manawatu Road Board	£51.7.11	£225.1.11	£276.9.10
Manawatu County Council	£30.1.2	-	£30.1.2
Sandon-Carnarvon Road Board	£11.3.11	£24.2.8	£35.16.7

Source: Payments to Local Bodies in inquiry district under Crown and Native Lands Rating Act, 1882, 1 June 1886 to 30 September 1887, AJHR, 1887, Session II, B7.

What is curious about this second return is the nil payment to the Manawatu Road Board for the year 1885-1886 and then the nil payment made to the Manawatu County Council for the years 1886-1886. The reason for this has not been explained in any of the documents viewed.

In 1891, it was reported that the Council had received £68.5.4 for Maori land rates for 1888-9 and 1889-90 from the government which may relate to a loan they took out over a particular area which included Maori land (though any details of this have not been located). The

⁵⁰⁸ *Manawatu Standard*, Volume IX, Issue 115, 20 April 1885, p. 3.

legislation that allowed for the reimbursement of rates on Maori land by the government was repealed in 1888 but there were some exceptions if a Council had taken out a loan during the period of the Act's life (1882-1888) if it related to an area where there was Maori land. It was agreed by the Manawatu County Council in 1891 that the money received from rates on Maori lands would be 'spent in the same way as previous years' (though it was not stated what this was). It was later claimed in a letter to the editor in 1918 by an ex-councilor (J Kebbell), that before the Horowhenua county separated from the Manawatu county, that the Manawatu county abolished riding accounts and 'consequently when we separated we could not recover a sum of £1500 of native rates it spent on the Foxton to Sanson tram' (a tramway between Himatangi (Carnarvon) and Sanson owned by the Manawatu County Council and built in 1885).⁵⁰⁹

This suggests that a significant proportion of the rates received on Maori land under this legislation was not spent on anything that specifically related to the provision of services for Maori.

6.9 Rating post 1888

As noted in the legislative and policy chapter, the 1882 Act was repealed in 1888 which meant that local authorities had to rate Maori land themselves. There were, however, restrictions at this time on what Maori land could be rated such as whether the land had been through the Maori Land Court, was outside of a town or borough (rates on these lands were levied at half rates and they were exempted from any special rates) or from 1893, whether land was within five miles of a public road or highway. The attitude of the Manawatu County Council about the rating of Maori land was made reasonably clear in a statement made by the chair at a Council meeting in May 1891. The chair said he was in favour of Maori land being rated 'though it was not of much consequence to this county' presumably meaning that there was comparatively little Maori land that could be rated within the county at that time. Another councillor, Mr Saxon, said that every assistance should be given to counties who had Maori land in their jurisdiction.⁵¹⁰

⁵⁰⁹ *Horowhenua Chronicle*, 28 March 1918, p. 3; *Manawatu Herald*, Volume III, 10 September 1891, p. 2; *Feilding Star*, 17 November 1885, p. 2.

⁵¹⁰ *Manawatu Herald*, Volume III, 14 May 1891, p. 2.

Indeed, the Manawatu County Council supported a motion passed at the County Councils' conference in 1894 which said: 'That the Government be asked to introduce a measure providing for the rating of Native lands by County Councils and Road Boards, for the purpose and upon the same basis as that obtaining in respect of European lands'. In attendance at the conference for the Manawatu Council was JG Wilson, MHR Stratford and the chair Mr Monkhouse⁵¹¹

Frustration at not receiving rates on Maori land within the County was expressed by the *Manawatu Standard* in 1909. The newspaper reported that local bodies in the Manawatu area had 'some experience of the disabilities that go with the inclusion of Maori land in rating areas'. According to the article, it was 'expecting the impossible to anticipate the payment of any rates from the Native owners'. It noted that there was a case where the government had been 'successfully appealed to for assistance in putting an arterial road through Maori territory in a passable condition' as it would have been 'unfair to have saddled the rest of the county with the expense of a road running through native land'. This, the article claimed, had been 'recognised by Government'.⁵¹²

It was then reported in January 1913, that the Manawatu County Council had spent 'some time' considering the question of collecting rates on Maori land. The newspaper report noted that the Council had not 'exercised its powers in this respect', but that a 'cursory glance' showed that a 'fairly large revenue should be available in this direction'. The report suggested that Maori land in Rangiotu (Oroua Bridge), Himatangi, Motuiti, Kawakawa, and other localities, which comprised around 5000 acres should be rated especially as some of which it was of 'considerable value' and being used for dairying. It was noted that Maori were supplying milk to the factories. No decision, however, about the rating of Maori land was made in respect to the issue at the meeting.⁵¹³

6.10 Rate books, 1914-1915

⁵¹¹ New Zealand County Councils' Conference, August 1894, AJHR, 1895 Session I, H-05.

⁵¹² *Manawatu Standard*, Volume XLI, Issue 8860, 30 April 1909, p. 4.

⁵¹³ *Feilding Star*, Volume VIII, Issue 1965, 8 January 1913, p. 2; *Dominion*, Volume 6, Issue 1643, 9 January 1913, p. 8.

It is apparent from the Council's rate book from 1914-1915 that rates were being levied on Maori land. This showed too that there were quite a number of sections of Maori land being leased (six in the Sandon riding (rateable values between £200 and £1139); seven in the Mt Stewart Riding (rateable values between £650 and £2440); three in an unspecified riding (the survey district was Te Kawau) where rateable values were between £3122 and £3944); one in Rongotea Riding (rateable value of £1622); two in the Carnarvon riding with rateable values of £46 and £500; one in the Kawakawa riding (an unspecified Rangitikei Manawatu block valued at £1570); four in the Awahou riding (valued at between £35 and £534); and four in the Oroua Riding (rateable value between £764 and £2400) . In most instances the owner column of the rates book simply gives the names of the owners as 'Natives' which would have become problematic when the lessee no longer wished to lease the land as there was no owner to correctly levy rates too. In just five instances are the owners named. These included Te Ira/Ara Takana, Hoeta Kohuihu, Matapere Kahuhu, Ruera te Nuku and Wainitu te Nuku (spelling as per rates book). It is difficult to know which blocks are affected as they are described as if the land was European land – that is, in terms of section and survey district – not block name. Rates are not recorded as having been paid for the sections owned by Ruera te Nuku, Wainitu te Nuku but in the other instances they had been paid by the occupiers or lessees.⁵¹⁴

A small list of names follow the alphabetical riding sections of the rates book. This appears to relate to Maori owned and occupied land. For the Mt Stewart riding, the names are Meta Pere Tapa with one section valued at £772 and Te Ara/Ira Takana with a section valued at £160. Also within this part of the rate books are the names Cole and Drury who had three sections valued at £133 in total. None of the rates on these lands are recorded as being paid. The land concerned was in the Kairanga and Awahuri survey districts. For an unspecified riding the names were: Pare Kereama, Parau Te Kuti, Matura Kurapeka; and Matapera Tapa and Peni Whata. The rateable value of their lands was £14, £8, £49, and £83 respectively so either quite small areas or there were few improvements (or both). None of the rates had been paid and all lands were in the Awahuri Survey District. For the Kawakawa riding the names given were Mihipeka Taharuku (rateable value £217); Larkin (rateable value £1000) and Manahi Paore (rateable value £750). Of note is that the land owned by Manahi Paore is described as

⁵¹⁴ Manawatu County Council Rates Book, 1914-1915
http://archivescentral.org.nz/documents/0000/0000/0487/MDC_00432_0_20.pdf

Rangitikei Manawatu B1. Again, no rates are recorded as being paid. In none of the other ridings are Maori named as occupiers.⁵¹⁵

From the rates book, therefore, it is apparent that rates were mostly being paid on Maori land that had been leased and on some but not necessarily all lands that were owned and occupied by Maori.

6.11 Rating, 1920-1933

On 7 June 1920, a letter was sent to the Native Minister by the Council to advise that the Council had decided to support the resolution of the Kawakawa County Council regarding the payment rates on Maori land. It said: 'That the PM be urged by this Council to have introduced the coming Session legislation either: -

- (a) Giving Local Bodies full power to enforce the payment of rates by Maoris, or
- (b) Providing for payment of Native Rates by the General Government'.

This was forwarded to the Native Minister who said that the representations had been noted and would receive careful consideration.⁵¹⁶

Other representations to government were made in 1927 in support of other local bodies bid to change the legislation relating to the rating of Maori land. This was despite a change in the legislation in 1924. Following a local bodies conference held at Te Kuiti to consider the rating of Maori land, the Te Kuiti Borough Council wrote to the Manawatu County Council advising that a deputation of local body representatives would be meeting government representatives in Wellington about the matter. The intention was for a representative from each county in the North Island to be in attendance and for each county to provide data about their position in regard to rates received on Maori land. The County Clerk (K Drew) advised the Manawatu County Council at a meeting on 22 September that the Council 'had a certain amount of remedy under existing legislation, but the process was costly and it was a case of throwing good money after bad'. The chair, W. E. Barber, said that 'there was a fair amount of money outstanding' in the Manawatu County and the proposition should be supported if

⁵¹⁵ Manawatu County Council Rates Book, 1914-1915

http://archivescentral.org.nz/documents/0000/0000/0487/MDC_00432_0_20.pdf

⁵¹⁶ Manawatu County Council to Native Minister, 3 June 1920; Native Minister to Manawatu County Council, 23 June 1920, ACIH 16036 MA1/401 20/1/1 part 1 Rating of Native Lands – General File, 1915-1928, Archives New Zealand, Wellington. SW Document Bank, volume 1, pp. 35-37.

only to assist those counties like Waitomo, where the amount outstanding was £17,000'. He felt that a deputation such as what was proposed could result in the government 'taking action'. The Council unanimously agreed to support the proposals of the Te Kuiti Borough Council and the chair was appointed to represent the County.⁵¹⁷

6.12 Court Judgements

From 1924, local authorities had available to them provisions in the Rating Act 1924 which included applying to the Native Land Court for charging and receivership orders. The Manawatu County Council did not apply to the Maori Land Court for any order until 1951. They did, however, levy rates on Maori land but used alternative means to enforce their payment. A letter of February 1935 from the County Treasurer to the councillors and chair of the Manawatu County Council reveals how the Council was dealing with unpaid rates on Maori land. The Treasurer reported that there were arrears of £600 on Maori land which was about 15 percent of the almost £4000 outstanding in rates on both Maori and European land for the years 1930-31, 1931-32, and 1933-34 (which indicates that around £200 was levied on Maori land per year). The Treasurer explained that 'judgement' (at the Magistrates' Court) had been taken for a considerable amount of the arrears and 'a number of other cases ... [were] in the hands of the Council's Solicitors'.⁵¹⁸

Unlike the Native or Maori Land Court, the Magistrates' Court would have been reliant on the title information provided by the Council. As is noted in subsequent sections this was not always accurate or kept up to date which then raises questions as to whether rates were levied correctly.

Any concerns with the rating of Maori land did not, however, prompt the Manawatu County Council to give evidence to the Native Rates Committee in 1933 (unlike the Horowhenua County Council, Otaki Borough Council and Levin Borough Council).

6.13 Te Whakawehe Reserve (section 113 township of Foxton), 1929-1948

⁵¹⁷ *Evening Post*, Volume CIV, Issue 72, 22 September 1927, p. 13.

⁵¹⁸ Treasurer, Manawatu County Council to Councillors and Chairman, Manawatu County Council, 12 February 1935, MDC 00024 : 14 : 3 Finance - Meeting statements & reports to Council Manawatu County Council 1934 - 1960, Archives Central, Feilding. SW Document Bank, volume 3, p. 90.

The following examination of correspondence from a government file (as opposed to the Manawatu County Council's records) regarding Te Whakawehe Reserve, also known as section 113 township of Foxton (despite not being in the township of Foxton) which comprised 34 acres reveals some of the frustrations that Maori had with the Council regarding its attitude towards Maori from the late 1920s including its expectation that all their land should be rated.

During the ten-year period between 1929 and 1939, Taite Te Tomo complained about various actions of the Manawatu County Council in regard to Te Whakawehe Reserve located to the north of Shannon on the Manawatu River and next to the Foxton to Shannon road. Taite Te Tomo was Ngati Raukawa and Ngati Tuwharetoa. From 1926, he farmed at Kakariki (Reu Reu block). He was elected MP for Western Maori in 1930 and held the position until 1935. Ballara describes him as an 'expert in traditional knowledge' who because of his 'lack of English language and formal education.... complained that he could not understand the proceedings [in Parliament] and asked for bills and Hansard to be translated into Maori'. Ballara records too that he 'served on the Native Affairs Committee, and sat on various boards and commissions including the Board of Maori Ethnological Research.'⁵¹⁹

Mr Te Tomo was also an advocate for Ngati Raukawa. On 7 October 1929, he complained to the Native Minister about the actions of the Manawatu County Council in relation to Te Whakawehe Reserve. Mr Te Tomo said that the council had planted willows on the 'wall' (possibly a stopbank) that the owners had built on their land. He said that the Council was claiming the accretion between it and the river's edge and that proposed building a fence on the wall to fence off the accretion. Mr Te Tomo said that if the Council proceeded with the construction of the fence the owners would not be able to water their cows. He said that they did not mind the Council building a fence on the water's edge but not on their wall. He also asked that the accretion from the river be declared (meaning its title investigated). He concluded: 'These Europeans intend to take all this land'.⁵²⁰

⁵¹⁹ Angela Ballara. 'Te Tomo, Te Taite', from the Dictionary of New Zealand Biography. Te Ara - the Encyclopaedia of New Zealand, updated 30-Oct-2012

URL: <http://www.TeAra.govt.nz/en/biographies/4t9/te-tomo-te-taite>

⁵²⁰ Taite Te Tomo to Native Minister, 7 October 1929, ACIH 16036 MA1/420 21/1/12 Petition No.31/33 of Taite Te Tomo, Wakawehe Block - Foxton Township, Section 113 Cemetery Reserve - Vesting in trustees for Ngatiwhakatere, 1925-1948, Archives New Zealand, Wellington. SW Document Bank, volume 5, pp. 27-98.

A further letter on the matter was sent to the Native Minister on 31 October. Mr Te Tomo asked that the accretion to Te Whakawehe be vested in the Maori owners and that a similar action be taken in regard to the accretion to their land Manawatu-Kukutauaki No 7 (which was in the Horowhenua County). He noted that the accretion to Manawatu-Kukutauaki No 7 had already been vested in a Pakeha named Spiers of Foxton. The later statement regarding the vesting of the accretion to Manawatu-Kukutauaki No 7 in Mr Spiers was later confirmed by the Registrar of the Native Land Court. There is no record of what occurred regarding the proposal by the Council to build the fence on the owner's wall.⁵²¹

Taite Te Tomo again petitioned the government about the reserve in 1933. This time his correspondence resulted in the enacting of section 20 of the Native Purposes Act which cancelled the original title order for Whakawehe of 13 February 1890 and enabled the Court to set aside the land (with accretion) for the use of Ngatiwhakaterere. Three trustees were 'chosen by the people'. These were Taite Te Tomo (MP), Marama Ngahuia and Keepa Hihira. Also elected was a committee to work under the trustees. At the hearing the trustees asked the Court to make one 'by-law' immediately which was that the trustees be given 'power to prevent any trespass on the land by unauthorised persons particularly Europeans' which may have been prompted by the Council's actions in regard to trying to claim the accretion and proposal to build a fence. Other by-laws the trustees said, were under consideration.⁵²²

The setting up of the trust may have been what prompted the Council to levy rates on the land as on 23 August 1937, a rate demand of £9.18.9 for the period 1 April 1937 to 31 March 1938 was sent by the Manawatu County Council to Arapere Te Iwiata at Marton (who was not one of the trustees but one of the original owners from 1890). In addition, arrears from 1934-1935, 1935-1936 and 1936-1937 were included in the demand making a total of £34.18.7 levied. The land, comprising 34 acres was valued at £1156 (improvement information was not given). In response, Mr Te Tomo met with the Under Secretary who then wrote to the County Clerk of the Manawatu County Council explaining the views of Mr Te Tomo. He said that Mr Te Tomo asserted firstly that the land was set aside for Maori as a cemetery and

⁵²¹ Taite Te Tomo to Native Minister, 31 October 1929, ACIH 16036 MA1/420 21/1/12 Petition No.31/33 of Taite Te Tomo, Wakawehe Block - Foxton Township, Section 113 Cemetery Reserve - Vesting in trustees for Ngatiwhakaterere, 1925-1948, Archives New Zealand, Wellington. SW Document Bank, volume 5, pp. 27-98.

⁵²² Otaki Minute Book 59, 24 October 1934, pp. 253-254.

therefore should not be rated and secondly that part of the land was given by Maori for a road ‘upon condition that the land would be exempted from rates’.⁵²³

The Under Secretary said that he had investigated the two issues and as far as the first contention was concerned he had found that the whole block was intended to be reserved as a Maori burial ground but this had not initially been done. He said that section 20 of the Native Purposes Act 1933 explained the situation and pursuant to the terms in this Act, the Native Land Court had made an order setting the land apart as a reserve for the common use of the Ngati Whakatere tribe and had vested the property in three trustees, one of whom was Taite Te Tomo. The order of the Court, however, did not expressly reserve the land as a burial ground but the statute explained what was intended. The Under Secretary understood that there were burial places on the land and under these circumstances it seemed that Maori were entitled under section 103(b) of the Rating Act 1925 to have exempted from rates up to five acres but not the entire block.⁵²⁴

With regard to the second contention, the Under Secretary had been unable to find in Native Land Court records where a road was laid off subject to the land being exempted from rates and asked if the County Clerk knew of the arrangement. The Under Secretary also asked the County Clerk to send an amended rate demand allowing for five acres to be exempted from rates and with the rates for the year 1934-35 removed as they were ‘irrecoverable under section 108’. He also asked whether there were any special circumstances that would enable all of the land to be exempted under section 104 (instead of advising the local authority of the law regarding exemptions which could have exempted the entire block).⁵²⁵

A reply was not forthcoming from the county clerk until nine months later on 14 July 1938. This was despite six reminder letters from the Under Secretary. One such reminder contained further information received from Mr Te Tomo who had met again with the Under Secretary about the matter in February 1938. Mr Te Tomo told the Under Secretary that he had given land for a new road over the block and that the old road should be given in exchange by the Council. The old road was presently being used (had been claimed) by people (Pakeha)

⁵²³ Under Secretary, Native Department to County Coker, Manawatu County Council, Sanson, 4 October 1937, ACIH 16036 MA1/420 21/1/12 Petition No.31/33 of Taite Te Tomo, Wakawehe Block - Foxton Township, Section 113 Cemetery Reserve - Vesting in trustees for Ngatiwhakatere, 1925-1948, Archives New Zealand, Wellington. SW Document Bank, volume 5, pp. 27-98.

⁵²⁴ Ibid.

⁵²⁵ Ibid.

residing on the other side of that road. Mr Te Tomo said that as the land was originally part of 'Whakawehe block 113' that it should be returned to the owners of that block.⁵²⁶

In June 1938, the Under Secretary, quite likely frustrated with the lack of response from the County Clerk, asked the Registrar of the Native Land Court in Whanganui to instruct the supervisor at Whanganui to interview the County Clerk personally and report on the matter. On 14 July, the County Clerk responded to the Under Secretary that he had no knowledge of any condition being made with regards to Te Whakawehe being exempted from rates as compensation for land taken for a road. The County Clerk said that the survey of the road and the taking of land were carried out by the Public Works Department on behalf of the Highways Board. The taking of land through Maori land was, he understood, arranged through the Native Land Court. This, he said, was explained to an officer of the Native Department when the County Clerk was in Wellington the previous October. With regard to rates, he enclosed a statement showing the position as at 31 March 1937 less the allowance for five acres for cemetery purposes.⁵²⁷

The statement was a new rates demand dated 23 August 1937 for a total of £23.13.6 (about £11.5.1 less than the previous demand). The unimproved rateable value had been reduced by £170 to £986 to reflect the exemption of the 5 acres, which had been valued at £34 per acre. The total included £8.9.5 for the current year (1937-1938) (down from £9.18.9 in the previous demand); £7.1.11 for 1936-1937 (down from £8.6.6 in the previous demand) and £5.19.2 for 1935-1936 (down from £7.18.6 in the previous demand). Rates for 1934-1935 had been removed.⁵²⁸

⁵²⁶ Under Secretary, Native Department to County Clerk, Manawatu County Council, Sanson, 8 November 1937, 10 December 1937, 21 February 1938, 22 March 1938, 27 April 1938, 27 May 1938; File notes of February 1938, ACIH 16036 MA1/420 21/1/12 Petition No.31/33 of Taite Te Tomo, Wakawehe Block - Foxton Township, Section 113 Cemetery Reserve - Vesting in trustees for Ngatiwhakatere, 1925-1948, Archives New Zealand, Wellington. SW Document Bank, volume 5, pp. 27-98.

⁵²⁷ Under Secretary, Native Department to Registrar, Native Land Court, Whanganui, 27 June 1938; County Clerk, Manawatu County Council to Under Secretary, Native Department, 14 July 1938, ACIH 16036 MA1/420 21/1/12 Petition No.31/33 of Taite Te Tomo, Wakawehe Block - Foxton Township, Section 113 Cemetery Reserve - Vesting in trustees for Ngatiwhakatere, 1925-1948, Archives New Zealand, Wellington. SW Document Bank, volume 5, pp. 27-98.

⁵²⁸ Manawatu County Council Rates Demands for section 113, block XI, Mt Robinson Survey District, 23 August 1937 (two versions), ACIH 16036 MA1/420 21/1/12 Petition No.31/33 of Taite Te Tomo, Wakawehe Block - Foxton Township, Section 113 Cemetery Reserve - Vesting in trustees for Ngatiwhakatere, 1925-1948, Archives New Zealand, Wellington. SW Document Bank, volume 5, pp. 27-98.

Following receipt of the county clerk's letter, the Under Secretary wrote to the Engineer in Chief at the Public Works Department asking about the roads through the block. The Engineer in Chief responded that he was unable to trace any record of land being taken for road purposes from Te Whakawehe block. However, by proclamation that was gazetted in 1928 (p. 2463), an area of 1 acre 1 rood 23.9 perches being a portion of old river bed adjoining the block was taken for the purposes of a road and later a further area of 2 roods 29.51 perches 'widening the existing road 50 links [about ten metres] was taken (Gazette 1930, p. 792)'. According to Public Works Department records, Mr Te Tomo was approached by the engineer of the Manawatu County Council with regard to the taking of the land and 'possibly' these were the transactions to which Mr Te Tomo referred 'although no title to the land had been established'. He said that no claim for compensation was ever received and any such claim would 'of course, be well out of time' meaning the set time period had elapsed in which compensation could be claimed. In addition, there was no information available in the department about an 'old road'.⁵²⁹

In October 1938, the Under Secretary was able to respond to Mr Te Tomo. He said that he had made 'exhaustive enquiries' of both the Manawatu County Council and the Public Works Department. He had ascertained that the Council had allowed an exemption from rates of up to five acres in respect to the block due to the fact that it was stated that there were burial places located on the block. With regard to the road, he said:

The County Clerk informed me that he had no knowledge of any condition being made that the whole of the block would be exempted from rates as compensation for land being taken for road purposes and that the survey of the road and the taking of the land was carried out by the Public Works Department on behalf of the Main Highways Board. Upon referring this matter to the Engineer-in-Chief of the Public Works Department, it was ascertained that there is no record in that Department of any part of the Whakawehi [sic] Block having been taken for road purposes. By Proclamation gazetted in 1928, an area of 1 acres 1 rood 23,9 perches, being portion of the old river bed adjoining the block was taken for the purposes of a road and later

⁵²⁹ Engineer in Chief and Under Secretary, Public Works Department to Under Secretary, Native Department, 15 September 1928, ACIH 16036 MA1/420 21/1/12 Petition No.31/33 of Taite Te Tomo, Wakawehe Block - Foxton Township, Section 113 Cemetery Reserve - Vesting in trustees for Ngatiwhakare, 1925-1948, Archives New Zealand, Wellington. The plans of the areas of river bed taken were proclamations Nos 1839 and 2004 and deposited in the Land Transfer Office, Wellington. SW Document Bank, volume 5, pp. 27-98.

a further area of 2 roods 29.51 perches widening the existing road by 50 links [about ten metres] was taken and this appeared in the Gazette of 1930. The Engineer-in-Chief states that according to his records you were approached by the County-Engineer with regard to the taking of these areas and possibly these are the roading transactions to which you refer although no title to the land had then been established. Apparently no claim for compensation in respect of the areas taken was ever made. There is no information in the records of the Public Works Department regarding the “old road” mentioned by you.⁵³⁰

It would therefore appear that accretion to the block had been taken for the road without title being investigated. Given that the accretion was adjacent to the reserve, the trustees were likely to have been awarded title to it by the Native Land Court and if it was then taken for a road, they would have been awarded compensation. The Crown, denying that there had been an arrangement with Mr Te Tomo about rates, had therefore, helped itself to what could well have been accretion to the block, and not bothered with ensuring any compensation was paid.

Mr Te Tomo responded that he did not object to paying the rates on Whakawehe but wanted the Under Secretary to understand that he had a:

... verbal arrangement with the County Engineer of Manawatu although he now den[ies] that any such arrangement was ever made. May his soul rest in heaven.⁵³¹

Having inferred that the Engineer was not speaking truthfully, he explained that there were four cemeteries on Whakawehe. On the upper part was the Mamoenui urupa and below that was Te Oha urupa where the ‘tombstones of the dead’ could be seen. Te Whakawehi was the main urupa and on the other side was the Whirokino urupa. He said that as soon as he was better from his present illness he would go to Shannon and show the surveyor the location of the urupa so that he might define the exact area on which he was to pay the rates. He asked

⁵³⁰ English translation of letter from Under Secretary, Native Department to Taite Te Tomo, Kakariki, Halcombe, 7 November 1938, ACIH 16036 MA1/420 21/1/12 Petition No.31/33 of Taite Te Tomo, Wakawehe Block - Foxton Township, Section 113 Cemetery Reserve - Vesting in trustees for Ngatiwhakatere, 1925-1948, Archives New Zealand, Wellington. SW Document Bank, volume 5, pp. 27-98.

⁵³¹ English translation of letter from Taite Te Tomo to Under Secretary, Native Department, 9 November 1938, ACIH 16036 MA1/420 21/1/12 Petition No.31/33 of Taite Te Tomo, Wakawehe Block - Foxton Township, Section 113 Cemetery Reserve - Vesting in trustees for Ngatiwhakatere, 1925-1948, Archives New Zealand, Wellington. SW Document Bank, volume 5, pp. 27-98.

that the Under Secretary suggest a date for their meeting at Whakawehe. He concluded that as soon as this was agreed upon he would start to pay the rates.⁵³²

A note by the Under Secretary to an official on the above letter said that as Mr Te Tomo was calling for an alteration to the rating roll and ‘eliminating the portions used as a cemetery’ it ‘might be wise’ to get the supervisor to ‘go carefully over the area and advise. He should locate the graves so that the section could be subdivided on paper’.⁵³³

The Under Secretary then asked the Registrar of the Native Land Court to organise a Field Officer, in co-operation with the County Clerk, to investigate the matter ‘in accordance with Mr Te Tomo’s request’. A meeting was organised for 24 January 1939 with Mr Mulcahy but the Registrar advised that Mr Te Tomo did not attend. The Under Secretary then advised Mr Te Tomo to arrange another meeting with Mr Mulcahy. This was held on 5 May. Mr Mulcahy reported that Mr Te Tomo had pointed out the burial grounds to him and that he (Mr Mulcahy) had taken measurements, though ‘in a rather rough manner’. Mr Mulcahy was of the opinion that the four burial grounds could be included in an area of five acres ‘or at most not more than five and a quarter acres’. He also said that Mr Te Tomo was ‘rather vague as to the location of one set of graves pointing out to me a patch of thistles’. He had, however, ‘taken the whole of the patch and on a rough plan ... given the measurements of the four cemeteries’. The plan showed the ‘Pah [sic] area and meeting house’ at the front of the block by the Shannon to Foxton Highway and the four urupa towards the back of the block near the river. A cow shed towards the end of the block was also marked on the plan. A note by an official at the Native Department recorded that the Manawatu County Council had already allowed the exemption from rates of five acres. This note concluded the correspondence with the Native Department about the matter. This would largely have been due to the unexpected death of Taite Te Tomo on 22 May 1939 which was shortly after his meeting with Mr Mulcahy. (Mr Te Tomo died at Kakariki Pa as a result of bronchial pneumonia which had followed on from influenza).⁵³⁴

⁵³² Ibid.

⁵³³ Note from Under Secretary, Native Department to MR N Smith, official of Native Department, 6 December 1938 on English translation of letter from Taite Te Tomo to Under Secretary, Native Department, 9 November 1938, ACIH 16036 MA1/420 21/1/12 Petition No.31/33 of Taite Te Tomo, Wakawehe Block - Foxton Township, Section 113 Cemetery Reserve - Vesting in trustees for Ngatiwhakatere, 1925-1948, Archives New Zealand, Wellington. SW Document Bank, volume 5, pp. 27-98.

⁵³⁴ Under Secretary, Native Department to Registrar, Native Land Court, Wellington, 20 January 1939, Registrar, Native Land Court to Under Secretary, Native Department, 7 March 1939; Under Secretary, Native Department to Taite Te Tomo, 17 March 1939; E Mulcahy, Native Department, Levin to Registrar, Native Land Court,

Of note, however, was that although five acres had been exempted in respect to the urupa, there was also a marae on the block which should also have been exempted from rates (up to a maximum of five acres). This was not, however, raised by government officials least of all the County Clerk.

It is also of note that Mr Te Tomo had spoken about the rating of Maori land in his capacity as MP for Western Maori. In 1933, he spoke to Parliament (through an interpreter) that he greatly appreciated the assistance given to Maori by the government in developing their land but that there was ‘one thing’ that Maori were ‘up against and that was the rates’. He said that it was ‘correct that certain Maoris should be rated but that there were many others who should be exempted – the unemployed Maoris, for instance’. He said that he knew the law said that rates must be levied but he reminded the House that the ‘law could be altered’. He hoped that Parliament would ‘continue to do its utmost to safeguard the best interests of the Maoris’.⁵³⁵

He also spoke about rates at a hui with Ngapuhi which was attended by Apirana Ngata at Waitangi in 1934. The *Auckland Star* reported, in respect to Mr Te Tomo, that:

His hostility to the provisions of the Rating Amendment Bill was made clear by his declaration that if the Government introduced the system proposed he would “jump over the traces” [rebel].⁵³⁶

Mr Te Tomo spoke too about rates at a hui for Taranaki Maori in September 1935 where land confiscation was also being discussed. At this hui, he said that he objected to land ‘being sold to provide for the payment of rates’.⁵³⁷

Wellington, 16 May 1939 with plan; note by Native Department official, 31 May 1939 on Registrar, Native Land Court, Wellington to Under Secretary, Native Department, 18 May 1939, ACIH 16036 MA1/420 21/1/12 Petition No.31/33 of Taite Te Tomo, Wakawehe Block - Foxton Township, Section 113 Cemetery Reserve - Vesting in trustees for Ngatiwhakatere, 1925-1948, Archives New Zealand, Wellington. SW Document Bank, volume 5, pp. 27-98; *Auckland Star*, Volume LXX, Issue 119, 23 May 1939, p. 4; Angela Ballara. 'Te Tomo, Te Taite', from the Dictionary of New Zealand Biography. Te Ara - the Encyclopaedia of New Zealand, updated 30-Oct-2012, URL: <http://www.TeAra.govt.nz/en/biographies/4t9/te-tomo-te-taite>

⁵³⁵ *Evening Post*, Volume CXVI, Issue 78, 29 September 1933, p. 15.

⁵³⁶ *Auckland Star*, Volume LXV, Issue 28, 2 February 1934 p. 3.

⁵³⁷ *Evening Post*, Issue 56, 3 September 1935, p. 10.

The next set of correspondence on the Native Department file regarding Te Whakawehe reserve (or as it was described in the file - Poutu Pa, Shannon) was in 1947 in regard to changing the provisions of the aforementioned Native Purposes Act 1933 Act which stated that Te Whakawehe could not be alienated. Solicitors for a WC Higgie, who held an informal lease over the reserve, but who wished to formalise it, asked that the 1933 Act be amended to allow the lease. They also asked for provision to be made for the area to be surveyed so that burial grounds and the meeting house were excluded from the lease.⁵³⁸

The Under Secretary responded to the solicitors that officers of the department had visited 'Poutu Pa' in October 1946 'for the purpose of carrying out a survey of the living conditions of the inhabitants'. He said that he understood that the 'subject of section 113 [Te Whakawehe reserve] ... arose only in connection with the amount of income received from that block which would be available for improving the state of the Pa'. He said that there did not appear to have been any proposal at the time that legislation should be enacted to amend section 20 of the Maori Purposes Act, 1933 and that this was first time this change had been intimated. He did state, however, that if Maori wished to continue to lease the land that it was 'desirable' that the section be amended and the matter would be investigated further.⁵³⁹

The Under Secretary advised the Minister of Maori Affairs in February 1948 that in the circumstances a change in the legislation was advisable. It was explained that the land had been vested in Ngati Whakatere under section 20 of the Maori Purposes Act 1933 as a burial ground and that it was administered by trustees appointed by the Court. Section 20 stated that the land was to be absolutely inalienable. Ngati Whakatere wanted to improve the conditions of the marae and in order to raise the funds it was proposed to lease the greater portion of the land not used for burials or other tribal purposes. It was not stated that the trust also needed to lease the land so that they could pay the rates as only five acres of the 34 acres was exempted

⁵³⁸ Blenkhorn & Todd, Barristers & Solicitors, Levin to Under Secretary, Native Department, 20 October 1947, ACIH 16036 MA1/420 21/1/12 Petition No.31/33 of Taite Te Tomo, Wakawehe Block - Foxton Township, Section 113 Cemetery Reserve - Vesting in trustees for Ngatiwhakatere, 1925-1948, Archives New Zealand, Wellington. SW Document Bank, volume 5, pp. 27-98.

⁵³⁹ Under Secretary, Native Department to Messrs Blenkhorn & Todd, 15 December 1947, ACIH 16036 MA1/420 21/1/12 Petition No.31/33 of Taite Te Tomo, Wakawehe Block - Foxton Township, Section 113 Cemetery Reserve - Vesting in trustees for Ngatiwhakatere, 1925-1948, Archives New Zealand, Wellington. SW Document Bank, volume 5, pp. 27-98.

due to its urupa status (even though five acres each was allowed for both urupa and marae under the legislation).⁵⁴⁰

Legislation was duly passed (section 16 of the Maori Purposes Act 1948) which allowed the land to be leased. Subsequent correspondence from the Ngati Whakarete Tribal Committee confirms that the reserve, excluding the Poutu Marae (and presumably urupa) was leased to Mr Higgle of Shannon which had been authorised by the Ikaroa Maori Land Board as per section 16 of the Maori Purposes Act 1948.⁵⁴¹

Unfortunately, the valuation rolls do not shed much light on just how much land was exempted reflecting again, how inaccurate they could be. The valuation roll of 1939 shows the entire area exempted from rates (34 acres) but the valuation roll dated from between 1939 and 1952 shows none of the block exempted from rates. It also records that the size of the block had increased to include accretion making it 71 acres 3 roods 18.6 perches in size. As well, the owner and occupier had changed to Ikaroa District Maori Land Board and the name ‘Wahawehe block’ [sic] crossed out and described simply as Rural section 113 & accretion, Foxton Township’.⁵⁴²

The land is still Maori land, and administered by Whakawehe Reserve Trust.⁵⁴³

6.14 Te Whakawehe Summary

The Council’s actions in the 1930s with regard to claiming the accretion to the reserve as a road without reference to Maori, the planting of the trees and the proposed building of a fence, suggests a disregard or lack of awareness by the Council of the views and position of Maori. Without the insistence of Taite Te Tomo and his engagement with government at a

⁵⁴⁰ Under Secretary, Native Department to Minister of Maori Affairs, 6 February 1948, ACIH 16036 MA1/420 21/1/12 Petition No.31/33 of Taite Te Tomo, Wakawehe Block - Foxton Township, Section 113 Cemetery Reserve - Vesting in trustees for Ngatiwhakarete, 1925-1948, Archives New Zealand, Wellington. SW Document Bank, volume 5, pp. 27-98.

⁵⁴¹ ACIH 16036 MA1/420 21/1/12 Petition No.31/33 of Taite Te Tomo, Wakawehe Block - Foxton Township, Section 113 Cemetery Reserve - Vesting in trustees for Ngatiwhakarete, 1925-1948, Archives New Zealand, Wellington. SW Document Bank, volume 5, pp. 27-98.

⁵⁴² AFHQ 19340 V-WRolls 151 3/17/ part 1 Valuation rolls Wellington – Manawatu County – Awahou Riding – Roll numbers 1-499, 1939; AFHQ 19340 V-WRolls 151 3/17/ part 1 Valuation rolls Wellington – Manawatu County – Awahou Riding – Roll numbers 1-499, 1939-1952 Archives New Zealand, Wellington. SW Document Bank, volume 5, pp. 100 & 102.

⁵⁴³ Maori Land Online: www.maorilandonline.govt.nz

high level the Council could well have succeeded in claiming all of the accretion to the reserve and putting up a fence that blocked Maori access to the river. It is also apparent that the land taken for the road was old river bed lying adjacent to the block which may well have been judged by the Maori Land Court to be accretion to the block. Mr Tomo was adamant that the land had been taken in exchange for a rates exemption but this was denied by the Council. A second area was also taken but no compensation was assessed for this area either. With regard to rates the Council had an expectation that all land should be rated without any prior investigation. Taite Te Tomo fought against the blanket rating of the reserve and was frustrated, together with the Native Department, by the initial lack of response from the Council. The request for a change of legislation so that the land could be leased also demonstrates the necessity of making land income producing. This was said to be so improvements could be made to the marae but the rental would also have also been used to pay the rates, as under the Rating Act only a maximum of five acres could be exempted each for urupa and marae purposes though the Council and government had only ensured that the urupa areas were exempted and not the marae.

6.15 Rating from the 1940s

Data has also been located regarding the payment of rates on Maori land from the year ending 31 March 1940, and 31 March 1945 to 31 March 1959:

Table 10: Rates on Maori Land, Manawatu County Council, 1945-1959

Year ending 31 March	Levied	Rebate allowed	Levied less rebate	Collected & Written Off/Paid	Outstanding	% Collected
1940	£206.12.1			£36.1.15	£113.19.2	17.5%
1945						16.77%
1946						41.83%
1947	£392.19.11	£0.6.9	£392.13.2	£164.4.0	£228.9.2	41.83%
1948	£361.13.5	£0.15.5	£360.18.0	£219.7.10	£141.10.2	60.66%
1949	£467.9.8	£1.14.4	£465.15.4	£300.8.4	£165.7.0	64.37%
1950	£570.0.10	£0.4.5	£569.16.5	£264.12.9	£305.3.8	46.31%
1951	£586.17.3	£2.13.1	£584/4/2	£399.7.11	£184.16.3	68.37%
1952	£744.13.4	£5.16.4	£738.17.0	£532.2.3	£206.14.9	72.02%
1953*	£846.9.4	£5.5.1	£841.4.3	£649.11.3	£191.13.0	77.21%
1954						71.32%
1955	£943.8.10	£9.10.1	£933.18.9	£778.18.3	£155.0.6	83.4%
1956	£939.16.7	£2.14.7	£937.2.0	£720.13.6	£216.18.6	76.94%
1957	£928.8.10	£8.12.7	£919.16.3	£738.5.6	£181.10.9	80.3%
1958	£1037.4.0	£8.0.0	£1029.4.0	£765.11.0	£263.13.0	74.34%
1959	£1325.4.10	£5.13.5	£1319.11.5	£1009.18.4	£309.13.1	76.52%

Source: Manawatu County Council, Statements of Rates Levied and Collected, Year ending 31 March 1947-1953; 1955-1959, MDC 00024: 14: 3 Finance: Meeting Statements & Reports, Manawatu County Council, 1934-1960, Archives Central, Feilding. SW Document Bank, volume 3, pp. 91-102.

*A re-valuation of the County was effective from 1 April 1952.

The data shows a marked increase in the amount levied (it had tripled between 1947 and 1959) but also a marked increase in the amount collected. In 1940, less than 20 percent of the rates levied were collected whereas 20 years later this had increased to over 75 percent.

It has not been possible to establish exactly how the Manawatu County Council achieved such an increase in the amount paid. There is, however, correspondence that suggests that in the 1940s, the Manawatu County Council continued to take Maori to the Magistrates' Court due to unpaid rates and judgements were made against them. For instance, in August 1943, the County Clerk noted that judgement had been received against a Mrs MacRoyal in the Bulls court in 1941 for the 1940/41 rates and arrears. Part of the amount was still outstanding on the 109 acres 20 perches assessed in the name of Tatiana Wiremu Te Hiko (the name of the block was not given). Judgements sometimes had a similar effect to charging orders in other areas whereby a lease followed on from the judgement. Counsel for Tatiana Wiremu Te Hiko (or Mrs MacRoyal) advised that the land (less 8 acres 2 roods) was to be leased and the lessee was required to pay the rates on the larger area from 1 September 1942 and on the smaller area from 1 May 1943.⁵⁴⁴

6.16 Manawatu Development Scheme

Little correspondence between the Council and the government has been located in Manawatu County Council records until 1944. This related to the payment of rates on lands in the Manawatu Development Scheme when the Council was advised that there were no funds available for the payment of rates on Himatangi 2A2E and 2A2F-2A5B & 2A6. No response from the Council was found.⁵⁴⁵

⁵⁴⁴ Graham & Reed to Clerk, Manawatu County Council, 9 August 1943; County Clerk, Manawatu County Council to Messrs Graham & Reed, 16 August 1943, MDC 00024 : 42 : 4 Solicitor's - Graham & Reed Manawatu County Council 1946 – 1973, Archives Central, Feilding. SW Document Bank, volume 3, p. 104.

⁵⁴⁵ Registrar, Maori Land Court to County Clerk, Manawatu County Council, 7 September 1944, MDC 00024: 27: 2 Maori Affairs Manawatu County Council 1946 – 1973, Archives Central, Feilding. SW Document Bank, volume 3, p. 106.

A report on the Manawatu Development Scheme in 1932 described the Manawatu as an ‘old farming district, well settled and with very little unencumbered Native lands available for development’. Three areas had been offered by Maori owners in the Manawatu area which had ‘formed the nucleus of the Manawatu Development Scheme’. The Matararapa block was the only block mentioned as being part of this scheme. There had been expenditure of £185 spent on the block, ‘mostly for scrub-cutting and draining’.⁵⁴⁶

By 1949, there appeared to be a little more ‘unencumbered’ Maori land available as the Maori Affairs Department advised the Council that the following blocks were also part of the scheme under Part I of the Maori Land Amendment Act 1936. It was noted that farming operations on these areas were financed through the Maori Affairs Department and supervised from the Levin Office:

- Himatangi 2A6 (127 acres);
- Himatangi 2A2D-2A2E-2A (95 acres 32 perches);
- Himatangi 2A2B-2A2C (63 acres 1 rood 34 perches);
- Himatangi 2A (127 acres);
- Himatangi 2A5A, 2A5B (126 acres 3 roods 35 perches);
- Carnarvon 387B (200 acres 29 perches)
- Carnarvon Lot 11 DP 4642 Pt Secs 313, 314, 316 (144 acres 2 roods 30 perches)
- Puketotara Secs 334, 335 (43 acres 1 rood 32.8 perches)
- Puketotara Sub 5A & 8F (18 acres 3 roods 24.9 perches)
- Pt Rangitikei Manawatu B4 (256 acres 3 roods 27.9 perches)⁵⁴⁷

This totalled almost 1204 acres and may also account in part for the increase in the amount of rates on Maori land collected in the County though further research is required to determine this. When forwarding the information on the blocks affected the Field Supervisor advised the Council that rates demands should be forwarded to the Registrar. Rates were then paid if there were funds available on each ‘unit’.⁵⁴⁸

⁵⁴⁶ Apirana Ngata, Native Minister, Statement on Native Land Development, 1932, AJHR 1932, G5, p. 49-50.

⁵⁴⁷ Field Supervisor to County Clerk, Manawatu County Council, 11 May 1949, MDC 00024: 27: 2 Maori Affairs Manawatu County Council 1949 – 1973, Archives Central, Fielding. SW Document Bank, volume 3, p. 107.

⁵⁴⁸ Ibid.

Other correspondence from the Department related to notifying the Council of any partitions, leases and sales so that the Council was kept up to date with changes in title. This did not prevent confusion on occasion as to a blocks details. This was demonstrated in correspondence between the Council and the Court/Maori Trustee in the 1960s. The Maori Trustee advised the Council in 1969 that it had no funds available for two blocks on which the Council was seeking rates. These were Himatangi 2A1B and 4D1A. The Council were advised that Himatangi 4D1A had been security for one of the Trustee's loans but it had been sold. The Council was also advised that Himatangi 2A1B was a Maori Reserve (which usually meant, if the marae or burial ground was located on the land, that a maximum of five acres was exempted from rates) and had been declared as such in 1962.⁵⁴⁹

6.17 Provision of Services

Little information regarding provision of services to Maori by the Council has been located apart from a request by the Registrar of the Maori Land Board in 1944 on behalf of one of the occupiers of a 'unit' being run as part of the Manawatu Development Scheme to the chair of the Council. Rawiri Durie, was reported as having 'considerable trouble with the draining problem on his farm' which was located on section 387B Carnarvon at Himatangi. The 'best portion of his land' was subject to drainage difficulties and although the occupier had attempted to clear his part of the main drain, there was 'no fall owing to the main drain lower down being alongside a sandhill which keeps filling in'. The Registrar also noted that there were several properties that would benefit from the construction of a deeper outlet, that there was no Drainage Board in existence and the resolution of the problem was 'beyond the means and resources of the settler concerned'. He said that he would consider it a 'favour' if the chair could look into the position and gave suggestions as to how the problem could be alleviated. Assistance or even advice was not forthcoming with the County Clerk advising the Registrar that the matter had been considered by the Council at its meeting and that it was 'not in a position to do anything' about the matter. This was because the drain was a private

⁵⁴⁹ Maori Trustee to County Clerk, Manawatu County Council, 24 February 1969, MDC 00024: 27: 2 Maori Affairs Manawatu County Council 1949 – 1973, Archives Central, Fielding. SW Document Bank, volume 3, p. 111; Maori Land Online: <http://www.maorilandonline.govt.nz/> accessed November 2016.

drain and that County funds ‘could not be used for this purpose without creating a precedence [sic]’.⁵⁵⁰

6.18 Charging orders

The first reference located to any charging order applications made by the Council to the Maori Land Court was not until 31 July 1951 – over 25 years since they were introduced under the Rating Act 1925. A Mr Kent attended for the Council and he simply stated that rates on the following blocks had been levied and not been paid. No other information was given apart from the duration of the rates arrears and the amount. Charging orders were issued except where land was thought to be a reserve or was European land. The following blocks were affected.:

- Himatangi 1D1, 31/3/1950 to 1951; apportionment
- Himatangi 2A2B, 2A2C, 31/3/1950 to 1951; £26.1.8
- Himatangi 2A3B, 31/3/1950 to 1951; £20.7.7
- Himatangi 4D1B, 31/3/1950 to 1951; £5.5.6
- Himatangi 5A8B, 31/3/1950 to 1951; £12.10.0
- Himatangi 5B –31/3/1950 to 1951 (appeared to be a reserve – adjourned)
- Lot 11 DP 4642 Pt sec 313/6 Te Kawau; 31/3/1950 to 1951 (European land – dismissed)
- Puketotara 2A1: 31/3/1950-1951; £15.9.4 plus 10/- costs
- Puketotara 2A2A: 31/3/1950-1951; £4.7.3 plus 3/- costs
- Puketotara 2A2B: 31/3/1950-1951; £2.19.4 plus 3/- costs
- Rangitikei Manawatu B4: 31/3/1950-1951; £101.11.7 plus 20/-
- Rangitikei Manawatu B4: 31/3/1950-1951; £9.18.3 plus 8/- costs.⁵⁵¹

Therefore at least three of the applications were incorrect (rates arrears had not been correctly apportioned, one block appeared to be a reserve but the County was uncertain, and the third area was no longer Maori land). As well, the County Clerk advised the Registrar of the Maori Land Court that rates on Puketotara 2A1, 2A2A and 2A2B had been paid in October of the

⁵⁵⁰ Registrar, Maori Land Board to Chairman, Manawatu County Council, 5 October 1944; County Clerk, Manawatu County Council to Registrar, Maori Land Court, 11 October 1944, MDC 00024: 27: 2 Maori Affairs Manawatu County Council 1949 – 1973, Archives Central, Fielding, SW Document Bank, volume 3, p. 106.

⁵⁵¹ Otaki Minute Book 64, 31 July 1951, pp. 236-237

same year. Further applications were going to be made for several of the Himatangi blocks in 1953 but these were withdrawn as rates had also been paid.⁵⁵²

Two other blocks subject to charging orders were part of the Manawatu Development Scheme. These were Himatangi 2A2B, 2A2C, which was later leased in 1958 and part Rangitikei Manawatu B4 (details are yet to be located on this block). The Registrar of the Maori Land Court advised in March 1952, that the rates on these blocks had also been paid.⁵⁵³

Several other blocks were leased in the years following the charging orders. These were Himatangi 1D1B6 (leased for 21 years from 1953); Himatangi 2A2B, 2A2C (63 acres 1 rood 34 perches in total, leased in 1958 for 7 years); Puketotara 2A1 (43 acres 3 roods 26 perches, leased in 1956 for 20 years); and Puketotara 2A2A (4 acres 1 rood 12 perches leased in 1956 for 20 years). Some of the leases appear to have been to Maori though it has not been established whether they were also owners or relatives of owners.⁵⁵⁴

The longevity and effectiveness of the charging order can be demonstrated in the case of Himatangi 2A2B & 2A2C (both were 31 acres 2 roods 37 perches in size). In December 1964, the Maori Trustee forwarded a cheque for £26.16.8 in full satisfaction of the charging order (£26.1.80 and 15/- costs) made on 31 July 1951. The Maori Trustee asked that the Registrar be forwarded the 'usual notice of release of the charge' so that a partition order in respect to the two blocks could be finalised. The Manawatu County Council advised that the charging order would be released later that month. Of note was that both blocks had been leased for seven years from 1958 so the opportunity for the charging order to have been paid at that time appears to have been missed. The blocks were both leased again for seven years from 1965 and 2A2B purchased in 1967.⁵⁵⁵

⁵⁵² County Clerk, Manawatu County Council to Registrar, Maori Land Court, 2 October 1951, MDC 00024: 27: 2 Maori Affairs Manawatu County Council 1949 – 1973, Archives Central, Fielding. SW Document Bank, volume 3, p. 108.

⁵⁵³ Registrar, Maori Land Court to County Clerk, Manawatu County Council, 12 March 1952, MDC 00024: 27: 2 Maori Affairs Manawatu County Council 1949 – 1973, Archives Central, Fielding. SW Document Bank, volume 3, p. 109.

⁵⁵⁴ Walghan Partners, Draft, 1 May 2017, volume 2, pp. 117-147; volume 3, pp. 206-215.

⁵⁵⁵ Maori Trustee to County Clerk, Manawatu County Council, 7 December 1963; Manawatu County Council to Registrar, Maori Land Court, Palmerston North, 10 December 1964, MDC 00024: 27: 2 Maori Affairs Manawatu County Council 1949 – 1973, Archives Central, Fielding. SW Document Bank, volume 3, p.110; Walghan Partners, Draft, 1 May 2017, volume 2, pp. 117-147; volume 3, pp. 206-215.

Similarly, with Himatangi 2A3B (69 acres 4 perches/27.9351 ha) which had also been subject to a charging order in 1951. Almost twenty years later in September 1970, the Maori Trustee forwarded the \$43.26 secured by the charging order and asked for a notice of discharge (which was duly done). While the block had been previously leased for 21 years from 1947 (meaning that the lessee should have paid the rates) it is apparent a further lease in 1970 for five years was what prompted the payment. The block was leased again in 1975 and is still Maori land today. It appears, from images on Maori Land Online to be farmed (in pasture) and there is no record of it being leased. It is administered by the Te Hemara Trust.⁵⁵⁶

One further charging order was applied for by the Council. In 1964, an application was heard for a charging order on sub 17C of sec 153 Sandon Township Block. The order was made for £7.19.2 plus 10/- costs which was in respect to unpaid rates between 1961 and 1964. No comments about the land were recorded in the minutes of the hearing. The name of the block and amount levied was the only information listed. (No further information has been located regarding the block).⁵⁵⁷

No further applications for charging, receivership or vesting orders have been located. The Manawatu County Council did continue to liaise with the Maori Affairs Department particularly regarding ownership details. The Council also appears to have continued to utilise civil remedies such as judgements to enforce the payment of rates. There is evidence of this continuing in the 1980s where by lists were produced by solicitors for the Council of those who owed rates and where Court summons had been issued. The list includes both European and Maori names but does not include the names of the blocks. There are indications too that the Council was prepared to accept payment of arrears of rates in instalments.⁵⁵⁸

6.19 Manawatu District Council Rates Remission and Postponement Policy, 2015

⁵⁵⁶ Maori Trustee to County Clerk, Manawatu County Council, 5 November 1970, MDC 00024: 27: 2 Maori Affairs Manawatu County Council 1949 – 1973, Archives Central, Fielding. SW Document Bank, volume 3, p.112; Maori Land Online: <http://www.maorilandonline.govt.nz/> accessed November 2016.

⁵⁵⁷ Otaki Minute book 71, 6 November 1964 p. 172.

⁵⁵⁸ Court Summonses Issued, 25 October 1985 & 24 June 1986, Treasurer, Manawatu County Council, 28 March 1988, MDC 00024: 59 :11 Finance Rates - Prosecutions Manawatu County Council 1982 – 1988, Archives Central, Feilding. [Contains a large number of names and addresses so not copied.]

As noted above, the Manawatu County Council was abolished in 1989 and the Manawatu District Council established. Included in the Manawatu District Council's 2015 rates remission and postponement policy is a small section relating to Maori land. It notes that the Council is required under section 102 of the Local Government Act to have a policy on the remission and postponement of rates on Maori freehold land but that section 108 of the same Act, 'prescribes that policy does not require Council to provide for remission of, or postponement of, the requirement to pay rates on Maori freehold land'. Further:

Council is aware that there is little, if any undeveloped Maori freehold land within the District that may require a policy to provide rates relief. It is also aware that applications for rates relief that meet certain criteria can be considered under existing Council policies and legislation. As a consequence, the Council will not provide for any remissions or postponements under this policy.⁵⁵⁹

The Council's rates postponement policy states that the council's policy is essentially to 'work with' rate-payers who have not been paying their rates. The policy states that the council had:

...never experienced a situation where a ratepayer has got into extreme financial hardship and where rates postponement may have been a solution. Accordingly, it does not believe it is necessary to postpone rates for those rate payers who are in arrears. Instead Council will work with those ratepayers to manage the payment of their rates.⁵⁶⁰

Images from Maori Land Online in 2016 indicate that the remaining Maori land blocks within the district such as the Aorangi, Rangitikei Manawatu C (near Ohakea) and Reu Reu blocks are utilised for farming purposes. Maori Land Online does not provide details as to whether these are leased to Pakeha or leased to Maori owners or whanua of owners. Apart from these areas there are few other Maori land blocks within the District and these are small. (The Himatangi blocks are now within the Horowhenua District.)

⁵⁵⁹ Manawatu District Council, Rates Remission and Postponement Policy, 2015; and Rating System, LTP, 2012, Manawatu District Council website: <http://www.mdc.govt.nz/Home>; accessed 5 November 2015.

⁵⁶⁰ Rating System, LTP, 2012-2022, Manawatu District Council website: <http://www.mdc.govt.nz/Home>; accessed 5 November 2015.

While it has not been possible in the timeframe to investigate the extent to which not providing for remissions or postponements affects the Maori freehold land within the District, it is of note that concerns have been expressed by claimants with the way the Manawatu District Council continues to rate Maori land. Te Kenehi Teira states that within the last few years he has been sent rates demands for Maori land that he does not own or is trustee for. Despite advising the Council of this, the Council continued to send the rates demands and called the debt collector which he was concerned could affect his credit rating. He then had to undertake a title search to prove he was not the owner. He is therefore concerned that the Council are not being proactive about maintaining their databases as they relate to Maori land. He states that the Council needs to ensure that changes made to titles at the Maori Land Court are reflected in Council records.⁵⁶¹

6.20 Rating Summary

Rates on Maori land received from the Crown under the Crown and Native Lands Rating Act 1882 were said to total £1500 and to be spent by the Manawatu County Council on the Foxton to Sanson Tram. This indicates that the rates were not spent on anything that specifically related to the provision of services for Maori. This also suggests that the Council wished to bypass Maori needs and concentrate on what benefited European settlement.

While the Manawatu County Council complained in the late nineteenth century and the first twenty years of the twentieth century about the lack of payment by Maori of rates, unlike other Council's there is no record of Maori within the County boundaries being taken to the Magistrates' Court for non-payment of rates or of liens being registered under the 1913 Act. This changed in the 1930s with Maori being taken to Court for non-payment of rates. This may have been due to the Council trying to recoup £4000 of unpaid rates levied during the Depression years, of which £600 (15 percent) had been levied on Maori land.

In the 1930s, Taite Te Tomo was at odds with the Council about the rating of the Te Whakawehe Reserve which contained urupa and a marae. That five acres containing the urupa was exempted from the payment of rates was testament to the perseverance of Mr Te Tomo with the evidence suggesting that the County Clerk was very reluctant to engage on the

⁵⁶¹ Conversation with Te Kenehi Teira and Suzanne Woodley, 9 March 2017.

matter. There was also never any suggestion that a further five acres could be exempted for the marae. The original order reserving the land and declaring it inalienable had to be changed so that the remainder of the reserve could be leased and become revenue producing. While this was also so that money could be raised to improve the marae on the land, it was also so that rates could be paid.

The taking to the Magistrates' Court of Maori who did not pay their rates continued throughout the 1940s but it was not until 1951 that the first charging order application by the Council was heard by the Maori Land Court. In some instances, where charging orders were made, leases followed as they had also done in cases where owners had been taken to the Magistrates' Court. Charging orders also stayed on land that was not immediately leased or sold. They were only discharged when the land had earned sufficient revenue to pay them. This was sometimes years later. It is of note that the Manawatu County Council did not ever apply for receivership or vesting orders preferring to utilise civil remedies such as Magistrate Court judgements. There was also some liaison with the Maori Land Court so that ownership and occupation details of Maori land was kept up to date.

It is of note that the current policy of the Manawatu District Council is not to provide for remissions or postponements in relation to Maori freehold land though the extent to which this has affected Maori land in the inquiry district is not known. Concerns, however, have been expressed about the District Council sending rates demands to the wrong owners. This has caused the recipients distress and has been time consuming to rectify.

6.21 Papangaio J

Another issue raised in statements of claim that relates to the Manawatu County Council and to the Crown concerns the Papangaio J block located at the mouth of the Manawatu River at Foxton. As this also relates to the Foxton Harbour Board the discussion of this issue is located in a separate chapter which follows on from this one.

6.22 Maori contribution to decision making process of Manawatu District Council

As noted in the legislative section, the Local Authorities Act 2002 requires local authorities to 'establish and maintain processes to provide opportunities for Maori to contribute to the

decision-making processes of the local authority ... [and] consider ways in which it may foster the development of Maori capacity to contribute to the decision-making processes of the local authority'. A local authority must also 'provide relevant information to Maori' for the purposes of establishing and maintaining the processes.

Included in the Annual Report for the Manawatu County Council of 2016 is a section entitled 'The Maori Capacity to Contribute to Decision Making'. This records the establishment of the Council's Marae Consultative Standing Committee in 1998 which was renamed Nga Manu Taiko Manawatu District Council in 2015. It was formed, the report states, as a result of a request from a 'Tangata Whenua Representatives Group'. Its 'principal purpose' is to 'liaise between Council and local Tangata Whenua'. In addition, the Manawatu County Council states that the 'continuing focus' for the Committee is to 'ensure that all Maori of the district are represented, and are able to have a say in Council decision-making and that Council is liaising with the people who have mana whenua'.⁵⁶²

The membership of the Committee 'initially comprised one member from Aorangi, Kauwhata, Parewahawaha, Poupatate, Te Rangimarie, Taumata O Te Ra, Te Hiiri and Te Tikanga Marae, 'along with three appointed representatives of the Manawatu District Council'. The chairperson is appointed by the Committee. Representatives from the Marae of Kotuku and Te Iwa have also been added to the Committee. In May 2014, the Committee asked the Council to consider 'extending the membership of the Committee to include representation from the hapu of Ngati Te Au, Ngati Rakau (Motuiti Marae) and Ngati Turanga (Paranui Marae)'. It was noted that 'although they are located in the Horowhenua District, they have mana whenua status within the Manawatu District'. This was deemed to be a 'similar situation to Parewahawaha Marae which is located in the Rangitikei District but who have mana whenua status in the Manawatu District'. The Council accepted the Committee's request and invited representation from the three suggested hapu. The hapu of Ngati Te Au and Ngati Turanga 'are now represented on the Marae Consultative Standing Committee' (now Nga Manu Taiko Manawatu District Council).⁵⁶³

⁵⁶² Manawatu District Council Annual Report for the year ended 30 June 2016, Manawatu District Council website: www.mdc.govt.nz accessed 2016.

⁵⁶³ Ibid; Nga Manu Taiko Manawatu District Council Committee Terms of Reference, http://www.mdc.govt.nz/Your_Council/Committees/Nga_Man-Taiko_Manawatu_District_Council

As noted in the legislative chapter, the Local Government Act 2002, provides for the option of establishing Maori wards or constituencies. The Committee established a Maori Representation Working Party ‘tasked with the purpose of providing input to the Manawatu District Council representation review by considering the usefulness of a Maori ward or wards for the purpose of achieving effective Maori contribution to decision making at Manawatu District Council’. In 2005, they decided that such a ward was not necessary. The Working Party again met in 2011 and voted not to recommend the establishment of a Maori Ward at that time but that the matter would be revisited in the future.⁵⁶⁴

The Annual Report Maori representation statement concludes thus:

Nga Manu Taiko Manawatu District Council continues to represent the interest of Tangata Whenua – the people of the land, as well as those with mana whenua status within the Manawatu District and is inclusive of all Maori in our community.⁵⁶⁵

It was also noted by the Manawatu County Council that this policy does not replace ‘Council’s statutory obligation to consult with Iwi Authorities under legislation e.g. Resource Management Act. Manawatu District Council - Long Term Plan 2015-2025’.⁵⁶⁶

The terms of reference for the committee are:

To facilitate dialogue between the Manawatu District Council and Tangata Whenua with the representatives being responsible for representing and reporting the position of their respective bodies.

To identify issues and the processes for dealing with those issues.⁵⁶⁷

6.23 Ngati Kauwhata Statement of Claim (Wai 972)

⁵⁶⁴ Manawatu District Council Annual Report for the year ended 30 June 2016, Manawatu District Council website: www.mdc.govt.nz accessed 2016.

⁵⁶⁵ Ibid.

⁵⁶⁶ Manawatu District Council - Long Term Plan 2015-2025, pp. 167-169; Manawatu District Council website: www.mdc.govt.nz accessed March 2016.

⁵⁶⁷ Nga Manu Taiko Manawatu District Council Committee Terms of Reference, http://www.mdc.govt.nz/Your_Council/Committees/Nga_Man-Taiko_Manawatu_District_Council

In their statement of claim Ngati Kauwhata have stated that the Manawatu District Council has failed to:

- (a) Uphold the tino rangatiratanga of Ngati Kauwhata within its rohe;
- (b) Act in partnership with Ngati Kauwhata;
- (c) Provide adequate or appropriate representation for Ngati Kauwhata in its decision making processes; and
- (d) Adequately or appropriately consult with Ngati Kauwhata,

Further, that:

Instead of taking the take back to the marae of Ngati Kauwhata, the Manawatu District Council set up a Marae Consultative Standing Committee for its own purposes.

The Marae Consultative Standing Committee lacks any real power to influence Council decision-making. Instead, it acts as a 'rubber-stamp' on Council decisions.⁵⁶⁸

6.24 Marae Consultative Standing Committee, now Nga Manu Taiko Manawatu District Council

The Annual Report for the Council states that the items of business considered by Nga Manu Taiko Manawatu District Council reflect 'Council's current activities and issues identified by committee members'. Further, that the meetings 'provide a forum for regular communication and is one avenue for Tangata Whenua to have input into the council's decision-making processes'.⁵⁶⁹

In light of the claim by Ngati Kauwhata an examination of some of the Committee minute book index from 2006 to 2014 has been made. The index records that the following issues were discussed during this period (this is not a complete list):

⁵⁶⁸ Ngati Kauwhata Statement of Claim, Wai 972 # 1.001(b).

⁵⁶⁹ Manawatu District Council Annual Report for the year ended 30 June 2016, Manawatu District Council website: www.mdc.govt.nz accessed 2016.

- Affordability of building permit fees
- Bad smelling water supply in Makino Road (issue passed to Water Manager)
- Community Advisory Group Nominations
- Coastal Reserves Draft Plan and Management Plan (for comment)
- Community Development Funding Policy Review (for feedback and to identify any further opportunities for input)
- Concerns from Aorangi Marae regarding a proposal concerning Waughs Road (safety issues and traffic flows)
- Community Trust Proposal (recommendations were made by the Committee)
- Request by Te Mauri O Rangitane O Manawatu (Tanenuiarangi Manawatu Inc) to form a memorandum of understanding with Council (Committee was of the view that it was not appropriate).
- Consideration of Terms of Reference of Committee (for discussion and possible review)
- Wahi Tapu sites (The Principal Planner provided a report to the Committee updating them on status of sites around the mapping, identification, impact of sale of land and use of land)
- Relationship with Ngati Turanga (concern was expressed by Ngati Turanga regarding lack of consultation with hapu in regard to Himatangi Beach Wastewater Project. Representative was invited to meet with Committee members with option of a representative from Parewahawaha Marae becoming part of Committee).

The Committee also received updates or information on:

- Amalgamation, Boundary Change, Cross Boundary Services between Manawatu District Council and Palmerston North City Council
- Clean up fund: towards process improvements for Fielding Wastewater Treatment Plant
- Community Archives

Reference was also made to members of the Committee being part of the following Working Parties:

- Maori Consultation Working Party;
- Land Passage Working Party;

- Waahi Tapu Working Party; and
- Oroua Catchment Care Group

Also of note was a discussion concerning an assessment that was being made of the Council's 'consultation with tangata whenua'. This was required under the District Plan Review in 2013. It was noted that the Council's 'general mechanism for consulting' was through the Committee and that this remained the Council's 'primary method for consulting'. The Community Services Group Manager noted too that the Council had sought legal advice on the matter to ensure that the Council was meeting its 'consultation obligations under the Resource Management Act 1991, particularly for those iwi groups that have an interest in parts of the Manawatu District but are not represented through the Marae Consultative Standing Committee'. The advice received was that the Council 'must engage with groups who come forward and who the Crown has identified under section 35A of the Resource Management Act'. The Committee was to be advised if groups came forward.⁵⁷⁰

An examination of these minutes suggests that Nga Manu Taiko Manawatu District Council is asked to comment on many issues proposed by the District Council and provides feedback and recommendations on them. The committee therefore appears to have more of a consultative role rather than a decision making one. As well, the minutes suggests much information sharing by the District Council with Nga Manu Taiko Manawatu District Council on various policies of the Council and the progress being made with particular projects.

⁵⁷⁰ Manawatu District Council, Marae Consultative Standing Committee Minute Book Index (April 2006 - August 2014), p. 8, MDC 00499: 1: 1 Marae Consultative Standing Committee Minute Book Includes subject index at the front of the volume. Manawatu District Council [II], 2006 – 2014 Archives Central, Feilding.

7. Foxton Harbour Board, Manawatu County Council and Papangaio J

7.1 Statement of claim (Wai 1618)

Issues relating to the leasing by the Foxton Harbour Board of the Maori owned Papangaio J block and accretion to the block, and its subsequent purchase by the Crown and transfer to Manawatu County Council, have been raised in a statement of claim. The claim was submitted by Milton Rakei Te Kura Rauhihi, Hayden Bronsley Turoa and Edward Whatanui Devonshire on behalf of themselves and Nga Hapu o Himatangi, being members of Ngati Te Au, Ngati Turanga and Ngati Rakau (hapu of Ngati Raukawa). They state that the Crown, in breach of the Treaty of Waitangi, has:

- (a) failed to act in good faith towards the Hapu in terms of the dealings relating to the Claim Area, and the subsequent acquisition by the Crown, of the lands of the Hapu;
- (b) failed in its duty to actively protect the tino rangatiratanga of the Hapu in respect of the Claim Area; and
- (c) failed to protect their land base by acquiring land via direct purchase, and by way of Legislation, including without limitation the following Acts:
 - (i) Foxton Harbour Board Act 1876;
 - (ii) Harbour Board's Act 1876;
 - (iii) Counties Amendment Act 1885;
 - (iv) Reserves and Other Lands Disposal Act 1956;
 - (v) Reserves and Other Lands Disposal Act 1965; and
 - (vi) Reserves and Other Lands Disposal Act 1968.⁵⁷¹

The statement of claim also provides a background to the acquisition of Papangaio J in 1965 some of which has been incorporated into the following discussion.

⁵⁷¹ Statement of Claim of Milton Rakei Te Kura Rauhihi, Hayden Bronsley Turoa and Edward Whatanui Devonshire on behalf of themselves and Nga Hapu o Himatangi, being members of Ngati Te Au, Ngati Turanga and Ngati Rakau (hapu of Ngati Raukawa), Wai 1618 # 1.1.

7.2 Papangaio J

Papangaio J is located at the mouth of the Manawatu River at Foxton Beach which is about six kilometres from Foxton. Title to the 800 acre Papangaio block was investigated by the Maori Land Court in 1891 and awarded to 78 owners. The block was partitioned on 3 May 1923 into nine parts including Papangaio J which comprised 100 acres 1 rood and 30 perches. It was awarded to 78 owners all of whom had an interest in Papangaio A-H. Papangaio J was said to have included an area that was ‘in the river or had shifted to the north bank of the river’.⁵⁷²

That there was a portion of the block that lay south of the river and another portion that lay north of the river was also noted when an application was made on 31 July 1946 to have Papangaio A-H and J vested in the Ikaroa District Maori Land Board (later Maori Trustee). Hone McMillan told the Court that he had met with owners from both Otaki and Foxton who ‘unanimously’ agreed to the vesting ‘with the exception of Papangaio J’. The owners, he said, were ‘under the impression that the subdivision was occupied by Europeans who were erecting cottages thereon’. Their objections to the vesting related only to that portion of the subdivision lying north of the river. The Court made the order in respect to Papangaio A-H and this area of Papangaio J south of the river. Lands and Survey Department officials later reported that the owners ‘wanted that portion of Papangaio J lying to the south of the river vested in the Board for [sand dune] reclamation, farming and other purposes’ (together with Papangaio A-H). The owners ‘wished to deal with the piece of Papangaio J lying to the north of the river mouth themselves’. This was due to part of it being occupied (without the permission of the Maori owners) which the owners were said to be seeking compensation for.⁵⁷³

Of note is that by 1957 no reclamation had been done on any of the Papangaio blocks with the Maori Affairs Department claiming that it was ‘beyond the resources of the Maori Trustee

⁵⁷² Walghan Partners, Draft, 1 May 2017, volume 3, pp. 154-157; Director General, Department of Lands and Survey to Secretary for Maori Affairs, 4 November 1963, ACIH 16036 MA 1/149 5/13/255 Papangaio J Block, Accretion of land at Foxton, 1963-1965, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 8-9.

⁵⁷³ Otaki Minute Book 63, 31 July 1946, pp. 4, 65-66; Department of Lands and Survey District Office to Secretary for Maori Affairs, 24 March 1961, ACIH 16036 MAW2459 50 5/14/2 part 2 Rerengaohau and Papangaio Blocks – Sand Dune Reclamation, 1957-1962, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 37.

to handle the job'. The Judge, when considering the application to have the terms of the trust varied so the Trustee could sell the land (instead of carrying out the reclamation works) noted that for ten years the Maori Trustee had done 'nothing whatever as trustee' and that he should have 'applied for relief'. He also pointed out that the value of the land may have 'deteriorated through the trustee failing to do what he was appointed to do' and as a consequence the Lands Department would be able to 'buy at the depreciated price'. In October 1959, the Maori Land Court varied the trust so Papangaio A-H comprising 662 acres could be sold for £1191.12.0 less £100 survey costs to the Lands Department. Officials justified the sale stating that the policy of sand dune reclamation work 'should be in the hands of the Department of Lands and Survey and the NZ Forest Service'. The Lands Department was undertaking afforestation of the area and wanted to include the Papangaio blocks in the scheme.⁵⁷⁴

Also in 1959, the Director General of Lands explained how the river had changed its course during the previous 50 years 'with the result that Papangaio J, which was 'formerly on the south side of the river is now either in the present river bed or on the northern bank of the river'.⁵⁷⁵

In 1961, the Court heard an application to cancel the section 438 order in respect to Papangaio J. The minutes of the hearing record that a Mr Mason (presumably for the Maori Trustee) said that it had been proved that there was no land south of the river in the subdivision and that the Trustee could not carry out the trust. The Court ordered that the trust of 31 July 1946 be dissolved.⁵⁷⁶

7.3 The Foxton Harbour Board, 1876-1956

The Foxton Harbour Board was first constituted in 1876 under the Foxton Harbour Board Act 1876 for the purpose of administering the Port of Foxton. The *Manawatu Standard* reported that after a number of years the Harbour Board 'flickered out, and the control lapsed to the

⁵⁷⁴ Otaki Minute Book 66, 5 April 1957, pp. 392-393; Otaki Minute Book 68, 28 October 1959, p. 6, Chief Surveyor to Secretary for Maori Affairs, 24 March 1961, ACIH 16036 MAW2459 50 5/14/2 part 2 Rerengaohau and Papangaio Blocks – Sand Dune Reclamation, 1957-1962, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 37.

⁵⁷⁵ Director General of Lands to Minister of Lands, 19 October 1959, ABWN W5021 6095 Box 591 22/2843 part 1 Wellington Land District – Foxton Harbour Board, 1956-1963, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 45.

⁵⁷⁶ Otaki Minute Book 69, 20 April 1961, p. 2.

Government'. The Port was then administered by the Railway, Agricultural and Marine Departments. In 1908, Foxton residents petitioned the government to re-establish a Board and as a result further legislation was enacted that year - the Foxton Harbour Board Act 1908. Under sections 8 and 9 of the 1908 Act, land described as 'endowment land' was vested in the Harbour Board which it was able to lease.⁵⁷⁷

The endowment land comprised three parts. The first was all the foreshore on both banks of the Manawatu River 'commencing at the south-eastern corner of Whirokino No 3, McGregor's Bend, and extending thence to the mouth of the said river as far as high-water mark'. The second portion comprised sections Nos 268 (112 acres) and 270 (248 acres), 'being the Pilot-station Reserve' which was located at Foxton Beach. The third area was situated in the township of Carnarvon (Himatangi) which was north of Foxton township and comprised 418 acres. It was described as 'section number 332 on the official plan of the said township, and formerly known as the Omarupapaku Bush, but now designated the Signal-station Reserve'.

Section 4 of the Act specified the make-up of the Harbour Board which was to constitute seven members, one of whom was to be the Mayor of the Borough of Foxton. As well, one member each was to be appointed by the Governor; the Manawatu County Council, the Palmerston North Borough Council, the Feilding Borough Council and the Levin Borough Council. All those appointed by a local authority had to be a member of that body. The final member was a person elected by the 'electors of the Borough of Foxton'.

During this period when the endowment areas were vested in the Foxton Harbour Board, the Board subdivided and leased part of the Maori owned Papangaio J block and accretion to the block which adjoined the endowment land. About 17 leases were granted by the Harbour Board over Papangaio J and the accretion with lessees subsequently building dwellings and making other improvements to the land. According to the Maori owners, 'over the years' they objected to the Harbour Board not only granting leases over their land but also the vesting in

⁵⁷⁷ *Manawatu Standard*, 14 May 1908, p. 2.

the Harbour Board of the former river bed. Nothing, however, was done to rectify the matter.⁵⁷⁸

In the 1950s it was proposed to abolish the Harbour Board as authorities considered there to be 'no further need for the maintenance of a port at Foxton'. In March 1955, the Minister of Lands approved, subject to the Harbour Board being abolished, that the Foxton Beach township endowments be disposed of to the Manawatu County Council provided a 'satisfactory figure' was agreed to. The Council was to be 'allowed to develop and administer the land provided the tenants are given security of tenure'.⁵⁷⁹

7.4 Reserves and Other Lands Disposal Act, 1956

It would seem that some months later, the Maori owners of Papangaio J became aware of the pending transfer of the endowment lands including the area that they considered to be accretion to Papangaio J. In July 1956, JDB Joseph wrote to the Minister of Maori Affairs, Mr Corbett, about the matter. He enclosed plans from 1889 of the Manawatu River which he said showed how the river had broken through and 'cut off Papangaio J' (so that a portion lay both to the north and to the south of the river). That portion of Papangaio J that lay north of the river had, Mr Joseph said, 'been utilized by the Harbour Board and in the vicinity of about 100 houses ... [had] been built there'. He noted that the Harbour Board had leased sections and collected rents from the lessees. He said that the whole of Papangaio and the accretion on the south end of Papangaio J was Maori property. Also, that the river was 'travelling more than 1 chain [20 metres] per year' and was cutting off Papangaio to the south side of the river and building up Papangaio J on the north bank. He also asked that he and several others meet with Mr Corbett. It does not appear, however, that a meeting was held at this time.⁵⁸⁰

⁵⁷⁸ Director General, Department of Lands and Survey to Secretary for Maori Affairs, 28 November 1963, ACIH 16036 MA 1/149 5/13/255 Papangaio J Block, Accretion of land at Foxton, 1963-1965, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 32-34.

⁵⁷⁹ E Corbett, Minister of Lands to Sir Matthew Oram, Minister of Marine, Parliament Buildings, 2 September 1955, MDC 00024 : 18 : 8 Land - Accretion - Papangaio J. Block & vesting of Foxton Harbour Board Endowment Manawatu County Council 1955 – 1966, Archives Central, Feilding. SW Document Bank, volume 3, p. 115.

⁵⁸⁰ JDB Joseph, Foxton to Corbett, Minister of Maori Affairs, 16 July 1956, ACIH 16036 MAW2459 50 5/14/2 part 1 Rerengaohau and Papangaio Blocks – Sand Dune Reclamation, 1943-1956, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 36.

Some of the owners engaged the assistance of ET Tirikatene, MP for Southern Maori in October 1956. He also wrote to the Minister of Maori Affairs, Mr Corbett, advising that a deputation comprising Mr Joseph, Pei Hurinui Jones and Roy Roore wished to meet with him in connection with Papangaio J.⁵⁸¹ A meeting was arranged for 18 October 1956. The content of the meeting was not recorded on Maori Affairs files but Pei Te Hurinui Jones thanked Mr Corbett on 7 November 1956 for receiving the deputation and noted that he had since been supplied with a copy of the Reserves and Other Lands Disposal Bill, 1956. This legislation not only abolished the Foxton Harbour Board and provided for the transfer of its endowment land to the Manawatu County Council but it allowed for the investigation of the title to the accretion to the Papangaio J block.⁵⁸² Sub-section 6 of section 21 of the Reserves and Other Lands Disposal Act 1956 stated:

If any portion of the endowment area is found by the Maori Land Court to be accretion to Papangaio J Block over which title should be granted to the owners of that block, that portion shall thereupon cease to be subject to the provisions of this section, and the Minister of Lands may vary, in such manner as appears to him to be just and reasonable in the circumstances of the case, the terms and conditions set out in subsection five of this section.

7.5 Papangaio J leases

As noted above, the Foxton Harbour Board had leased some of the Maori owned Papangaio J block and what was later found to be accretion to the block and dwellings built. The County Clerk of the Manawatu County Council reported in 1958, that there were 17 tenancies over the Papangaio J block though five were only partially within the block. The annual rental ranged from between £1.9.9 to £7 and totalled £68.10.3. He reported that all rentals had been paid to 30 September 1958 with the exceptions of three lots which had been paid to 30

⁵⁸¹ ET Tirakatene, MP to EB Corbett, Minister of Maori Affairs, 9 October 1956, ACIH 16036 MA 1/149 5/13/255 Papangaio J Block, Accretion of land at Foxton, 1963-1965, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 4.

⁵⁸² ET Tirakatene, MP to EB Corbett, Minister of Maori Affairs, 9 October 1956; Pei Te Hurinui Jones to EB Corbett, 7 November 1956; Director General, Department of Lands and Survey to Secretary for Maori Affairs, 4 November 1963; ACIH 16036 MA 1/149 5/13/255 Papangaio J Block, Accretion of land at Foxton, 1963-1965, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 4-5, 8-9.; County Clerk, Manawatu County Council to Sir Matthew Oram, Minister of Marine, 29 March 1955; Commissioner of Crown Lands to County Clerk, Manawatu County Council, 14 November 1957, MDC 00024: 18: 8 Land - Accretion - Papangaio J. Block & vesting of Foxton Harbour Board Endowment, Manawatu County Council 1955 – 1966, Archives Central, Feilding. SW Document Bank, volume 3, pp. 115-116.

September 1957. Therefore, arrears totalled £9.12.6. He said that an amount of £50 had been set aside each year for the financial years ending 31 March 1957 and 31 March 1958 in a trust account and that the credit at 31 March 1958 was £100. (This was as per an agreement made by the Manawatu County Council in 1956 to ‘pay the rents of buildings on Maori land into a Trust Account until matters were finalised’).⁵⁸³

7.6 Proposal to Purchase, 1956-58

Prior to the 1956 legislation being passed, the purchase of Papangaio J was discussed by the Lands and Survey Department who were involved with the transfer of endowment lands from the Foxton Harbour Board to the Manawatu County Council. In August 1956, the County Clerk of the Manawatu County Council advised the Minister of Lands that the Council agreed with the suggestion that the Crown endeavour to purchase Papangaio J prior to the handing over of the endowments. If, however, ‘considerable delay’ was experienced, he asked if it was possible to finalise the transfer of the present endowment area and that the Maori land be dealt with as soon as possible afterwards.⁵⁸⁴

The Director General reported in 1957 that verbal advice received from Mr Simpson of Morison, Sprat, Taylor & Co, a solicitor for the Maori owners of Papangaio J, indicated that the owners would sell. Mr Simpson was in 1960, described by Department of Lands and Survey officials as the solicitor for ‘a section of the Maori owners’.⁵⁸⁵

The purchase was considered desirable because the Crown believed that for, ‘proper administration’ Papangaio J should be added to the endowment area. The Department also described the addition of the land to the endowment and having the whole area under the control of the Council as ‘regularis[ing] the position’. The Crown’s view was further set out in a submission to the Land Settlement Board which sought approval for the purchase in

⁵⁸³ Assistant Commissioner of Crown Lands to County Clerk, Manawatu County Council, 12 September 1958; County Clerk, Manawatu County Council to Commissioner of Crown Lands, 22 September 1958, MDC 00024: 18: 8 Land - Accretion - Papangaio J. Block & vesting of Foxton Harbour Board Endowment, Manawatu County Council 1955 – 1966, Archives Central, Feilding. SW Document Bank, volume 3, pp. 117-118.

⁵⁸⁴ Manawatu County Council to Minister of Lands, 15 August 1956, MDC 00024: 18: 8 Land - Accretion - Papangaio J. Block & vesting of Foxton Harbour Board Endowment, Manawatu County Council 1955 – 1966, Archives Central, Feilding. SW Document Bank, volume 3, p. 119.

⁵⁸⁵ Submission to Land Settlement Board, 7 October 1959; Commissioner of Crown Lands to Director General of Lands, 16 February 1960, ABWN W5021 6095 Box 591 22/2843 part 1 Wellington Land District – Foxton Harbour Board, 1956-1963, Archives New Zealand, Wellington. Mr Simpson was also the solicitor for some of the Maori owners of Ngarara West A14B1 (Te Karewarewa Urupa)). SW Document Bank, volume 6, pp. 42-46.

1959. It said that the presence of the Maori owned land in a ‘popular and expanding holiday resort ... [was] hampering the development and improvement of the area’. The submission also noted that the Maori land cut into the residential area of the Foxton Beach township but that this was because of a ‘lack of survey data’ which had meant that the Foxton Harbour Board had ‘issued leases over part of the Maori land and collected rentals from the lessees’. Another portion of Papangaio J was also said to form part of the camping ground at the beach.⁵⁸⁶

It was also claimed in the submission that ‘the successors of the original Maori owners of the block had taken little or no interest in the area until the Crown offered to buy the land’. This statement, however, does not marry with the actions of the owners in vesting the lower portion of Papangaio J in the Maori Land Board for ‘reclamation, farming and other purposes’ (together with Papangaio A-H) in 1946 (which, as noted above the Maori Land Board and its successor agency the Maori Trustee did not do). The owners said at the time that they ‘wished to deal with the piece of Papangaio J lying to the north of the river mouth themselves’ but it would be fair to assume that there were difficulties with this given the Foxton Harbour Board’s continued trespass of the land. This was not noted in the submission in favour of purchasing which was approved in October 1959.⁵⁸⁷

A letter submitted to the Minister of Lands by the Director General of Lands to seek approval for the expenditure involved in purchasing the land also blamed a lack of ‘reliable survey data’ for the Foxton Harbour Board’s actions in granting leases over Maori owned land. The Director General noted too that not only had houses been built but roads constructed as well as a public camping ground. He also stated:

As it is desirable that the whole of the township area should be under the control of the Manawatu County Council in order to allow the roading and development of the beach township to be carried out, the Land Settlement Board at its meeting of 7

⁵⁸⁶ Director General of Lands to Minister of Lands, 17 July 1957; Submission to Land Settlement Board, 7 October 1959, ABWN W5021 6095 Box 591 22/2843 part 1 Wellington Land District – Foxton Harbour Board, 1956-1963, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 39-44.

⁵⁸⁷ Submission to Land Settlement Board, 7 October 1959, ABWN W5021 6095 Box 591 22/2843 part 1 Wellington Land District – Foxton Harbour Board, 1956-1963, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 42-45; Department of Lands and Survey District Office to Secretary for Maori Affairs, 24 March 1961, ACIH 16036 MAW2459 50 5/14/2 part 2 Rerengaohau and Papangaio Blocks – Sand Dune Reclamation, 1957-1962, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 37.

October 1959 agreed to enter into negotiations with the Maori owners to acquire their interests in the Papangaio J Block at a figure of up to £4,000 plus a proportion of accrued rents received from the lessees on the area.⁵⁸⁸

Approval was then given by the Minister of Lands to the purchase.⁵⁸⁹

In September 1960, Mr Simpson advised the Commissioner of Crown Lands that unless the Crown conceded that the area west and at the northern tip of Papangaio J was the property of the Maori owners it was proposed to make application to the Court under section 21 of the Reserves and Other Lands Disposal Act 1956. The Commissioner of Crown Lands advised the Director General that he considered that the Crown should contest the claims of the Maori owners which was agreed to by the Director General.⁵⁹⁰

7.7 Maori Land Court, May 1962 & Appellate Court, December 1962

It was not until 15 May 1962 that the application to investigate title to the accretion to the Papangaio J block was heard by the Maori Land Court before Judge Jeune. The Court said it was authorised by the 1956 Act to determine ‘whether any part of the endowment area is accretion to Papangaio J block over which title should be granted to the owners of that block’. The Court stated that accretion could not be obtained until it was claimed and by this application the owner had claimed it’.⁵⁹¹

The Court found that the old river course had ‘gradually and imperceptibly dried up’ and that one half of it, the south-eastern half, was accretion to Papangaio J Block and the other half was accretion to sections 268 and 270 (‘or to the legal road along the boundaries thereof’) which was the endowment land. The Court also found that the:

⁵⁸⁸ Director General of Lands to Minister of Lands, 19 October 1959, ABWN W5021 6095 Box 591 22/2843 part 1 Wellington Land District – Foxton Harbour Board, 1956-1963, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 45.

⁵⁸⁹ Ibid.

⁵⁹⁰ NF Simpson, Morison, Spratt, Taylor & Co to Commissioner of Crown Lands, 13 September 1960; Assistant Commissioner of Crown Lands to Director General of Lands, 29 September 1960; Director General of Lands to Commissioner of Crown Lands, 3 October 1960, ABWN W5021 6095 Box 591 22/2843 part 1 Wellington Land District – Foxton Harbour Board, 1956-1963, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 47-48.

⁵⁹¹ Otaki Minute Book 69, 15 May 1962, pp. 291-301

... dry land above high-water mark to the west of Papangaio J block and of the accretion to it as above found gradually and imperceptibly was formed and is also accretion to Papangaio J Block. This area of accretion which for the purposes of the said subsection (6) the Court hereby finds as accretion is all the land to the south-west of a line drawn from where the middle line of the old river meets highwater on the north bank of the present course and extending north westerly along such middle line until it meets a line drawn from the extreme north tip of Papangaio J block in a northerly direction and to the south of a line drawn from such point of meeting in a westerly direction until it meets the high-water mark of the Tasman Sea.⁵⁹²

The Court ordered that the ‘portion of the endowment area to the southwest of the middle line of the old river and to the south of the line proceeding thence westerly as above set out is accretion to Papangaio J Block title to which should be granted to the owners of that block’. Leave was ‘reserved to either party to move for such order further or other order than may be necessary or expedient including an order for costs’.⁵⁹³

A file note on the Lands and Survey Department indicated that the Department was unhappy with the judgement which declared that the owners of Papangaio J were ‘entitled to accretion to the mid-point of the old Manawatu riverbed’. It was noted that the Judge’s reasons were ‘lengthy’ but that the ‘main point’ was that he ‘disregarded completely a compiled plan prepared by the chief surveyor for the purposes of the Foxton Harbour Board Act 1908’. Therefore:

Serious consideration must be given to an appeal as the consequential effect on the Crown financially may be great.⁵⁹⁴

The Acting Director General also commented in a letter to the Solicitor General that at the hearing Mr Simpson had appeared for the owners with whom the Crown had been negotiating. Also in attendance was a Mr Bergin of Bergin and Cleary who appeared for ‘certain other owners’. This was, he said, a ‘surprise to the Department’. He said that Mr

⁵⁹² Otaki Minute Book 69, 15 May 1962, pp. 291-301.

⁵⁹³ Ibid.

⁵⁹⁴ Lands and Survey Department file note, 16 May 1962, ABWN W5021 6095 Box 591 22/2843 part 1 Wellington Land District – Foxton Harbour Board, 1956-1963, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 50.

Bergin raised additional claims to that already raised by Mr Simpson and claimed that the Maori owners were 'entitled to accretion to the east of Papangaio J including part of the former bed and mouth of the Manawatu River'. He said that if the decision of the Court was left unchallenged the owners of Papangaio J would have 'rights to a considerable area of endowment land' which was subject to a number of leases on which many residences had been erected. He considered the finding of the Court to be 'wrong in fact and in law'. The matter was therefore referred to the Solicitor General to appeal against the decision if considered justified.⁵⁹⁵

The decision was indeed appealed to the Appellate Court by the Crown in respect to the finding that 'half of the old Manawatu River bed was accretion to Papangaio J Block'. Of note is that prior to the Appellate Court hearing but after the Maori Land Court's initial order, the Chief Judge of the Maori Land Court wrote to Judges Smith and Sheehan who were to hear the case. The Chief Judge said that the appeal into Papangaio J appeared to him to be a 'major one on the law of accretion'. He said that it would involve 'many interests and a valuable area of land with numerous dwellings, etc., on it and that it ... [was] of the importance of say the appeal on Lake Omapere which had all the Judges other than the Chief Judge who felt himself disqualified'. Accordingly, he had tried to arrange a bench of five instead of three judges. This was not, however, possible, so had done the 'next best thing by adding Judge Davies to the panel who could sit by postponing hearings at Whanganui. He also said that he was 'aware of the potential danger of this but ... consider[ed] that under the circumstances such risk is justified'. He did not elaborate further on what this risk was but he may well have been referring to the Court being tied two-all.⁵⁹⁶

On 13 December 1962, the earlier decision of the Maori Land Court was annulled and the Maori Appellate Court found that there was accretion to the block, but over a smaller area. The area found not to be accretion was the area of the Manawatu River Bed. The area found to be accretion was the 'subject of legislation in 1908 and 1924 which vested the land and

⁵⁹⁵ Acting Director General of Lands to Solicitor General, 18 June 1962, ABWN W5021 6095 Box 591 22/2843 part 1 Wellington Land District – Foxton Harbour Board, 1956-1963, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 51-52.

⁵⁹⁶ Chief Judge of Maori Land Court to Judges Smith and Sheehan, 11 September 1962, ACIH 16036 MA 1/149 5/13/255 Papangaio J Block, Accretion of land at Foxton, 1963-1965, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 7; Acting Commissioner of Crown Lands, Department of Lands and Survey to County Clerk, Manawatu County Council, 18 January 1963, MDC 00024: 18: 8 Land - Accretion - Papangaio J. Block & vesting of Foxton Harbour Board Endowment, Manawatu County Council 1955 – 1966, Archives Central, Feilding. SW Document Bank, volume 3, p. 120.

other land in the Foxton Harbour Board as an endowment’.⁵⁹⁷ That is, some of the land ruled to be accretion to Papangaio J was land vested in the Harbour Board as part of their endowment land.

The decisions of the Courts traverse complex legal issues and are perhaps best left for legal submission. For the purposes of this report the decisions are usefully summarised in a letter from the Acting Commissioner of Crown Lands to the County Clerk of the Manawatu County Council in January 1963. He said that the result of the Appellate Court differed from the Lower Court in that it found ‘only the portion of the endowment area lying to the south of a line drawn from the tip of Papangaio Block due west to the sea ... [was] accretion to that block over which title should be granted to the owners of that block’. He added that it was the intention of both Maori and the Crown to accept that finding.

The accretion awarded to Maori comprised three areas totalling about 72 acres. The areas comprised 46 acres 1 rood; 24 acres 10 perches and 1 acre 3 roods. The latter two areas were those areas that the Foxton Harbour Board has assumed title over, had been leased and where houses had been built.

These three areas awarded to Maori and the two parts of the Papangaio J block are shown in the map below. Also, shown in the map is the Foxton Harbour Board endowment area which overlapped areas of what was ruled by the Appellate Court as accretion to Papangaio J and therefore owned by the Maori owners of Papangaio J. While the coastline is shown as at 1962, the blocks are overlaid on a 2016 map. Therefore, the position of the river is as per 2016.

⁵⁹⁷ Hawkes Bay Maori Appellate Court Minute Book 8, 13 December 1962, p. 317.

Map 9: Papangaio J and Papangaio J Accretion, 1962



7.8 Manawatu County Council Plans, August 1962

Between the Maori Land Court sitting and the Appellate Court decision, the *Manawatu Daily Times* reported that a plan to establish a toll gate and parking area at the Ocean Beach ramp at Foxton had been deferred due to ‘legal technicalities in connection with Maori land’. It was reported that the chair of the Manawatu County Council, WL Carter, together with SL Kent, the County Clerk, had met with the Minister of Marine ‘to obtain finality on the council’s request for the control of the foreshore, a decision necessary before the scheme could be completed’. The Minister was said to be looking into the matter and had ‘expressed concern at the decision of the Maori Land Court in granting a large area of the beach as accretion to the Papangaio Block already owned by the Maoris’. Mr Carter reported that the Minister considered the decision of the Court to be wrong and that the government had appealed again it. Since their meeting, the Minister had agreed in principle to the County taking over the foreshore but had asked that the scheme be deferred until the decision of the Appeal Court was known.⁵⁹⁸

It was also recorded in the article that the government had ‘undertaken to negotiate with the Maori owners for the Papangaio block and to hand it over to the county without further charge’. The matter of the appeal, Mr Carter said, ‘was one strictly between the Government and the Maori owners’. He also ‘made it clear ... that approval had been given in principle of the project, and that when the case was settled the county was committed to the scheme’.⁵⁹⁹

7.9 Purchase of Papangaio J

After the decision of the Appellate Court the Commissioner of Crown Lands wrote to the Manawatu County Council about the matter. It was noted that as the Lands and Survey Department had already sold the accretion within the endowment area to the Council the Department was ‘faced with the problem of either attempting to purchase this area found to

⁵⁹⁸ *Manawatu Daily Times*, 22 August 1962 extract in ACIH 16036 MA 1/149 5/13/255 Papangaio J Block, Accretion of land at Foxton, 1963-1965, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 6.

⁵⁹⁹ Ibid.

be Maori accretion, or reducing your [the Council] purchase figure to exclude the area and buying out the few lessees concerned'.⁶⁰⁰

The Commissioner also pointed out that Papangaio J Block, over which part of Barber Street had been built, 'plus the balance of the possible accretion to the south of that awarded by the Appellate Court' to Maori was entirely outside the dealings entered into with the County and not included in the sale. The leases granted within this area were, however, 'trespass on what is and always has been Maori land'. He noted too that as the lessees had accepted their tenure and improved their sites there was an 'obligation to those people of either rectifying their titles or compensating them accordingly'. Rectification, he said, 'could be effected by the purchase from the Maori owners of either all the Maori Land or just that part affected by the leases'. This, he said, would have to be at a price that suited Maori which 'of course, could not be less than the present day capital value including the lessees improvements'. Alternatively, the lessees could be 'compensated by a cash settlement so leaving the land Maori Land to be controlled and managed by the owners'. The Commissioner then offered to help the Council and save it from embarrassment:

Should your Council not desire to be embarrassed by the situation, which could develop if the land remains as Maori land, then this department would be prepared to enter into negotiations for purchase and ultimate disposal to you on similar lines to that which the endowment area was dealt.⁶⁰¹

Meetings were then held between the Council and the Department. The contents of these meetings have not been located but the outcome was that the Lands & Survey Department would attempt to purchase the block from the Maori owners.

On 16 October 1963, the Commissioner of Crown lands at Wellington reported to the Director General of Lands about the proposed purchase by the Crown of Papangaio J and the accretion to Papangaio J. He said that valuations of the various portions of the block had been made by the Valuation Department and that preliminary discussions had been held with

⁶⁰⁰ Acting Commissioner of Crown Lands, Department of Lands and Survey to County Clerk, Manawatu County Council, 18 January 1963, MDC 00024: 18: 8 Land - Accretion - Papangaio J. Block & vesting of Foxton Harbour Board Endowment, Manawatu County Council 1955 – 1966, Archives Central, Feilding. SW Document Bank, volume 3, p. 120.

⁶⁰¹ Ibid.

Mr Simpson described then as ‘the Solicitor for the Maori Owners’. It was noted that the method of acquisition was a matter of concern for Mr Simpson who considered that the owners would prefer one settlement concerning both areas (the accretion and the block). Mr Simpson suggested that the land be taken by proclamation but was informed that this ‘presented problems’ particularly with respect to the areas dealt with by the Court (the accretion). It was also considered by the writer that legislation was the most suitable means of compensating the owners and would be quicker than acquiring the block under Part XXI of the Maori Affairs Act 1953 ‘with its associated problems of obtaining new lists of owners and the application of section 260 [which related to being required to pay at government valuation]’.⁶⁰²

The Commissioner advised that he had discussed the value of the lands with Mr Simpson who had supplied the valuation obtained by the owners. This, the Commissioner said, showed that the government value was £13,265 compared to the owners’ total of £12,200 although the Maori valuation had been completed three years previously. Further:

It should also be noted that while the Maori Valuation of the area dealt with by the Court exceeds the Government value by £1,857, the Government valuation of J Block, that is the area to which section 260 of the M.A. [Maori Affairs] Act would normally apply, is £2,922 in excess of the Maori valuation. A two method acquisition therefore could well mean that the Crown is forced into paying the higher price in both cases. Special legislation as suggested above could avoid this.⁶⁰³

The government valuation given in 1963 was that made in 1961. The valuation of part of Papangaio J on the north bank of 39.5 acres (later adjusted to 39 acres 10 perches) was £11,017 (including improvements of £7865). The area of 1.75 acres where a number of dwellings had been built and had previously been considered by the Foxton Harbour Board to be Endowment land was valued at £2003. The other area considered to be endowment land of 24 acres was valued at £70 (no improvements). The other portion of accretion which was then

⁶⁰² Commissioner of Crown Lands, Wellington to Director General of Lands, 16 October 1963, Valuation Department to Department of Lands and Survey, 16 July 1963, ABWN W5021 6095 Box 591 22/2843 part 2 Wellington Land District – Foxton Harbour Board, 1963-1978, Archives New Zealand, Wellington. Check quote SW Document Bank, volume 6, pp. 53-57.

⁶⁰³ Commissioner of Crown Lands, Wellington to Director General of Lands, 16 October 1963, ABWN W5021 6095 Box 591 22/2843 part 2 Wellington Land District – Foxton Harbour Board, 1963-1978, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 53-54.

given as 38 acres (this was later changed on survey to 46 acres 1 rood) was valued at £115 (there were no improvements). The other piece of Papangaio J (river bank comprising 61 acres 1 rood 20 perches was said to be worth about £1 per acre and valued at £60. The total value was £13,265.⁶⁰⁴

In comparison, the Maori valuation totalled £12,200 which comprised £7,635 for Papangaio J, £960 for the 1.75 acres, £635 for the area of 38 acres (later changed to 46 acres 1 rood), and no value for the Papangaio J river bed.⁶⁰⁵

The Commissioner also said that discussions had not yet concerned themselves with a payment in respect to the 'adverse occupation of the Maori Land' though he felt this would be a subject raised by the owners. Such a payment, he said 'could best be included in a lump-sum settlement'. He recommended that an initial offer of £10,500 be made to the Maori owners in full satisfaction of all their lands and claims subject to the purchase being completed by special legislation. In addition, accrued rents on J block held by the Manawatu County Council should, he said, also be paid to the owners. Alternatively, the Maori owners could be offered, £12,200 in 'full satisfaction of all their lands and claims' if the acquisition of J Block was to be completed under Part XXI of the Maori Affairs Act. This represented £11,200 for J Block and £1,000 for the areas dealt with by the Court (the accretion). He emphasised that these would be initial offers and that no indication as to the acceptance or otherwise would be known until 'the very large number of owners had met to discuss the matter'. He considered it unlikely, however, that the owners would accept anything less than what had been mentioned. He asked that an early decision be made as Mr Simpson had mentioned that the owners were proposing approaching the Minister 'to achieve early finality on this matter'.⁶⁰⁶

The other issue raised by the Commissioner was the need to re-open negotiations with the Manawatu County Council noting that the County was at this stage 'reluctant to contribute

⁶⁰⁴ Valuation Department to Department of Lands and Survey, 16 July 1963, ABWN W5021 6095 Box 591 22/2843 part 2 Wellington Land District – Foxton Harbour Board, 1963-1978, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 55-57.

⁶⁰⁵ Ibid.

⁶⁰⁶ Commissioner of Crown Lands, Wellington to Director General of Lands, 16 October 1963, ABWN W5021 6095 Box 591 22/2843 part 2 Wellington Land District – Foxton Harbour Board, 1963-1978, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 53-54.

towards the purchase of J. Block but that because of the embarrassing position of the block may be persuaded into giving some financial assistance.’⁶⁰⁷

On receipt of this letter, the Director General of the Department of Lands & Survey wrote to the Secretary for Maori Affairs regarding the Department’s proposed purchase of Papangaio J. He firstly outlined the background to section 21 of the Reserves and Other Lands Disposal Act 1956 whereby the Foxton Harbour Board was abolished and the administration of the land formerly held by the Board transferred to the Manawatu County as an endowment part of which included the Foxton Beach township. The Director General noted that the township extended on to the Maori owned Papangaio J block and ‘at the time legislation was being considered, the Maori owners made representations regarding this block and also regarding claims to portions of the endowment area’. He said that ‘in order to protect the rights of the Maori owners’ the 1956 legislation was enacted which provided that if the Maori Land Court found any of the land vested in the Manawatu County Council for endowment purposes to be owned by Maori then the land ceased to be subject to the provisions of section 21 of the Act. Subsequently, he said, the Crown endeavoured to purchase part of Papangaio J Block of 39 ½ acres and accretion to it consisting of 38 acres (which was later found to be 46 acres 1 rood) and also the present riverbed of approximately 60 acres. The Crown, he stated, ‘did not contest ownership of these areas but did contest claims to portions of accretion containing 1.75 acres and 24 acres and a later claim for part of the original riverbed to the north of these areas’.⁶⁰⁸

The Director General also stated that Mr Simpson had advised that Maori were prepared to sell all the land to the Crown but difficulties had arisen as to the ‘easiest and quickest method of acquiring the areas’. The solicitor and the Department preferred one settlement embracing all the areas. Once settlement was effected it would be ‘necessary to validate the vesting the Manawatu County Council of the two areas dealt with by the Court’. He said that he understood that Papangaio J Block had a multiplicity of owners and that no succession orders have ever been made’. The Director General asked that in view of the ‘associated problems in obtaining a new list of owners for Papangaio J block’ which was required in order to arrange a meeting of owners to consider a purchase under Part XXI of the Maori Affairs Act 1953,

⁶⁰⁷ Ibid.

⁶⁰⁸ Director General, Department of Lands and Survey to Secretary for Maori Affairs, 4 November 1963, ACIH 16036 MA 1/149 5/13/255 Papangaio J Block, Accretion of land at Foxton, 1963-1965, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 8-9.

whether there was ‘any other easier method of acquisition of the block and the accretion area’. He suggested that it might be possible to vest the areas in the Maori Trustee with power of sale.⁶⁰⁹

Several Maori Affairs officials commented on the letter. One said that that the ‘easiest course would be as suggested, for either the lands or the solicitors to apply to the Court for an order under section 438 to sell’ (vested in the Maori Trustee for purpose of sale). A second official said that he did not think that there would be any ‘undue difficulty in getting a quorum for a meeting of assembled owners’ (indeed a quorum under the Act was at this time just three owners). He said that there were about 78 owners on the partition order and that a number of succession orders had been made since. In addition, he had ‘put through about 30 Papangaio successions’ himself several years previously which included the J block. He thought they could ask the Palmerston North Office for an up to date list of owners and addresses and that if they got on to the job ‘smartly’ then the meeting could be held in time to get the resolutions confirmed at the January Wellington Court.⁶¹⁰

The suggestion of the later official was taken up with Maori Affairs (Head Office) who asked the Palmerston North office to supply a search of the title together with an up to date list of the owners and addresses where known. It was also noted that it was the Office Solicitor who saw ‘no great difficulty’ in obtaining a quorum for a meeting of owners as a number of successions had been made since the block was partitioned. The Director General of Lands was also advised that the matter would be progressed in this way.⁶¹¹

(A list of owners was compiled which listed 305 names (though some had died) for the 100 acres, 1 rood 30 perches. Particulars of title revealed that there were no survey or rate charging orders on the land.⁶¹²)

⁶⁰⁹ Ibid.

⁶¹⁰ Secretary for Maori Affairs, Head Office to Director General, Department of Lands & Survey, 8 November 1963, ACIH 16036 MA 1/149 5/13/255 Papangaio J Block, Accretion of land at Foxton, 1963-1965, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 10.

⁶¹¹ Director General, Department of Lands and Survey to Secretary for Maori Affairs, 4 November 1963, ACIH 16036 MA 1/149 5/13/255 Papangaio J Block, Accretion of land at Foxton, 1963-1965, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 8-9.

⁶¹² List of owners; particulars of title, ACIH 16036 MA 1/149 5/13/255 Papangaio J Block, Accretion of land at Foxton, 1963-1965, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 12-22.

The Director General of Lands responded on 28 November that he did not wish to proceed in this way believing it preferable for the Crown to acquire title by special legislation ‘after first reaching agreement with the owners for an overall settlement’. He said that there were ‘several important side issues involved and ... more to be done than merely purchasing lands’. He explained that there was firstly a ‘title complication with respect to the area of endowment land which the Maori Land Court found to be accretion to Papangaio J over which title should be granted to the owners of the Block’, that secondly there was ‘the difficulty of section 260 Maori Affairs Act 1953’ which provided that the Crown had to purchase at capital valuation; and thirdly, there were ‘questions of compensation for trespass’.⁶¹³

He noted again to the Secretary for Maori Affairs that during the period that the endowment areas were vested in the Foxton Harbour Board that the Board obtained title to the former bed of the Manawatu River and leased and subdivided the land including part of Papangaio J Block ‘thus committing a trespass on those lands’. Also, that ‘strictly speaking the Board had no power to grant these leases and the Maori owners ... [were therefore] entitled to all the improvements erected on the land by the lessees’.⁶¹⁴

He also stated that the owners of Papangaio J Block had advised through their solicitors that over the years they had ‘objected to the Harbour Board against not only leases over the block proper, but also against the vesting in the Board of part of the former riverbed’. He reiterated that when the Foxton Harbour Board was abolished, section 21 of the Reserves and Other Lands Disposal Act 1956 was enacted under which certain areas of land, called the endowment area, were vested in the Manawatu County Council under subsection (6). Provision was therefore made for the Maori Land Court to enquire into the Maori claims that certain parts of the endowment area were actually accretion to the Papangaio J Block. The Court enquired into the position and found that indeed certain parts of the endowment area should be accretion to Papangaio J. He then outlined the ‘problem’ as he saw it:

A. Part of the area vested in the Manawatu County Council (hereinafter referred to as “the Corporation”) found by the Maori Land Court to be accretion to Papangaio J

⁶¹³ Director General, Department of Lands and Survey to Secretary for Maori Affairs, 28 November 1963, ACIH 16036 MA 1/149 5/13/255 Papangaio J Block, Accretion of land at Foxton, 1963-1965, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 32-34.

⁶¹⁴ Ibid.

Block over which title should be granted to the owners of that block. This land also requires to be dealt with as to –

- (1) Parts which are subject to leases granted by the Foxton Harbour Board
- (2) Parts of which have been the subject of leases by the Corporation; and
- (3) Parts still not alienated in any form

B. Papangaio J Block from the following aspects –

- (1) Land over which the Foxton Harbour Board committed trespass (which is still continuing) by granting leases and on which the lessees have erected buildings.
- (2) Unoccupied land
- (3) Land which the owners claim is accretion to Papangaio J Block but in respect of which application under the Land Transfer Act has not yet been submitted.

C. Settlement in respect of the trespass over the years.⁶¹⁵

The Director General also said that by reason of the finding of the Maori Land Court, the Minister was required, as per section 21(6) to ‘adjust the terms on which the endowment area is vested in the Corporation’ (the Manawatu County Council) noting that the Court order did not itself vest the land in the Maori owners. The order merely gave a finding in accordance with this subsection that ‘title should be granted to the owners of that block’. The benefit of arranging to compensate the Maori owners for the land instead of vesting title in them, he said, was that it would not be necessary to make any adjustment with the Corporation. That is, instead of making any adjustments with the Corporation, the Crown could compensate the Maori owners for all the accretion or ‘for so much of the accretion as has been subdivided and leased and over which the Crown desires to retain title’.⁶¹⁶

He said that if title to any of the land comprised in the order of the Court was granted to Maori it would be subject to any ‘valid dealing already made’. He also stated that the Crown was ‘required to consider the acquisition of Papangaio J Block to assure the lessees under the invalid leases granted by the Foxton Harbour Board of a good title or, alternatively, to

⁶¹⁵ Ibid.

⁶¹⁶ Ibid.

acquire and compensate them for the interests they have obtained from the Foxton Harbour Board'.⁶¹⁷

He also elaborated further on the issue of the valuation of the land noting that if the Crown acquired Papangaio J pursuant to Part XXI of the Maori Affairs 1953, the Crown 'must meet the difficulties of section 260 (1)'. This section stated that the Crown had to purchase land from Maori for a consideration no less than the capital value valued under the Valuation of Land Act 1951, which was, essentially, the government valuation of the land. In addition, he said, under 260(2) a special valuation might also be required. As all the improvements, could be claimed by Maori, the government valuation had to also include the value of the improvements. He advised too that the Commissioner of Crown Lands had obtained details of the government valuation of the lands to be acquired which was the total of all the individual areas subject to leases together with unleased area. The unimproved value was £4,160, improvements (effected by the lessees) were valued at £9,105 making a capital value of £13,265. Messrs Morison and Taylor (who acted for 'the owners' (how many of the owners was not specified) had obtained a valuation three years previously which gave an unimproved value of £12,200. He noted that the government valuation could 'only be compared' (was similar) with the owner's valuation because the owner's valuation did not include any improvements. So far, he said, the Maori owners in negotiations had not made any claim for the value of the improvements 'on their land' but if the matter was submitted to the Maori Land Court under Part XXI the Court was 'bound to insist that the Crown pay for these improvements'. He said that there was a 'substantial difference between the valuations ... held by the owners and the Crown for the lands exclusive of improvements'. The Maori Land Court, he said 'might require the Crown to purchase the land at the values fixed by the private valuers for the owners of the land exclusive of improvements plus the value of improvements as valued by the Valuation Department'. This meant that 'the Government valuation of £13,265 as at present made could be substantially increased by the Court'. He said that the 'difficulty' had been discussed with Mr Simpson who said that it 'could be overcome by taking the land by proclamation' and that 'it should be possible for the amount of compensation to be agreed upon and then there would be no objection as far as his clients

⁶¹⁷ Ibid.

were concerned to the formal taking of the land by proclamation'. This, he said, could be done under the Public Works Act for 'better utilisation'.⁶¹⁸

The Director General also elaborated on the question of damages for trespass noting that 'even conceding that the Minister would be prepared to use of the powers of taking, there would still be the question of damage for the trespass which had continued for many years. Strictly speaking, he said, a large amount of the damages would be statute barred. He did note, however, that the Manawatu County Council has set up a separate account for rents in respect of all the leases over Papangaio J Block. An assessment was also required for damages for the occupation prior to the lands being vested in the corporation.'⁶¹⁹

He thought the best solution was for a negotiation with the Maori owners to settle compensation and the question of trespass. If title to the lands affected by the Court's decision was not granted to Maori, he thought that any settlement should be ratified by legislation. If legislation was required, there would be 'no reason why the acquisition of Papangaio J should not also be included and the question of damages for trespass.' If the Crown acquired Papangaio J under Part XXI of the Maori Affairs Act, only part of the problem was settled and the 'difficulties' of the Crown 'by reason of payment for the land, would be greatly accentuated'. He also noted that Mr Simpson had mentioned that the owners had mooted the idea that the money received could be used to set up a special trust. If they wished to do so, this purpose could be included in the legislation.⁶²⁰

The Director General concluded that there were many difficulties involved and it was felt that the best course would be to reach agreement for an overall settlement with the solicitors, put this to a meeting of owners for their agreement and then 'promote legislation ratifying the settlement and providing for the extinguishing of the Maori owner's rights to the lands'. He asked if the Secretary for Maori Affairs approved the proposals.⁶²¹

The Secretary for Maori Affairs simply responded that he approved the proposals put forward in the last paragraph of the Director General's memorandum which was essentially to reach agreement for an overall settlement with the solicitors, put this to a meeting of owners for

⁶¹⁸ Ibid.

⁶¹⁹ Ibid.

⁶²⁰ Ibid.

⁶²¹ Ibid.

their agreement and then ‘promote legislation ratifying the settlement and providing for the extinguishing of the Maori owner’s rights to the lands’. He provided no further comment on the issue.⁶²²

The Director General then advised the Commissioner of Crown lands at Wellington of the Secretary’s agreement and asked that the Commissioner negotiate with the solicitors for a settlement ‘on the basis set out in ...[his] memorandum of 16 October (discussed above). He also said that he agreed that once settlement had been reached the Manawatu County Council should be approached for a ‘contribution towards the purchase price’.⁶²³

About six months later the Commissioner of Crown Lands was asked for a progress report on the matter. He reported that Mr Simpson was interviewed at his office on 16 December and informed of the Crown’s proposal and formal offer. Mr Simpson agreed to present the offer to the owners and advise the Department of their decision. The Commissioner noted that as yet, Mr Simpson had not heard from the owners and could give no reason for the delay. He said he had been contacted on several occasions and had ‘pressed the owners for an early decision’.⁶²⁴

In October 1964, Mr Simpson advised the Commissioner of Crown Lands that the Maori owners would accept the sum of £20,000 in full and final settlement of all claims against the Crown, the Foxton Harbour Board and the Manawatu County Council. In addition, it was a condition of the offer that all legal costs and disbursements incurred by the Maori owners in establishing the claim or on the negotiations with the Crown be met by the latter. These were estimated to be £750. Mr Simpson noted, presumably referring to the perceived delay in coming to the decision, that the owners were ‘numerous and that in order to obtain a decision which can be said to represent the views of the majority it ... [had] been necessary to refer the question to committees and to hold meetings at several different points’. He said that a

⁶²² Secretary for Maori Affairs to Director General of Lands, 5 December 1963, ACIH 16036 MA 1/149 5/13/255 Papangaio J Block, Accretion of land at Foxton, 1963-1965, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 11.

⁶²³ Director General, Department of Lands and Survey to Commissioner of Crown Lands, Wellington 9 December 1963, ABWN W5021 6095 Box 591 22/2843 part 2 Wellington Land District – Foxton Harbour Board, 1963-1978, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 58.

⁶²⁴ Commissioner of Crown Lands, Wellington to Director General of Lands, 25 June 1964, Valuation Department to Department of Lands and Survey, 16 July 1963, ABWN W5021 6095 Box 591 22/2843 part 2 Wellington Land District – Foxton Harbour Board, 1963-1978, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 59-60.

‘final meeting was held recently at which a decision was reached which represent[ed] the unanimous view of those present’.⁶²⁵

In early November, the Department received advice from the Valuation Department that an overall increase in the sale values at Foxton Beach compared with the roll values he had quoted on 16 July 1963 (using 1961 figures) were ‘between 20% and 25%’ which was a ‘fair figure’ for Papangaio J and the area of 1.75 acres that had been considered endowment land. He said that the accretion to Papangaio J which he described as ‘raw sandhills’ had a ‘doubtful market value at any figure’ and the previous figure (of £115) was ‘sufficient’.⁶²⁶

A figure of £16,194 was given as the total median capital value (an increase of between 20 and 25 percent of the 1961 figures). This comprised the median figure between £13,220 and £13,770 for the northern area of Papangaio J comprising 39.5 acres, the median figure between £2,403 and £2,504 for the 1.75 acres described as ‘endowment area Court award’, £115 for accretion to J, £70 for accretion to Court award and 60 for the area of Papangaio J comprising river bed.⁶²⁷

In November 1964, the Commissioner of Crown Lands advised the Director General of the offer by Mr Simpson and forwarded copies of the offer as well as Valuation Department memos referred to above. He noted that the solicitor had referred to meetings being held at several different points and that he had assumed that they represented ‘all of the 305 owners or the majority of them and not just one group as was the case during the Court hearings’. Mr Simpson, he said, had indicated his intention to contact a Mr Bergin who during the Court hearings ‘represented the remaining owners’. He said that he therefore thought it ‘safe to accept the Solicitors offer as fully expressing the wishes of the owners’. With regard to the offer from Maori, he commented that, excluding legal expenses, it was:

⁶²⁵ NF Simpson, Morison, Taylor & Co, Wellington to Commissioner of Crown Lands, Wellington, 9 October 1964, ABWN W5021 6095 Box 591 22/2843 part 2 Wellington Land District – Foxton Harbour Board, 1963-1978, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 63.

⁶²⁶ Branch Manager, valuation Department to Chief Surveyor, Department of Lands and Survey, 22 November 1964, Valuation Summary, Department of Lands and Survey, November 1964, ABWN W5021 6095 Box 591 22/2843 part 2 Wellington Land District – Foxton Harbour Board, 1963-1978, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 61-62.

⁶²⁷ Valuation Summary, Department of Lands and Survey, November 1964, ABWN W5021 6095 Box 591 22/2843 part 2 Wellington Land District – Foxton Harbour Board, 1963-1978, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 61.

... less than 20% in excess of the Government Valuation and is less than the Maoris' unimproved value plus the Crown's value for the improvements that it has been suggested could be the final purchase price. Considering that this negotiation involves more than just the purchase of lands the Maoris offer if not exactly generous must at least be considered reasonable.⁶²⁸

Later that month, the Department of Lands and Survey advised the Department of Maori Affairs that the 'solicitors acting for the Maori owners' had advised that they would accept the sum of £20,000 'in full and final settlement of all claims which they may have against the Crown, the Foxton Harbour Board, or the Manawatu County Council in respect of Papangaio J Block, or arising out of the making over thereof of any accretion thereto'. It was also a condition of the offer that all legal costs and disbursements incurred by the owners in the course of establishing their claim and on negotiations, be met by the Crown. These were thought to be around £750. The Director General noted that the up to date government valuation of the lands to be acquired by the Crown was approximately £16,194. He continued:

As you know, the owners of Papangaio J Block are numerous and the solicitors advise that in order to obtain a decision which could be said to represent the view of the majority it was necessary to refer the question to Committees and to hold meetings in several different places. A final meeting was then held when the above offer was reached, and which represents the unanimous view of those present'.⁶²⁹

The Director General said that it was proposed to accept the Maori offer and as indicated previously, to 'ratify the settlement by special legislation' which would 'also provide for extinguishing the Maori owners' rights to the lands'. Before proceeding, he wanted confirmation that it was in order to do so 'in view of the fact that the offer was not reached at a meeting of assembled owners'. He thought, however, that although no such meeting had been held, that 'the decision reached at the final meeting fully expresse[d] the wishes of the

⁶²⁸ Commissioner of Crown Lands, Wellington to Director General of Lands, 10 November 1964, ABWN W5021 6095 Box 591 22/2843 part 2 Wellington Land District – Foxton Harbour Board, 1963-1978, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 64.

⁶²⁹ Director General, Department of Lands and Survey to Secretary for Maori Affairs, 24 November 1964, ACIH 16036 MA 1/149 5/13/255 Papangaio J Block, Accretion of land at Foxton, 1963-1965, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 23.

Maori owners'. He concluded by asking whether, in view of the large number of owners, the money could be paid to the Maori Trustee for distribution.⁶³⁰

Maori Affairs officials discussed the letter with a Mr McRae who asked his senior, Mr Blane, whether they should ask the Palmerston North Office to check with representative owners of Papangaio J to see if the decision reached by the various committees 'do in fact represent the views of the owners' (no letter has been located to this effect). It was also thought that the Maori Trustee would be willing to accept the compensation of behalf of the owners for distribution to them. In response, Mr Blane asked that the Lands Department be advised that Maori Affairs thought that the proposal fitted the situation and that the Maori Trustee would distribute the money for the owners, with no commission being charged. This was duly relayed to the Department of Lands & Survey.⁶³¹

The Director General then sought the permission of the Minister of Lands for the expenditure of £20,000. His submission noted that the solicitors for the Maori owners had advised that they would accept £20,000 in 'full and final settlement of all claims' they had against the Crown, the Foxton Harbour Board and the Manawatu County Council in respect to Papangaio J. In addition, it was a 'condition of the offer that all legal costs and disbursements incurred by the owners in establishing their claim or on negotiations be met by the Crown' which was estimated to be about £750. The Director General said that the up to date capital value of the land was 'in the vicinity of £16,194' and that 'on this valuation' the offer was 'considered reasonable particularly bearing in mind that they would be entitled to compensation for trespass plus a proportion of accrued rents received from the leases granted over their lands which would amount to approximately £800'. He said too that the Department of Maori Affairs agreed that the proposed settlement was 'satisfactory'.⁶³²

He recommended that the Minister approve the expenditure of 'up to £21,000 in full and final settlement'. Once settlement was effected it was proposed to ask the Manawatu County

⁶³⁰ Ibid.

⁶³¹ Notes between Maori Affairs officials, 27 November and 2 December 1964 on Director General, Department of Lands and Survey to Secretary for Maori Affairs, 24 November 1964; Secretary for Maori Affairs to Director General of Lands, 4 December 1964, ACIH 16036 MA 1/149 5/13/255 Papangaio J Block, Accretion of land at Foxton, 1963-1965, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 23.

⁶³² Director General of Lands to Minister of Lands, 14 December 1964, ABWN W5021 6095 Box 591 22/2843 part 2 Wellington Land District – Foxton Harbour Board, 1963-1978, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 65-66.

Council for a 'contribution towards the costs' but he was 'not hopeful' that it would be successful. The Minister approved the payment on 22 December 1964.⁶³³

In March 1965, the Commissioner of Crown Lands advised the Director General of Lands that a written undertaking had been received from the solicitors for the Maori owners that the £20,000 was in 'full and final settlement' with the proviso that solicitor's costs totalling £885.17.10 be paid and that the £20,000 would be free of Maori Trustee Commission. The Maori Trustee then agreed to accept the money for distribution without charging the usual five percent commission. Later that month, the Department of Lands & Survey forwarded a cheque for £20,000 for the Maori Trustee 'in full and final settlement of all claims by the Maori owners in respect of the above block'. The Department said that it understood that the Maori Trustee had agreed not to charge commission and that the full amount would be available for distribution to the owners. The money was then forwarded to the Palmerston North Maori Affairs office by the Maori Trustee who asked that the money not be distributed until advised as 'validating legislation' was under contemplation.⁶³⁴

The following month, the Palmerston North office advised Head Office that they were receiving enquiries from some of the owners as to when they could expect to get their share of the compensation money and asked for an indication as to how long it would be before payment was made. The District Office was told that it would be towards the end of the coming session of Parliament before legislation was passed, which was probably September or October of that year.⁶³⁵

Legislation was prepared which was proposed to be included in that year's Reserves and Other Lands Disposal Act and forwarded by the Director General of Lands to the Commissioner of Crown Lands for his perusal and comment. It was also noted that the District Land Registrar and the solicitors acting for the Maori owners should also be asked

⁶³³ Ibid.

⁶³⁴ Commissioner of Crown Lands to Director General of Lands, 17 March 1965; Director General of Lands to Commissioner of Crown Lands, 17 March 1965, ABWN W5021 6095 Box 591 22/2843 part 2 Wellington Land District – Foxton Harbour Board, 1963-1978. SW Document Bank, volume 6, pp. 67-68; Director General, Department of Lands and Survey to Maori Trustee, 31 March 1965; Maori Trustee, Head Office to District Officer, Palmerston North, 13 April 1965, ACIH 16036 MA 1/149 5/13/255 Papangaio J Block, Accretion of land at Foxton, 1963-1965, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 24-25.

⁶³⁵ District Officer, Palmerston North to Maori Affairs, Head Office, 23 April 1965, Maori Trustee to Palmerston North, District Office, 21 May 1965, ACIH 16036 MA 1/149 5/13/255 Papangaio J Block, Accretion of land at Foxton, 1963-1965, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 26.

whether they agreed with the clause as drafted. The Secretary for Maori Affairs was also asked for comments. The main issue raised by the Secretary for Maori Affairs concerned the status of the leases. The Secretary noted that a clause vested certain land in the Manawatu County Council subject to all leases affecting the land. He asked whether the sub-clause should go further and actually validate the leases. He said that the result of the proceedings in the Maori Land Court and the Maori Appellate Court was that the land was in the title of Maori who were not parties to the leases, and even if they were parties, ‘the limitations under section 235 of the Maori Affairs Act 1953 would have applied’. He felt that the lessees might feel ‘more secure’ if their leases were validated by legislation. (There is no response to this letter on file).⁶³⁶

On 11 November 1965, Mr Simpson acknowledged receipt of a letter from the Commissioner of Crown Lands that had advised that provision had been included in the Act that the Maori Land Court might award payment from the compensation moneys of expenses incurred by individual owners. Mr Simpson said that it was agreed that it was not necessary to withhold distribution of the major portion of the compensation pending the hearing of the claims which he estimated would be covered by £500. He noted too that the owners held a meeting on 14 March 1964 when ‘individual claims were submitted and approved’ which totalled £468. This was said to cover all likely claims. He also advised that they would be lodging the formal applications with the Court as soon as they had the opportunity of viewing the legislation.⁶³⁷

Later that month, the Director General advised the Secretary for Maori Affairs that £500 of the compensation money should be withheld to meet claims under subsection 3 of section 9 Reserves and Other Lands Disposal Act 1965.⁶³⁸

⁶³⁶ Director General of Lands to Commissioner of Crown Lands, Wellington, 5 August 1965; Director General of Lands to Secretary for Maori Affairs, undated; Secretary for Maori Affairs to Director General of Lands, 10 August 1965, ACIH 16036 MA 1/149 5/13/255 Papangaio J Block, Accretion of land at Foxton, 1963-1965, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 27-28.

⁶³⁷ NF Simpson, Morison, Taylor & CO, Barristers & Solicitors to Commissioner of Crown Lands, 11 November 1956, ACIH 16036 MA 1/149 5/13/255 Papangaio J Block, Accretion of land at Foxton, 1963-1965, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 29.

⁶³⁸ Director General, Department of Lands & Survey, 23 November 1965, ACIH 16036 MA 1/149 5/13/255 Papangaio J Block, Accretion of land at Foxton, 1963-1965, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 30.

The Maori Trustee in Wellington then advised the District Office in Palmerston North that under section 9 which came into force on 28 October, the Maori Trustee was directed pay the sum of £20,000 to the owners of Papangaio J block subject to the Maori Land Court, on the application of any person made not later than 6 months after the date of the passing of the Act, ordering payment from the compensation to ‘any owner or other person of such sum as the Court deems reasonable in reimbursement of expenses incurred or loss of wages suffered incidental to the investigation of the ownership of the endowment area’. He said that the Lands Department had been advised that £500 would be sufficient to meet any claims and that to be ‘on the same side’, it ‘would be best to hand onto £1,000. He then asked that the District Office proceed with the distribution of £19,000.’⁶³⁹

Therefore, while Mr Simpson had managed to secure the £20,000 exclusive of his fees, he had not thought to make it exclusive of costs incurred by the owners meaning that the compensation was actually closer to £19,000. Given that the land had been valued at £16,194 in November 1964 and that the value of accrued rents was recorded as £800, compensation for trespass by the Harbour Board amounted to around £2000. The £19,000, if divided equally among the 305 owners, represented just over £62 each.

Of note was that shortly after the sale, the Manawatu County Council said that it regretted that the Crown was required to pay £20,000 for the Maori land and accretion as it considered the amount paid ‘exorbitant’. It would not agree to paying £4,200 to the Crown for the land and thought that the land should be included as part of the purchase of the other endowment land which the Council had paid £40,000 for. The Council later agreed to pay £2,200 for it.⁶⁴⁰

7.10 Reserves and Other Lands Disposal Act, 1965

The compensation payment to the Maori owners and the vesting of the land in the Crown and the Manawatu County Council was formalised in section 9 of the Reserves and Other Lands Disposal Act, 1965, which came into force on 28 October of that year. Section 9 (1) firstly

⁶³⁹ Maori Trustee, Head Office to District Officer, Palmerston North, 30 November 1965, ACIH 16036 MA 1/149 5/13/255 Papangaio J Block, Accretion of land at Foxton, 1963-1965, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 31.

⁶⁴⁰ County Clerk, Manawatu County Council to Commissioner of Crown Lands, 15 September 1965, MDC 00024: 18: 8 Land - Accretion - Papangaio J. Block & vesting of Foxton Harbour Board Endowment, Manawatu County Council 1955 – 1966, Archives Central, Feilding. SW Document Bank, volume 3, p. 121.

extinguished all rights and claims by the owners of Papangaio J block including Papangaio J accretion in respect to title to, trespass over and adverse occupation of the land. The payment of £20,000 was said to be for the purpose of compensating owners and was to be vested in the Maori Trustee for distribution ‘without deduction to the persons entitled thereto in full satisfaction of all claims and rights whatsoever in respect of the land’. The Maori Land Court was given the power to deduct from the compensation sum, an amount it deemed ‘reasonable in reimbursement of expense incurred or loss of wages suffered incidental to the investigation of the ownership of the endowment area’.

As noted above the accretion comprised three sections of 24 acres 10 perches; 46 acres 1 rood and 1 acre 3 roods. The two most northern portions of 24 acres 10 perches and 1 acre 3 roods were vested in the Manawatu County Council. The land vested in the Crown was Papangaio J (made up of two parts: 39 acres 10 perches and 61 acres 1 rood 20 perches) and the third area of Papangaio J accretion comprising 46 acres 1 rood. The leases were also deemed to be valid and were to remain in force.

In 1966, 85 acres 1 rood 10 perches were vested in the Manawatu County Council as an endowment by the Crown. This comprised the northern portion of Papangaio J (39 acres 10 perches) and the area of accretion to Papangaio J comprising 46 acres 1 rood. This followed the payment of £2,200.⁶⁴¹

7.11 Sale of land to leaseholders

Claimants note that ‘although the government had insisted in 1956 that the land was to be leased in perpetuity, without option to purchase freehold titles, Council approaches to the Minister of Lands resulted in a decision being reached in 1968 that lessees be given the option to freehold properties’.⁶⁴²

⁶⁴¹ Director General of Lands to Minister of Lands, 18 October 1966, and plan; Commissioner of Crown Lands to Director General of Lands 29 November 1965, ABWN W5021 6095 Box 591 22/2843 part 2 Wellington Land District – Foxton Harbour Board, 1963-1978, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 70-71.

⁶⁴² Statement of Claim of Milton Rakei Te Kura Rauhihi, Hayden Bronsley Turoa and Edward Whatanui Devonshire on behalf of themselves and Nga Hapu o Himatangi, being members of Ngati Te Au, Ngati Turanga and Ngati Rakau (hapu of Ngati Raukawa), Wai 1618 # 1.1.

A letter in 1967, from N Dustin of Foxton to WH Brown, MP suggested that the freehold of the leases had been discussed in the mid-1950s. Mr Dustin said that Mr Brown would ‘no doubt recall’ that when the abolition of the Foxton Harbour Board was being discussed, the Minister agreed that after the Manawatu County Council had administered the area for ten years it was ‘reasonable to assume that the rents received would have cleared the roading and surveying costs of the Foxton Beach area’ and that it ‘would be possible at the end of that time to offer the section freeholds to the lessees’. Mr Dustin asked whether this was indeed a possibility. The matter was referred to the Minister of Lands, Duncan MacIntyre who acknowledged to Mr Dustin that representations were indeed made at the time of the endowment in the mid-1950s suggesting that the lessees should have ‘immediate right to freehold their sections’. Minister MacIntyre said that the previous Minister (Mr Corbett) ‘declined to agree because it was very doubtful whether the Council would then be prepared to take over administration of the township area’. Also, that a ‘fresh basis of settlement would have had to be negotiated’. He confirmed that it was also stated that ‘after the lapse of a number of years, following improvement of the roads and perfecting of the titles the question could be reviewed again’. As the land was vested in the Council, he suggested that the lessees approach the Council and if the Council was agreeable to lessees being granted the freehold, the Council ‘could apply for legislation to be passed to give effect to this’.⁶⁴³

Indeed, there is a letter from the then Minister of Lands, Mr Corbett to the Manawatu County Council stating that it was not possible at that time but in fifteen or twenty years-time it ‘might be feasible to revive the question of granting freehold titles’. No action could be taken, however, under ‘present conditions’.⁶⁴⁴

In 1968, section 13 of the Reserves and Other Lands Disposal Act 1968 was enacted which gave the Manawatu County Council the power to sell or otherwise dispose of the land.

The *Manawatu Standard* reported that in the same year, the sale of freehold land to leaseholders and sale of unleased land began. Also, that in 1989, the Horowhenua District

⁶⁴³ N Dustin, Foxton to WH Brown, MP, 6 February 1967; Minister of Lands, Duncan MacIntyre to N Dustin, undated, circa May 1967, ABWN W5021 6095 Box 591 22/2843 part 2 Wellington Land District – Foxton Harbour Board, 1963-1978, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 74-76.

⁶⁴⁴ EB Corbett, Minister of Lands to County Clerk, Manawatu County Council, undated, circa 1956, MDC 00024: 18: 8 Land - Accretion - Papangaio J. Block & vesting of Foxton Harbour Board Endowment, Manawatu County Council 1955 – 1966, Archives Central, Feilding. SW Document Bank, volume 3, pp. 122-123.

Council ‘took over the property and funds from leasing and selling land [and] that the Foxton Community Board advised council how money should be spent’.⁶⁴⁵

7.12 Summary

It is questionable whether the trespass of Papangaio J land and accretion by the Foxton Harbour Board who leased it and allowed the building of houses equates with the concept of undisturbed possession for the land’s Maori owners. The Crown though blamed it on a lack of accurate survey data. That the Board was able to do this for a number of years despite protest from Maori also raises questions as to the extent to which Maori interests were acknowledged and adequately protected.

Part of the motivation by the Crown to sell the land was to rid the Council of the embarrassment of the Board having trespassed so blatantly on Maori land. It was also important to the Department and Council to be able to give security of tenure to the leaseholders and for the Council to be able to develop the area as it desired. This also raises questions as to whose interest the sale was in particularly as the land could have served as an investment opportunity for Maori (it already been subject to 17 individual leases). This possibility was raised by officials on several occasions but there is no record of it having being discussed any further as a viable option. Indeed, long-term leasing was not an untried approach and it could have protected the interests of both parties especially the owners who would have retained ownership.

It is difficult to categorically state that the sale was what was wanted by all the owners. Certainly, there appeared to be a group of owners represented by Mr Simpson who were said to be agreeable to the sale. The Department of Lands and Survey who negotiated the sale had, however, only the word of who they had earlier described as the solicitor for ‘some of the owners’ as to the extent of consultation and consent. Mr Simpson said that there had been a number of meetings and at the final meeting, the sale and offer of £20,000 was agreed to unanimously. At the 1962 Maori Land Court hearing other owners were represented by another solicitor but there is no correspondence from him among the records viewed.

⁶⁴⁵ *Manawatu Standard*, 22 July 2009 from <http://www.stuff.co.nz/manawatu-standard/news/2662032/Foxton-residents-await-account-approval>

There is also a question concerning the adequacy of the compensation. The valuation of the land was given at £16,194 and the value of accrued rents was recorded as £800. A deduction from the £20,000 figure of £1000 for owner's costs were also made. (It is not recorded whether the amount left after deductions for owner's costs was ever distributed to the owners or instead stayed with the Maori Trustee). This meant that of the £19,000 actually received, £2000 represented compensation for trespass. It is also of note that the solicitor was successful in receiving £885.17.10 which was a significant amount more than what the 305 owners would have received if the £20,000 (or £19,000) was divided equally. What raises questions about its adequacy is the content of some of the correspondence from the Department of Lands and Survey which suggests that while the Department felt that Maori were getting an adequate deal they could have claimed more. The Department's desire to avoid having the Maori Land Court assess the compensation and preference for special legislation also suggests that the Department felt that a larger amount of compensation would have been awarded had the compensation been assessed in this way. The Manawatu Council's response that the payment was 'exorbitant' may well have been part of a strategy to avoid having to pay the Crown back for the land. They did indeed succeed in halving the initial asking price of the Crown.

8. Otaki Local Government: Otaki Road Board, Town Board and Borough Council, 1878-1989

8.1 Introduction

Otaki has been described as a ‘site of contact between Maori and Europeans’. In late 1839, Octavius Hadfield arrived at Otaki to set up an Anglican mission. He and Te Rauparaha organised the building of the Rangiatea church which was opened in 1851. Township sections at Otaki were said to have been cut up into quarter acre sections at the direction of Hadfield who wanted Maori to live there so as to be close to the mission.⁶⁴⁶

Otaki was administered by a number of local authorities and Maori were affected by these authorities at varying levels from their inception. Otaki initially came under the jurisdiction of the Manawatu County Council which was established in 1876. When the Horowhenua County Council was formed from the southern part of the Manawatu County in 1885, it took over jurisdiction of the town. It also had its first offices in the township. Operating at the same time was the Otaki Highways Board established in 1878 which became the Otaki Road Board in 1882. The Board was later amalgamated with the Horowhenua County in 1913. The Otaki Town Board was established in 1912 and had the power to spend rates but not to levy them. Its territory encompassed 1190 acres (481.6 ha). In 1914, the Town Board became an independent town district so ‘assumed [the] powers of local government formerly exercised by the county council’ including rating. In 1920, one fifth of Otaki ratepayer’s petitioned central government for the establishment of a borough council which was the required number to ensure the matter was considered by a government appointed commission. To the petitioners, a borough council was preferable to a town district as borough councils were ‘full legal entities with greater powers to raise loans’. The territory of the borough council totaled around 2052 acres (830.5 ha) when it was formed in 1921 but was reduced to 1421 acres (575

⁶⁴⁶ Angela Ballara. 'Taipua Te Puna-i-rangiriri, Hoani', from the Dictionary of New Zealand Biography. Te Ara - the Encyclopedia of New Zealand, updated 30-Oct-2012

URL: <http://www.TeAra.govt.nz/en/biographies/2t3/taipua-te-puna-i-rangiriri-hoani>; MH Holcroft ‘The Line of the Road: A History of Manawatu County 1876-1976’, Manawatu County Council by John McIndoe Limited, Dunedin, 1977, p. 1; New Zealand History website: <http://www.nzhistory.net.nz/keyword/otaki> accessed 2016; Archives Central website: <http://archivescentral.org.nz/> accessed 2016. *Evening Post*, Volume XCI, Issue 146, 21 June 1916, p. 12.

hectares) by 1927. In 1989, the Otaki Borough Council was dis-established and Otaki came under the jurisdiction of the Kapiti Coast District Council.⁶⁴⁷

This chapter deals with the Otaki Highways Board, later Road Board, Otaki Town Board and Otaki Borough Council only. Details of the administration of the area by the Manawatu and Horowhenua county councils and Kapiti Coast District Council are in the chapter's specific to these councils.

8.2 Early Population of Otaki

A significant number of Maori lived at Otaki. Hearn records that HT Kemp gave the Maori population of Otaki as 664 in 1850. In 1870, it was estimated that 226 Maori lived in the Otaki area which was 12 percent of the total Maori population of the inquiry district. An 1881 census estimated that 190 Maori lived at (or their usual residence was) Otaki. Three years previously it had been estimated that 197 Europeans lived at Otaki so at the time of the establishment of the Otaki Highways Board similar numbers of European and Maori lived in the area. The European population of Otaki was 272 in 1901 and then increased to over 800 people by 1918. The Town Board ascertained that there were 276 Maori living in the Town Board area in 1918 which was just over 25 percent of the population of Otaki. In 1927, the town clerk said that Maori made up about 300 of the 1500 inhabitants of the town (20 percent) and that there were '94 Maori ratepayers out of a total of 481' (also about 20 percent).⁶⁴⁸

⁶⁴⁷ Otaki Historical Society website: <http://otakihistoricalsociety.org.nz/Otaki+History> accessed 2016; Archives Central website: <http://archivescentral.org.nz> accessed 2016; MH Holcroft 'The Line of the Road: A History of Manawatu County 1876-1976', Manawatu County Council by John McIndoe Limited, Dunedin, 1977, p. 1; Dr John Cookson, 'Three Commissions of Inquiry: Ratepayer Disaffection in Otaki Borough During the 1920s', *Otaki Historical Journal*, 2010, p. 63.

⁶⁴⁸ Terry Hearn, (Wai 2200 #6.2.2) p. 27; *Manawatu Herald*, Volume III, Issue 72, 10 May 1881, p. 3; *Manawatu Times*, Volume XXVI, Issue 7215, 22 April 1901, p. 3; *Feilding Star*, Volume XI, Issue 2827, 4 October 1915, p. 2; *Evening Post*, Volume XC, Issue 134, 3 December 1915, p. 6; *Manawatu Standard*, Volume XLIII, Issue 1849, 26 June 1920, p. 10; *Manawatu Standard*, Volume XLIII, Issue 1282, 26 June 1918, p. 2; Return Giving the Names, Etc., of the Tribes of the North Island, AJHR 1870, A11, pp. 8-10; Census of the Maori Population, 1881, AJRH 1881, G3, p. 18; Map entitled 'Approximate Population 1870 of the Porirua ki Manawatu District, 1870', produced for Waitangi Tribunal; Otaki Borough Council: Non Payment of Native Rates: Deputation to the Prime Minister (Rt. Hon JG Coates) at Wellington, 11 May 1927, ACIH 16036 MA1/411 20/1/37 part 1 Native - Otaki - Borough Council - Maori rates, 1927-1937, Archives New Zealand, Wellington. Documne Bank, volume 7, pp. 3-7; Dr John Cookson, 'Three Commissions of Inquiry: Ratepayer Disaffection in Otaki Borough During the 1920s', *Otaki Historical Journal*, 2010, p. 67.

In 1928-1929, the Native Department prepared a list of Maori owners of Otaki Borough lands. The number of owners totalled 688 indicating that many lived elsewhere.⁶⁴⁹

8.3 Maori land within Otaki

The blocks where Maori owned land within the Otaki borough in the 1920s included: Awahohonu, Hanganoaiho, Haruatai, Kaingaraki, Makuratawhiti, Moutere, Moutere-Hanganoaiho, Otaki, Mangapouri Native Reserve, Pahianui, Paremata, Takapu, Taumanuka, Titokitoki, Totaranui, Waerenga and Whakarangirangi. Most of the blocks were not more than 20 acres in size and most, judging from the list of Maori land rated in the 1920s, were between a quarter of an acre and one acre in size.

Maori retained a relatively significant proportion of land within the town so that in 1920, rates on Maori land totalled about one fifth of the total levied in the district. In the late 1920s Maori 'landholdings made up between one-sixth and one-seventh of the borough's valuation'.⁶⁵⁰

8.4 Establishment and Members of the Otaki Highways Board, later Road Board, 1878-1912

As noted above, the Otaki Highways Board was established in 1878 and re-named the Otaki Road Board in 1882. There are few records held for this agency prior to 1906, but local newspapers recorded many of the Board meetings and the actions of the Board. Generally speaking, Maori were mentioned by the Board in relation to the utilisation of their land for roads, the building of roads, Maori owned 'wandering' stock and later, rates.

Those present at an early meeting of the Board on 14 December 1878 were Messrs Simmox (chair), Udy, J Hadfield, G Hadfield, Kebbell and McCrae. A Mr J Knocks was appointed collector and clerk to the Board as well as 'valuator' at the same meeting. It would seem then

⁶⁴⁹ Native Department list of Maori owners of lands within Otaki Borough, circa 1928-1929, ACIH 16036 MA1/413 20/1/37/1 Maori Lands in Otaki Borough (search file), 1930-1953, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 65-88.

⁶⁵⁰ *Feilding Star*, Volume XI, Issue 2827, 4 October 1915, p. 2; *Evening Post*, Volume XC, Issue 134, 3 December 1915, p. 6; *Manawatu Standard*, Volume XLIII, Issue 1849, 26 June 1920, p. 10; *Manawatu Standard*, Volume XLIII, Issue 1282, 26 June 1918, p. 2; Dr John Cookson, 'Three Commissions of Inquiry: Ratepayer Disaffection in Otaki Borough During the 1920s', *Otaki Historical Journal*, 2010, p. 67.

that there were no Maori on the Board at its inception and the examination of attendees of subsequent meetings of the Highways, and later Road Board, appear to indicate that there never were.⁶⁵¹

One of the first references to Maori at a Highway Boards meeting was in May 1879. It was reported that several Maori had tendered to make nine chains (about 181 metres) of street road. A tender from an Otaki resident and settler Thomas Bevan Junior (who also wrote many letters on the subject of roads, Maori and the Highways Board to local newspapers) was, however, preferred to the Maori tender. As a result, Maori refused to allow Mr Bevan or any other European to take gravel from the river bed for road purposes. The *Manawatu Herald* commented that it was ‘expected that after time is allowed for the disappointment to pass off, they [Maori] will become more reasonable’.⁶⁵²

Also in 1879, the Highways Board discussed building a road over Maori land leading to the Otaki River. In July 1879, the ‘River Road Committee’ reported to the Otaki Highway Board that they had enquired into the ‘old roadway from Raukawa Pah [sic] corner to the Otaki River’ and had found that Maori and a Mr Small were willing to ‘hand over’ to the Highways Board sufficient land for the road provided that it ran in the position specified in an agreed plan. The committee suggested that the offer be accepted as all roadways leading from the township to the river had been included in different sections and Crown granted so that there was no other means to secure a road to the river except by purchasing the land ‘at a great cost’. The Highways Board agreed that the report of the committee be adopted and to call for tenders of the formation of the road. Securing the agreement with Maori was, at this time, a consideration, with the Highways Board advising a constituent in October 1879 that the road would be considered and ‘pushed on as soon as the best practicable route [could] ... be obtained from the natives’. The committee was also charged with finalising the arrangements with Maori but in June 1880, it reported that Maori who had initially signed a document agreeing to ‘hand over the land on No. 3 line to the board’ now refused to carry out their agreement unless they were given compensation. (Under the Public Works Act 1880, Maori were only entitled to compensation for land taken for roads if that taken (which had to have been Crown granted or investigated by the Native Land Court) comprised more than five percent of the block.) The chair of the Highways Board said that as a result of Maori not

⁶⁵¹ *Manawatu Herald*, Volume I, Issue 36, 31 December 1878, p. 2.

⁶⁵² *Manawatu Herald*, Volume I, Issue 75, 20 May 1879, p. 2.

agreeing to the use of the 'No. 3 line of road, he had, with Mr Carkeek, [likely to be Morgan Carkeek who was a surveyor] made a further inspection of the land adjacent'. He recommended instead the adoption by the Board of 'line No 4'. This was agreed to. The Board said that it would take all 'necessary steps to obtain legal possession for the Board of the land necessary to connect the Mill Road with the Otaki River'.⁶⁵³

A letter sent to the editor of the *Manawatu Herald* by the aforementioned Mr Bevan and published in July 1880, expanded on the issue. He said that a resolution had been passed in March 1880 by the Highways Board that it would not make any roads in Otaki on Maori land unless Maori agreed to 'hand over the land for the right of road'. Indeed, in March 1880, the Otaki Highways Board had considered a request by Mr Bevan, this time for the formation of a road leading from the Foxton to Otaki Road. It was decided that he would be advised that the Board would not consider such an application 'until the native owners of the land through which the proposed road passes hand over the land necessary for such road to the Board'.⁶⁵⁴

Mr Bevan's letter of July 1880 described the Board's March resolution as the Highway Board's guarantee that ratepayer's money 'should not be wasted on native lands'. He had said that he had now found that the committee appointed by the Highway Board to arrange with Maori the road to the Otaki River on 'No. 3 Line' had met with Otaki Maori and 'told them' that the Board was to 'make a road on this line'. Maori had responded that they would not allow it. In response, Mr Simcox, chair of the Highways Board, told Maori that 'if they interfered he would summon them and fine them £50'. The writer continued:

Now, Sir, this is not waiting till the natives hand over the land for a right of road when they are told if they interfere they will be summoned and fined £50. This is forcing the road without the consent of the natives, and acting quite contrary to the resolution that was passed by the Board, Now, what guarantee will the ratepayers have for their money? They will have none, and the natives can stop the ratepayers from using the road. Then it would cost the Board more money that they have on hand to get legal possession of the roads, and the ratepayers' money would be spent in lawsuits; and if

⁶⁵³ *Manawatu Herald*, Volume I, Issue 94, 25 July 1879, p. 2; *Manawatu Herald*, Volume II, Issue 20, 31 October 1879, p. 2; *Manawatu Herald*, Volume II, Issue 87, 25 June 1880, p. 2; *Evening Post*, Volume LX, Issue 154, 29 December 1900, p. 4; Marr, p. 69.

⁶⁵⁴ *Manawatu Herald*, Volume II, Issue 61, 26 March 1880, p. 2; *Manawatu Herald*, Volume II, Issue 90, 6 July 1880, p. 2.

the Board attempts to carry out this line of road without consent of the natives, they will deserve to be immediately driven from the positions they now hold.⁶⁵⁵

He also asked where the 'highway roads' were located in Otaki, pointing out that there were only two roads in the town - the 'Wellington Road', and the road leading up to the Foxton to Otaki Road, both of which, he said, belonged to Maori. He said too that the Highways Board had not made them or taken legal possession of them.⁶⁵⁶

On the same day as Mr Bevan's letter was published, the *Manawatu Herald* published a letter from Hoani Taipua (of Ngati Raukawa and from 1886 a Member of Parliament for Western Maori) which had been translated by Mr Bevan. It discussed both the issue of roads and Maori being fined in relation to roaming stock (discussed further below). It said:

1. We are opposed to the Europeans who are taking the rule of our native district in Otaki. They have no land in Otaki, and are only renting from us natives. We are in trouble through these Europeans who have no land. They have begun to drive our horses, cows, sheep, and pigs, which are running on our own land and roads.
2. We, the natives of Otaki, are very sad at the proceedings of those Europeans. Now, we will not consent for them to make any more roads in Otaki from this time.
3. We are very sad with the members of the Road Board. They say they will not pay for our land that they take for the roads, and all their talk is not true. Now we see in the newspaper that Johnston has been paid for his land at Foxton. What is the reason Europeans can be paid for their land, and we are not? Is it because we are natives? Are not the Europeans ashamed of the lies they have told us? If those Europeans come to us again, we will not listen to them. They will have to pay.⁶⁵⁷

The version of events put forward by Messrs Bevan and Taipua were, however, disputed by JA Knocks, clerk of the Highways Board who attended the meeting between Maori and the committee as an interpreter. He said that Mr Bevan had 'either mis-understood, or wilfully misconstrued the natives as to what took place between Mr Simcox, one of the Road

⁶⁵⁵ *Manawatu Herald*, Volume II, Issue 90, 6 July 1880, p. 2. Thomas Bevan junior was said to be married to a Maori woman and occupying an area of the Manawatu Kukurua block gifted to her – He also provided the Maori translation of a letter from Hoani Taipua.

⁶⁵⁶ Ibid.

⁶⁵⁷ Ibid.

Committee, and a delegate of the Committee, to the natives concerned'. He outlined his version of what occurred:

Let it be understood that in the first place the native owners had given over gratis [for free] to the Board one chain in width of land for a road leading from the village to the Otaki river, along a line fixed by themselves, and signed an agreement (which is present) to that effect. But through there being two ugly right-angle turns in said road, which the Board were anxious should be cut off, by appointment Mr Simcox met Rawiri te Wanui, an owner of one of the ugly angle corners, to endeavour to induce him to allow the corner to be cut off to straighten a most crooked line, which he refused.

It was during the consultation, but after Rawiri te Wanui having refused to part with his land for road purposes, that several jokes were passed, and during that time Rawiri te Wanui and Piwiki te Horohau, an assistant, repudiated their former consent to having made a free gift of land to the Road Board for a road, and added that henceforth they would demand compensation. Mr Simcox (I think), finding the natives intractable, gave up hope of obtaining the land necessary to straighten the proposed line of road; said in reply, in a joking manner, to some apparently joking question, (as jokes had been passing all round) that if they obstructed road making they would be subject to a fine of £50, and that land for road purposes could be taken by law.

Relative to Hoani Taipua's letter, I need not say anything, only as to its local bearing. In the first place, there has been no driving, unless it is towards submission to law and order. It may be necessary on a future occasion to show or state something else when Hoani Taipua proves (or at any rate shows) how or when the Road Board or any of its members, have stated that they will or can take native land without compensation.

The matter is tiresome to me, but I cannot allow false impressions such as Hoani Taipua's letter conveys, without stating my belief that the Otaki Highways Board has no thought of injuring the Maoris or anyone else in any way, but if possible to correct

certain advantages which are being taken by those whom they (the natives) think to be their pakeha friends.⁶⁵⁸

The response of the Highways Board was not, it appears (from the examination of newspaper reports of Board meetings for the following year), further consultation with Maori or to clarify Mr Simcox's 'joke' but to seek clarification on the use of the Public Works Act from the Public Works Department. On 24 July 1880, the Highways Board met and read out the letter sent by the chair to the Minister of Public Works asking for a survey to be sanctioned of a road leading from the Mill Road to the Otaki River which ran 'partly through Maori land'. The response from the Public Works Department was also read though the contents not divulged in the newspaper article.⁶⁵⁹

The matter was not discussed at the Highways Board's September meeting but in October 1880, various letters were recorded as having been received from the Public Works Office regarding the survey of the road through Maori land from the Mill Road to the Otaki River. They too were read to the Highways Board. The contents of one letter dated 30 September 1880 was elaborated on by the *Manawatu Herald*. The letter said that the 'Minister of Public Works promised to issue warrants under section 78 of The Public Works Act, 1876 re land for the road'. The 1876 Act 'confirmed that local bodies had general legislative authority to take Maori land' and section 78 of the Act stated that the consent of the Minister was required prior to a surveyor entering Maori land. The letter seems to suggest that the Minister had agreed to issue the required consent. This was the sole business for the meeting. Nothing was recorded at the November meeting about the matter but in December, notice was given that at the next meeting, Mr McCrae would move that the chair be authorised to take the necessary steps to take possession under the Public Works Act of 'any land necessary for a road to connect the road running from the Village to the Otaki river with the main road from Wellington, the said road being shown on a plan numbered 3'. Although no details of the January or February meeting have been located, in March 1881, the Board discussed calling tenders for the formation of a road 'lately acquired under the Public Works Act'. It was decided to call for tenders for the formation and metalling of about 30 chains of the 'said road' (the name of which was not given). The following month the tenders were discussed for the 'River Road' and the tender of Thomas Cootes approved (he had tendered at £2.14.0 per

⁶⁵⁸ *Manawatu Herald*, Volume II, Issue 92, 13 July 1880, p. 2.

⁶⁵⁹ *Manawatu Herald*, Volume II, Issue 97, 30 July 1880, p. 2.

chain). Of note was that several Maori (Henare Roera at £3.16.0 per chain and Kipa Te Whatanui at £3.9.0 per chain) also tendered for the work but it would appear that the Board went for the lowest bid.⁶⁶⁰

At the Highways Board meeting in May 1881, several more letters from the Public Works Department were considered. One concerned the taking of land for road purposes and the other was a reply to a memorial to take land for road purposes. Nothing was noted about the matter in June or July reports of Highways Board meetings but in August, the *Manawatu Herald* noted that in its advertising pages would be found a proclamation declaring certain roads in the Otaki district to be public roads. A perusal of the notice indicates that some of the land to be taken for the road from Mill Road to the river was Maori land. The description of the land included: ‘... portions of Native land, Section No 24, Native claims Haruatai and Waerenga, Block IX’. At its August meeting, the Highways Board tabled a letter read from the Public Works Office of 1 August which enclosed a copy of *New Zealand Gazette* No 61, of 28 July 1881, containing the aforementioned proclamation taking land for a road in the Otaki Highways District.⁶⁶¹

Nothing further has been located in newspaper articles for the period about the matter including any response from Maori about having land taken compulsorily after their agreement with the Highways Board had broken down or whether some agreement was reached with Maori. It can be assumed, however, that the relationship between Maori and the Board at this time was difficult. Also, that the Board’s ability and willingness to use legislation that allowed the taking of Maori land compulsorily and without compensation instead of ensuring the agreement of Maori (as the Board had agreed it would do in 1879) made it clear that the relationship was not one of equal partners but was one where the Board held the balance of power.

8.5 Wandering Stock and the Proposed Pound at Otaki

⁶⁶⁰ Marr, p. 88; *Manawatu Herald*, Volume III, Issue 3, 10 September 1880, p. 2; *Manawatu Herald*, Volume III, Issue 14, 19 October 1880, p. 2; *Manawatu Herald*, Volume III, Issue 31, 17 December 1880, p. 2; *Manawatu Herald*, Volume III, Issue 55, 11 March 1881, p. 2; *Manawatu Herald*, Volume III, Issue 66, 19 April 1881, p. 2. Note that the Public Works Department file regarding the matter has not been located.

⁶⁶¹ *Manawatu Herald*, Volume III, Issue 77, 27 May 1881, p. 2; *Manawatu Herald*, Volume III, Issue 92, 19 July 1881, p. 3; *Manawatu Herald*, 5 August 1881, pp. 2-3; *Manawatu Herald*, 26 August 1881, p. 2.

As discussed previously in the Manawatu County Council chapter, in November 1879, at the same time as the road to the river was being discussed, the Manawatu County Council received a letter from Otaki Maori (who were not named by the newspaper reporter) which was written in the Maori language. It asked that a pound, (for stock), not be built at Otaki. The response was dismissive. One of the councillors, Dr Rockstrow, moved: 'That as the Councillors of this County are not conversant with the native language, it is necessary that any memorial from the natives be accompanied with an attested translation; and that this memorial be returned to the sender'. He also referred to the fact that several Europeans had signed the document and thought that they should 'send their letters in English'. Councillor Kebbell responded that in the past Maori letters had been received and that it would be 'disrespectful to return the letter'. He asked that the words after 'translation' be withdrawn. The newspaper correspondence then recorded that 'eventually, Dr Rockstrow withdrew the last clause, and the resolution as altered, was passed'. The matter did not end there, however, as the acting chair, Mr Sanson, ruled that the document was a 'memorial, and therefore must be rejected, not having been presented by a Councillor'.⁶⁶²

Certainly, the views of Maori were dismissed with the Otaki Highways Board deciding in January 1880 that the chair write to the Manawatu County Council and ask that further action be taken regarding a public pound in the district. The following month, the Manawatu County Council discussed the matter with councillor Kebbell stating that he thought that only two members of the Board wanted the pound (Dr Hewson and Mr Simcox) though he expanded on this at the following council meeting that he had learned that there were other people at Otaki besides the settlers named who wanted the pound. He also said that Mr Cootes, who had agreed to put up a pound 'would not do it while the natives were opposed to it'. The Engineer stated that the last time he had spoken to Mr Cootes he had said that he would not build the pound. The Council agreed that Mr Cootes of Otaki would be advised that his appointment as pound keeper was cancelled as he had 'failed to put up a pound at Otaki'. The Highways Board was then advised by the Council that it would be willing to cancel the appointment of Mr Cootes as pound keeper and to appoint another person willing to 'put up a

⁶⁶² *Manawatu Herald*, Volume II, Issue 21, 4 November 1879, p. 2.

pound that the Otaki Board may recommend'. The Board agreed that the chair would receive applications for the office of pound keeper and recommend an applicant to the Council.⁶⁶³

Almost six months later, in May 1880, the Manawatu County Council received another petition (this time presented by councillor Kebbell) from Maori residents at Otaki protesting against the proposal to build a pound at Otaki. The petition was recorded as having been received. Mr Kebbell noted that the Otaki Highways Board had asked for a pound on the grounds that without a pound, the ratepayers' money would be 'uselessly expended'. Maori, he said, did not want a pound and were not ratepayers (as the rating of Maori land was not legislated for until 1882).⁶⁶⁴

In June 1880, it was agreed by the Otaki Highways Board that the police constable in the area be 'authorised to take proceedings on behalf of the Board against the owners of all small and great cattle running at large and trespassing on Highways within the Otaki District'.⁶⁶⁵ A letter to the editor of the *Manawatu Herald* elaborated on this issue. That is, that the Board had issued a notice that from 23 June 1880 proceedings would be taken against the owners of large and small cattle trespassing or staying on the highways of the Otaki district. The unnamed writer pointed out that Otaki was surrounded by Maori land and that if Maori were summoned for 'allowing their pigs, sheep, horses, etc, to wander (there being no pound)' they would be 'entirely at liberty to put a gate across the road and demand toll, as per Manawatu [meaning the Foxton ferry issue], for persons, vehicles or horsemen coming into or going out of the township; for no matter how or which way you want to get out you are obliged to go through Maori land'. He also said that in the opinion of many of the districts settlers, the 'summoning for cattle straying will only induce the natives to assert their rights, and make us pay for the privilege of going in or out of our homes'. Further, that it was 'rumoured Constable Mitchell is the officer who will summon the offenders, and as there is no Fencing Act that can be enforced, we are of opinion the resolution of the Highways Board will lead to various complications'.⁶⁶⁶

⁶⁶³ *Manawatu Herald*, Volume II, Issue 41, 16 January 1880, p. 2; *Manawatu Herald*, Volume II, Issue 47, 6 February 1880, p. 2; *Manawatu Herald*, Volume II, Issue 51, 20 February 1880, p. 2; *Manawatu Herald*, Volume II, Issue 54, 2 March 1880, p. 2.

⁶⁶⁴ *Manawatu Herald*, 7 May 1880, p. 2.

⁶⁶⁵ *Manawatu Herald*, Volume II, Issue 87, 25 June 1880, p. 2.

⁶⁶⁶ *Manawatu Herald*, Volume II, Issue 88, 29 June 1880, p. 2.

A Mr Bevan sent in the aforementioned letter to the editor of the *Manawatu Herald* together with his own comments. Mr Bevan criticised the Board in relation to authorising ‘the Constable’ to take proceedings against Maori and all owners of cattle running within the district describing it as illegal. He said that it had provoked Maori in the district and would ‘cause a good deal of trouble’. Maori had said that if they were summoned for their stock they would put up a toll gate, which Mr Bevan thought would be ‘another heavy burden the Otaki Highways Board will have brought on the settlers of Otaki and all the public’. He pointed out that the Board has not taken legal possession of any roads in Otaki, but were now taking proceedings against Maori for their cattle running on their land and their roads and which would bring lawsuits between Maori and the Board. He claimed that Maori would get Dr Buller to assist and if this happened, ratepayers’ money would be ‘invested in Dr. Buller’s Bank, instead of the Bank of New Zealand’. He called for the Board to be abolished.⁶⁶⁷

On the same day as Mr Bevan’s letter was published the *Manawatu Herald* published an editorial which argued that the action of the Otaki Highways Board regarding the summoning of owners of wandering stock had raised a ‘hornet’s nest’ in the district. Further:

Whilst giving the Board full credit for their evident desire to conserve the interests of the ratepayers, but keeping the cost of maintenance as low as possible, it does appear to us that in this particular instance their zeal has outrun their discretion. The township of Otaki is peculiarly situated. It is a Pakeha-Maori settlement in the very heart of a Maori district, and such being the case we think it is a pity the Board have determined on such severe measures. The extent of formed road under their jurisdiction is extremely small, and the damage done by wandering cattle is therefore trifling. Yet in attempting to save a few pounds per annum in maintenance, they have unluckily created ill-feeling in the minds of the natives, who boldly declare they intend to adopt severe retaliatory measures against the Europeans. This the Maoris are undoubtedly able to do by the erection of toll gates on the different lines of road leading through their lands. This being the case, we would ask if the game is worth the candle. Is it worth while making a law that will press hardly on the natives, when they can take such effectual measures to “pay out” the European settlers? We think it is not and in this opinion we believe the majority of the settlers will concur. On this

⁶⁶⁷ *Manawatu Herald*, Volume II, Issue 90, 6 July 1880, p. 2.

particular matter of wandering cattle, the town of Foxton is differently situated. In Foxton there is no reason why the Local Board byelaws should not be enforced, and the droves of horses and cattle which are incessantly wandering about the streets and roads are a disgrace to the place, but to punish every native at Otaki whose cow, or horse, or pig is found on the streets, will lead to great unpleasantness in the future. We do not advocate one law for the Pakehas and another for the Maoris. Both races should be treated alike by the law. Still the desirability of making a law which is certain to rouse the hostility of the natives, without obtaining any commensurate benefit, is open to question.⁶⁶⁸

As noted above, the newspaper also published a letter on the issue from Hoani Taipua which objected to Europeans ‘taking the rule of our native district in Otaki’. It claimed that Europeans had no land at Otaki and were renting from Maori yet Maori were in trouble with these same Europeans. Hoani Taipua accused Europeans of driving their stock which were running on Maori owned land and roads.⁶⁶⁹

The letter of Mr Taipua was, however, disputed by JA Knocks, clerk of the Board. He said:

Relative to Hoani Taipua’s letter, I need not say anything, only as to its local bearing. In the first place, there has been no driving, unless it is towards submission to law and order. It may be necessary on a future occasion to show or state something else when Hoani Taipua proves (or at any rate shows) how or when the Road Board or any of its members, have stated that they will or can take native land without compensation.

The matter is tiresome to me, but I cannot allow false impressions such as Hoani Taipua’s letter conveys, without stating my belief that the Otaki Highways Board has no thought of injuring the Maoris or anyone else in any way, but if possible to correct certain advantages which are being taken by those whom they (the natives) think to be their pakeha friends.

I reply as to the straying of cattle on public roads. Please allow me to correct Mr Bevan as to the power. The Constable has the power, without direction from the Road

⁶⁶⁸ Ibid.

⁶⁶⁹ Ibid.

Board, to prevent trespass and damage on or to the public roads by animals of any kind, and is in duty bound (which he has done without being told). Whatever action the natives may take in erecting toll gates, or other obstructions the public must thank Messrs Thomas Bevan & Co for the extra levy through their selfishness and other bad feeling. I do not think the Highways Board can prevent them from investing their money in Dr Buller's bank, is so disposed'.⁶⁷⁰

As with the issue of the Maori owned road to the Otaki River, nothing further has been located on the matter. Certainly, the issue was not mentioned in any of the reports of meetings perused from the end of 1880 to August 1881 (which is when reports by the Manawatu Standard and Manawatu Herald on the meetings of the Highways Board and the newly named Otaki Road Board were largely curtailed).⁶⁷¹

Like the road situation, this issue shows difficulties with the relationship between Maori and the Board with Maori resenting attempts by the Board to exert its control. It is also an example of how Maori were obliged to communicate with two local bodies (the Manawatu County Council and the Otaki Highways Board) concerning an issue that they did not support.

8.6 Otaki Road Board Rating

As noted in the legislative chapter, under the Crown and Native Lands Rating Act 1882, local bodies could claim rates on Maori and Crown lands from the Crown. The legislation was repealed in 1888. It was reported in 1885 that the Colonial Treasurer had paid £301.4.9 to the Otaki Road Board for rates on Maori land for the years 1882-83 and 1883-84.⁶⁷² This amount is included in the following table which also shows the amount received for the period from 1885-1886 and 1886-1887 (which was considerably less) The total amount received by the Road Board under the Act was £388.7.1. Details of what the Road Board spent these rates on have not been located:

⁶⁷⁰ *Manawatu Herald*, Volume II, Issue 92, 13 July 1880, p. 2.

⁶⁷¹ Reports on meetings of the Otaki Road Board may have been published in the Otaki Mail which was first published 'around 1892 under the name of the West Coast Mail' before becoming the Otaki Mail in 1895. It was merged into the Levin Chronicle in the 1940s. <http://otakimail.co.nz/about-us/>. Time constraints have prevented an examination of these newspapers which are not as yet digitised on *Papers Past*.

⁶⁷² *Manawatu Standard*, Volume IX, Issue 115, 20 April 1885, p. 3.

Table 11: Payments made to the Otaki Road Board under the Crown and Native Lands Rating Act, 1882, from 23 July 1885 to 31 May 1886 and from 1 June 1886 to 30 September 1887

Date	Crown	Maori	Total
1882-83; 1883-84	Not known	£301.4.9	£301.4.9
23 July 1885 to 31 May 1886	£23.16.10	£45.17.11	£69.14.9
1 June 1886 to 30 September 1887	£38.9.2	£41.4.7	£79.13.9
Total	£62.6.0	£388.7.1	£450.12.15

Sources: Payments to Local Bodies in inquiry district under Crown and Native Lands Rating Act, 1882, 23 July 1885 to 31 May 1886; AJHR, 1886, B15; Payments to Local Bodies in inquiry district under Crown and Native Lands Rating Act, 1882, 1 June 1886 to 30 September 1887, AJHR, 1887, Session II, B7.

The only references to the rating of Maori land by the Road Board located was a decision made in September 1910, when the Board agreed to what was described as a ‘test Court case with Natives who are alleged to be able, but who do not, pay rates’.⁶⁷³

8.7 Otaki Town Board and the Town Board Commissioners, 1912-1921

The Otaki Town Board was established in 1912 and then replaced by the Borough Council in 1921. The Otaki Road Board was also dis-established in 1912 and merged with the Horowhenua County Council. Seven ‘commissioners’ were elected to the Board in the November. The elected commissioners were William McKegg, John Mackie, Frederic Horton Bright, Ossian John George D’Ath, Byron Paul Brown, Arthur W Skerman and John Meads who, judging by the names, were all European. The five other men who had put themselves forward for the positions of commissioners also had European names. The first meeting was held in December where William McKegg was elected chair. While the Board could decide on a number of activities such as the cleaning of the Mangapouri stream, the beautification of the town and the improvement of street lighting and footpaths, the collection of rates remained the responsibility of the Horowhenua County Council until the Board was made an independent town in 1914.⁶⁷⁴

When Arthur Skerman died in September 1913, J Noble was elected. In September 1914, it was announced that just four of the seven existing commissioners were seeking re-election. One of those wishing to fill the three vacancies was Hector MJ Nicholson (a journalist at the

⁶⁷³ *Dominion*, Volume 3, Issue 914, 6 September 1910, p. 9.

⁶⁷⁴ Otaki Historical Society website: <http://otakihistoricalsociety.org.nz/Otaki+History>; *Dominion*, Volume 6, Issue 1610, 29 November 1912, p. 3; *Evening Post*, Volume LXXXIV, Issue 137, 6 December 1912, p. 7; *Dominion*, Volume 6, Issue 1680, 21 February 1913, p. 3; *Dominion*, Volume 6, Issue 1716, 5 April 1913, p. 7; *Dominion*, Volume 6, Issue 1824, 9 August 1913, p. 7.

Otaki Mail) who was duly elected.⁶⁷⁵ In September 1916, the first Maori commissioner was elected – PH Taipua (Pitiera or Peter) who was the son of Hoani Taipua, a Ngati Raukawa leader and former Member of Parliament (mentioned above in relation to roads and the Otaki pound).⁶⁷⁶ Of note was that there were 14 candidates and just 7 commissioners. Mr Taipua was later described by the *Manawatu Standard* as one of the districts ‘leading residents’ as well as a ‘leading member’ of the Otaki Maori Racing Club and ‘Native Appeal Board’.⁶⁷⁷

In December 1918, the *Manawatu Standard* reported that three candidates had been nominated for a seat on the Town Board which had become vacant due to the death (from influenza) of Mr Taipua. The three candidates were Messrs C Kilsby, WF Edwards and Henri Rikihana. Mr Rikihana (described as Puku/a Rikihana by another newspaper, Pairoruka Rikihana in an article published by the Otaki Historical Society and Pairoroku Rikihana in Native Department papers) was elected by a ‘substantial majority’ receiving 109 votes to Mr Kilsby’s 70 and Mr Edwards 38 thus continuing the representation of Maori on the Board.⁶⁷⁸

In January 1920, the chair, Byron Brown, resigned and former bank manager James Poole Brandon stood for election to the Board. He was elected and took over the chair at the same time.⁶⁷⁹

In September, the same year, the *Evening Post* reported that great interest had been taken in the election of the Otaki Town Board with ‘practically every ratepayer voting’. Seven men with European names were elected and each had received more than 200 votes. The men were described as being on the Ratepayers Association ‘ticket’. Just two had been commissioners previously. It was also apparent from the election results that a number of

⁶⁷⁵ *Evening Post*, Volume LXXXVI, Issue 76, 26 September 1913, p. 7; *Dominion*, Volume 7, Issue 2259, 19 September 1914, p. 3; *Evening Post*, Volume LXXXVIII, Issue 75, 25 September 1914, p. 6.

⁶⁷⁶ Angela Ballara. 'Taipua Te Puna-i-rangiriri, Hoani', from the Dictionary of New Zealand Biography. Te Ara - the Encyclopedia of New Zealand, updated 30-Oct-2012

URL: <http://www.TeAra.govt.nz/en/biographies/2t3/taipua-te-puna-i-rangiriri-hoani>

⁶⁷⁷ *Evening Post*, Volume XCII, Issue 72, 22 September 1916, p. 2; *Manawatu Standard*, Volume XLIII, Issue 1385, 16 November 1918, p. 3; Otaki Historical Society website:

<http://otakihistoricalociety.org.nz/Otaki+History>.

⁶⁷⁸ *Manawatu Standard*, Volume XLIII, Issue 1385, 16 November 1918, p. 3; *Manawatu Standard*, Volume XLIII, Issue 1400, 5 December 1918, p. 7; *Manawatu Standard*, Volume XLIII, Issue 1400, 5 December 1918, p. 7; *Manawatu Standard*, Volume XLIII, Issue 1406, 12 December 1918, p. 3; Dr John Cookson, ‘Three Commissions of Inquiry: Ratepayer Disaffection in Otaki Borough During the 1920s’, *Otaki Historical Journal*, 2010, p. 63.

⁶⁷⁹ *Manawatu Standard*, Volume XLIII, Issue 1727, 30 January 1920, p. 3; *Evening Post*, Volume XCIX, Issue 80, 5 April 1920, p. 8.

Maori had run again for office. They were Messrs Rikihana, Tahiwai, Hakaraia and Tereturu. None were voted in with three out of the four receiving about 100 votes each.⁶⁸⁰ *The Horowhenua Chronicle* also reported on the election noting that there were ‘two parties in the field, the “progressives” and the natives, the latter being opposed to the conversion of the town into a borough’. The *Chronicle* said that the ‘progressive ticket was solidly supported, and the whole of their seven candidates were returned’. JP Brandon was one of the seven and continued to serve as chair. Local Government historian, John Cookson, states that Maori were opposed as they ‘did not want to be pressured by the increased rates that they assumed would follow and who anyway remained suspicious of local authority where there was no effective partnership’.⁶⁸¹

8.8 The Town Board and Maori

Newspaper reports of meetings from 1912 and Town Board minute books viewed from September 1916 to April 1921 are rather cursory so a minimal amount has been discovered about the Board’s relationship with Maori particularly during the first few years of the Board’s life. What is mentioned is mostly in relation to rates, the dox tax, the census, and the influenza epidemic of 1918. These issues are discussed below apart from the dox tax which is discussed in the chapter concerning the Raukawa Maori Council.

8.9 The Town Board and Rates

The sources available have not provided comprehensive details about the rating of the Maori land within the township by the Board though it is clear that it was an issue. What is known is that judgement at the Magistrates’ Court was first obtained against Maori owners of Otaki township land in 1914 for non-payment of rates. This was referred to in a later meeting of the Board and in Native Land Court minute books in 1926. No newspaper report regarding these judgements has been located but one of the recipients of the judgements stated in 1926 that he could not afford the payments. Another reference to judgements was made in 1928 where the town clerk revealed that there had been 79 judgements in total dating from 6 August 1915 but that he could not, without spending hours checking at the Magistrates’ Court, match those

⁶⁸⁰ *Evening Post*, Volume C, Issue 68, 17 September 1920, p. 10.

⁶⁸¹ *Horowhenua Chronicle*, 16 September 1920, p. 3; Cookson, p. 63.

judgements against the land concerned. He could say, however, that £133.9.3 was owed in Court fees.⁶⁸²

With regard to liens under the 1914 Act, it was reported in December 1917, that the clerk of the Board had issued notices to Maori which stated that liens would be taken on land on which rates were owed. Evidence of whether this was done or not has not been found. For instance, no mention of liens being paid when land was subsequently sold has been located (liens registered against the title had to be paid before a lease or sale could be confirmed (this has provided the means to confirm the use of liens by other local authorities)).⁶⁸³

The issue of the rating of the meeting house had also been raised by P Rikihana (who was a member of the Town Board between 1918 and 1920) in July 1920 at a meeting between the Town Board and the MP for the district, Mr Field. Mr Rikihana asked Mr Field if there was any possibility that Maori meeting houses could be exempted from rates. Mr Rikihana said that the Otaki Maori meeting house belonged to ‘no one in particular – the natives as a whole – and was not used for pecuniary gain’. He did not think it should be subject to rates. The matter was discussed but ‘left over until discussed by the Board’.⁶⁸⁴ It is not known whether the Board did in fact consider this again (Mr Rikihana was not re-elected in September 1920) and it was not until 1924 that the Rating Act allowed marae to be exempted from rates. The rating of the Raukawa Marae in both 1926 and 1936 is discussed further below.

Mr Atmore, of Harper & Atmore and solicitor for the Board and then the Borough Council (and later Mayor from 1929-1933 and 1939 to 1953), later claimed that the Town Board ‘had treated the Native owners generously, in that the Native rates were written off every year’.⁶⁸⁵ Rates on Maori land were not mentioned in newspaper reports of Board meetings during 1918 and 1919 and it was not until June 1920, following the election of JP Brandon as chair, that the Board’s finances were reported on and rates on Maori land again discussed. In June of that year, it was reported that the Town Board’s finances were in a poor state having started the year with a debit balance of £900 and ending with a deficit of £1220 with ‘very

⁶⁸² Town Clerk, Otaki Borough Council to Native Department, 4 December 1928, ACIH 16036 MA1/411 20/1/37 part 1 Native - Otaki - Borough Council - Maori rates, 1927-1937, Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 8; *Evening Post*, Volume C, Issue 48, 25 August 1920, p. 8.

⁶⁸³ *Manawatu Standard*, Volume XLII, Issue 1033, 8 December 1917, p. 3.

⁶⁸⁴ *Manawatu Standard*, Volume XLIII, Issue 1864, 14 July 1920, p. 12.

⁶⁸⁵ *Evening Post*, Volume CV, Issue 111, 12 May 1928, p. 11.

little' money spent on improvements. The previous year £849.5.10 had been collected in rates and £1300 was owed. The article said that rates on Maori land totalled about one-fifth of the total levied in the district but did not specify how much of the £1300 owed was for Maori land though it could not have been for more than £430 as this was one-fifth of the total levied (£2149.5.10 (£849.5.10 plus £1300)). This meant that the bulk of the £1300 owed was in respect to European land. The chair was urged by the Board to take 'drastic action in this matter' with the Board deciding to advertise that all rates that remained unpaid within 14 days would be sued for. In August 1920, the Town Board heard that of the £1300 of outstanding rates as at 31 March 1920, £589 had been collected leaving £700 outstanding. The position was considered to be 'deplorable'. It was decided by the Board that defaulters would be sued and that liens would be registered against Maori where judgement had been obtained in 1914 (though as stated previously it is not clear whether this was done).⁶⁸⁶

Also in August 1920, the chair of the Board, JP Brandon and Commissioner Hector Nicholson met with a number of Maori (it was not recorded who or how many) to discuss matters regarding the welfare of the town including the proposal to become a borough. It was reported (presumably by Brandon) that as a result of the discussion 'many wrong impressions held by the Natives [were] removed'. It was not recorded whether the rating of Maori land was discussed but given the difficulties associated with it, it was likely that it was.⁶⁸⁷

Rates were also discussed at a meeting of the Board (minus the former Maori commissioners) in March 1921. The Board's solicitors, Harper and Atmore, wrote to the Board recommending that that Board not sue for outstanding rates but instead 'give publicity by publishing the names of defaulting ratepayers'. The chair hoped that if action was taken against some defaulters then others would pay though he favoured summoning. Another commissioner suggested that if the solicitors would not sue, then the clerk should be instructed to do so. Mr Brandon thought that the solicitors should be asked to take action and if they did not do so, to employ some other person to do so. The Board decided to ask the solicitors to take action and if they did not, to ask the clerk to take action.⁶⁸⁸

⁶⁸⁶ *Manawatu Standard*, Volume XLIII, Issue 1849, 26 June 1920, p. 10; *Evening Post*, Volume C, Issue 48, 25 August 1920, p. 8; Daphne Meyer, 'The Mayors of Otaki, 1921-1989', Otaki Historical Society, Historical Journal, Volume 14, p. 29.

⁶⁸⁷ *Manawatu Standard*, Volume XLIII, Issue 1904, 31 August 1920, p. 6.

⁶⁸⁸ *Evening Post*, Volume CI, Issue 62, 14 March 1921, p. 8.

The rating of Maori land was also mentioned in the odd newspaper article during the life of the Board. For instance, in 1915, it was reported that one-ninth of the 'rateable property' within the Otaki Town Board's boundaries was Maori land (though this was later (in 1920) said to be one-fifth).⁶⁸⁹ In 1916, comments were made in the *Evening Post* that Maori had abandoned their sections, that they had not been individualised, that there was no access, that Maori would be driven to sell because of the amount of rates and land tax. The article said:

Many people are of the opinion that the Maoris will be driven out of Otaki owing to the rate demands of the Otaki Town Board. Others do not hold faith in that. For instance, the rates due on one property may amount to a few pounds. Is it likely that the board will spend twice the amount in going to the Supreme Court for a charging order? So this provision is somewhat of a nullity. It is contended that the Government should step in, commandeer all the Maori land in the township, have it individualised as quickly as possible, sell it or lease it on ordinary terms to the pakeha, and hold the returns, in trust, for the Maori owners.⁶⁹⁰

8.10 The Town Board's 'Private Census', 1918

In June 1918, the *Manawatu Standard*, reported on the way in which the national census was compiled noting that Maori were not counted in the population of town districts or boroughs (they were only counted within the counties in which the boroughs or districts were in). Therefore, it was not known how many Maori lived in Otaki. The population of Otaki was officially reported to be 806, but this did not include all residents as Maori 'loyal and true as they have proved themselves to be' were considered 'not worthy of being counted as citizens, apparently'. The article went on to note that to create a borough, Otaki needed a minimum population of 1000 and that in order to obtain an accurate population figure, the Town Board had undertaken a 'private census' of Maori in the town. The Board ascertained that there were 276 Maori living in the Town Board area which, it was noted, when added to the 806-figure meant a total of 1082 people in the town.⁶⁹¹

⁶⁸⁹ *Feilding Star*, Volume XI, Issue 2827, 4 October 1915, p. 2; *Evening Post*, Volume XC, Issue 134, 3 December 1915, p. 6.

⁶⁹⁰ *Evening Post*, Volume XCI, Issue 146, 21 June 1916, p. 12.

⁶⁹¹ *Manawatu Standard*, Volume XLIII, Issue 1282, 26 June 1918, p. 2.

This also meant that in 1918, Maori made up over 25 percent of the population of Otaki but by September 1920, and at the time the Town Board became a Borough no Maori was a member on the Town Board.

8.11 Influenza Epidemic, 1918

Also in 1918, the Town Board was involved with trying to curtail the spread of influenza, which was causing much concern in both the European and Maori communities of Otaki. A public meeting was held at Otaki on 16 November and a committee set up to ‘organise relief measures and to act with the Town Board’. A ‘ladies’ committee’ was also established. It was reported that the committee’s first step was to disinfect every house, both Maori and European, in the area and to set up a temporary hospital in the town hall. The Board ordered a large quantity of disinfectant in order to do this. It was also felt that those disinfecting the houses could ascertain if there were any cases that needed further assistance. It was further reported:

There is naturally a great deal of apprehension as to the effects of the disease if it goes unchecked amongst the natives, and the possible reaction of the epidemic in a more severe form on the European population. Undoubtedly the presence of a large Maori quota in a Borough is potential source of danger and whenever possible steps should be taken to segregate Maori sufferers and carry out thorough disinfection of their houses.⁶⁹²

In the same newspaper article that reported the above measures, two Maori Otaki deaths, one European Otaki death, two Maori deaths at Sanson and one Maori death at Koputaroa were reported. As noted above, one of the Town Board commissioners, who was also Maori, PH Taipua, had also died from influenza by this time.⁶⁹³

On 21 November, the chair of the Town Board, Byron Brown, advised that of the 1200 (the population had been given as 1082 in June) people living in Otaki, there had been 99 reported cases of influenza but that there had been a decrease in the number of new cases. It was

⁶⁹² *Manawatu Standard*, Volume XLIII, Issue 1385, 18 November 1918, Page 3; *Horowhenua Chronicle*, 19 November 1918, p. 3.

⁶⁹³ *Horowhenua Chronicle*, 19 November 1918, p. 3.

reiterated that employees of the Town Board were also reported to be disinfecting every house in the Board's area leaving, the newspaper said, 'no stone unturned to rid the town of a dread disease'. The Town Board Office also distributed disinfectants and medicine. Concern was, however, for Maori at Motuiti and Matararapa (Foxton) where it was believed that all Maori in the town were affected.⁶⁹⁴

The *Otaki Historical Society* records that more than 50 people from Otaki died in the influenza epidemic though the proportion of Maori and Europeans affected was not given. Geoffrey Rice's book 'Black November: The 1918 influenza pandemic in New Zealand' does not give details on deaths at Otaki specifically but does estimate that there were 60 Maori deaths in the Manawatu region (as opposed to the county).⁶⁹⁵

8.12 Establishment of Otaki Borough Council, 1921 and Maori councillors

In 1921, the Otaki Borough Council was established. The decade following its inception saw much agitation by the Borough Council about the rating of Maori land which ultimately saw most of the Maori land within Otaki removed from Maori control and vested in the Ikaroa Maori Land Board. This part of the chapter deals with the circumstances leading up to this and the subsequent administration by the Board and later the Maori Trustee of this land.

The first mayor of the council was JP Brandon who had also been chair of the Otaki Town Board from the time of the retirement of Byron Brown in 1920. No Maori were elected to the Council at the time of its inception but in 1923, Tiemi Rikihana, a relation, presumably, of Town Board Commissioner Pairoroku Rikihana, was elected to the Borough Council. He served until April 1925 (it has not been established whether Tiemi Rikihana sought re-election or not). His obituary in 1939 referred to him as 'one of the best-known and most highly respected members of the Maori race in the Horowhenua district'. At the April 1925, election, Hemi Kupa Hawea was elected and stayed a councillor until 1927 (this end date is based on his non-attendance recorded in Otaki Borough Council minute books from May 1927). No information has been located as to whether there was Maori representation on the

⁶⁹⁴ *Horowhenua Chronicle*, 21 November 1918, p. 3; *Manawatu Standard*, Volume XLIII, Issue 1388, 21 November 1918, p. 5; *Manawatu Standard*, Volume XLIII, Issue 1389, 22 November 1918, p. 2.

⁶⁹⁵ <http://otakihistoricalsociety.org.nz/Otaki+History>; Geoffrey Rice, *Black November: The 1918 influenza pandemic in New Zealand*, Canterbury University Press, 2005, p. 160.

Council between 1927 and 1943 but it is known that in 1943, Hema Hakaraia was elected to the Council so that there was Maori representation again. Mr Hakaraia was a councillor for 27 years until his retirement in 1971 at the age of 79. He also served as Deputy Mayor for a time.⁶⁹⁶

8.13 Drainage and Sewerage, 1921-1928

AJ Dreaver, who wrote a centennial history of the Horowhenua County Council also wrote a chapter on the establishment and early years of the Otaki Borough Council. He states that the town was ‘extraordinarily difficult to administer’ largely because it was made up of three ‘hamlets’ separated by farmland. The ‘core’ of the township was the centre that had ‘developed round Hadfield’s Mission station’. The town also ‘enclosed the railway settlement to the east and the new beach resort to the west where two-thirds of the homes were normally unoccupied’. He says that farmland which separated the three ‘hamlets’ was ‘thinned out by unoccupied sections’, much of which was Maori land. He points out that without this ‘generous boundary’, those petitioning for a Borough ‘could not have secured the requisite population for borough status’.⁶⁹⁷

Dreaver records too that up until the establishment of the Borough ‘only 3 loans had [ever] been raised for roads and footpaths’ in Otaki. The three loans totalled £659.3.1. Between 1921 and 1924, the position changed dramatically with the Borough raising loans totalling £44,200. Dreaver records that half of this money was spent on a ‘disastrous sewerage and drainage project, which had to be virtually abandoned in 1925, leaving an unsaleable stockpile of special diameter pipe to deteriorate’.⁶⁹⁸ Further:

Conflicting aims, and inadequate supervision were basic problems, but ignorance by the engineers of local conditions brought the end, dramatically illustrated when a party of councillors and workmen gathered around a 14-foot trench in Te Rauparaha

⁶⁹⁶ Otaki Historical Society website: <http://otakihistoricalsociety.org.nz/Otaki+History>; Erna Somers, ‘Hema Hakaraia & the Three R’s’, *Otaki Historical Society*, 2000, v. 23, pp. 44-47; *Evening Post*, Volume CV, Issue 99, 27 April 1923, p. 4; *Evening Post*, Volume CIX, Issue 99, 30 April 1925, p. 9; *Evening Post*, Volume CXXVII, Issue 33, 9 February 1939, p. 15;

⁶⁹⁷ A J Dreaver, *Horowhenua County and its People A Centennial History*, Levin, 1984, pp. 225-226.

⁶⁹⁸ Dreaver, p. 226.

Street, where two large pumps vainly attempted to staunch one of the large artesian flows characteristic of Horowhenua's gravel beds.⁶⁹⁹

Cookson records too that the loan was also spent on 'water (free of special charges), electric street lighting (by agreement with the Horowhenua Power Board) and properly formed footpaths'. He states that this was 'offset by the "sewerage disaster"', a scheme that 'ground to a halt in 1925 mainly because of the town's high water table and poor engineering advice'. By this time, about £11,000 had been spent on the project.⁷⁰⁰

8.14 Increase in Rates and Unimproved Value

Cookson records that in order to finance the loans, the Otaki Borough Council almost trebled rates 'from 1.1% of the unimproved value in the last year of the Town Board [1921] to 2.5% in 1925-6 and 3.0% in 1926-7'. The increase in the total amount of rates levied on Maori land between 1920 and 1926/1927 was therefore marked. Dreaver records that the amount levied on Maori land increased from £85 every year to £718 which 'would have been 14% of the total rate revenue'. About 4 percent of the total levied in this period, however, was paid.⁷⁰¹

Not only was there a significant increase in the percentage levied, but land in Otaki was rated on unimproved value. Both Dreaver and Cookson have examined the use by the Otaki Borough Council of rating on the unimproved value of Otaki lands during the 1920s (as opposed to capital value which included improvements). Dreaver explains that rating on the unimproved value meant that land was rated regardless of whether an area benefitted from any services being provided. He notes that 'while it could be argued that it was to everyone's advantage if the town progressed', it was 'asking too much' when the rate bill of a farmer rose from 'about £4 in 1920 to £80 in 1928' but that the only 'additional service' received was a 'one-inch water pipe ... he could not use, as the borough piped water was too warm to use in cooling his milk and cream'. Dreaver shows how the 'unimproved value system led to bizarre discrepancies where no account was taken of strongly contrasting land use'. His example shows a hotel in the Borough with an unimproved value of £995 and a capital value of £2760 being rated £30.8.2 and a farm of 34 acres with an unimproved value of £2445 and

⁶⁹⁹ Dreaver, p. 227.

⁷⁰⁰ Cookson, p. 65.

⁷⁰¹ Dreaver, p. 227; Cookson, p. 65.

a capital value of £2754 (so very similar to the capital value of the hotel) being rated over twice as much - £74.14.2.⁷⁰²

Dreaver records that Maori land owners 'faced an even more direct threat' with the Council 'threatening to apply for the seizure and sale of many sections to pay a mounting bill of arrears'. He argues too that 'it had never been easy to persuade Maori landowners to pay rates, but the [Horowhenua County Council] had observed a broad tolerance' ... in any case, slight services called for slight rates'. Indeed, Dreaver states that only a small part of the Maori land was 'served by the new water and sewerage schemes'.⁷⁰³

Dreaver notes too that much of the Maori land was 'unsuited to development [and] scattered and fragmentary'. Also, that many of the owners had 'no chance to develop their sections, being unemployed or in part-time work'. He cites the case of an elderly man who 'owned a section at Otaki Railway on which a block of 4 shops had been built, but they burned down, and he had not been employed for some years'. The only work he was able to do was to 'cultivate his land for food'. Dreaver argues that 'under these circumstances, rating on unimproved value bore very harshly on the owners'. He also records that Hema te Ao (who had been a member of the Raukawa Maori Council) had 'opposed borough status, but had been soothed with an assurance that rates would not rise'.⁷⁰⁴

It was in this environment, therefore that pressure by the Otaki Borough Council on Maori to pay rates increased.

8.15 Charging Orders, 1926

One of the ways that the Otaki Borough Council tried to get Maori to pay rates was through the prosecution of charging orders. As noted in the legislative chapter, rates charging orders issued by the Native Land Court were provided for in section 9 of the Native Land Rating Act 1924, and replicated in section 108 of the Rating Act, 1925. Rates charging orders stayed as a charge on the land indefinitely, until the debt was paid.

⁷⁰² Dreaver, p. 227.

⁷⁰³ Dreaver, p. 227.

⁷⁰⁴ Dreaver, pp. 227-228.

Early in March 1926, the Native Land Court considered 93 applications for charging orders from the Otaki Borough Council. In attendance was Hema Te Ao (who Dreaver states had been assured that rates would not rise in the event that the board became a borough). He asked that the applications be adjourned to the next sitting. Hoani Inia also supported the request. Mr Atmore, counsel for the Borough Council, responded that a good part of what was owed was for a special rate as loans had to be provided for. He said that there were no merits in the application for adjournment. In response, Tiemi Rikihana (the Maori Borough Councillor who had served on the Otaki Borough Council between 1923 and 1925) said that Maori were ‘quite prepared to pay their rates’ but there was ‘some difficulty regarding the assessment of amounts’. The arrears, he said, were also being added to the demands for the current year. Mr Atmore explained that charging orders for the previous two years of rates were being asked for. The Court agreed to adjourn the applications to Otaki to be heard later in March.⁷⁰⁵

On 15 March, the applications were heard again. Mr Atmore, and the Mayor, James Brandon represented the Council at the hearing. Mr Atmore said that the rates demanded amounted to £990.9.0 and were levied for the two years 1924-1925 and 1925-1926. He said that between £500 and £600 would go towards interest on debentures issued by the Council (it is presumed that this refers to a form of debt financing of the Council’s loan). The Mayor pointed out that the £990 was a ‘large sum’ and explained that the council had got an advance but now had to pay the interest. He said that the Council would be in a ‘bad way’ if they could not get the rates in and that a receiver would have to be appointed. He also said that the Council struck the rate ‘assuming ... [it could] get nearly the whole of the money in’ and that both Maori and Europeans ‘received the advantage’ of the money raised and spent. He also said that previously, the Council had been able to collect a ‘fair proportion of the rates’ and had difficulties in ‘getting an order on the judgement’ with the old legislation (prior to 1924) of ‘little use’. He noted too that he had advised both Maori and Europeans to make monthly payments.⁷⁰⁶

Tiemi Rikihana was again in Court. He pointed out that the drainage scheme had not been completed so that neither Europeans nor Maori had derived any benefit from the scheme. He

⁷⁰⁵ Otaki Minute Book 57, 15 March 1926, p. 325.

⁷⁰⁶ Ibid, p. 326.

also noted that the Maori member of the Council used to attend meetings with Maori to discuss matters of rating. He is recorded as saying:

Your representative on the Council knows what the Council has done and proposes to do. I used to advise the Natives and discuss loans and rating matters with them. I know the circumstances of most of the Natives in Otaki. We have power to remit the rates in special cases of indigency. I think the applications are in order. The Council did not desire to rate the meeting house but the auditor requires us to collect the rates.

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(Mr Rikihana was likely to have been referring to the position prior to 1924 as it was not until the introduction of the Rating Act 1924 that a maximum of five acres of land on which marae stood was exempted from the payment of rates (section 4).)

Just one person spoke at the hearing regarding an application specific to their land. This was Wiremu Rikihana in respect to Haruatai 5 section 2. He said that he was 67 years old, that he cultivated the land and had a house with five rooms which was old and in need of repair. He did not know the valuation but thought that it would 'bring about £400'. He said that he had 26 perches in the Taumanuka block but no other land in the Otaki area. Elsewhere he owned five acres at Maungatautari in Cambridge. He said that he had no means of paying the rates. He usually grew potatoes and strawberries but was not able to that year as he was bedridden. He said that an order was made against him on a judgement summons for £1 a month but he could not keep up the payments. He asked Mr Atmore to adjourn the application to enable him to confer with the Council. The application was adjourned but on 29 April at a further hearing (discussed below) a charging order was made for £7 which was the amount of the current year's rates. The previous year's rates were remitted by the Council.⁷⁰⁸

Of the 92 applications, 21 applications were adjourned (one due to the owner being an old age pensioner and blind), one dismissed as rates had been paid and one where the outcome is unclear. Charging orders were made in respect to all the other applications (69) with 20/- added to each order for 'costs'.⁷⁰⁹

⁷⁰⁷ Ibid, p. 327.

⁷⁰⁸ Ibid, p. 328.

⁷⁰⁹ Ibid, pp. 327-330.

Of note, was that on the same day as the charging orders were heard, representatives of the Otaki Borough Council were present for another application which concerned the assessment of compensation for 36.5 perches taken by the council for a road. Mr Atmore said that Peteri Turoa was the owner and that the valuation of his land (2 roods 27.5 perches) was £145. The third that was taken had been valued at £48.6.8. After a discussion (the minutes do not record that Mr Turoa was in Court) it was decided to award £40 in compensation despite the valuation being almost nine pounds more. This was because it was considered by the Court (and presumably the council) to be 'an advantage' for the owner to the extent of £8.6.8 'for having a road along the side of the remaining land'. This was known as 'betterment', a principal applied when compensation for public works takings was assessed. It is not known whether Mr Turoa agreed to the taking.⁷¹⁰

In April 1926, 22 more charging order applications were heard. Most of these were the adjourned cases from the previous month. Five applications were adjourned again (two of these concerned the Raukawa Marae) one was dismissed as rates had been paid and charging orders were ordered for the rest. Of this latter category, it was noted next to some of the applications that arrangements had been made to pay some of the rates in instalments and in three cases a portion of the rates (about half) were remitted (several years later Mr Atmore claimed that this was due to the indigency of owners though this was not noted in the minutes). Four of the adjourned applications were heard again in October 1926. One related to £15.17.3 owed that the owner said had already been paid. It was established that this was for the previous year and a charging order made. With regard to one request for a 'concession' or exemption, presumably based on 'indigency', the Council said that it had considered the matter and decided to make 'no concessions'. This was because the owner was getting an old age pension and was in receipt of money for maintenance of her grandchildren. A charging order was made. In respect to two other applications, the minutes stated that it was 'alleged' by Maori that their meeting house was located on section 164 and 165 of Otaki township but it was established that the racing club occupied part of one section and that there was no meeting house on the other. The charging order was issued. It was then established that the meeting house was partly on sections 166 & 168 so half the amount levied was remitted and a charging order issued for the other half. It was also recorded that

⁷¹⁰ Ibid, pp. 330-331; Marr, p. 143.

the Court thought that the meeting house was on sections 166 & 168 but covered only a portion of the sections and that it 'would be fair' to exempt one and rate the other but as the rates were imposed on the two as one area, half the total should be paid.⁷¹¹

Therefore, charging orders were made in respect to almost all of the applications. There were no full exemptions due to 'indigency' though there were three cases where a portion of the rates were remitted. There were also no other types of exemption apart from for the portion of two sections that the marae was situated on. There was also no other discussion about the ability of Maori to pay, how the land was utilised, its suitability for housing or whether it was revenue producing or capable of being revenue producing.

8.16 Request for exemption from rates of Raukawa Marae, 1926

On 27 July 1926, Hori Te Waru (described as owner and trustee for Ngati Raukawa tribe) and Rere Nikitini (or Nicholson), chair of the Raukawa Maori Council, asked the Native Minister to formally exempt from rates their marae including the meeting house called Raukawa and other buildings used in connection with the marae. They said that the marae was located on sections 86, 87, 88, township of Otaki (consisting of 1 rood 29 perches with five owners) and Haruatai 13.⁷¹²

The Under Secretary of the Native Department was asked to investigate. Particulars of title revealed that Otaki town sections 86, 87 and 88 contained 1 rood 29 perches which had been owned by Roera Te Ahukaramu had been sold. Haruatai 13 had been partitioned into Haruatai 13A, consisting of 4 acres 1 rood 12.5 perches with three owners and was not leased; and Haruatai 13B, consisting of 2 acres 3 roods 5.1 perches had one owner and had been leased in 1925 for 7 years to Charles Kilsby with a right of renewal.⁷¹³

⁷¹¹ Otaki Minute book 58, 29-30 April 1926, pp. 8-9; 14 October 1926, pp. 65-66.

⁷¹² Hori Te Waru and Rere Nikitini to Native Minister, 27 July 1926, ACIH 16036 MA 1 1400 1926/449 Received: 29th July 1926. From: Rere Nicholson, Chairman, Raukawa Council, Wereroa. – Subject: Haruatai 13A and B and Otaki Sections 87 and 88. As to exemption from rates, 1926-1928, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 81.

⁷¹³ Particulars of title, August 1926, ACIH 16036 MA 1 1400 1926/449 Received: 29th July 1926. From: Rere Nicholson, Chairman, Raukawa Council, Wereroa. – Subject: Haruatai 13A and B and Otaki Sections 87 and 88. As to exemption from rates, 1926-1928, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 78-80.

The Registrar pointed out that there was nothing to indicate that the buildings were situated on the appellations given but a note to the Under Secretary by K Tahuiri (whose role is not known) in August 1926 clarified the matter. He stated that the Raukawa Marae was actually on sections 166 and 168 Otaki Township. On section 166 was the residence of Hori Te Waru which was 'used as an adjunct to the Raukawa Meeting House on all occasions'. On section 168 was the meeting house called Raukawa and two other buildings which were used in connection with the meeting house at all hui. Sections 87 & 88, however, belonged to Europeans and were in no way connected with the marae. With regard to Haruatai 13A and B, Mrs Pataka Winiata had her house on these sections and occasional hui were held there. It was not though 'officially recognised as the marae of the tribe'.⁷¹⁴

Instead of asking whether Mr Nicholson meant sections 166 and 168, the Native Minister simply told him that sections 86, 87 and 88 were European land and that the Haruatai section occupied by Mrs Winiata was a dwelling place. These, he said were 'not places that can be exempted from rates'.⁷¹⁵

Eventually it was established that the correct numbers of the sections on which the marae stood were 164 (part), 166 and 168. Section 164 (34 ½ perches) was owned by Mere Hori Te Waru, section 166 was owned by Hori Te Waru and Heni Te Waru and section 168 (34 perches) was owned by Naera Punia which on her death, would be owned by Hori Te Waru. Accompanying this information were rates demands for part 164 dated 1 August 1926 of £29.16.1 (which included £20.12.9 in arrears- the remainder being the rates for that year) and for sections 166 and 168 of £32.15.5 (including £22.13.8 in arrears – the remainder being rates for that year). The Under Secretary advised that section 168 should be exempted from rates but the section with the dwelling of Hori Te Waru on it would not, 'even though used in connection with the Meeting House'.⁷¹⁶

⁷¹⁴ Registrar, Ikaroa Native Land Court to Under Secretary, Native Department, 17 August 1926; note on aforementioned letter from K Tahuiri to Under Secretary, Native Department, 23 August 1926, ACIH 16036 MA 1 1400 1926/449 Received: 29th July 1926. From: Rere Nicholson, Chairman, Raukawa Council, Wereroa. – Subject: Haruatai 13A and B and Otaki Sections 87 and 88. As to exemption from rates, 1926-1928, Archives New Zealand, Wellington. Document Bank, volume 6, p. 82.

⁷¹⁵ Native Minister to Rere Nicholson, 31 August 1926, ACIH 16036 MA 1 1400 1926/449 Received: 29th July 1926. From: Rere Nicholson, Chairman, Raukawa Council, Wereroa. – Subject: Haruatai 13A and B and Otaki Sections 87 and 88. As to exemption from rates, 1926-1928, Archives New Zealand, Wellington. Document Bank, volume 6, pp. 83-84.

⁷¹⁶ Particulars of title, Otaki sections 164m 168 and 166, September 1926; Official to Under Secretary, 9 September 1926, Under Secretary to Native Minister, 29 September 1926, ACIH 16036 MA 1 1400 1926/449 Received: 29th July 1926. From: Rere Nicholson, Chairman, Raukawa Council, Wereroa. – Subject: Haruatai

The Under Secretary then wrote to the Valuer General stating that section 168 appeared to be exempt from rates ‘by reason of a Native Meeting House being erected thereon’ and referred to the corresponding section of the Rating Act 1925 (section 103). He asked whether the property should not appear as exempted in the district roll. No order in council was prepared to officially exempt the land from rates (which was later normal practice). Nothing further about the matter is on the Maori Affairs file until 1928 when the Native Department sought clarification as to the amount of rates owed on section 168. The Town Clerk said that £41.0.6 was owed which included a penalty for 1927-1928. This (and that the amount owed had increased since 1926) indicates that the section was still being rated despite its marae and therefore exemption status.⁷¹⁷

In 1935, however, the Otaki Borough Council Town Clerk advised Mr Balneavis, who was facilitating the payment of rates on sections adjacent to the marae, that there were no rates owing on the section as it was exempted at the time charging orders were made in 1927.⁷¹⁸

Of note was the section 168 was not included in the list of lands vested in the Ikaroa Maori Land Board in 1931 (discussed further below) though section 164 (part) and section 166 were. Section 166, together with sections 167 and 169 were later, in 1942, reserved for marae purposes under section 10 of the Maori Purposes Act 1935 (also discussed further below).

8.17 The ‘Test Case’, 1927 (Makuratawhiti Part 10A and 10B), Application under section 109

After its success with the prosecution of 89 charging orders, the Otaki Borough Council attempted to use other sections of the Rating Act 1925 to enforce the payment of rates. In March 1927, the Borough applied to the Native Land Court under section 109 of the Rating Act 1925 to have Makuratawhiti Part 10A and 10B comprising 2 acres 3 roods 14 perches

13A and B and Otaki Sections 87 and 88. As to exemption from rates, 1926-1928, Archives New Zealand, Wellington. Document Bank, volume 6, pp. 78-80, 87-89.

⁷¹⁷ Under Secretary, Native Department to Valuer General, 7 October 1926, ACIH 16036 MA 1 1400 1926/449 Received: 29th July 1926. From: Rere Nicholson, Chairman, Raukawa Council, Wereroa. – Subject: Haruatai 13A and B and Otaki Sections 87 and 88. As to exemption from rates, 1926-1928, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 90.

⁷¹⁸ Town Clerk, Otaki Borough Council to Registrar, Ikaroa Maori Land Board, 23 April 1936, ACIH 16068 MA 51/13 132/2 Raukawa Marae, arrears of rates, Otaki, 1936, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 100.

vested in the Native Trustee for the purpose of sale. This was on the basis that the charging order of 15 March 1926 for rates and costs totalling £20.0.6 remained unpaid.⁷¹⁹ Of note is that under section 109 the consent of the Native Minister to the Native Land Court order had to be given before the land could be sold.

This was likely to have been one of the first applications made by a local authority under this section, and was certainly the first by the Otaki Borough Council. It is of note that although on the statute books until 1988, it was in fact rarely used until the 1960s (discussed further below) as Native and Maori Affairs Ministers were reported to be reluctant to give the required permission. Prime Minister and Native Minister Coates later told the Otaki Borough Council that the applications made to him had been declined because they related to land that did not belong to Maori and the price was wrong. He said too that the large-scale use of the legislation without the Minister's power of veto would result in the sale of hundreds of thousands of acres of Maori land and that this would not be in the 'interest of the country and certainly not in the interest of the Maori people'.⁷²⁰

In support of the application, Mr Atmore, counsel for the Borough Council, wrote to JG Coates, Minister of Native Affairs about the 'very great difficulty in the collection of rates on Native Land situate within the Otaki Borough'. The Borough Council, he said, had been 'compelled' to use the provisions within the Rating Act 1925 dealing with the recovery of rates on Maori land. As the consent of the Native Minister was necessary for the proceedings undertaken by the Council, he had decided to place before the Minister the 'serious position of the Council's financial affairs caused through the default over several years of the Native Ratepayers'. He described how in 1926, 93 charging orders had been made against Maori

⁷¹⁹ Application by Otaki Borough Council to Ikaroa Maori Land Board, March 1927, ACIH 16036 MA1/1421 1927/237 Received: 2nd August 1927 - From: Registrar, Ikaroa Native Land Court, Wellington - Subject: Makuratawhiti Part 10A and 10B - Orders vesting land in Native Trustee for sale for consent under Section 109 of the Rating Act 1925, 1927, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 112.

⁷²⁰ Bennion, pp. 48-49; Maori Affairs Research Assistant, 'Item 31 Relating to Local Body and other Rates', 14 June 1962, AAMK W3074 869 Box 705 b 19/10/8 Miscellaneous – Legal Differentiation – Rates, 1961-1962. SW Document Bank, volume 1, pp. 85-107; Minutes entitled 'Non payment of Native Rates: Deputation to the Prime Minister (Rt. Hon JG Coates) at Wellington', 6 October 1927 ACIH 16036 MA 1/408 20/1/14 Rates – Native Land – Miscellaneous papers, 1924-1927, Archives New Zealand, Wellington. SW Document Bank, volume 1, pp. 109-123.

lands situated within the Borough for arrears of rates amounting to £800 and that a year had lapsed in respect of 67 of these orders and the owners still had not paid.⁷²¹

Mr Atmore outlined the financial position of the Borough to the Minister explaining why rates had to be increased and rates on Maori land paid. He stated that the area of the Borough in 1926 had been 2052 acres with a capital value of £330,816, unimproved value of £171,969 and improvements of £158,847. 'Substantial areas' had then been excluded by the Governor in Council (as a result of a commission of inquiry (discussed further below)) and the area of the Borough reduced to 1421 acres. The capital value of the Borough was £292,436, unimproved value of £141,812 and improvements of £150,624. The total amount of 'special loans', including recent water and drainage loans was £43,543.5.2. His explanation for the non-completion of the drainage scheme was 'engineering difficulties' and noted that the work had been stopped 'indefinitely'. He explained that as the Borough rated on unimproved value and that the unimproved value of the Borough had been reduced by £30,157 (as a result of the reduction in the area of the Borough) the Council had lost a large amount of revenue. He said that while the lands excluded still had to pay a proportion of the 'special rates securing the loans [they were] ... of course, no longer liable to the general rate'. The general rate, he said, 'must therefore be substantially increased on lands remaining in the Borough, if the current revenue from General Rates is to be maintained'. He did not mention the option of changing rating on unimproved value to capital value.⁷²²

He said that the Council had 'never been able to collect Native Rates in the Borough and the former Otaki Town Board experienced the same difficulty'. He said that in the rating year 1925-1926 only £43 of rates on Maori land had been paid out of a total of £632 levied (6.8 percent). (The total amount levied over all European and Maori Lands was £4,596, so about 14 percent was levied over Maori land.) In the following year, 1926-1927, the position was 'even worse' with only £24 out of £718 levied on Maori land being paid (3.3 percent). (He did not elaborate on why one year on rates levied on Maori land had risen by £86 though as noted previously, rates had trebled between 1921 and 1926-1927). The total amounts of rates levied for 1926-1927 was £5,134 (so again, about 14 percent was levied on Maori land). He said that in the previous two years, only £67 out of £1350 levied had been paid (an average of

⁷²¹ Atmore to JG Coates, Minister of Native Affairs, 6 April 1927, ACIH 16036 MA1/411 20/1/37 part 1 Native - Otaki - Borough Council - Maori rates, 1927-1937, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 9-11.

⁷²² Ibid.

five percent). The 'seriousness of the position', he said, could be appreciated when it was 'remembered that the great proportion of these rates ... [was] required to meet interest and Sinking Fund on the loans'. He said that prior to the new [Rating] Act, the legislation was not 'suitable' and therefore 'practically the whole of the Native Rate amounting to nearly one-seventh of the total revenue was written off each year'. The result, he said, was that the European owners had 'carried the whole of the rate burden'. This was not a 'serious matter' until the council raised 'very substantial loans' for water and drainage. The increase of rates, he said, had been 'so substantial' that the European ratepayers could 'no longer shoulder this extra burden'. The payment of the rates, he said, which were 'heavier than should be' in a Borough such as Otaki which comprised mostly farming lands were 'causing very serious hardship' to some of the European ratepayers. He acknowledged that pending rates increases were due to the Borough losing a large proportion of rateable land. He also said that the Ministers of Lands and Internal Affairs were both 'conversant with the unsatisfactory financial position of the Borough' and felt sure that they would agree that the council had no alternative but to 'sell the non-paying Native Lands to persons who will become financial ratepayers'. He concluded by stating that if the Native Minister's permission was not given then the Council would be 'denied the very benefits which the new Act was intended to confer'.⁷²³

In support of the Council, the MP for the district, WH Field also wrote to the Prime Minister about the section 109 application. He said that he assumed that the application made clear the difficulties that the Otaki Borough Council found itself in. Also, that his knowledge of the Borough's circumstances confirmed that without payment of these rates, the Council would be unable to 'continue its operations'. He said that year after year, rates on Maori land had been written off 'because there was not the legislative machinery to recover them'. He said that there was a sum of about £1300 due and that a large proportion of this had to be collected at once if the Borough was to be 'enabled to continue its municipal work'. He concluded:

As you probably know, there is a large native population at Otaki, and they have been living rate free for so many years that they have become imbued with the belief that they can continue doing so by the simply method of refraining from payment. I am

⁷²³ Ibid; Cookson, p. 65.

quite sure that when faced with the sale of their properties, they will lose no time in finding the money.⁷²⁴

In response, the Native Minister asked Native Department officials to prepare a list of the names of the blocks where rates had not been paid together with the amount owing. The Otaki Borough Council was then asked to provide this information. The Council was told that it would also be beneficial to have the names of the owners but if the Council did not have these, then they could be obtained at the Native Land Court. On 9 May, the Council provided the Native Department with a list of the 67 blocks affected by charging orders together with names of owners and amounts owed.⁷²⁵

In April, the section 109 application was heard by the Native Land Court in respect of Makuratawhiti Part 10A and 10B (2 acres 3 roods 14 perches). The owners are not recorded as being present. At the hearing, it was noted that in addition to the £20.0.6 secured by the charging order, £12.18.10 (which included a penalty) was owed from the previous year making a total of £33.18.10 due. The Otaki Borough Council Town Clerk, Alexander Wilson, gave evidence at the hearing. He advised that £15.3.6 had already been written off prior to the charging order being made, that the land was occupied by Chinese, there was a 'tin-shed' on the section and the land was valued at £385 with £41 improvements. He said that after the charging order was made the Maori owners were advised that the rates should be paid by instalments but 'no notice was taken'. He thought that there was a monthly tenancy with some rental being paid to the owners though felt that it 'would be difficult' to lease the land and 'improbable that the rent would be sufficient to pay the rates'. He continued:

I think in some cases the rent might be sufficient to pay the rates but not in this case. The Council would not go so far as to sell the section and house of a Native. So many Native sections are detrimental to the Borough.⁷²⁶

⁷²⁴ WH Field, MP to Prime Minister, 9 April 1927, ACIH 16036 MA1/411 20/1/37 part 1 Native - Otaki - Borough Council - Maori rates, 1927-1937, Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 60.

⁷²⁵ JG Coates to Under Secretary, Native Department, 11 April 1927, Under Secretary, Native Department to Otaki Borough Council, 22 April 1927, Otaki Borough Council to Under Secretary, 9 May 1927, ACIH 16036 MA1/411 20/1/37 part 1 Native - Otaki - Borough Council - Maori rates, 1927-1937, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 61-62.

⁷²⁶ Otaki Minute Book 58, 29 April 1927, p 137; extract in ACIH 16036 MA1/1421 1927/237 Received: 2nd August 1927 - From: Registrar, Ikaroa Native Land Court, Wellington - Subject: Makuratawhiti Part 10A and

The option of exempting the land from rates (under section 105) was not discussed nor was the possibility that the land was being excessively rated. Instead Judge Gilfedder accepted the evidence of the Otaki Borough Council and the Council's right to levy rates on a section acknowledged as incapable of producing sufficient rent to pay the rates and ordered that the land be vested in the Native Trustee so it could be sold. As the legislation provided that the Native Minister had to agree to such an order, it was sent to the Minister for his approval. Mr Atmore asked that the order be sent to the Minister promptly, explaining that the application was 'taken as a Test Case by the Court'. He was advised that they had to wait two months before the order was sent as this was the time allowed for appeal.⁷²⁷

In August 1927, the order was forwarded by the Native Land Court to the Native Minister for his approval. Prior to submitting it to the Minister, the Under Secretary sought clarification from the Registrar of the Ikaroa Maori Land Court as to whether a receiver had been appointed or 'any attempt made to charge the Chinese occupiers of the land'. The Registrar responded that no application for the appointment of a receiver had ever been lodged.⁷²⁸

The Under Secretary of the Native Department then explained to the Native Minister that the Ikaroa Native Land Court had asked that the Minister consent to an order vesting the two blocks of land in the Native Trustee for the purpose of sale. The Under Secretary noted that the two areas were contiguous but owned by different people, that there had been no apportionment of the rates against the two blocks, that 10A was partitioned 'as far back as 13th April, 1911 into 10A1 and 10A2' and that the new owner of 10A1 (Kawa Warahi - who had acquired the land in 1925 which was before the charging order had been made) had not been advised of the charges against the land before the vesting order was granted. 'Under

10B - Orders vesting land in Native Trustee for sale for consent under Section 109 of the Rating Act 1925, 1927. Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 113-114.

⁷²⁷ Otaki Minute Book 58, 29 April 1927, p 137; Harper, Atmore & Thomson to Registrar, Ikaroa Maori Land Court, 5 May 1927; Registrar, Ikaroa Native Land Court to Messrs Harper & Atmore, 10 May 1927, ACIH 16036 MA1/1421 1927/237 Received: 2nd August 1927 - From: Registrar, Ikaroa Native Land Court, Wellington - Subject: Makuratawhiti Part 10A and 10B - Orders vesting land in Native Trustee for sale for consent under Section 109 of the Rating Act 1925, 1927. Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 113-116.

⁷²⁸ Registrar, Ikaroa Native Land Court to Under Secretary, Native Department, 2 August 1927; Under Secretary, Native Department to Registrar, Native Land Court, 2 September 1927; Registrar, Ikaroa Native Land Court to Under Secretary, Native Department, 9 September 1927, ACIH 16036 MA1/1421 1927/237 Received: 2nd August 1927 - From: Registrar, Ikaroa Native Land Court, Wellington - Subject: Makuratawhiti Part 10A and 10B - Orders vesting land in Native Trustee for sale for consent under Section 109 of the Rating Act 1925, 1927. Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 117-119.

these circumstances', the Under Secretary said, he did 'not think it would be right to consent to the vesting order taking effect as it now stands'. This appears to be the position the Native Minister took as there is nothing further about the matter on the file concerned apart from a note that legislation relating to the matter had been passed (section 32 of the Native Land Amendment and Native Land Claims Adjustment Act, 1928' which vested over 200 acres of Maori land in the Otaki Borough in the Ikaroa Maori Land Board (discussed below)).⁷²⁹

The 'test case' chosen by the Otaki Borough Council was a poor choice as it was procedurally defective, the Council having not checked the title for any variations and therefore levying rates incorrectly as well as not pursuing the occupier.⁷³⁰

8.18 Meetings with Prime Minister Coates and Apirana Ngata, May 1927

The Otaki Borough Council was persistent in its pursuit of rates and argument that it was the non-payment of rates on Maori land that was preventing the Council from meeting its obligations. Less than two weeks after the Native Land Court hearing where the application was heard, a deputation from the Otaki Borough Council met with the Prime Minister and Native Minister, JG Coates (who was making the decision about the section 109 application). Also in attendance was WH Field (MP), JP Brandon (the Mayor), WB Smith (Deputy Mayor), T O'Rourke (chair of the finance committee), Mr Wilson, Mr Atmore and Mr HRH Balneavis, Private Secretary to the Native Minister.⁷³¹

At the meeting on 11 May 1927, the deputation reiterated much of what Messrs Atmore and Field had written previously regarding the non-payment of rates by Otaki Maori though noted that £50 had been paid in respect to the charging orders (which totalled £800). In response, Prime Minister Coates asked the deputation whether the land concerned was inhabited. Mr Atmore responded that 'a number of the sections were vacant' (but did not specify how many) and then proceeded to explain the Borough's Court action in respect to charging orders

⁷²⁹ Under Secretary, Native Department to Native Minister, 15 September 1927; Native Department cover sheet, ACIH 16036 MA1/1421 1927/237 Received: 2nd August 1927 - From: Registrar, Ikaroa Native Land Court, Wellington - Subject: Makuratawhiti Part 10A and 10B - Orders vesting land in Native Trustee for sale for consent under Section 109 of the Rating Act 1925, 1927, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 120-121.

⁷³⁰ Ibid.

⁷³¹ Otaki Borough Council: Non Payment of Native Rates: Deputation to the Prime Minister (Rt. Hon JG Coates) at Wellington, 11 May 1927, ACIH 16036 MA1/411 20/1/37 part 1 Native - Otaki - Borough Council - Maori rates, 1927-1937, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 3-7.

and how the Court had suggested applying under section 109 as a ‘test case’. He elaborated further on the difficulties facing the Borough including its ‘very substantial commitments for water, drainage, interest and sinking fund’ and the Borough’s significant debt. He also spoke of the effect of the reduction in the rateable value of the Borough by the exclusion of some of the land originally in the Borough by £30,000, the ‘fiasco’ that was the drainage scheme; and the difficulties the Borough faced with no big industries or farms supporting the town. With respect to Maori land, he said that there was a considerable amount that the Council proposed to drain but if Maori did not pay rates and the Borough was unable to sell the land then there would be no revenue for this.⁷³²

With respect to vacant Maori land, Mr Atmore said that the Borough felt that an order of the Court (under section 109) should be made in each case but where Maori were living on the land, then selling was perhaps ‘drastic if they had no other homes to go to’. He also noted that ‘the 93 applications made [for charging orders of which 89 were ordered] were to a large extent in regard to vacant lands’ (which expanded on his earlier statement that ‘a number of sections were vacant’ while remaining vague as to specifics). In response Mr Coates queried whether the Borough Council wished to ‘sign the death warrant of these Maori people’ and if they did not think that the ‘taihoa principal’ was a good one. Mr Brandon did not specifically answer the question instead responding that it would be ‘all right if the Government would allow them to adopt the same system in regard to payment of the loans’ (presumably meaning that the Otaki Borough Council should be excused from paying off its loans if Maori were excused from paying rates). Mr Coates said that he proposed sending his personal secretary (Mr Balneavis) to meet with Otaki Maori and set up a committee to go into the issue with a view to seeing whether they could meet the requirements of the Borough. He said that it was ‘quite possible that there were anomalies so far as they [Maori] were concerned, the same as existed in other places, and there might be cases of hardship where old people were without any source of income at all’. The committee, he said, would meet with the Mayor and discuss the position prior to him taking final action. He said that he ‘took a very lenient view’ as far as the Maori were concerned but ‘on the other hand there was a point to which he could go, and no further – after that the law must take its course’. Mr Coates said that Mr Balneavis would ‘tell the Maoris that the matter had to be met in some satisfactory way and that it could not be allowed to go on forever’. The Committee suggested consisted of Hema te Ao, Rere

⁷³² Ibid.

Nikitini (Nicholson), Hemi Kupa Hawea, Whata Hakaraia and Pirimi Tahiwī. Mr Brandon agreed that those named would ‘make a very good committee’. Mr Atmore then said (which concluded the meeting): ‘It was only right to say that the matter was fully considered by Mr Gilfedder [Native Land Court Judge] and pleas of indigence were made by natives and in some cases the rates were remitted. Their experience was that the natives were quite hopeless’. (As noted above there were three cases where a portion of the rates were remitted (though it was not stated in the minutes that this was due to indigency) and in all three cases charging orders were still made.)⁷³³

On the same day, Mr Balneavis confirmed with Mr Coates the membership of the committee (as noted above). The committee, he said, would go into the question of rates with a view to ‘clearing it up either by writing off some of the amounts or by the payment of back rates’. He also proposed an alternative to the Otaki Borough Council’s desire to sell all vacant and non-rate-paying Maori land:

It is suggested that rather than permit these lands to be sacrificed by the process of sale at the present time they should be vested in the Ikaroa Maori Land Board for leasing and so enable the rates to be paid.⁷³⁴

On his return to Otaki, Mr Wilson wrote to Mr Balneavis stating that the Council also had concerns about some of the Maori housing at Otaki which was in need of improvement and repairs including ‘general sanitary conditions’. He said that he was endeavouring to arrange a meeting for the same date as when Mr Balneavis visited Otaki to discuss rates so that he could also attend a meeting with Inspector Hooper, Native Inspector of Health and Inspector Lerwell – the Sanitary Inspector for the Borough, to see what could be done. (No further details of these meetings are in the Otaki Native Department file.)⁷³⁵

The meeting between Mr Balneavis and Mr Shepherd of the Native Department and Messrs Te Ao, Nicholson, Hawea, Hakaraia and Tahiwī, regarding rates was held on 13 June. In

⁷³³ Ibid.

⁷³⁴ HRH Balneavis to JG Coates, 11 May 1927, ACIH 16036 MA1/411 20/1/37 part 1 Native - Otaki - Borough Council - Maori rates, 1927-1937, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 13.

⁷³⁵ Town Clerk, Otaki Borough Council to HRH Balneavis, 19 May 1927, ACIH 16036 MA1/411 20/1/37 part 1 Native - Otaki - Borough Council - Maori rates, 1927-1937, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 14.

July, Mr Atmore complained to Minister Coates that the committee was yet to report on its findings. He was advised by Mr Coates that the delay was due to the incompleteness of the information provided by the Town Clerk but that a further meeting was planned for 15 July. The Native Department correspondence file, however, contains no further information on the outcome of these meetings with Mr Balneavis though it does contain a list of the blocks affected by charging orders in 1926 together with a short report next to each block. The report included details on ownership, the owner's ability to pay rates, whether the section was occupied, improvements, any involvement by Mr Balneavis and/or the committee (a visit for instance) any arrangements made for payment of rates (many of those visited said they would pay though some said they would need to pay in instalments and others did not have the money, one person noting that his old age pension did not leave him enough money to pay rates on the land he was cultivating for food) and if the section should be exempted due to an owner being indigent. Several owners were described as 'old age pensioners' and the Town Clerk suggested that all the land of one 'old age pensioner' Raika Takarore, be sold apart from the portion occupied by him – which the report said was agreed to by the committee. He owed over £16 in rates. In the case of another 'old age pensioner' who was blind, and owed over £12 in rates, it was noted that two ex-Borough councillors had agreed to exempt the land from rates on account of the circumstances of the owner. The Town Clerk had, however, stated that the Council was not prepared to make any recommendation regarding exemption as it required rates to be paid. It was decided that it be recommended to the Native Minister that the sections be exempted from rates (apart from that occupied by the Otaki Racing Club office) as it was the section next to the marae. There were also comments made that owners had requested that land be vested in the Ikaroa Maori Land Board so that the Board could lease the land to enable rates to be paid and that other land be sold so as to pay rates on the section on which they were living. In one instance an owner said that Tiemi Rikihana had advised them not to pay rates but that Mr Balneavis had reminded them of their responsibilities. Circumstances varied with housing on some of the land and unoccupied in others. As well there were cases of leases that provided insufficient rental to cover the rates. In one case the owners of a house said that the unimproved value of the 1 acre 1 rood Makuratawhiti 8B1 block was too high (£160) and that only a small piece of the block was 'habitable. The balance ... [being] under water'.⁷³⁶

⁷³⁶ Otaki Borough – Charging Orders for Rates on Native Sections, circa 1927, ACIH 16036 MA1/411 20/1/37 part 1 Native - Otaki - Borough Council - Maori rates, 1927-1937, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 15-20; Native Department Spreadsheet entitled 'Otaki Borough, Charging

Of note, is that no formal (by order in council) exemptions of Otaki Maori land due to indigency were considered or made at this time. Indeed, the only formal exemptions were in respect to land that was incapable of being revenue producing though this did not occur until 1953. As well, neither the Minister or government officials made any attempt to force, let alone encourage, the Council to exempt land from rates.

In October 1927, Mr Wilson attended a meeting with the Prime Minister (Coates), Apirana Ngata, Maui Pomare, Tau Henare, Mr Balneavis, Judge Jones, and other MPs such as Messrs Campbell, Bell, Broadfoot and MacMilan regarding the difficulties their authorities encountered with the collection of rates on Maori land. The other local authorities represented were Te Kuiti, Hutt, Hokianga, Akitio, Woodville and Waitotara County Council and Otorohanga Town Board.⁷³⁷

The meeting began with suggestions by the local authorities regarding amending rating legislation. A statement that reflected the general tenor of their arguments was:

As the Maoris avail themselves of our hospitals, schools, electric power, roads, old age pensions and other conveniences, it is felt that they should bear their share of the burden, and that at once.⁷³⁸

This statement fails to acknowledge that the ‘hospitals, schools, electric power, roads, old age pensions and other conveniences’ did not necessarily belong to the local authorities but were largely paid for by the state which included Maori who had contributed to the infrastructure in ways other than rates - such as land for roads.

Mr Wilson spoke, referring to the deputation from the Otaki Borough Council that met with Mr Coates the previous May. It was then, he said, that the Borough had asked for consent to sell the vacant sections in the Borough. Mr Coates had advised the deputation that Mr

Orders for rates on Native Sections’, circa 1927, ACIH 16036 MA1/413 20/1/37/1 Maori Lands in Otaki Borough (search file), 1930-1953, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 89-95.

⁷³⁷ Minutes entitled ‘Non payment of Native Rates: Deputation to the Prime Minister (Rt. Hon JG Coates) at Wellington’, 6 October 1927 ACIH 16036 MA 1/408 20/1/14 Rates – Native Land – Miscellaneous papers, 1924-1927, Archives New Zealand, Wellington. SW Document Bank, volume 1, pp. 109-123.

⁷³⁸ Ibid.

Balneavis would meet with Otaki Maori and then hold a meeting with the Borough to 'discuss the position'. Unfortunately, Mr Wilson said, the Borough had not been invited to the meetings and 'were not represented in any way'. As far as he knew, the meetings were held in June or July but they had not been provided with a report although they had been given a draft of notes where certain Maori had promised payment. Some had been given three months and others six months to pay. Of those who had promised payments none, he said, had made any; the three months had elapsed and in that class only one payment had been made. He said that he was mentioning this to show the delay in obtaining any result. In the meantime, so far as its loans were concerned, the Borough had to meet payments, and that 'very shortly the Borough would be bankrupt unless it could get the native rates collected'. (As far as is known, the Otaki Borough Council was never adjudged bankrupt.)⁷³⁹

Mr Wilson was also very specific as to how he saw the Maori land in the Borough being utilised. He claimed that the appointment of a receiver would not assist his Borough as their subdivisions were for 'building purposes'. He did not think that there was any probability of obtaining a lessee. If one was obtained, he said, the rent would be insufficient to pay the rates.⁷⁴⁰

Apirana Ngata spoke to the deputation. He was then chair of the Native Affairs Committee but not yet Native Minister. He said that he had come along to the meeting to get an understanding of the local authority point of view. He already knew what the difficulties were from a Maori point of view and that 'one needed to appreciate the difficulties of the other side so as to get at what was a fair thing'. This was, he said, all that Maori wanted. He noted that in presenting his case, one of the MPs (Broadfoot of Waitomo) had 'emphasised features' that might appear to be correct from a legal point a view but when applied to Maori lands in other districts to Waitomo, they would be found to be 'under present circumstances, quite oppressive'.⁷⁴¹

He emphasised that local authorities were unaware of the difficulty of getting Maori into a position to pay rates. One such difficulty was that the titles were not in a position where Maori might utilise the land. He also noted that the accuracy of the valuation rolls was an

⁷³⁹ Ibid.

⁷⁴⁰ Ibid.

⁷⁴¹ Ibid.

issue remarking that charging orders had been made in Waitomo ‘in an automatic way’, similar, he said, to the way that the Magistrates’ Court would do it. That is, regardless of its accuracy, the valuation roll was taken as correct and the charging order made on the basis of what the local body said was due. He explained that the provision in the 1924 Act, which gave the Native Land Court power to review, was ‘put in deliberately because it was found in many districts wrong entries were made, and they had wanted to emphasise that there was a certain responsibility on the local body, and the Government, represented by the Native Department and the Valuation Department, to get the foundation of rating so far as native lands were concerned put on a correct basis’. He said that it was necessary to clean up the valuation roll.⁷⁴²

Ngata also said that a further difficulty was the classification of Maori land. He said that he ‘quite agreed with that suggestion that there should be some kind of classification’ system but not the sort suggested by Broadfoot (who had suggested that Maori land be declared either available for settlement or vested in the Crown). He said that if a classification scheme was applied, ‘it would be found that they were rating on quite a lot of land which should not be rated at all’. In addition, ‘accessibility was seldom taken into account when putting value on the land’. He thought this ‘should be an element in rating’. He believed there were sufficient cases to justify enquiry by the Native Land Court before the charge was put upon the land.⁷⁴³

Ngata also stated that work needed to be done to get to a point where the law for the two races would be the same, ‘provided the conditions were the same’. Further:

They have never been the same, and whether it was wise in all cases to break down legislative barriers to full equality was a matter which Parliament had differed about. The local bodies stressed the point that after a charging order was made they should be in a position to realise the security if they wished to do so. Now, he understood that if they obtained judgement against a European and attached it to his land, they could not realise upon the judgement until twelve months had elapsed. What were they asking to do in regard to Native Land?⁷⁴⁴

⁷⁴² Ibid.

⁷⁴³ Ibid.

⁷⁴⁴ Ibid.

Ngata also said with regard to the legislative amendments proposed by Broadfoot et al, that work had been done for a considerable amount of time in respect to putting Maori titles in such a position that they could use their land and until that was done, then local authorities needed to look on and allow the 'rating difficulty to proceed'. Until Maori titles were in exactly the same position as the pakeha 'it was not fair to treat them exactly the same as Europeans'.⁷⁴⁵

He concluded that the idea of 'general legislation, applicable to all conditions, would not get them very far with native lands; the greatest success has been made where the problem had been tackled piecemeal'.⁷⁴⁶

Tau Henare, MP for Northern Maori from 1914 to 1938, then spoke. Although he did not say that his statement was directed at the Otaki Borough Council, it was certainly pertinent to the Borough. He commented that 'he knew himself of some of the difficulties of the local bodies whether they had borrowed money and wasted it somewhere and then placed the blame on the Maoris'. He said that 'the blame was not always placed on the right shoulders in all these points that had been mentioned'. He also had been before the Native Land Court 'time after time and asked the pakeha representing the local bodies of the district to share with the Maoris the responsibilities, but he had failed to do so'. He thought that Pakeha could 'realise the difficulty of titles on which no financial assistance could be obtained to put the Maori on a level with the pakeha' and that 'even if lands were good it was difficult to bring them into production under these circumstances but in some cases they were of no use at all'.⁷⁴⁷

Prime Minister Coates then spoke. He said that the discussion had been useful because it made one point clear – that while endeavouring through legislation to make Maori pay rates, it had been 'clearly shown that there were difficulties in the suggestions and also the unfairness of suddenly giving practical effect to what had been asked for'. Coates commented too on the request for the Minister not to have the right of veto when applications were made to the Native Land Court to have land vested in the Native Trustee for the purpose of sale (under section 109). He noted that so far it had only been used in two cases – one where the

⁷⁴⁵ Ibid.

⁷⁴⁶ Ibid.

⁷⁴⁷ Ibid.

land did not belong to the Maori and the price was wrong and in the second case a decision was still pending. He also said:

If the requests were acceded to and the matter was left entirely in the hands of the local bodies a state of affairs would be seen in New Zealand which would shock the whole community. It would mean that hundreds of thousands of acres of land, which had belonged to the Maori ever since he had been in the country, would be pushed on to the market. The figures quoted clearly showed that such action would not be in the interest of the country and certainly not in the interest of the Maori people.⁷⁴⁸

He said that he would like to get the chair of the Hawkes Bay County Council to indicate to those present how his county had got over the difficulties. He said that Waiapu too had 'got past' their difficulties and Opotiki was in the process of doing so as was Rotorua. He said that this had been achieved 'without precipitate action, and it seemed to him that the method adopted by the Hawkes Bay County Council could be adopted by practically every one council, that is, the 'careful classification of the native lands in their area'. He also suggested that a conference be held and asked that when making suggestions to 'consider the difficulties of the Maori people as well as their own'.⁷⁴⁹

8.19 Commissions of Inquiry into the Borough of Otaki, 1925, 1926 & 1928

Little correspondence is on the Native Department files in the period between the meeting between local authorities, Coates and Ngata in October 1927, and the publication in March 1928 of the terms of reference for a commission of inquiry into the Borough of Otaki. This was not the first commission of inquiry to be held regarding the Otaki Borough Council but it was the first one that included a response from Maori. The first commission was held in 1925 as a result of petitions from European farmers who represented 'about a quarter of the total valuation ... [and claimed] insufferable taxation at the hands of the borough'. They sought 'exclusion from the Borough'. The Council contested the petitions because, Cookson states, if the lands were 'detached from the borough, its rateable value and therefore revenue would be drastically reduced'. The outcome of this Commission was the removal of 223 acres of the 'Mission Block' from the Borough which was then 'returned ... to the county

⁷⁴⁸ Ibid.

⁷⁴⁹ Ibid.

[Horowhenua]'. The second commission was held in November 1926 which resulted in more European land being excluded from the Borough. Cookson records that together, the exclusions reduced the valuation of the Borough by over 17 percent.⁷⁵⁰

The third Commission of inquiry in 1928 was set up for similar reasons to the first two: 'representations ... made to the government that certain lands within the Borough should be withdrawn' as they were 'not suitable for municipal control'. Although not specifically mentioned in the terms of reference, during the course of the inquiry, the rating of Maori land within the Borough was discussed.⁷⁵¹

The terms of reference for the commission were:

- (1) Is the area comprising the borough of Otaki suitable for municipal control, or is it desirable that the borough be abolished?
- (2) If it is desirable that the borough be abolished, what provisions should be made for the future control of the area now comprising the borough?
- (3) If is it not desirable that the borough be abolished, ought any alteration of the boundaries be made either by the exclusion of lands from, or the inclusion of lands in, the borough?
- (4) Is it desirable that the borough be divided into wards?
- (5) Is it desirable that, for the purpose of the levying of rates by the Borough Council, such lands be valued on a special basis other than the basis of valuation under the valuation of Lands Act, 1925?
- (6) Is it desirable that any system of rating other than now in force in the borough should be in force, and if so, what system, and by what means should it be adopted? The exclusion of certain lands from the rating area, and also of varying rates will be discussed, as well as the question whether the Health Department's requisition to provide certain sanitary works should be given effect to.⁷⁵²

The members of the commission were Messrs RM Watson (Stipendiary Magistrate of Feilding and the chair), WT Strand (of Lower Hutt) and W Nash (of Wellington). The

⁷⁵⁰ Cookson, pp. 65, 67.

⁷⁵¹ Report of Commission of Inquiry into Borough of Otaki, AJHR 1928, H28, p. 1.

⁷⁵² *Evening Post*, Volume CV, Issue 108, 9 May 1928, p. 6.

Valuation Department was represented by the Valuer General, T Brook, and GP Shepherd of the Native Department acted ‘on instructions from the Minister of Native Affairs’. In addition, Dr RA Shore represented the Health Department, M Luckie appeared for the farming community and CF Atmore appeared for the Otaki Borough Council.⁷⁵³

The Commission opened on 8 May 1928. The Valuer General, Mr Brook, gave evidence first, tracing the transfer of Otaki administration from a Town Board into a Borough and describing how both the population (in the previous 12 years) and land value since 1913 had increased. He gave the following figures with regard to capital and unimproved value and also noted that the total net public debt of the Otaki Borough as at 31 March 1927 was £43,352.11.5 which was partly loans from Treasury and partly loans under the Local Bodies Loans Act.⁷⁵⁴

Table 12: Increase of capital and unimproved value of Otaki Borough, 1913-1927

Year	Capital Value of Otaki Borough	Unimproved Value of Otaki Borough	Debt of Otaki Borough
1913	£180,812	£105,714	
1927	£299,096	£137,360	£43,352.11.5

Source: *Evening Post*, Volume CV, Issue 108, 9 May 1928, p. 6.

The Valuer General observed that rates on farm lands were ‘exceedingly heavy’ and that Otaki had, within its boundaries, an ‘unusually large number of Native land owners’. The Borough Council, he said, ‘had the common experience of collecting only a small proportion of the rates levied on the Native lands’. The amount collected during the previous five years from Maori land was less than 4 percent of the total collected whereas the proportion that had been levied was 14 percent. His view was that Maori had ‘not stood up to their obligations as the Europeans had done’ but that both had ‘failed to a certain extent’. He said too that the overrating of some lands in the Borough ‘could not be wholly attributed to the system of rating’ but the inclusion of farmlands which could make little use of the proposed services whereas ‘a greater measure of justice could have been given by excluding such lands from the special rating areas’.⁷⁵⁵ Further:

⁷⁵³ *Evening Post*, Volume CV, Issue 114, 16 May 1928, p. 6.

⁷⁵⁴ *Evening Post*, Volume CV, Issue 108, 9 May 1928, p. 6.

⁷⁵⁵ Ibid.

The troubles that the Commission were investigating ... were, to a great extent, attributable to the levying of special rates for special services on the same basis as general rates, which were, or should have been, restricted to those purposes that were wholly of community value. The remedy was to classify the lands in special rating areas, and to make the classification scheme a success, the classifiers should know what system of rating was to be adopted. If at a future date the system of rating were to be altered, a reclassification should be made. This should be done from time to time to ensure that the incidence of the rating was fair, under the altered circumstances. Provision should also be made for extending the special rating area when it was desirable to do so. If it were possible not to have a reclassification of the special rating areas, the incidence of rating would be altered, and, short of legislation, nothing could relieve the farmers from the burden from which they were suffering.⁷⁵⁶

He also said that he could see no possibility of the western area of the Borough being used for building purposes for many years and that the farming areas should never have been included in the Borough.⁷⁵⁷

The Otaki Rating Commission also heard a submission on 10 May 1928 from GP Shepherd of the Native Department. He said that a number of suggestions had been made to solve the 'Native rating problem' but so far none had been 'completely satisfactory'. He noted that on the East Coast the solution had been to consolidate the interests of Maori in scattered areas into composite blocks 'so as to clear the titles, and thus enable the owners to finance upon the security of their areas and so improve and farm the lands in order that they might become self-supporting and producing members of the community'. Many local authorities had asked that this be done in their districts but the 'large amount of work involved and the difficulty of providing trained officers for the work had placed a definite limit upon what could be done at the present time'. The work was, however, 'being carried out in a determined manner in certain selected areas'. In addition, the Native Minister had recently set up a committee to deal with the question of consolidation in North Auckland counties and in the Rohe Potae. One of the objects of this committee was to 'place the question of payment of rates on Native lands on a better footing and, as a first step to attaining this objective, had arranged for large

⁷⁵⁶ Ibid.

⁷⁵⁷ Ibid.

sums owing for rates on native lands to be written off'. He said that most of the local bodies approached had 'very generously' agreed to a compromise.⁷⁵⁸

Mr Shepherd also told the Commission that he hoped that it would recommend that all arrears of Maori rates be remitted and exempted from future loans until 31 March 1930. This, he said, would give Maori an opportunity to save the 'remnants of their ancestral lands'. He argued that the constitution of the Otaki town district 'imposed a real burden' on Maori lands 'consequent upon the increased administrative costs, and the extension of the town roads, streets and other conveniences of life which were of more benefit to the pakeha than to the Natives'. He said that rates on Maori lands in Otaki were 'so high, and the potential revenue of the land so low, that to continue to levy the present high rates upon the lands looked remarkably like confiscation in a most insidious form'.⁷⁵⁹

Rere Nikitini, described as 'a chief of the Ngati Raukawa tribe' (and as noted previously, the chair of the Raukawa Maori Council and chair of the Raukawa Health Council), also made a submission to the commission. He said that he 'strongly objected' to the Pahianui block being included in the Borough as it was 'not fit for settlement purposes and was subject to floods'. He considered that it would be an 'injustice' to levy rates on that land, which was 'more or less useless' and 'received no benefits from the operations of the Borough Council'. Mr Nikitini also asked for the exclusion of the Titokitoki block from the borough describing the block as 'waste land and sand hills'. He stated too that if Maori lands 'were confiscated the Maori settlers would be placed much in the same position as other Native races in other parts of the world. If the worst came, they might go as far as to apply to the Native Minister to have the lands sold'. Mr Nikitini also said that Maori did not apply for exemption from rates that were 'properly levied', but from those on lands which did not benefit them in any way. He was reported to be 'firmly of opinion that the people had better roads when the Horowhenua County controlled them than they had now'. He said that the rates were increasing to such a degree that Maori would soon be unable to pay them. He also advocated for the abolition of the Borough and thought that Maori (and everyone else) would 'benefit more by being under the jurisdiction of the Horowhenua County Council whose officers were experienced men' though he was not 'casting any reflections on the officers of the Otaki Borough Council'. He said that most of the unemployed in Otaki were Maori and through

⁷⁵⁸ *Evening Post*, Volume CV, Issue 109, 10 May 1928, p. 10.

⁷⁵⁹ *Evening Post*, Volume CV, Issue 110, 11 May 1928, p. 14.

lack of work, could not pay their rates. If the rates on Maori land were written off, the government could take over the unoccupied lands and pay the rates out of the rents. He thought too that if relief were given, future rates would be paid.⁷⁶⁰

Following the statement of Mr Nikitini, Mr Atmore asked him whether Maori would ‘guarantee the payment of rates and if so, what the guarantee would be worth’. Mr Nikitini responded that it would be worth the same as the guarantee given previously by the Mayor who said that rates would not go up (it was reported that there was laughter at this point).⁷⁶¹

A member of the commission, WT Strand asked Mr Nikitini whether he ‘favoured a scheme of consolidation and if he thought it would benefit Otaki as it had other districts’. Mr Nikitini ‘replied that it would be beneficial to a certain extent, the only objection being that the holdings were too small’. He was also ‘perfectly certain that the Maoris would favour any remedy for overcoming the discrepancies in the borough from which the Maoris had received no benefits’.⁷⁶²

Inia Hoani Kihoroa, described as a ‘settler, residing at Te Horo’, also gave evidence. He said that he was a ‘chief of the Ngati Raukawa tribe’ and that he ‘strongly urged’ that the Borough be abolished.⁷⁶³

The following day, the Town Clerk (Mr Wilson) acknowledged that ‘the farming community would not benefit’ from the drainage scheme (but did not specify whether this was the case for Maori land). Mr Atmore, counsel for the Otaki Borough Council, also gave evidence continuing to criticise Maori and to blame them for the state of the Borough’s finances. He said that one of the most ‘serious aspects of the situation was the extreme difficulty in collecting Native rates’. He said that the amount of rates levied on Maori land represented one-sixth of the rateable value of the Borough lands, that in the previous five years, £3091.6.7 had been levied on Maori land of which £2651.17.7 was outstanding. Not all of the difference (£439.8.6) had actually been paid as £86 had been written off leaving a total of £353.8.6 paid. Mr Atmore said that the old Town Board, and the Borough in its first few

⁷⁶⁰ Ibid.

⁷⁶¹ Ibid.

⁷⁶² Ibid.

⁷⁶³ Ibid.

years of existence, 'had treated the Native owners generously, in that the Native rates were written off every year' (he did not mention the 79 Magistrate Court judgements made in 1915). He said that it was 'quite clear from a perusal of the balance-sheets that these present arrears must be collected'. Also, that given the exclusion of some of the farm lands from the Borough which he noted were 'financial European lands', the properties that remained in the Borough 'had to bear the whole of the burden in respect of Native rates as far as the general rate is concerned'. Mr Atmore said that he had used 'every endeavour' to collect the rates with the aid of the Rating Act, 1924 but with little result. This included the 93 charging orders made against Maori land for arrears of about £800 and an application under section 109 to have the land where rates had not been paid vested in the Native Trustee for sale. He said that although the Court made the order, 'the Native Minister had held the decision in abeyance for 13 months'. He did not add that the application was procedurally flawed as the rates levied had not been correctly apportioned and that the occupier had not been pursued for rates⁷⁶⁴

Further submissions were made on 15 May. The Mayor, Mr Brandon, gave the history of the drainage scheme and the negotiations that took place with the State Advances Office, the Public Trustee and a legal firm to raise the necessary money for the scheme. He claimed that he 'understood that the natives had been kept well posted in news about the scheme' and that the 'un-financial Native ratepayers had a vote, and the loan proposals were carried by a large majority'. In response to a question from Mr Shepherd, Mr Brandon claimed that 'he had not given a guarantee that Native rates would not be increased if the Natives came into the borough'. This contradicts a statement made by Dreaver who said that Hema Te Ao had opposed the town becoming a borough but had been 'soothed with an assurance that rates would not rise'.⁷⁶⁵

FH Hudson, clerk of the Horowhenua County Council, also spoke before the commission. He said that 'speaking generally, he did not think it was the desire of Natives to get out of their obligations, for he considered that many of them did not understand the position properly'. So far as the Horowhenua County was concerned, he thought that Maori were 'not failing in

⁷⁶⁴ *Evening Post*, Volume CV, Issue 111, 12 May 1928, p. 11. Mr Wilson gave the number of charging orders as 93 but calculations made by the author indicate that it was 89. That said, it was not entirely clear from the Native Land Court minutes of the outcome of several applications.

⁷⁶⁵ *Evening Post*, Volume CV, Issue 114, 16 May 1928, p. 6; Dreaver, pp. 227-228.

their obligations. All Europeans did not pay their rates, but in their case the rates could always be secured against the land'.⁷⁶⁶

Other details given to the commission included population and rating data. It was stated that there were 1305 Europeans in the Borough and 280 Maori (about 21 percent). Of this population, there were 307 European and 94 Maori ratepayers (about 30 percent) in the Borough. The general rate on the properties that had been excluded from the Borough as a result of the previous commissions (which were now in the Horowhenua county) totalled £103. Had they still been in the Borough, however, that total amount of rates would have been £349. It was further noted that 'since those properties had been in the county, they had been re-valued, and the valuation had been considerably reduced'. Also, that some of the excluded lands (from the Mission Block) were low-lying and wet' (which was what Mr Nikitini had also said about some of the Maori land still within the Borough).⁷⁶⁷

8.20 Report of the Commission of Inquiry

The Otaki Rating Commission reported the following month - in June 1928. The Commission stated that it was 'clear from a perusal of the evidence that in the very year the borough was constituted, the Borough Council embarked by way of special loans upon costly and ill-conceived schemes for waterworks and sewerage, far in excess of the borough's requirements'. While water was now 'readily available in every part of the Borough' and of 'great utility in the business and residential areas of the borough ... especially in the seaside areas during the summer months' it was of 'comparatively little use to many of the occupiers of farm lands, particularly those which have been excluded from the borough'. It was noted that the sewerage scheme was 'designed to serve only a limited portion of the borough – mainly the central portion, and it was never intended to bring the sewerage west of the business section terminating, roughly, at the rear of the post-office'. It was clear, the Commission said, that a special rating area should have been set up which included only the properties served by the works for which the loan was raised.⁷⁶⁸

⁷⁶⁶ *Evening Post*, Volume CV, Issue 114, 16 May 1928, p. 6.

⁷⁶⁷ *Evening Post*, Volume CV, Issue 111, 12 May 1928, p. 11.

⁷⁶⁸ Report of Commission of Inquiry into the Borough of Otaki, 16 June 1928, AJHR 1928, H28, p. 7.

With regard to rates on Maori land the commission concluded that the difficulties of the Borough had been ‘increased by the non-payment’ of rates on Maori lands with Maori properties comprising ‘roughly one-sixth’ of the rateable value of the lands in the Borough of the amount levied, one-fifth had been paid. The sum of £3444.5.5 was ‘accepted by the Borough Council, and by Mr G.P. Shepherd for the Native Department, as the total sum outstanding in respect of all unpaid Natives rates as at 31st March 1928, including the 10 percent penalty imposed during the period of the existence of the borough and the Town Board’. After ‘considerable discussion’ which the Commissioners were involved with (but not, it would appear, Maori), the Borough Council resolved that they would accept a cash payment of 25 percent of the total ‘plus all costs incurred by the Council to date in connection with liens and applications, in full settlement of all Native rates owing up to 31 March 1928 provided the Native Department proceeds with a scheme to vest all Native land not occupied by the owners in the Maori Land Board, with wide powers of administration and alienation, the revenue to be applied in payment of all future rates’. The Commission recommended that a cash payment be made to the Otaki Borough Council of £861.1.4 plus costs and that all Maori lands in the Borough:

... not occupied by the owners be vested in the Ikaroa District Maori Land Board for administration, with powers of sale by public auction or private contract, leasing, accepting surrender of leases, and licensing, and power to apply the proceeds in the first place, in payment of outgoings, including rates, subject to such exemption from rating as Your Excellency in Council may think fit to order pursuant to the provisions of section 104 of the rating Act, 1925.⁷⁶⁹

The amount owed was worked out on the following basis (of note is the marked increase in the amount owed between 1920/1921 (£94.7.5) and 1927/1928 (£869.16.2) reflecting the almost trebling of the rate on the unimproved value recorded by Cookson:

⁷⁶⁹ Report of Commission of Inquiry into the Borough of Otaki, 16 June 1928, AJHR 1928, H28, pp. 10-11.

Table 13: Rates on Maori Land owed to Otaki Town Board and Otaki Borough Council, 1913-1928

Local authority	Financial year/s rates levied	Rates owed on Maori Land
Otaki Town Board	1/4/13-31/3/20	£436.15.4 (about £62/year)
Otaki Town Board	1920-1921	£94.7.5
Otaki Borough Council	1921-1922	£135.0.10
Otaki Borough Council	1922-1923	£129.12.10
Otaki Borough Council	1923-1924	£171.3.4
Otaki Borough Council	1924-1925	£293.1.10
Otaki Borough Council	1925-1926	£452.12.5
Otaki Borough Council	1926-1927	£627.8.4
Otaki Borough Council	1927-1928	£869.16.2
	Total	£3209.18.6
	10% penalty	£234.6.11
	Total	£3444.5.5
	25% of total	£861.1.4

Source: Report of Commission of Inquiry into the Borough of Otaki, 16 June 1928, AJHR 1928, H28, p. 10.

The Commission also made other recommendations regarding the sewerage scheme and a differential rating scheme but these have not been noted for this report.⁷⁷⁰

8.21 Native Land Amendment and Native Land Claims Adjustment Act 1928

In October 1928, the Native Land Amendment and Native Land Claims Adjustment Act 1928 was passed. Section 32 of the Act was said to give effect to the recommendations of the Commission of Inquiry though the Act was different in parts to that recommended. Section 32 (1) stated that a notice would be placed in the *Kahiti* to the effect that all Maori land or land owned by Maori within the Borough of Otaki would become subject to section 32 if rates due on 31 March 1928 were not paid within three months of the date specified in the rates notice. If they were not paid then the Governor General could issue an order in council to vest all this land in the Ikaroa District Maori Land Board. This vested land would become subject to section 32 (32(2)). All lands vested in the Board would be ‘held by it in trust’ for the beneficial owners (32(3)). This would, however, not affect any lease, mortgage, charge or encumbrance which the land was subject to at the date that it was vested, or the right of any person to enforce a valid contract made with respect to the land before it was vested (32(4)). The order in council could at any time be amended, varied or revoked. Any land affected by a revocation would be re-vested in the former owners (32(6)).

⁷⁷⁰ Report of Commission of Inquiry into the Borough of Otaki, 16 June 1928, AJHR 1928, H28, pp. 10-11.

Of note was that the Commission recommended that only land that was not occupied by Maori be vested in the Board, not all the land where rates were not paid as at 31 March 1928. (No correspondence has been discovered regarding why this change was made.)

The Board had the power under this section to sell, lease, exchange or mortgage the land. Any proceeds from these forms of alienation were to be applied in the first instance to the 'payment of the expenses of administration, including a reasonable commission to the Board and all other liabilities to the Board and all rates and other outgoings due or accruing'. Only then would the balance be paid to the owners of the land. The Board could also elect to administer the land under section 3 of the Act (32(7)). As well, the Board was authorised and directed to pay to the Otaki Borough Council in settlement of all claims for rates due in respect to Maori land or land owned by Maori within the Borough and inclusive of 31 March 1928, an amount equivalent to one quarter of the rates due on all land vested under section 32. The Otaki Borough Council would then accept this sum in full settlement. The Council was also authorised to 'write off as irrecoverable the balance of such rates'. Any liens or rates charges (presumably the charging orders issued in 1926) would take no further effect once this payment had been made (32(8) (10)). It is not clear whether this also included the Magistrates' Court judgements of 1915.

Section 32(9) of the Act stated that the land over which the Board paid the rates would be charged in favour of the Board with the payment of the amount paid as well as interest at the rate of 'five pounds per centum per annum.' Under section 32(11), the Board was not liable for any subsequent rates levied on the land that was vested in it if the amount levied was in excess of the revenue received by the Board but that the 'net revenue received by the Board after payment of the current year's rates received during the next succeeding period' could be applied towards the payment of such rates. If the rates were not paid within two years from the time they were levied they were to be deemed 'irrecoverable' and written off. Section 32 (12) also dealt with Maori lands within the Borough not initially vested in the Board. Instead of proceeding under section 109 of the Rating Act 1925 (where by land could be vested in the Board or Native Trustee for sale for non-payment of rates) the Otaki Borough Council could apply to the Court to have this land vested in the Board.

Section 32 of the Native Land Amendment and Native Land Claims Adjustment Act, 1928 was superseded by section 63 of the Native Purposes Act, 1931. This largely consolidated existing legislation and was similar to that of section 32.

The list of lands to be vested in the Ikaroa Maori Land Board was not published until over a year later.⁷⁷¹ This could well have been due to the difficulty in identifying for certain all land that the Borough and Native Department considered should be included. The compilation of data by the Native Department with the assistance of the Borough Council from November 1928 appeared time consuming. Mr Peck of the Native Department was instructed to do the following:

1. To take list of properties owned by Maoris as at 31/3/1928 from Borough Rate Roll and check rates owing on each of such properties backwards year by year to the commencement of (1) The Borough and (2) the Town Board.
2. It will probably be found that in respect of unpaid rates owing by Natives that there are many properties on which rates are owing that have passed out of Native ownership. The rates of this sort should be taken out separately and discount from those referred to in paragraph (1).
3. With regard to rates under paragraphs 1 and 2 supra, please note in respect of each amount owing whether or not it is protected by (1) Judgment (2) Charging Order (3) Lien (registered).
4. If rates for 1928-1929 have been struck – better get list of them for future reference.
5. Do not, any further than demanded by courtesy, discuss our intentions as regards these properties and rates as I wish to have all these figures properly before me to enable a decision to be reached.⁷⁷²

In addition, Mr Flowers, also of the Native Department was given the following instructions:

1. Ascertain with reasonable certainty the occupiers of each Maori owned property and whether occupier is owner, tenant or otherwise;

⁷⁷¹ *New Zealand Gazette*, 12 December 1929, p. 330.

⁷⁷² Native Department, Paper entitled: 'Otaki Borough Rates', undated, circa 1928-1929 ACIH 16036 MA1/1400 1926/449 Received: 29th July 1926. From: Rere Nicholson, Chairman, Raukawa Council, Wereroa. - Subject: Haruatai 13A and B and Otaki Sections 87 and 88. As to exemption from rates, 1926-1928, Archives New Zealand, Wellington. Document Bank, volume 6, pp. 91-92.

2. Ascertain occupied properties on which there are dwellings distinguishing between those occupied by owners and those occupied by tenants
3. Ascertain properties on which there are offices, shops or other business houses and the names and address of occupiers;
4. Ascertain properties let or occupied as market gardens by Chinese or others;
5. Ascertain properties let for any other particulars purpose;
6. Keep your ears and eyes open and mouth shut and bring home any information you can glean which may seem likely to prove useful.
7. It is possible that there any many Native owned properties occupied by Europeans not shown in roll of Native lands – find out all such under relative paragraph above.
8. Locate and identify each section on rate rolls by reference to map.⁷⁷³

Given the extent of the complaints about the non-payment of rates on Maori land by the Borough Council, it could be assumed that such information had already been compiled so that the Borough could correctly state its case. That these details had not been compiled and the Native Department had to do it, calls into question the record keeping of the Council and the legitimacy of its rates collection. This was not however, raised as an issue by government officials.

In November 1928, Mr Peck asked Mr Wilson, the Otaki Borough Council Town Clerk, for particulars regarding the periods covered in cases where judgement was obtained for rate arrears on Maori land. He only knew of eight cases affected by judgements. Mr Wilson responded that in order to retrieve the information regarding judgments for rates he had needed to spend time going through courthouse records. Mr Wilson said that he had ‘checked through very carefully from 6th. August 1915 up to the present ... [and] made out a list of all judgements against Native Lands and the amount of court fees on each’. He had then checked the cash book for the Borough for all payments made subsequently. The nett result, he said, gave ‘a list of 79 judgements with a total of £133.9.3. owing for Court fees’ (which was obviously a lot more than the eight judgements believed to have been made by the Native Department). Mr Wilson said that the only way to trace the land that each judgement has been made against was to ‘obtain permission to refer to the plaint notes lodged in the Court’. This, he said, would ‘entail considerable work’ so he asked if the Department wanted him to

⁷⁷³ Ibid.

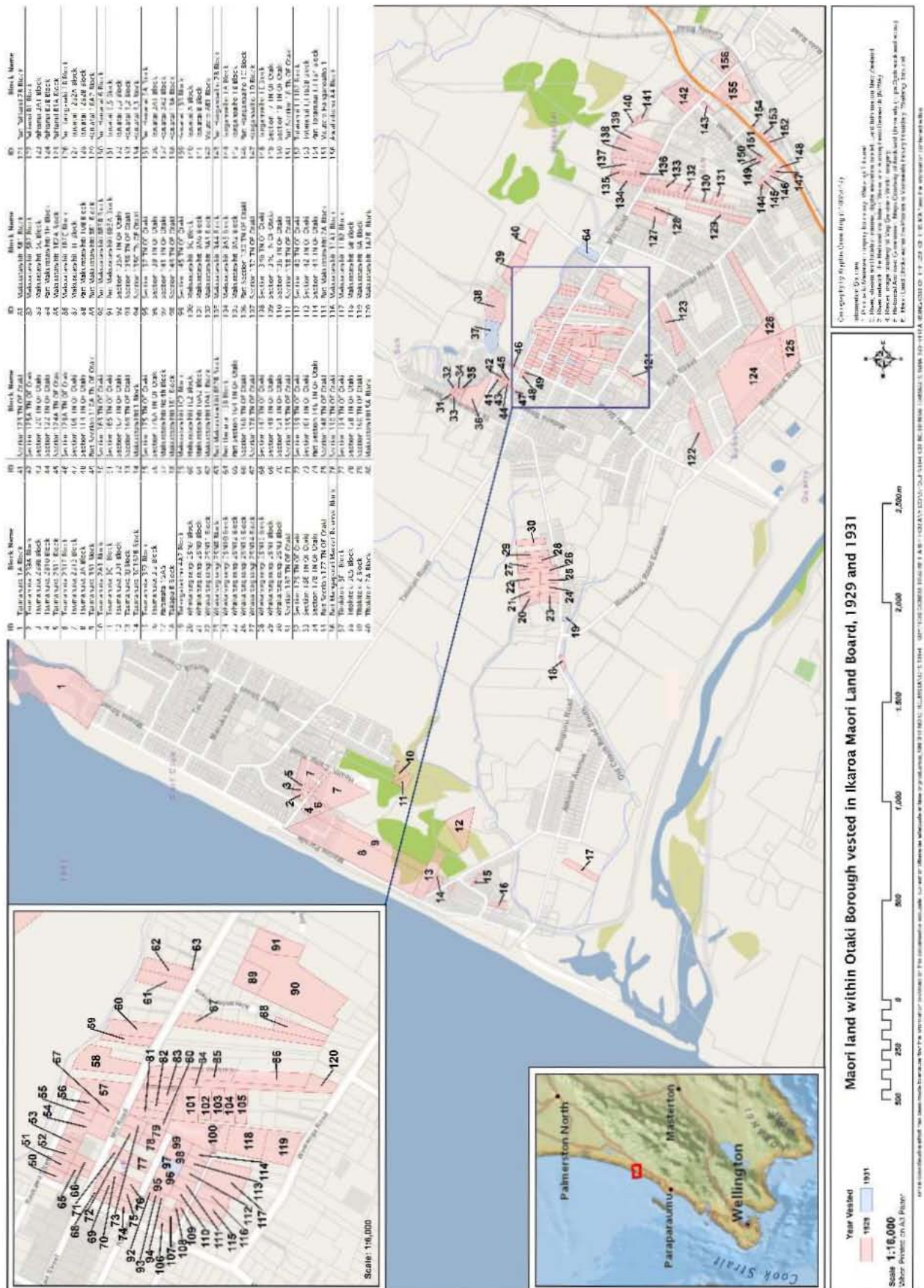
do this. He also noted that the above amount 'did not include solicitor's charges, court fees or solicitor's charges re charging orders'. Mr Peck replied that he did not wish to cause considerable work in supplying the information regarding areas affected by judgement summons but that the only information that would be helpful was a list of lands affected by judgements as well as the dates when the rates were levied. He said that the matter should 'stand over unless it was absolutely essential to have the information'.⁷⁷⁴

In December 1929, a list of 135 blocks comprising 204 acres 1 rood 34 perches was published in the *New Zealand Gazette* under section 32 of the Native Land Amendment and Native Land Claims Adjustment Act 1928 thereby vesting them in the Ikaroa Maori Land Board. The blocks vested were valued at £18,895 which was 80 percent of the value of all Maori land within the Borough (£23,519). The blocks ranged in size from between 23.7 perches to 20 acres (Taumanuka 3A). Makuratawhiti 10A1, 10A2 and 10B part (that had been subject to the section 109 application) were also included in the list, the three blocks together comprising 2 acres 17 perches. Also included in this list were blocks affected by charging orders and blocks where no charging orders had been made. Some of the blocks were occupied and others were vacant. Some had housing on them and others were used for gardens. Also on the list were the Pahianui and Titokitoki blocks that Mr Nikitini had expressly asked the Commission to exempt from rates as well as Taumanuka 1A and Takapu B blocks which were later exempted (over 20 years later) because they largely comprised sand dunes or river bed.⁷⁷⁵

⁷⁷⁴ Under Secretary, Native Department to Town Clerk, Otaki Borough Council, 5 & 12 November & 6 December 1928, Town Clerk, Otaki Borough Council to Native Department, 19 November & 4 December 1928, ACIH 16036 MA1/1400 1926/449 Received: 29th July 1926. From: Rere Nicholson, Chairman, Raukawa Council, Wereroa. - Subject: Haruatai 13A and B and Otaki Sections 87 and 88. As to exemption from rates, 1926-1928, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 93-96.

⁷⁷⁵ *New Zealand Gazette*, 12 December 1929, p. 330; Statement provided by Town Clerk, Otaki Borough Council to Native Rates Committee, 1933, MA 86 2/3 Native Rates Committee, Papers produced during meetings, 1933, Archives New Zealand, Wellington. SW Document Bank, volume 1, pp. 24-25.

Map 10: Maori Land within Otaki Borough vested in Ikaroa Maori Land Board, 1929 & 1931



8.22 Vesting Summary

Included in the list of 135 blocks vested in the Board because of unpaid rates were those owned by the ex-Town Board Commissioner P Rikihana (Taumanuka 2B9B) and the ex-Borough Councillors Tiemi Rikihana (Makuratawhiti 1B2A and Taumanuka 2B9A) and Hemi Kupa Hawea (Pahianui B5B) (the later also owned Otaki lots 20/21 which was not vested). In addition to the ex-commissioners and councillors who had not paid rates and had their land vested in the Board, some of those who made up the Maori committee who were supposed to assist the Council with getting rates paid in 1927, also owned land that was vested in the Board. All three sections owned by Hema Te Ao were vested in the Board (Moutere Hanganoaiho No 1, Taumanuka 2B10, 3A and 3B1). Likewise, for Hemi Kupa Hawea (as noted above) and Pirimi Tahiwi (Taumanuka 3J). The two people who did not have land vested who were members of the committee were Whata Hakaraia though there was certainly Hakaraia whanau land amongst that vested (for example Haruatai 16A2) and Rere Nikitini (Nicholson)). This was because Rere Nikitini was not on the list of names to whom rates were levied in 1928-1929 though his brother Neville was and his land was vested in the Board (Taumanuka 3D1). This, together with that just 1.63 percent (£16) of the rates levied on Maori land in the Borough for the financial year 1928-1929 was paid, suggests either that very few Maori could afford the rates levied and/or that this was a means to protest against the actions of the Otaki Borough Council. These actions had included the imposition of rating regardless of land use, quality, and ability to pay; ongoing and significant rates increases; pursuing Court judgements, charging orders and the sale of Maori land for non-payment of rates, ignoring requests for exemptions, and blaming Maori for Council debt (despite a large proportion of loan money being spent on a drainage scheme that didn't work). Maori had also not voted for the Borough to be established in the first place because of fears that it would lead to excessive rates.

The 1928 legislation vesting the land in the Ikaroa Maori Land Board put a stop to widespread non-payment of rates by Maori while avoiding taking the land compulsorily (as advocated by the Otaki Borough Council). This was what Mr Balneavis had in mind when he suggested it in 1929, as a way to prevent the 'sacrifice' of Otaki Maori land. The land may not have been entirely sacrificed but Maori owners lost authority over their land for the duration that it was vested.

At various times over the next 30 or so years, applications were made to have the sections re-vested in the owners. This is discussed further below.

8.23 Sale of Taumanuka 3A and other subdivisions, 1930-1931

Even before the first block was re-vested in owners and less than a year after the 200 acres of Maori owned Otaki township lands was vested in the Ikaroa Maori Land Board, discussions commenced regarding the purchase by the Crown of some of the vested land for the Health Department. The land concerned was various sections of the Taumanuka block including 3A. This is the subject of several claims. The statement of claim of Rupene Morehu Teratihu Waaka and Te Waari Carkeek for Ngati Raukawa ki te Tonga (Wai 256) states that their grievance is the taking for non-payment of rates of a cemetery reserve called Taumanuka 3A, Block VIII Waitohu Survey District, Otaki Borough. They state that it became Crown land on 26 May 1931 under section 14 of the Native Land Amendment Act 1914 under authority of Native Land Act 1909 by way of order in council dated 5 December 1929 under section 32 of Native Land Act and Native Land Claim Adjustment Act, 1928. The sale of the Taumanuka block and the involvement of both the Crown and local authorities is also mentioned in the statement of claim of the Hineamata hapu (Wai 1944).⁷⁷⁶

According to Ballara, Hoani Taipua Te Puna-i-rangiriri, who was the MP for Western Maori between 1886 and 1893 (and the father of the first Maori Otaki Town Board Commissioner) ‘won the Taumanuka block for all Ngati Raukawa’. Taumanuka 3, comprising 110 acres 3 roods and situated on the west side of the Rangiuru Creek by the sea, was subdivided by the Native Land Court on 18 August 1896 into ten parts: A to J. At the partition hearing it was noted that the reason for the large number of owners of Taumanuka 3 was the ‘original intention’ to set apart the land as a ‘general reserve’. The decision of the Court, made on 18 August 1896, ordered that Taumanuka 3A, consisting of 20 acres, was to be ‘set apart as a Cemetery Reserve and the name of the various hapus whose interests have been destroyed by the allocation of the partition Taumanuka No 5 in favour of Piriaki Hape and also by part of the school endowment to be inserted in the order’. The ruling concluded: ‘The land to be absolutely inalienable’. When 3A was created in 1896 there were 237 owners of the 20-acre block. By 1927, there were 447 owners (less those who had died). Also of note was that

⁷⁷⁶ Rupene Morehu Teratihu Waaka and Te Waari Carkeek for Ngati Raukawa ki te Tonga Statement of Claim, Wai 256 #1.001; Hineamata Hapu Statement of Claim, Wai 1944, #1.001.

Taumanuka 3F, consisting of six acres, was reserved for all members of the Ngati Raukawa 'hapus' to whom the several parcels of No 3 have been allotted together with and inclusive of all the members of that hapu who reside at Otaki. At the time title was ordered the land was to be absolutely inalienable' but such restrictions were annulled by the Native Land Act 1909. Taumanuka 3J (four acres) was awarded to Rawiri Rota Te Tahiwī.⁷⁷⁷

At the time that Taumanuka 3A was vested in the Ikaroa Maori Land Board, rates owed were secured by a charging order of £4.3.3. The land was described as unoccupied land near the beach. It was not described as a cemetery reserve nor was there any reference to it having been exempted from rates due to being a cemetery reserve. It was also noted in the spreadsheet prepared by the Native Department before the land was vested but after Mr Balneavis had met with the Maori committee that 'the committee (presumably the aforementioned Maori committee) will pay rates'. It would seem that they did not and the land was vested in the Board.⁷⁷⁸

In June 1930, the Minister of Health asked the Minister of Native Affairs 'under Cabinet authority' what price the Maori Land Board would accept for a number of Taumanuka blocks including 3A which were located next to the land gifted to the Crown for a site for a rest home by Byron Brown (the former mayor of the Otaki Town Board). Though difficult to decipher, it is thought that the Under Secretary wrote 'The board will probably not sell direct' to which a Native Department official (the initials to the correspondence indicate that it was most likely Mr Shepherd) responded that he would not favour the Board selling the land without first obtaining the consent of the Maori owners 'through an informal meeting'. This discussion related to the fact that under section 32 (7), the Board could sell to the Crown without reference to the owners. Had the land not been vested in the Board then the Crown would have had to purchase the individual interests of each owner or if there were more than

⁷⁷⁷ Angela Ballara. 'Taipua Te Puna-i-rangiriri, Hoani', from the Dictionary of New Zealand Biography. Te Ara - the Encyclopedia of New Zealand, updated 30-Oct-2012

URL: <http://www.TeAra.govt.nz/en/biographies/2t3/taipua-te-puna-i-rangiriri-hoani>; Otaki Minute Book 31, 15 August 1896, p. 2; 18 August 1896, pp. 49-63.

⁷⁷⁸ Native Department Spreadsheet of Otaki Borough Council Maori land affected by charging orders, circa 1927-1928, ACIH 16036 MA1/413 20/1/37/1 Maori Lands in Otaki Borough (search file), 1930-1953, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 89-95.

ten owners, go through a formal meeting of owner process under the Native Land Act 1909 where a quorum of five owners was required.⁷⁷⁹

Mr Shepherd of the Native Department also explained that:

Mr Tahiwī has expressed himself with regard to this sale as being in the interests of the Maoris provided an adequate price could be obtained. If the Minister favoured a sale a meeting could be held of the owners at Otaki to ascertain their wishes at which I would suggest Mr Tahiwī and I should be present.⁷⁸⁰

The Mr Tahiwī referred to was Kingi Te Ahoaho Tahiwī of Ngati Raukawa and Ngati Whakaue who was an interpreter for the Native Department. The list of Maori affected by Otaki Borough rates arrears prepared by the Native Department in the late 1920s did not include his name. His father, Rawiri Rota Tahiwī, however, owned 16 sections in the township. While this did not include Taumanuka 3A he was the sole owner of Taumanuka 3J which was also considered for sale (but not sold due to the objection of Mason Durie). Both Pairoroku and Tiemi Rikihana, the ex-commissioner and councillor of the town Board and Borough Council respectively, had interests in two of the Taumanuka blocks under consideration: 2B9A and 2B9B (though no charging orders had been issued for these blocks).⁷⁸¹

On 2 July 1930, Apirana Ngata, who had become Native Minister, advised the Minister of Health that there were 'about 10 parcels concerned', that the government valuation of the land was £1220 but that it was 'likely that in some cases' Maori would 'require more'. Therefore, it would be 'wise to assume an expenditure of say £1500'. He said that the valuation of Taumanuka 3B2B was not available but would probably be about £25 unless there were improvements on it. He said that if the Health Department wished to acquire these

⁷⁷⁹ Note between officials (thought to be Shepherd to Under Secretary, Native Department), 1 July 1930 on Under Secretary, Native Department to Director General of Health, 24 June 1930, ACIH 16036 MA1/411 20/1/37 part 1 Native - Otaki - Borough Council - Maori rates, 1927-1937, Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 63.

⁷⁸⁰ Ibid.

⁷⁸¹ Rupene M. T. Waaka. 'Tahiwī, Kingi Te Ahoaho', from the Dictionary of New Zealand Biography. Te Ara - the Encyclopedia of New Zealand, updated 30-Oct-2012

URL: <http://www.TeAra.govt.nz/en/biographies/3t1/tahiwī-kingi-te-ahoaho>; Native Department list of Maori owners of lands within Otaki Borough, circa 1928-1929, ACIH 16036 MA1/413 20/1/37/1 Maori Lands in Otaki Borough (search file), 1930-1953, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 65-88.

lands it would be necessary to refer the matter to the Native Land Purchase Board. The Board, he said, had the power to alienate but it would 'no doubt seek to obtain the concurrence of the Native beneficiaries before doing so'. The Minister of Health then asked for the matter to be referred to the Native Land Purchase Board and taken the necessary steps to ascertain the required price.⁷⁸²

A special valuation was obtained that valued the ten Taumanuka blocks at £1260. (None had any improvements). Ngata advised the Minister of Health of this and that it was the minimum amount that could be paid. He also said that it was impossible to ascertain whether all would be satisfied with the valuation but that it was known that some of the owners were (satisfied). He said too that none of the sections were occupied 'so that possibly the Natives might be willing to sell at the valuation'.⁷⁸³

In February 1931, Mr Shepherd from the Native Department asked why five other sections (Taumanuka 2B9A, 2B9B, 2B10, 2B11 and 2B12) had not been included in the proposed purchase as he thought that their acquisition would make a more 'compact block'. He suggested that Taumanuka 3G1B be excluded as the section extended across the road. The Native Minister agreed with the suggestion and the blocks were duly included in the lists of lands the Native Land Purchase Board approved to have purchased at government valuation on 17 February 1931 and Taumanuka 3G1B excluded.⁷⁸⁴

A month later, on 23 March 1931, a meeting was held at Otaki to discuss the purchase. Officials in attendance were CV Fordham, representing the Ikaroa Maori Land Board and acting as chair of the meeting, GF Shepherd and JH Flowers representing the Native Land Purchase Board and Kingi Tahiwī, as interpreter. The report on the meeting, presumably prepared by officials, said that there was a 'large and representative attendance of some 100 owners including Mason Durie (Hoani Meihana Te Rama Apakura), Hone McMillan, Rere

⁷⁸² AT Ngata, Minister of Native Affairs to Minister of Health, 2 July 1930; Minister of Health to Minister of Native Affairs, 11 July 1929, ACIH 16036 MA1/411 20/1/37 part 1 Native - Otaki - Borough Council - Maori rates, 1927-1937, Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 22.

⁷⁸³ Valuation Department to Under Secretary, Native Department, 15 August 1930; Native Minister of Health to Minister, 4 September 1930, ACIH 16036 MA1/411 20/1/37 part 1 Native - Otaki - Borough Council - Maori rates, 1927-1937, Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 23.

⁷⁸⁴ Native Department to Mr Waugh for Native Minister, 21 February 1931, and note between officials of 26 February 1931; Native Land Purchase Board approval, 17 February 1931, ACIH 16036 MA1/411 20/1/37 part 1 Native - Otaki - Borough Council - Maori rates, 1927-1937, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 24-25.

Nikitini, Inia Hoani, Bob Nicholls, Arekatera te Ra ‘and others’. Of these men, Mason Durie and Arekatera te Ra were owners of 3A. None of the others listed were owners of any of the Taumanuka blocks though Neville Nicholson (brother of Rere Nikitini) was an owner of 3D1. Just one, Inia Hoani, had other sections in the township (he owned four). It was not stated whether Pairoroku or Tiemi Rikihana were in attendance though they each owned a section under consideration ((2B9A and 2B9B)).⁷⁸⁵

Mr Fordham spoke first. He said that although the Board had the power to sell the land, it did not wish to do ‘anything contrary to the wishes of the owners’ and that it was for that purpose the meeting had been called as well as to ‘allow of a free and informal discussion’. It was reported that several owners ‘aired their views’ and ‘it was apparent’ that while they wished to sell they did not agree with the price offered. After ‘the owners’ had ‘spoken at length’, Mr Shepherd explained ‘the conditions leading up to the offer by the Crown to purchase the land on behalf of the Health Department for erection of buildings for Hospital purposes’. He ‘proceeded to deal with each section separately by reading out the owners, inviting comment and calling for objectors’. According to the report the ‘representative owners’ of the various sections (Taumanuka 2A1, 3C1, 2B9A, 2B9B, 2B10, 2B11, 2B12, 3B1 and 3D1 - so all but two of the sections under consideration) ‘signified their willingness to sell at the price offered’ but that it was the ‘unanimous opinion that the price offered for 3A (the largest section at 20 acres) was inadequate’. Rere Nikitini was reported as stating that the price should be £27.10.0 per acre while Tereturu Hamahona (also an owner of 3A) said that it should be at least £30 per acre as he had previously received an offer of £35 per acre from Byron Brown. It was reported that after some discussion it was ‘eventually left with the Board to obtain the best price possible’.⁷⁸⁶

With respect to Taumanuka 3J (wrongly noted in a portion of the minutes as 2B13), it was reported that Mason Durie (Hoani Meihana Te Rama Apakura) had raised objections to selling portions that he and his family were interested in as he required the land for the

⁷⁸⁵ Report in connection with meeting held at Raukawa Otaki, on the 23rd March, 1931 for the purpose of considering an offer by the Crown to purchase certain sections in the Taumanuka Block, ACIH 16036 MA1/411 20/1/37 part 1 Native - Otaki - Borough Council - Maori rates, 1927-1937; Native Department list of Maori owners of lands within Otaki Borough, circa 1928-1929, ACIH 16036 MA1/413 20/1/37/1 Maori Lands in Otaki Borough (search file), 1930-1953, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 28-29; 65-88.

⁷⁸⁶ Ibid.

purpose of building a seaside cottage. It was arranged that the Board would 'ascertain the area to which Mr Durie was entitled and endeavour to have this excluded from the sale'.⁷⁸⁷

Further:

It seemed to be the wish of the owners present that the purchase money should be allocated to the purpose of re-building the Raukawa Meeting House and several owners spoke feelingly in the matter. One of the owners (Henry Whiley) in 3D1 however, objected to his family's share of the purchase money being devoted to this purpose and his objection is recorded.⁷⁸⁸

The report of the meeting said that the meeting closed with 'mutual expressions of goodwill'. No reference was made to the block having being declared inalienable or being set aside as a cemetery reserve by the Court. The following summary was given which recorded the decisions made:

⁷⁸⁷ Ibid.

⁷⁸⁸ Report in connection with meeting held at Raukawa Otaki, on the 23rd March, 1931 for the purpose of considering an offer by the Crown to purchase certain sections in the Taumanuka Block, ACIH 16036 MA1/411 20/1/37 part 1 Native - Otaki - Borough Council - Maori rates, 1927-1937, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 28-29.

Table 14: Summary of Decisions made at meeting of 23 March 1931 re Taumanuka block

Block	Acres, roods, perches	Valuation	Price at which owners were willing to sell.	Amount of charging order/owners where known
Taumanuka 2A1	1.0.10.7	£10	£10	£1.0.11 (charging order wrongly included rates owed on 3C1). Ohetene, Maata te Orioa and others.
Taumanuka 3C1	0.3.27	£10	£10	£1.0.11 (charging order wrongly included rates owed on 2A1).
Taumanuka 2B9A	0.2.0	(with 2B9B)	(with 2B9B)	No charging order; Tiemi Rikihana.
Taumanuka 2B9B	0.2.0	£90	£90	No charging order; Pairoroku Rikihana.
Taumanuka 2B10	1.0.0	£75	£75	£3.12.9; Hema te Ao
Taumanuka 2B11	0.2.0	£35	£35	no charging order; Not noted
Taumanuka 2B12	1.0.0	£60	£60	no charging order; Not noted
Taumanuka 2B13	10.2.0	£255	£255	no charging order; 32 owners
Taumanuka 3A	20.0.0	£400	£600	£4.3.3; 447 owners
Taumanuka 3B1	7.0.30.5	£70	£70	£1.9.3; Keepa Hekiera & others including Hema te Ao.
Taumanuka 3D1	3.2.30	£25	£25	£0.15.7; Neville Nicholson and others
Taumanuka 3J	3.3.34	£190	Refused to sell	£0.1.4 (charging order) Rota Rawiri Tahiwi
Taumanuka 4B2B	1.2.17.3	£40	Not vested in Board (£40)	n/a
Total			£1270	

Source: Report in connection with meeting held at Raukawa Otaki, on the 23rd March, 1931 for the purpose of considering an offer by the Crown to purchase certain sections in the Taumanuka Block, ACIH 16036 MA1/411 20/1/37 part 1 Native - Otaki - Borough Council - Maori rates, 1927-1937, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 28-29.

The report of the meeting also recorded that some of the owners of an unspecified section (presumably 3J) declined to sell as they wanted to build on the land. They were prepared to exchange it for land of equal value in Taumanuka 2B10. With regard to Taumanuka 4B2B the owners expressed willingness to sell for £40 (though it was not stated which owners or how many). The section was not, however, vested in the Board so it was noted that the purchase had to be undertaken by individual purchase or a meeting of owners.⁷⁸⁹

On 2 April, the Under Secretary advised the Native Minister that a meeting of owners had been held and that ‘generally, the Natives were agreeable to the sale at the Government value’. The exceptions were Taumanuka 3A, where those in attendance asked for £600 instead of the £400 offered; and Taumanuka 3J, which was valued at £190 and the owners did not wish to sell. He also said that Taumanuka 3A appeared to ‘cover almost the whole sea frontage and it becomes a question of whether Cabinet will authorise the increased price’. If

⁷⁸⁹ Ibid.

3J could not be bought, he said, it would 'leave the expenditure about the same'. The proposal was forwarded to Cabinet who agreed to the extra £200 for the purchase of 3A.⁷⁹⁰

The Ikaroa Maori Land Board was then advised that Cabinet had agreed to the increase in the purchase price for Taumanuka 3A and were forwarded a memorandum of transfer for the 11 blocks comprising 46 acres 3 roods 18.2 perches. The cheque for £1230 was to be retained until the memorandum was signed. Taumanuka 3J was not included. The Ikaroa Maori Land Board minutes for 1930 and 1931 do not record any discussion regarding the matter.⁷⁹¹

On 26 May 1931, the eleven sections of the Taumanuka block including 3A were declared Crown land under section 14 of the Native Land Amendment Act, 1914 with the purchase having been completed under the authority of the Native Land Act 1909.⁷⁹²

Later that month, Arapeta te Hiwi of Ohau and 13 others wrote to the Native Minister. The letter said that they, members of the tribe known as Mateawa and Ngati Parewahawaha, were owners of the Taumanuka block and had not agreed to all of the purchase money going towards the reconstruction and repair of the Raukawa meeting house. They said that they were not notified of the sitting of the Board. The Registrar of the Ikaroa Maori Land Board was then asked for a report. He explained that various sections of the Taumanuka block vested in the Board were recently sold to the Crown and that prior to the sale an 'informal meeting of representative owners was held to allow them to express their opinions, which were unanimous, in favour of the sale'. He also stated that there was an 'understanding between the native owners resident in Otaki that the proceeds of the sale of the tribal block, Taumanuka 3A, which amounted to £600 were to be allocated to the repairs and renovation of Raukawa Meeting House'. He explained that on 1 June 1931, a meeting had been convened by Hone McMillan at Otaki for the owners of Taumanuka 3A to discuss the utilisation of the purchase money. The Registrar said that he was present at the invitation of Mr McMillan, to record the owner's decision, which was 'unanimous in favour of the proposal' to allocate the purchase money to the Raukawa meeting house. A report to this

⁷⁹⁰ Under Secretary, Native Department to Native Minister, 2 April 1931, ACIH 16036 MA1/411 20/1/37 part 1 Native - Otaki - Borough Council - Maori rates, 1927-1937, Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 30.

⁷⁹¹ Ikaroa Maori Land Board Minute Book, 10, 1921-1933; Under Secretary, Native Department to Ikaroa Maori Land Board, 22 April 1931, ACIH 16036 MA1/411 20/1/37 part 1 Native - Otaki - Borough Council - Maori rates, 1927-1937, Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 31.

⁷⁹² *New Zealand Gazette*, 4 June 1931, p. 1680.

affect was made to the Judge. The purchase money was then paid to the Board and ‘in accordance with the owner’s wishes’, the Registrar recommended that the Judge direct the Board to pay the purchase money for 3A to the trustees appointed and the purchase money for the remaining blocks to the beneficial owners. Handwritten on the letter from the Registrar was a query from the Under Secretary to an official. The Under Secretary asked whether a signatory to the memorial (the letter) was present or represented at the meeting. The official responded that only one of the signatories to the memorial (letter) was an owner of 3A (Heremia Terepata) but that he was not present at the meeting and nor was he represented. Arapata Te Hiwa was then advised by the Native Minister that the only money to be donated to the Raukawa meeting house came from the purchase of 3A and the only person interested in the block and who signed the letter was Heremia Terepata. He said that the other blocks were not affected by the order of the Court and the money would be distributed to the beneficial owners. It was not recorded how many of the owners of Taumanuka 3A attended the meeting organised by Hone McMillan (who is not listed as an owner of Maori land in Otaki Borough prepared by the Native Department in the late 1920s and whose role within the Native Department is not made clear by the records viewed though as noted above he became chair of the Raukawa Health Council around this time).⁷⁹³

In April 1931, Native Minister Ngata was advised that a meeting of owners would be organised in respect of Taumanuka 4B2B consisting of 1 acre 2 roods 17.3 perches. This was required under the legislation because it was not vested in the Ikaroa Maori Land Board. The Native Land Court was asked to organise the meeting. The list of owners provided by the Court recorded that there were 15 owners. They were members of the Te Rohu, Natanahira, Te Rei, Teo Rene, Ngawati and Te Puke Rewha whanau. Hone McMillan was asked to provide addresses. He did so recording that five of the owners were deceased and that some of those who had died had been living in the Bay of Islands and Rotorua. Three owners were listed as living at Otaki, one each in Porirua, Ohau, Rangiotu and two in the Bay of Islands. Some of the addresses were not known. The meeting of owners was scheduled for 29 June and notices sent. It was, however, adjourned, through lack of a quorum.⁷⁹⁴

⁷⁹³ Arapeta Te Hiwi and 13 others to Native Minister, 15 June 1931, Ikaroa Maori Land Board to Under Secretary, Native Department, 29 June 1931 and notes between Native Department officials, 9 July 1931; Native Minister to Arapata Te Hiwi, 21 July 1931, ACIH 16036 MA1/411 20/1/37 part 1 Native - Otaki - Borough Council - Maori rates, 1927-1937, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 32-33.

⁷⁹⁴ Under Secretary, Native Department to Native Minister, 16 April 1931; list of owners of Taumanuka 4B2B; Under Secretary, Native Department to Hoani McMillan, 1 May 1931, Registrar, Native Land Court to Under

In August, the Registrar advised that he thought it unlikely that a quorum could be obtained as the owners were 'scattered' and the price 'insufficient to interest them enough to enable a meeting to be held'. As he had ascertained that £2.6.1 was owed in rates on the block, he suggested that the Borough Council be approached to have the land vested in the Board under section 32 of the 1928 Act. 'This [he said] would then enable the Board to execute a transfer in favour of the Crown'. The Under Secretary responded that he would get Mr Shepherd to confer with Mr McMillan 'as to the best method of acquiring this land under the circumstances'. In the meantime, the meeting of owners stood adjourned sine die.⁷⁹⁵

Almost a year later the Health Department asked how the negotiations were proceeding for the purchase of not only 4B2B but part 3G and 3J. The Under Secretary advised that it was thought that part 3G (3 roods 25 perches) should be excluded from the purchase as it extended across the road (and that this had earlier been agreed with the Health Department), and that the owners of 3J had refused to sell. With respect to Taumanuka 4B2B he explained that a meeting of owners was called but lapsed for want of a quorum. Also, that the owners were scattered, the price small and that it did not interest the owners enough to travel to attend a meeting. In addition, a number of owners were dead and it would be 'too costly to attempt the purchase of individual interests'. He did not suggest that the lack of quorum was because they did not wish to sell. He asked if the Department would like another meeting to be called in respect to 4B2B to which the Department replied that it did not wish any further steps taken to purchase any of the sections mentioned.⁷⁹⁶

In total 46 acres 2 roods 16 perches were purchased for a total cost of £1260.15.0 (which was inclusive of £30.15.0 of expenses). None of the Taumanuka block remains Maori land.⁷⁹⁷

Secretary, Native Department, 30 June 1931, ACIH 16036 MA1/411 20/1/37 part 1 Native - Otaki - Borough Council - Maori rates, 1927-1937, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 34-37.

⁷⁹⁵ Registrar, Ikaroa Maori Land Board to Under Secretary, Native Department, 6 August 1931, Under Secretary, Native Department to Ikaroa Maori Land Board, 21 August 1931, ACIH 16036 MA1/411 20/1/37 part 1 Native - Otaki - Borough Council - Maori rates, 1927-1937, Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 40.

⁷⁹⁶ Director General of Health to Under Secretary, Native Department, 20 July 1932 and 14 October 1932; Under Secretary, Native Department to Director General of Health, 14 September 1932, ACIH 16036 MA1/411 20/1/37 part 1 Native - Otaki - Borough Council - Maori rates, 1927-1937, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 42-43.

⁷⁹⁷ Under Secretary, Lands Department to Director General, Health Department, 4 July 1932, AANS W5942 6095 Box 12 6/8/48 [Department of Lands and Survey – Local Purpose Reserves] – Wellington [Land District]

8.24 Taumanuka Purchase Summary

It can be concluded that the unoccupied, undeveloped Taumanuka 3A block and the other Taumanuka blocks totalling 46 acres 2 roods 16 perches were acquired by the Crown in circumstances which stemmed from owners not having paid rates to the Otaki Borough Council. The power to sell or deal with the land had been taken away from the Maori owners because they owed rates and this power had been given to the Ikaroa Maori Land Board. Legally the Board could have sold the land without reference to the owners but it chose to have a meeting of owners instead. It is difficult to gauge just how representative the meeting was as the record of the meeting provided by the Native Department does not give details of who exactly was in attendance. The claim by the Native Department that it was representative is therefore difficult to confirm. What is known is that there were estimated to be 100 people in attendance and there were around 447 owners of Taumanuka 3A (though this includes some owners who had died). Also, that there were people in attendance who were not owners of any of the Taumanuka blocks but that the owner of Taumanuka 3J, who was in attendance, was able to ensure his land was not sold. As well, owners of Taumanuka 3A were not all at the meeting instigated by Hone McMillan to discuss what the proceeds of the 3A sale were to be spent on. It is also of note that the Registrar of the Native Land Court (Mr Fordham who represented the Ikaroa Maori Land Board at the meeting of owners) was willing to approach the Borough Council to have extra land that was not vested in the Board done so to facilitate a sale that had, up until then, not been able to proceed through a lack of a quorum at a meeting owners. This could suggest that Mr Fordham viewed vesting as a way to facilitate the sale of Maori land. As to motivation to sell, those who did support the sale of Taumanuka 3A may have seen it as an effective way to raise funds for the marae - a difficult prospect in the middle of the depression and at a time where over 200 acres of the Maori owned land in the township were no longer under Maori control but vested in the Ikaroa Maori Land Board.

– Otaki Health Camp – (Crown Land Ex Health Camp), 1931-1989, Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 123.

Map 11: Taumanuka blocks purchased by Crown, 1931



8.25 Re-vestings in owners and further vestings in the Board, 1930-1931

The first request by an owner to have their land re-vested was less than a year after the 1929 order in council was issued. In November 1930, the Ikaroa Maori Land Board advised the Native Department that the owner of Otaki lot 17 (1 acre 5 roods) had arranged a new lease which the mortgagee, the Native Trustee, was prevented from registering as the land was in the name of the Board. The Native Trustee, the Board said, had paid the outstanding rates and guaranteed that during the 'currency of his mortgage' all further rates would be paid as rental under the lease was payable to him. In view of this, the Board recommended that the order in council be revoked in respect to Otaki lot 17.⁷⁹⁸

Also in November 1930, the Board asked that Otaki town section 147 (24 perches) be re-vested in its owner Pirihiira Hohepa. The Board stated that she had considerable interests around Otaki and that the Board was collecting the rental from another vested block which would 'more than cover all rates due in respect of her other land'. Section 147 had been leased to the Bank of Australasia and Mrs Hohepa wished to use the rent for her support. Therefore, the Board was prepared to recommend the revocation of the order in council so far as it affected section 147. This was forwarded to the Native Minister for approval. Prior to this request, the matter had been heard by the Native Land Court who took evidence with the object of having the proclamation revoked despite stating that it had no jurisdiction. Mrs Hohepa told the Court that all rates had been paid by the lessee and that she wanted the land taken out of the Board's jurisdiction. The Court recommended that the order be revoked in respect to the section and in December, the order was officially revoked in respect to both Otaki lot 17 and Otaki town section 147.⁷⁹⁹

Several months later another request was made to have land re-vested. This was in respect to Awahohonu A4 (2 acres 1 rood 10 perches) owned by Makere Matiu (or Mrs Walker). Mrs Matiu lived in Temuka and engaged solicitors who advised the Native Department that all outstanding rates had been paid. They were then advised by the Native Department that

⁷⁹⁸ Ikaroa Maori Land Board to Under Secretary, Native Department, 7 November 1930, ACIH 16036 MA1/411 20/1/37 part 1 Native - Otaki - Borough Council - Maori rates, 1927-1937, Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 45.

⁷⁹⁹ Ikaroa Maori Land Board to Under Secretary, Native Department, 13 November 1930, ACIH 16036 MA1/411 20/1/37 part 1 Native - Otaki - Borough Council - Maori rates, 1927-1937, Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 46; Otaki Minute Book 59, 30 October 1930, p. 39; *New Zealand Gazette*, 4 December 1930, p. 3680.

£2.9.4 was due in respect of rates to 31 March 1931 and that an application to have the land re-vested would need to be made to the Ikaroa Native Land Court. To recommend that it be re-vested, the Court had to be satisfied that all rates had been paid, that all future rates would be paid (possibly requiring an undertaking from ‘some responsible person’) and that it was in the interests of the owner to have the land re-vested. The Under Secretary also commented that despite receiving revenue from the property, the owner had ‘apparently made no effort to pay the rates’. In July 1931, the Registrar noted that the 1928 Act provided for the payment of one quarter of the total arrears of rates by the Board on the owner’s behalf in satisfaction of the amount owed to the council. The Board had therefore paid £16.9.11 on behalf of Makere Matiu. It had also leased the land to Mrs T Moore for 5 years from 6 June 1930 at an annual rental of £52 payable quarterly in advance. The amount advanced by the Board to pay the arrears had been liquidated and the rates subsequent to 1928, except for the current year, paid to the council out of rent received. The Registrar also noted that Makere Matiu had ‘apparently not paid rates previously and under the present arrangement she receives the rent from the Board, less rates and commission’. The matter was heard by the Native Land Court in Temuka and the order made to re-vest the land. This was then published in the *New Zealand Gazette* on 21 July 1932.⁸⁰⁰

In February 1931, the trend reversed and four further blocks of Maori land in the Borough were vested in the Ikaroa Maori Land Board. The rates owed on the four sections ranged from between £3.3.2 to £12.0.5. Of note was that Tutangatakino 4A2 which owed the smallest amount was later described as ‘river bed covered in gorse’. It also in 1951, remained unleased.⁸⁰¹

Later in 1931, other requests for land to be re-vested included Makuratawhiti 10A1 as rates had all been paid up to 31 March 1932 and all moneys due to the Board had also been paid. Turongo Charles Wallace had recently succeeded to the interests of Te Kara Warini. The

⁸⁰⁰ Papprell, Salter & Corcora, Barristers & Solicitors, Kaiapoi to Under Secretary, Native Department, 24 February 1931; Under Secretary, Native Department to Papprell, Salter & Corcora, Barristers & Solicitors, Kaiapoi, 27 February 1931, Registrar, Ikaroa Maori Land Board to Native Land Court, 7 July 1931; extract from South Island Minute Book 26, 25 November 1931, p. 251; ACIH 16036 MA1/411 20/1/37 part 1 Native - Otaki - Borough Council - Maori rates, 1927-1937, Archives New Zealand, Wellington; *New Zealand Gazette*, 21 July 1932, p. 1678. SW Document Bank, volume 7, p. 47.

⁸⁰¹ Ikaroa Maori Land Board to Under Secretary, Native Department, 23 February 1931, ACIH 16036 MA1/411 20/1/37 part 1 Native - Otaki - Borough Council - Maori rates, 1927-1937, Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 50; Schedule of Otaki vested lands prepared by Maori Trustee, 1 June 1951, ACIH 16036 MA1/411 20/1/37 part 3 Native - Otaki - Borough Council - Maori rates, 1951-1956, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 113-188.

Judge ordered that the land be re-vested in Mr Wallace and the order in council making the re-vesting official was published in February 1932.⁸⁰² Makuratawhiti 10A and B were the blocks that the council had unsuccessfully applied for section 109 applications over.

A request was also made by ex-councillor Tiemi Rikihana in March 1932, to have Makuratawhiti 1B2A re-vested. The Registrar recorded that the rates had been paid and the Health Department was making 'certain requisitions for repairs' to the house. Judge Gilfedder agreed that a recommendation should be made to have the land re-vested. This was then approved by the Native Minister.⁸⁰³

No other re-vestings were made until 1937. These were in respect to Whakarangirangi 29N3 and Otaki sections 135A, B and C. In the interim the Board recorded that it had leased five sections – one for 21 years and the rest for five years. These were:

- Haruatai 13B: Leased to Jessie W Edwards for 21 years from 1 August 1929 @ £26 per annum, for first 10 years and 4 percent of the Government Valuation in 1939 or £26 whatever was the greater for the balance of the term. Rent is up to date. (3 roods, 0.31 perches)
- Moutere 8B1: Leased by Board as owner to Pietro Barone and Giuseppe Speranza for 5 years from 1st October 1934 @ £26.4.3 per annum Rent is up to date. (4 acres 1 rood 19 perches)
- Titokitoki 2, 2A & 3C5: Leased by Board as owner to William Francis Fogden for 5 years from 14 November 1931 @ £4 per annum Rent is up to date. (3 sections totalled 7 acres 3 roods 6 perches).⁸⁰⁴

Haruatai 13B and Moutere 8B1 were not re-vested in the owners until 1951 and 1947 respectively. Titokitoki 2, 2A and 3C5 were never re-vested in the owners as they were sold

⁸⁰² Otaki Minute Book 59, 3 November 1931, p. 88; *New Zealand Gazette*, 18 February 1932, p. 324.

⁸⁰³ Registrar, Ikaroa Maori Land Board to President, Ikaroa Maori Land Board, 9 March 1932; President, Ikaroa Maori Land Board to Registrar, Ikaroa Maori Land Board, 9 March 1932; Otaki Minute Book 59, 9 March 1932, p. 107; Registrar, Ikaroa Maori Land Board to Under Secretary, Native Department, 10 March 1932, ACIH 16036 MA1/411 20/1/37 part 1 Native - Otaki - Borough Council - Maori rates, 1927-1937, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 51-53.

⁸⁰⁴ Otaki Vested Lands, particulars of sections leased, circa 1934-1935, ACIH 16036 MA1/411 20/1/37 part 1 Native - Otaki - Borough Council - Maori rates, 1927-1937, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 54-59.

by the Maori Trustee (who had by then taken over from the Ikaroa Maori Land Board) in 1957. This is discussed further below.

8.26 Native Rates Committee, 1933

In June 1933, Mr A Wilson, Town Clerk for the Otaki Borough Council gave evidence to the Native Land Rates Committee which as noted in the legislative chapter, was set up to investigate the rating of Maori land. He explained to the committee that the issue of rates had become more acute when the Borough Council had raised loans (though he did not state how the loans were spent) and that Otaki Maori land had been vested in the Ikaroa Maori Land Board due to the non-payment of rates in 1929. Mr Wilson produced a statement showing rates levied and collected for the previous five years to 31 March 1933 which showed an increase in the amount received by the Council from 1.63 percent in 1928-1929 to almost 17 percent in 1932-1933:

Table 15: Rates on Maori land (vested and non-vested) levied and paid to Otaki Borough Council, 1928-1933

Year	Amount levied: non-vested (£)	Amount received : non-vested (£)	% received : non-vested	Amount levied: vested (£)	Amount received : vested (£)	% received Maori (vested)	Total levied (£)	Total received (£)	% received : vested and non-vested	Amount owed (£)
1928/1929	983	16	1.63%	n/a	n/a	n/a	983	16	1.63%	967
1929/1930	953	96	10.07%	n/a	n/a	n/a	953	96	10.07%	857
1930/1931	158	9	5.70%	736	127	17.26%	894	136	15.21%	758
1931/1932	161	47	29.19%	671	53	7.90%	832	100	12.02%	732
1932/1933	161	26	16.15%	671	114	16.99%	832	140	16.83%	692

Source: Statement provided by Town Clerk, Otaki Borough Council to Native Rates Committee, 1933, MA 86 2/3 Native Rates Committee, Papers produced during meetings, 1933, Archives New Zealand, Wellington. SW Document Bank, volume 1, pp. 24-25.

Other data provided by Mr Wilson showed that the value of the vested lands was £18,895 and the value of the non-vested lands was £4518 (he did not specify whether this was the capital value (inclusive of improvements) or unimproved value but given that land was rated by its

unimproved value it was likely to be the later). This meant that land representing 80 percent of the value of all Maori land within Otaki Borough was vested in the Board.⁸⁰⁵

Mr Wilson was asked by members of the committee whether the vesting had assisted the Borough. His response was that the land had been vested in the Board for the purpose of leasing but that only a small proportion had been leased. Mr Wilson was then asked whether the land was capable of being let. Mr Wilson replied that it was not, because ‘most’ Maori were living in their own houses on the land and that there was ‘no chance of getting any revenue to pay rates’. In response to a question as to whether it was because the rates were so high that nobody would lease the land, Mr Wilson again said that it was not as the rates were not ‘really high for land with a house on it’ (though he did not note that as the Borough rated on unimproved value and not capital value the presence of a house was irrelevant). The chair of the commission said that he knew something about the valuation of land at Otaki. Mr Wilson replied that the valuation of land at Otaki was ‘not excessive’ and that the rates on a quarter acre section with a house on it did not exceed £3. In response to a question as to whether there was land in the Borough more heavily rated he said that there were larger areas which were and that in some of these cases the land was unoccupied. He said that there was one particular block that had been leased by the Ikaroa Maori Land Board where rates of £39 per annum were levied. The property, he said, had been leased to a European market gardener. Rent had not been paid and there was ‘no hope’ of collecting any. The chair sought to clarify the statement that the Maori Land Board was not collecting rent. Mr Wilson said that they had not as the lessee said that he could not pay. The chair asked if Mr Wilson had any idea of the amount per acre at which the property was let. Mr Wilson did not know but guessed at about £8 per acre adding that it was first class land. Of note is what Mr Wilson did not explain. Mr Wilson did not explain that by not pursuing the European market gardener (the lessee) for the rates (as the legislation prescribed) then the unpaid rates would become another charge on the land (and therefore the owners would have to pay). He also did not explain why the pakeha tenant could plead poverty yet Maori had their land taken from them.

⁸⁰⁵ Statement provided by Town Clerk, Otaki Borough Council to Native Rates Committee, 1933, MA 86 2/3 Native Rates Committee, Papers produced during meetings, 1933, Archives New Zealand, Wellington. SW Document Bank, volume 1, pp. 24-25.

As well, no mention was made that rates in the Borough had trebled in the period 1921 to 1927.⁸⁰⁶

Mr Wilson also complained about section 32 of the Native Land Amendment and Native Land Claims Adjustment Act, 1928 (which vested over 200 acres of Maori land in the Otaki Borough in the Ikaroa Maori Land Board) which, he said, allowed for rates to be written off if not paid within two years. He said that the Borough had ‘no chance of collecting the rates and every second year ... [had to] write off one years’ rates. It was therefore ‘really only a waste of time writing them in the rate-book’. Not being able to collect rates on Maori and Crown lands meant, he said, that it was ‘becoming increasingly more difficult to meet ... payments year by year’.⁸⁰⁷

Judge Jones asked if the Borough received some of the rates through the Ikaora Maori Land Board. Mr Wilson said the Borough received very little. He said that of the amounts collected, at least 50 percent had been collected in the ‘ordinary way’ (not through the Board). Judge Jones also asked about the lands vested in the Board which were ‘afterwards released’ (re-vested in the owners) to which Mr Wilson responded that they were ‘getting a better proportion’. Judge Jones said he was ‘anxious to find out whether the Borough was better off by having the lands taken out of the hands of the Board’. Mr Wilson replied that it depended on who the owners were and that some people did not pay at all. One example was given of a whanau who paid rates on their farm property but not on their house properties.⁸⁰⁸

There was also discussion on the Borough’s attempt to have a section sold in 1927 (under section 109) which Mr Wilson noted was not agreed too. Judge Jones responded: ‘You heard why, did you not? Part of the property was vested in the Education Board, part was sold to another Native’. Mr Wilson replied that the property was a piece of farm land about midway between the station and the town, was currently being used as a ‘Chinaman’s garden’ and was being ‘leased and worked’. Judge Jones said he did not know whether it was the case he had in mind but that there was one case that he always held up as an example of the necessity of the Native Minister holding the power of veto. When the case was enquired into, he said, it

⁸⁰⁶ Minutes of Native Land Rates Committee, 23 June 1933, pp. 635-642, ACIH 16093 MA 86 1/2 Native Land Rates Committee, Minutes of Evidence, 9 June – 29 September 1933, Archives New Zealand, Wellington. SW Document Bank, volume 1, pp. 2-22.

⁸⁰⁷ Ibid.

⁸⁰⁸ Ibid.

was found that one section had been sold to a European, part of another had been taken by the Education Board and the balance had been sold to another Maori who had not heard anything about the rates. Mr Wilson said that this might be the case but that the Council did not know about the details the Judge had provided.⁸⁰⁹

Mr Wilson also queried whether the Ikaroa Maori Land Board could collect rates from Maori living in their own homes. He said that the amounts were not large and could be collected as ‘small rents’ but would make a ‘tremendous difference in the revenue’ and assist in meeting their obligations. Judge Jones responded that he did not think there would be any objection to leasing the land to Maori themselves though they might not be able to collect the rents.⁸¹⁰

It was noted by the chair during the discussion with Mr Wilson that the committee had been asking how the present legislation could be improved to help local bodies to get rates and that their ‘chief line’ had been to get suggestions from these local bodies (so presumably not Maori). By considering these suggestions, he said, it was hoped to arrive at conclusions that would ‘best serve a wide district’. His impression was that Mr Wilson had no suggestions to make. Mr Wilson said he only knew about Otaki local conditions which he said were unusual as no other borough in New Zealand had ‘anything approaching our proportion of Native land’. (Otaki was not quite as unique as Mr Wilson claimed as Kaikohe Town (administered by the Kaikohe Town Board) also contained Maori land and had a significant Maori population.)⁸¹¹

The chair admitted that he had a ‘peculiar difficulty’ but that he would ‘not like to say altogether that it ... [was] a difficulty created by the natives’. Mr Wilson said he thought numbers would willingly pay if they had the money and a number of Maori could ‘raise the money if they were pushed a bit’. Mr Wilson was asked if he was referring to ‘better times’ (non-depression years) to which he responded that even at the present time, a number of Maori could pay. Mr Wilson concluded by asking again if the committee could recommend

⁸⁰⁹ Ibid.

⁸¹⁰ Ibid.

⁸¹¹ Stirling, pp. 102-103.

that Maori living in their own houses be charged rent to pay rates and noted that he would be willing to accept instalments.⁸¹²

T O'Rourke, the Mayor of Otaki also gave evidence to the committee. He said that 45 years previously every piece of Maori land in the town was cultivated but that the situation had changed. He accused Maori of not caring about anything and not working. He said that the situation was not quite as bad until 'unemployment came about'. He wished to show that it was impossible for the Council to function. He noted that there had been some 'wildcat' schemes for sewerage and water which involved large loan repayments though he did not note that Maori had not supported these. In addition, he said, the Urban Farm Land Rating Act 1932 was coming into force which reduced rates on areas of urban farm land with no dwellings. This, he said, would also impact on the amount collected by the Borough. He said that the Borough needed some relief from Maori rates and that they were 'up against it'. He proposed that the Borough be given money from a fund held by the Native Minister but was told that the only fund was that relating to the development of Maori land. Mr O'Rourke said that this should be used on the Maori land in the Borough 'laying waste'. LG Lowry, a councillor for the Borough also appeared before the committee simply stating that he endorsed what the Mayor and Town Clerk had said.⁸¹³

Following the hearing Mr Wilson wrote to the committee as he wished to add emphasis to the point that the amount of rates paid had not increased 'to any great extent' by vesting the land in the Ikaroa Board. This suggests that the Board, with all its administrative expertise and full-time staff could not make the vested land revenue producing yet this was not commented on by Mr Wilson. He also stated (for a third time):

If however, it could be made possible for the Board to collect a small rental from a Native, who is living in his own house on his own land, it would assist this Borough considerable in the collection of a fair proportion of Native rates.⁸¹⁴

⁸¹² Minutes of Native Land Rates Committee, 23 June 1933, pp. 635-642, ACIH 16093 MA 86 1/2 Native Land Rates Committee, Minutes of Evidence, 9 June – 29 September 1933, Archives New Zealand, Wellington. SW Document Bank, volume 1, pp. 2-22.

⁸¹³ Ibid.

⁸¹⁴ Town Clerk. Otaki Borough Council to Secretary, Native Land Rates Committee, 26 July 1933, ACIH 16093 MA 86 2/5 Native Land Rates Committee, Inwards and outwards correspondence of committee, 1933, Archives New Zealand, Wellington. SW Document Bank, volume 1, p. 29.

No Maori from Otaki gave evidence to the committee. Nor is there any reference made by either the Town Clerk, Mayor or Councillor, in the evidence of having spoken to Maori about the matter.

Bennion states that ‘in view of the uneven and perhaps diffident approach of councils and the committee to solutions ... no [new] legislation followed the committee report. Rather the existing law continued to be enforced, probably with gradually greater efficiency as recording systems improved and more land became individualised.’⁸¹⁵

The committee’s report contained no mention of the Otaki Borough Council or the suggestion regarding Maori paying rent for living in their own home on their own land from which rates could be paid – presumably because the suggestion was seen as completely unworkable.⁸¹⁶

Of note was that the committee’s report did conclude that there were ‘considerable areas of Maori land with no rateable value’ and that there was provision within the Act for such land to be exempted from rates. The committee noted, however, that ‘very little appears to have been done in that direction’. The committee said it was of the opinion that the Native Department together with the Valuation Department and local authorities should make far greater use of these provisions and recommended this accordingly.⁸¹⁷

It would appear that this recommendation was not ever taken up - there being no evidence that the Native and Valuation Departments took the advice of this government appointed committee. Certainly, the Otaki Borough Council did not exempt any Maori land for being non-revenue producing until 1953 and this was only in respect to two small pieces of land.

8.27 Raukawa Marae rates, 1936

In 1936, the building of Raukawa Marae at Otaki was completed. The marae was located on Otaki sections 166, 167, 168 and 169. In order for applications to be made to have sections 166, 167 and 169 removed from the control of the Ikaroa Maori Land Board, arrangements

⁸¹⁵ Bennion, pp. 62-63.

⁸¹⁶ Town Clerk. Otaki Borough Council to Secretary, Native Land Rates Committee, 26 July 1933, ACIH 16093 MA 86 2/5 Native Land Rates Committee, Inwards and outwards correspondence of committee, 1933, Archives New Zealand, Wellington. SW Document Bank, volume 1, p. 29

⁸¹⁷ Rating of Native Land, Report of Committee of Enquiry, AJHR 1933, G11.

were made so that all outstanding rates including charging orders were paid. Mr Balneavis, in his capacity as Secretary of the Maori Purposes Fund Board, liaised with the Otaki Borough Council Town Clerk, the Ikaroa Maori Land Board and with local Maori to organise payment. The Borough Council provided details of rates owed from 1928-1929 for sections 166, 167 and 169 (section 168 was exempted) for the previous eight years which totalled just under £100. The Registrar for the Board, however, noted that under section 63(7) of the Native Purposes Act 1931, only rates for the periods 1934-1935 and 1935-1936 were recoverable. In addition, the sum of £14.12.7 was due in respect to rates on section 166 to 31 March 1928 paid by the Board plus interest. A subsequent letter from the Registrar advised that there was also a charging order on sections 167 and 169 for £6.15.1 dated 15 March 1926 in favour of the Otaki Borough Council.⁸¹⁸

Mr Balneavis advised Roore Rangiheuea in June 1936 that he wanted to do ‘everything possible to attain the objective ... [that they had] been striving for, namely the placing of the Raukawa marae in a satisfactory position in every way’. He said that a total of £46.14.2 was required in order to get the rates ‘cleaned up’. He also noted that rates would come due soon for the 1936/1937 financial year and estimated that these would be about £8 which brought the total to £55.8.3. As soon as it was paid, he said, application could be made to the Land Transfer Office for registration of the sections in trustees.⁸¹⁹ That is, the sections could not be vested in trustees until the rates were paid.

Mr Balneavis was forwarded the money by Roore Rangiheuea for the Raukawa Executive Committee. He then organised payment of £15.1.10 to the Ikaroa Maori Land Board and £36.6.5 to the Otaki Borough Council. The amount paid to the Otaki Borough Council included payment of the charging order despite the 1928 Act stating that any liens or rates charges would take no further effect once the payment by the Board of the 25 percent said to be owed to the Otaki Borough Council was made.

⁸¹⁸ HRH Balneavis, Secretary, Maori Purposes Fund Board to Horima Roera, Otaki, 9 April 1936; Town Clerk, Otaki Borough Council to Registrar, Ikaroa Maori Land Board, 23 April 1936; Registrar, Ikaroa Maori Land Board to HRH Balneavis, 29 April 1936; Registrar, Ikaroa Maori Land Board to HRH Balneavis, 26 May 1936, ACIH 16068 MA 51/13 132/2 Raukawa Marae, arrears of rates, Otaki, 1936, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 99-102.

⁸¹⁹ HRH Balneavis, Secretary, Maori Purposes Fund Board to Roore Rangiheuea, Foxton, 1 June 1936, ACIH 16068 MA 51/13 132/2 Raukawa Marae, arrears of rates, Otaki, 1936, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 103-104.

He also advised the Town Clerk that after portions of sections 167 and 169, Otaki Township were partitioned (which was required for the enlargement of the Raukawa Marae), those portions which contained the marae would become exempted from the payment of rates but the balance of the sections would still be rateable. He also noted that as the Raukawa Marae Management Committee would be using the sections, they had agreed to pay future rates.⁸²⁰

8.28 Petition from Tohuroa H Parata and 22 others concerning Mangapouri Native or Market Reserve, 1941-1942

In 1941, Tohuroa H Parata and 22 others petitioned Parliament regarding the Mangapouri Native Reserve, also known as the Market Reserve, which had been included with the 200 or so acres of Otaki Maori land vested in the Ikaroa Maori Land Board in 1929 for non-payment of rates. The petitioners described themselves as ‘elders and other members of the Ngati Raukawa and Ngati Toa tribes’. The petition stated that the title to the Mangapouri Native reserve, which contained 3 ½ acres, had not been investigated by the Native Land Court and that while an application was made to do so in 1925, the matter was not completed. When the application was made, those making the application nominated a committee to administer the land for the benefit of local Maori but were told by the Judge that the Court had no power to appoint such a committee. When, in 1929, the land was vested in the Board, title had still not been investigated which meant, the petitioners said, that the land was not liable for the rates levied on it. It was therefore not proper, they said, to apply the provisions of section 32 of the 1928 Act which allowed for land at Otaki where rates had not been paid to be vested in the Board.⁸²¹

The petitioners also stated that Te Rauparaha Memorial Monument was located on the reserve, that the reserve was ‘too small and of too poor a quality to produce any but a negligible amount of revenue’ and that the land had for at least 70 years ‘been used by the local Maori people as a commonage and as a market reserve’. In addition, if title was investigated, the Court would find that the owners numbered several hundred. The petitioners

⁸²⁰ Receipt of payment by Raukawa Executive Committee, 9 June 1936; HRH Balneavis, Secretary, Maori Purposes Fund Board to Registrar, Native Land Court, 11 November 1936; HRH Balneavis to Town Clerk, Otaki Borough Council, 11 November 1936, ACIH 16068 MA 51/13 132/2 Raukawa Marae, arrears of rates, Otaki, 1936, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 105-110.

⁸²¹ Petition No 64/41 of Tohuroa H Parata and 22 others, 1941, ACIH 16036 MA1/411 20/1/37 part 2 Native - Otaki - Borough Council - Maori rates, 1938-1950, Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 97.

asked that the land be vested in the trustees of the Raukawa Marae appointed by section 10 of the Native Purposes Act 1936 upon trust to hold and administer for the ‘common use of the members of Ngati Raukawa and associate tribes’.⁸²²

The petition was forwarded to the Under Secretary, Native Department by the Native Affairs Committee in October 1941 for a report and then referred to the Registrar of the Native Land Court in Wellington. The Registrar reported that the statements made by the petitioners in regard to investigation of title were correct. He said that the land was occupied by a Mr Reynolds who was the overseer to the Otaki Borough Council and paid a yearly rental of £21 to the Rev Paul Temuera which was then used for church purposes.⁸²³

The Registrar also recorded that in 1930, the Ikaroa Maori Land Board, paid the sum of £14.1.1 to the Otaki Borough Council which was the amount of rates said to be owed prior to the vesting of the land in the Board in 1929 (though it was likely to be just 25 percent of that owed as specified in the 1928 Act). He said that the Otaki Borough Council had recently been asked to refund this amount together with interest of five percent. After ‘considerable correspondence with the Council and with representative Maoris of the district’, the Registrar of the Board had met with Hone McMillan who advised that his committee (the trustees of the Raukawa Marae) would refund the amount to the Board. In the circumstances, the President of the Board agreed not to charge interest on the amount involved. Further:

It appears to be clear that no rates should ever have been levied on this land and accordingly the land should not have been vested in the Board.

....

⁸²² Ibid.

⁸²³ Clerk of the Native Affairs Committee to Under Secretary, Native Department, 1 October 1941, Under Secretary, Native Department to Registrar, Native Land Court, Wellington, 10 October 1941, Registrar, Native Land Court, Wellington to Under Secretary, Native Department, 17 October 1941, ACIH 16036 MA1/411 20/1/37 part 2 Native - Otaki - Borough Council - Maori rates, 1938-1950, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 98-100.

In view of the fact that the land is still customary land and that it appears to have been used as commonage for a considerable time, the most satisfactory way to deal with it would seem to be to grant the prayer of the petitioners.⁸²⁴

He also recommended that the order in council be revoked in respect of the reserve.⁸²⁵

The Under-Secretary's response was to query the Registrar's belief that title had not been investigated and to ask whether, if title had not been investigated, if there was any advantage to completing the 1925 proceedings. The Registrar responded that it was quite clear that title to the reserve had not been investigated and that no advantage would be gained from completing the 1925 application since if title was investigated in 'the usual way, the number of owners would be legion'. He also commented that the market reserve had been regarded and used as 'commonage for so long that it would appear to be clearly desirable that it be vested in trustees' as requested by the petitioners, rather than in beneficial owners.⁸²⁶

In June 1942, the Under Secretary reported to the Native Affairs Committee. He stated that the petitioners wished to vest the reserve in the Raukawa Marae Trustees appointed under section 10 of the Native Purposes Act, 1936. He stated that the land was un-investigated Maori land, its beneficial owners would be numerous and it had been used by Maori as a 'commonage for a considerable time.' It was also in very close proximity to the Raukawa Marae. He also recorded how the land had been vested in the Ikaroa District Maori Land Board to administer with the object of discharging rating liabilities but as the land was customary land, it should have been exempted from rating. He said the vesting was 'effected through inadvertence'. He also said that the Board had paid the Borough the rates levied but that that Borough Council had refunded it. The order in council, he said, could be revoked at any time.⁸²⁷

⁸²⁴ Registrar, Native Land Court, Wellington to Under Secretary, Native Department, 17 October 1941, ACIH 16036 MA1/411 20/1/37 part 2 Native - Otaki - Borough Council - Maori rates, 1938-1950, Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 100.

⁸²⁵ Ibid.

⁸²⁶ Under Secretary, Native Department to Registrar, Native Land Court, Wellington, 23 January 1942; Registrar, Native Land Court, Wellington to Under Secretary, Native Department, 30 January 1942, ACIH 16036 MA1/411 20/1/37 part 2 Native - Otaki - Borough Council - Maori rates, 1938-1950, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 101-102.

⁸²⁷ Under Secretary, Native Department to Native Affairs Committee, 4 June 1942, ACIH 16036 MA1/411 20/1/37 part 2 Native - Otaki - Borough Council - Maori rates, 1938-1950, Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 103.

In October 1942, the Registrar advised the Under Secretary that an application had recently been lodged by Hone McMillan for the Court to recommend that the land be set apart as a Native Reserve under section 5 of the 1937 Act and that it be vested in the trustees of the Raukawa Marae. The application was heard before Judge Dykes on 6 October but after some discussion it was decided that the Court did not have the jurisdiction to deal with land under section 5 as it was customary land. It was suggested that section 5 might be amended so it could apply to customary land. Judge Dykes, he said, was sympathetic to the application and there appeared to be 'no good reason' why the Board would object to the section being vested in the Raukawa trustees particularly as it was clear the land should never have been vested in the Board in the first place. The Judge supported the amendment to the Act and thought too that the Chief Judge was also in favour. Further:

It is appreciated that there is very little customary land remaining in the Dominion, but it would appear that what little there is left would, upon investigation, be found to belong to many hundreds of owners. This being so, it seems that there is even more reason to make section 5/1937 applicable to customary land than to ordinary Native freehold land or European land owned by Natives.⁸²⁸

He therefore wished to refer the matter of amending the legislation for consideration.⁸²⁹

In response, the Under Secretary said that such legislation was being considered but that there was no possibility of it being passed until the following year. In addition, the Native Affairs Committee report, was forwarded to the government for 'favourable consideration'.⁸³⁰

Further investigation is required as to what happened in in the interim as the Mangapouri Market Reserve was not re-vested in trustees until 1956. The re-vesting was completed together with 16 other blocks when the Maori Trustee (who had taken over from the Ikaroa Maori Land Board) decided that he no longer wished to have Otaki Borough Maori lands

⁸²⁸ Registrar, Native Land Court, Wellington to Under Secretary, Native Department, 14 October 1942, ACIH 16036 MA1/411 20/1/37 part 2 Native - Otaki - Borough Council - Maori rates, 1938-1950, Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 104.

⁸²⁹ Ibid.

⁸³⁰ Under Secretary, Native Department to Registrar, Native Land Court, Wellington, 5 November 1942; Native Affairs Report, 4 December 1932, ACIH 16036 MA1/411 20/1/37 part 2 Native - Otaki - Borough Council - Maori rates, 1938-1950, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 105-106.

vested in him. Prior to this, in 1951, it was reported that the land was leased for two years from October 1951 for £54 per year. In 1956, when the land was re-vested, it was reported that no rates were owing and that there was £249.10.0 'cash in hand', presumably held by the Board and not distributed to the owners or trustees. At the time that it was re-vested it was being leased for £125 per year.⁸³¹

8.29 Further re-vesting requests, 1943-1947

In total, eight sections were re-vested in owners in the 1930s. Throughout the 1940s and 1950s, owners continued to apply for their land to be re-vested though not all were immediately successful or happy about paying the outstanding rates. For instance, in October 1943, Takutai Stephens of Motueka wrote to the Minister of Maori Affairs on behalf of her brother, Gerry Ropata. Mr Ropata lived at Otaki, was a returned serviceman from the first world war and did not have a home of his own. He was also sick having been in hospital for the previous 18 months and therefore unable to work. She said that he occupied her home which she very much wanted to gift to him so that he could have a home of his own. She explained that the section was 'unfortunately' vested in the Ikaroa Maori Land Board and unless the rates were paid, she could not lodge an application to gift him the section. She had asked the Otaki Borough Council whether they would 'release' the rates but was unsuccessful and 'would not do anything to help him out'. She explained that she was 'not inclined to pay the rates' as she leased her other section for £12 per year but was required to pay rates totalling £13.4.0. Her view was that she was 'worse off £1.4.0' and described it as 'outrageous'. The section, she said, was about one acre. She asked whether the Ikaroa Board would allow her to apply for the land to be re-vested. She also complained that the Land Board had held some of her rental monies for five months and she had not received them.⁸³²

The Registrar of the Native Land Court advised that the land in question was Hanganoaiho 1A (1 rood 2 perches) and Part 1 (1 acre). It was noted that some time ago Mrs Stephens had instructed Messrs O and R Beere, Solicitors, to act for her and the position of rates owed was

⁸³¹ Schedule of Otaki vested lands prepared by Maori Trustee, 1 June 1951; Schedule attached to letter from District Officer, Wellington to Maori Trustee, Head Office, 19 September 1956, ACIH 16036 MA1/411 20/1/37 part 3 Native - Otaki - Borough Council - Maori rates, 1951-1956, Archives New Zealand, Wellington; *New Zealand Gazette*, 22 November 1956, p. 1657. SW Document Bank, volume 7, pp. 126-129.

⁸³² Takutai Stephens to Minister of Maori Affairs, 17 October 1943, ACIH 16036 MA1/411 20/1/37 part 2 Native - Otaki - Borough Council - Maori rates, 1938-1950, Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 107.

communicated to that firm. Officials thought that Mrs Stephens should be told that she was 'quite free to make application to the Court to have the land re-vested in herself as owned', but that if the Court followed its 'usual practice' it would not be able to recommend re-vesting until rates that were 'legally recoverable' were paid, and a 'sufficient guarantee ... given that future rates ... [would] be paid as they accrue[d].' No suggestion was made that the land should be exempted even though the house and section was to be gifted to a sick and indigent World War 1 veteran. Instead the exemption provisions remained unused.

It was also noted that the land was subject to a tenancy granted by the Board. With respect to the rents, the Registrar said that this probably referred to rents received in respect to Himatangi 3A3E (which was not vested in the Board) but were paid to the Board by an arrangement recently made with the Public Trustee. A voucher for £3.14.10, which was the balance of rents due to her, was sent to her on 14 October.⁸³³

The Native Minister then advised Mrs Stephens that with respect to Hanganoaiho No 1A and Part No 1 she could apply to the Native Land Court for a recommendation that the land be re-vested in her. Then she would be in a position to transfer it to her brother. He also added that she would have to be 'prepared to guarantee payment of any rates which are now legally recoverable in respect of the land, and to give some sort of undertaking that future rates will be paid as they accrue'.⁸³⁴

Three years later, in September 1946, the Otaki Borough Council certified that Mrs Stephens had paid outstanding rates of £30 (the previous three years). The Native Land Court heard the re-vesting application in January 1947 where it was noted that all rates had been paid and that the owner, who was in occupation, proposed to negotiate with the State Advances Department for a loan so he could build a house. (It is presumed that the occupant being referred to was Mrs Stephens brother). The Court recommended that the land be re-vested. By 1951, however, both 1A and Part No 1 had been sold to the 'Housing Construction Department' and were no longer Maori land.⁸³⁵

⁸³³ Registrar, Maori Land Court to Maori Affairs, Head Office, 16 November 1943, ACIH 16036 MA1/411 20/1/37 part 2 Native - Otaki - Borough Council - Maori rates, 1938-1950, Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 108.

⁸³⁴ Minister of Maori Affairs to Takutai Stephens 26 November 1943, ACIH 16036 MA1/411 20/1/37 part 2 Native - Otaki - Borough Council - Maori rates, 1938-1950, Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 109.

⁸³⁵ Wellington Minute Book 36, 21 January 1947, p. 174; Otaki Borough Council declaration regarding payment of rates, 20 September 1946, ACIH 16036 MA1/411 20/1/37 part 2 Native - Otaki - Borough Council - Maori

It was also during this period that two sections were re-vested so that they could then be sold. In 1946, applications were made by the owners of Otaki sections 146 (33.5 perches) and 148 (33.5 perches) which were located one section back from Mill Road opposite the Raukawa Marae at the corner of Aotaki and Rangatira Streets. The owners of both sections, Hawea Pirika Remana (alias Hawea Hohepa) and Rangiwhaia Pirika Remana (alias Rangiwhaia Hohepa) owed £8.10.0 in rates, £2.6.0 survey costs for each section, £5.4.0 for succession duty on both sections, and 15/- 'order fee' on both sections. This totalled £26.10.0. Mr Atmore, the solicitor at the hearing, and who was also the Mayor, said that the sections were vested in the Ikaroa Maori Land Board to 'facilitate the payment of rates'. He said that the sections were unoccupied and that the owners had 'never had any revenue from the land' (though this did not preclude them from being rated). It was therefore proposed to sell the sections for a site for a factory. The Borough Council, he said, was 'anxious for this project to be facilitated'. The price was £400 for section 146 (government valuation was £190) and £300 for section 148 (government valuation was £85). The Court said that it was 'in the interest of the native owners and in the public interest that this transaction should be completed' and recommended that the sections be re-vested. The Court then heard the application for confirmation of the sale of both blocks which was duly ordered subject to the payment of rates and other 'encumbrances' and a commission of one percent to be paid to the Ikaroa Maori Land Board. Rates, encumbrances and commission totalled around £33.10.0 which represented almost five percent of the total purchase price (£700). It was also recorded in the minutes that Hawea was married, employed at Petone and 'well able to support himself and his family out of his wages alone' and that his mother was a 'life tenant of some of his interests'. Rangiwhaea was said to be unmarried and living with her mother. Both were considered by the Court to have 'adequate' other lands.⁸³⁶

Other land that was re-vested in the 1940s included Otaki sections 149 and 151 which were next to sections 146 and 148 discussed above) also on Mill Road opposite the Raukawa Marae. Both applications were made by Hema Whata Hakaraia, who was, by this time, a Borough Councillor. Mr Hakaraia was supported by solicitor, Mr Atmore, who as noted

rates, 1938-1950, Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 110; Schedule of Otaki vested lands prepared by Maori Trustee, 1 June 1951, ACIH 16036 MA1/411 20/1/37 part 3 Native - Otaki - Borough Council - Maori rates, 1951-1956, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 126-129.

⁸³⁶ Wellington Minute Book 36, 23 May 1946, pp. 87-90.

above was also the Mayor. At the Court hearing on 28 November it was recorded that in both cases, a receipt for all rates had been filed and that there were no other outstanding charges. The Registrar said that he had ‘investigated the position’ and found ‘no reason to object’. The recommendation of the Court to re-vest the land was made and the order in council published in May 1947. No details regarding the land were given and details of how the land was subsequently used and alienated have not been located. These sections are no longer Maori land.⁸³⁷

At the same hearing, the Court supported the application by Tungia Tungia to have Moutere 8B1 re-vested. The Court heard that ‘all necessary investigation’ had been made and the Native Trustee had ‘expressed his approval in writing’. The recommendation was made provided receipts for all outstanding rates and charges were paid and the order in council also published in May 1947. The block was later sold and is no longer Maori land.⁸³⁸

8.30 Exemptions, 1953

In 1953, two sections were exempted from rates. The applications under section 104 of the Rating Act 1925 were made by the Maori Trustee in respect to Taumanuka 1A (8 acres 1 rood 24 perches) and Takapu B (1 rood 29 perches). These were the first and only exemptions made in respect to Maori land in the Otaki Borough due to the land not being revenue producing during this period. Taumanuka 1A was located by the beach and described by Mr Withers (presumably for the Maori Trustee) as consisting of ‘raw sand dunes with no revenue producing possibilities at all’. Takapu B was described by Mr Withers as an ‘old river bed and worthless in value’. He said that there was ‘no reason to expect that it will ever be revenue producing. In both instances the recommendation was made by the Court. A representative for the Otaki Borough Council is not recorded as having been present in Court nor any owners.⁸³⁹

⁸³⁷ Wellington Minute Book 36, 28 November 1946, pp. 164-165; *New Zealand Gazette*, 1 May 1947, p. 515.

⁸³⁸ Wellington Minute Book 36, 28 November 1946, pp. 164-165; *New Zealand Gazette*, 1 May 1947, p. 515.

⁸³⁹ Otaki Minute Book 65, 18 March 1953, pp. 47-48.

The recommendations were forwarded to the Minister of Maori Affairs together with details regarding the land and the likelihood of the land never being ‘revenue-producing’. The order in council exempting the land was published in October 1953.⁸⁴⁰

Taumanuka 1A is no longer Maori land but Takapu B is. It has one owner, is located on Rangiuru Road and from images on Maori Land Online, it appears to contain no dwellings or buildings.⁸⁴¹

Other sections were also re-vested during the 1950s – some so they could be sold and then used for housing sites (such as Hanganaiho 1D, Otaki section 144 and Otaki section 145) and two sections (Haruatai 3A1 and 3A2) so they could be sub-divided for housing with four sections being sold and two sections reserved for the owners. Other sections were re-vested so that one owner could buy out the other owners (such as Taumanuka 3I2). Several other sections were re-vested at the request of the owners so they could be sold but it was not specified whether it was for housing purposes. According to the District Officer, some of the owners received the assistance of Hema Hakaraia with sales but he (the District Officer) did not elaborate further. Also in the 1950s, the section next to the Raukawa Marae was sold. Otaki section 164 (part) had been leased by the Otaki Maori Racing Club and the club purchased the section so they could build new office buildings. It was re-vested so that the sale could proceed.⁸⁴²

8.31 Maori Trustee decision to re-vest remaining lands, 1956

It was not until 1956, that discussions commenced regarding re-vesting the remainder of the lands vested in the Board, later the Native and Maori Trustee, in the owners. In April, the District Officer, Department of Maori Affairs, Wellington wrote to the Maori Trustee about the vested lands. The District Officer proposed that steps should be taken to re-vest the remaining blocks in the owners and the Otaki Borough Council told that it should rely on

⁸⁴⁰ Secretary, Department of Maori Affairs to Minister of Maori Affairs, undated (circa 1953), ACIH 16036 MA1/411 20/1/37 part 3 Native - Otaki - Borough Council - Maori rates, 1951-1956, Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 130; *New Zealand Gazette*, 15 October 1953, p. 1662.

⁸⁴¹ Maori Land Online: <http://www.maorilandonline.govt.nz/> accessed October 2016.

⁸⁴² District Officer, Wellington to Head Office, Department of Maori Affairs, 1 March 1954, 13 August 1954, 27 August 1954, 26 July 1956 and Maori Trustee to District Officer, 12 March 1954, ACIH 16036 MA1/411 20/1/37 part 3 Native - Otaki - Borough Council - Maori rates, 1951-1956; District Officer to Maori Trustee Head Office, 3 October 1957, ACIH 16036 MA1/412 20/1/37 part 4 Otaki - Borough Council - Maori rates, 1957-1959 Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 125, 131-135, 163.

other remedies to enforce the payment of rates. The District Officer explained that during the years since the sections had been vested in the Maori Trustee that many sections had been sold though some had been re-vested at the owner's request (after the rates had been paid in full). Of the 135 sections originally vested, 62 remained under the administration of the Maori Trustee (about 46 percent). Of these 62, some were leased or occupied by one or more of the owners but the majority were 'the subject of ordinary tenancies, mainly to Chinese as market gardeners'. The occupancy of a few of the sections, the District Officer stated, remained 'obscure' (which raises questions about the effectiveness of the Maori Trustee's administration of all the land).⁸⁴³

The District Officer also explained that each year, the Otaki Borough Council forwarded demands for outstanding rates and as per the legislation any funds (income from the land) held by the Maori Trustee in respect of each section were prioritised for rates. 'Funds' were used in the first instance to reduce the previous years' rates and the balance paid against the current years' rates. Any rates owed from two years previously were 'apparently written off'. If there was 'sufficient income from the section concerned' then the money was distributed to the owners. Tellingly he concluded that:

For the most part ... income is barely sufficient to meet the rates, in fact, in the past the amount of the annual rates appears to have been the main factor in fixing the rentals.⁸⁴⁴

It was felt, the District Officer said, that the legislation which enabled the vesting to occur was 'never intended to create an arrangement to facilitate the collection of rates from Maori land in this Borough, which would be carried on indefinitely'. Further:

It must be admitted that collection of rates from the sections concerned would be difficult for the local body but no more difficult than the problem faced by other local bodies throughout New Zealand.

⁸⁴³ District Officer, Wellington to Maori Trustee, 17 April 1956, ACIH 16036 MA1/411 20/1/37 part 3 Native - Otaki - Borough Council - Maori rates, 1951-1956, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 120-121.

⁸⁴⁴ Ibid.

A considerable amount of work is involved in the administration of the sections – arranging tenancies, reviewing rents and collection of rent or rent in arrears – and the remuneration, 5% of the rents collected is inadequate for the services given. No charge is made against the local body for the benefit received by it.

In a number of files action is current to sell the sections and it is felt that in fairness to the prospective purchasers, the Maori Trustee should see the negotiations through to finality in these cases.

The question also arises of current tenancies arranged by the Maori Trustee. Most of the sections have a large number of owners and the rentals are small, and no doubt the Maori Trustee's facilities will have to be used for the collection and distribution of rent. This is a minor matter of administration and need not influence the general principle involved in this memo.

There is no doubt that the OBC will have strong objections to the proposed course of action and if you agree to the recommendation ... above it is felt that the Borough Council should be advised and perhaps given an opportunity to discuss the matter fully with the Maori Trustee. It is suggested that this action be taken at Head Office level in view of what may be called the cordial relationship which has grown up over the years, between successive District Officers, and Mr Hema Hakaraia, who is the Deputy Mayor of Otaki at the present time. The administration of the Otaki Vested Land has virtually become an institution in this Office.

The fact remains, however, that the Maori Trustee is really only a poorly paid rate collector and for the most part the owners are not gaining a great deal by his administration of the Blocks. In the last two years' distribution has been made to owners from only eight of the blocks under administration and most of these have been very small.⁸⁴⁵

An official at Head Office commented that there seemed 'no reason at all why the Otaki B.C. should at MT's [Maori Trustee's] expense, be put in a better position than other local

⁸⁴⁵ Ibid.

authorities with Maori land within the area'. No comment, however, was made that just eight out of the 62 blocks under the Maori Trustees administration had generated enough income to pay both rates and owners and no discussion ensued about whether this was due to poor administration on the part of the Maori Trustee or due to the land being incapable of producing enough revenue to pay rates. The possibility that the rates were too high was also not raised nor were further exemptions.⁸⁴⁶

In June 1956, a formal request was made by Head Office officials to the Maori Trustee to have the remaining Otaki vested land re-vested in the Maori owners. The request noted that of the 62 properties, two had been exempted from rates 'as being incapable to producing revenue' and a 'few others' were not revenue producing. It was also reiterated that in terms of leasing arrangements, several sections had been formally leased but the majority were 'let under annual tenancies, principally for market gardening'. The sections had, 'until recently', been let at 'whatever rental could be obtained and in very many cases at a figure insufficient to meet the annual rates'. Latterly, the Maori Trustee was told, rentals had been 'reviewed and increased to at least the amount of the rates and an attempt made wherever possible to obtain the full estimated rental value (assessed on valuation) to provide some surplus for the owners'. That is, it had taken thirty years for the Maori Trustee to even attempt to obtain the full rental value of the blocks which again puts the effectiveness of the administration of the Maori Trustee into question.⁸⁴⁷

The Maori Trustee was also told that no charge was being made against the Council and the situation was 'further complicated by the formation of the Manawatu Catchment Board' which also assessed much of the vested land for rates. It was further argued that the legislation which enabled the sections to be vested was:

... never intended to create an arrangement to facilitate the collection of rates from Maori land in this Borough, which would be carried on indefinitely. Admittedly many of the sections have multiple owners but this would not create any more difficulties

⁸⁴⁶ Handwritten comments by officials on District Officer, Wellington to Head Office, Department of Maori Affairs, 17 April 1956, ACIH 16036 MA1/411 20/1/37 part 3 Native - Otaki - Borough Council - Maori rates, 1951-1956, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 120-121.

⁸⁴⁷ Head Office, Department of Maori Affairs to Maori Trustee, 8 June 1956, ACIH 16036 MA1/411 20/1/37 part 3 Native - Otaki - Borough Council - Maori rates, 1951-1956, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 122-123.

for the Otaki Borough Council than are faced by many other local bodies throughout New Zealand.⁸⁴⁸

The Maori Trustee was also told that the Wellington District Officer had suggested that the following conditions be attached to the re-vesting in the Maori owners:

- (a) Where action is current to sell the sections, the Maori Trustee, in fairness to the prospective purchasers, should see the negotiations through to finality.
- (b) That in those cases of multiple ownership where tenancies have been arranged by the Maori Trustee and the rentals are small, the facilities of the Maori Trustee for collection and distribution of rents be made available if required.
- (c) That before application is made to the Court, the Otaki Borough Council be advised of the action proposed.
- (d) That in view of the cordial relationship and close liaison that has been built up over the past few years between the Wellington District Office and Mr Hema Hakaraia, the Deputy Mayor of Otaki, in relation to the administration of these lands, the advice as in (c) above should come from Head Office.⁸⁴⁹

The writer of the request did not, however, agree to all the suggestions stating that with regard to (d) that it was felt that ‘diplomatic advice from the District Officer to the Borough Council conveying the Maori Trustee’s decision to apply for re-vesting should not create ill-will’.⁸⁵⁰

Later that month, a further memorandum was sent to the Deputy Maori Trustee by the same writer which noted that the origin of the legislation which allowed for the vesting of the land was a recommendation made by the commission appointed to inquire into various questions relating to the Otaki Borough Council, most particularly rates. The writer said that the recommendation was ‘drawn against the general background that pretty well all local authorities were in the cart when it came to the collection of rates on Maori land’. Further:

⁸⁴⁸ Ibid.

⁸⁴⁹ Ibid.

⁸⁵⁰ Ibid.

The Maori Trustee should, so it seems, cut his stick as soon as possible. But it is questionable whether that should be done out of hand merely by revoking the order in council. Much as it is desirable to relieve the District Office of work, it would probably be best to make a review of the lands remaining and decided in each case what to do, but always on the footing that the Maori Trustee is to be divested of the legal title.

There is no great need for us to be scratching the backs of the Borough Council over this. Indeed, I should question whether it would be wise to give them notice beforehand, because that will probably be to invite an objection. Let each block be dealt with as seems best and then tell the Council the result.⁸⁵¹

A handwritten note on the above, presumably from the Deputy Maori Trustee, said that he agreed with the first part of his statement but thought that it would be better to meet with the Council and tell them what they were going to do and why. There was no similar plan to meet with Maori groups such as the Otaki Marae Committee.⁸⁵²

The District Office was then advised that it was agreed that the land should be re-vested but not as a group. Instead, that each section should be reviewed and a decision taken in each individual case 'as to what is best done, the ultimate intention of course being that the Maori Trustee be divested of the legal title'. In addition, the Otaki Borough Council was to be advised by the District Officer of the proposal and that the Maori Trustee was 'taking this course not as a measure of non-co-operation but in pursuance of the long-standing policy of education and requiring the Maori owners to manage their own affairs'. The District Officer was also instructed to take any outstanding action prior to the re-vesting so that the lands could be returned to the owners 'in as clear a state as possible'.⁸⁵³

⁸⁵¹ Head Office, Department of Maori Affairs to Deputy Maori Trustee, 18 June 1956, ACIH 16036 MA1/411 20/1/37 part 3 Native - Otaki - Borough Council - Maori rates, 1951-1956, Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 124.

⁸⁵² Handwritten note by Deputy Maori Trustee on Head Office, Department of Maori Affairs to Deputy Maori Trustee, 18 June 1956, ACIH 16036 MA1/411 20/1/37 part 3 Native - Otaki - Borough Council - Maori rates, 1951-1956, Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 124.

⁸⁵³ Head Office, Department of Maori Affairs to District Officer, Wellington, 2 July 1956, ACIH 16036 MA1/411 20/1/37 part 3 Native - Otaki - Borough Council - Maori rates, 1951-1956, Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 136.

Recorded on this letter is a statement regarding legislation (section 63(8) of the Maori Purposes Act) that the Maori Land Court could only recommend that the land be re-vested if the Court had vested the land in the first place. Therefore, only the Maori Trustee's permission was required for land to be re-vested.⁸⁵⁴

In September 1956, the Otaki Borough Council was advised of the proposal by the District Officer. The council was told that the main 'burden' of administration had been in 'ensuring that sections derive enough income each year to meet the rates' (demonstrating that the focus was not about assisting the owners), that the legislation did not intend that the Maori Trustee would remain indefinitely as rates collector and that the five percent commission on rents collected did not compensate for the 'time and effort involved'. It was noted that it would not be easy for the Otaki Borough Council to collect the rates itself but that it 'would be no more difficult' for it than the 'problem faced by other local bodies throughout New Zealand'. It was also reiterated that the proposal to have sections re-vested in the owners wherever possible was not a blanket re-vesting nor intended to be an un-co-operative move, but that the trustee was 'simply pursuing ... [its] long-standing policy of educating and encouraging Maoris to manage their own affairs'. It was noted too that the sections that would be re-vested first would be those where occupation and ownership was 'in a fairly clear state' so that the council 'should not have undue difficulty in collecting rates'. The letter concluded that the District Officer was 'most reluctant' to take steps that might affect the 'very harmonious relations' that existed between the office and the council and noted that Mr Hema Hakaraia, had been 'most co-operative and helpful in many matters'.⁸⁵⁵

The District Officer then submitted to the Maori Trustee information regarding the sections that remained vested which had increased from 62 in previous correspondence to 67 (so again demonstrating a less than thorough management regime). The District Officer said that the vested sections could be divided into three categories. The first category comprised those sections where immediate re-vesting was proposed. These included those sections where no rates were owed; that had been exempted from rates; proper leases existed which required the lessees to pay rates; credits were sufficient to meet current and 1955/1956 rates; the owners sought re-vesting and were 'both willing and able to clear rates owing'. The number of

⁸⁵⁴ Ibid.

⁸⁵⁵ Maori Trustee to Town Clerk, Otaki Borough Council, 12 September 1956, ACIH 16036 MA1/411 20/1/37 part 3 Native - Otaki - Borough Council - Maori rates, 1951-1956, Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 137.

sections in this category numbered 17 and an immediate request to re-vest in the owners was made in respect of these sections. Included in the 17 was the Mangapouri Native Reserve and the two sections exempted from rates. In addition, two sections were noted as being occupied by the sole owner, the occupier of one section was not known and the rest were leased or 'let' or the tenancy had just expired. When the re-vesting was formally gazetted, 16 sections were included with the Pahianui sections excluded on this occasion (though they were re-vested not long afterwards).⁸⁵⁶

The District Officer also noted, in the only mention of liaison with the owners in the letter, that where land was being re-vested, owners would be advised of the latest value and expected rental of the land concerned.⁸⁵⁷

The following 17 blocks were included along with details of occupation. Most, with the exception of the Pahianui blocks were re-vested in owners in November 1956. Makuratawhiti 8B2B and Paremata 15A No 5 were also re-vested but not included in the following schedule:

Table 16: Otaki Blocks vested in Maori Trustee proposed for re-vesting, 1956

Block name	Area	Rates owing (*) and cash in hand (**)	Occupation details
Haruatai 5 section 2	1 acre 3 roods 20 perches	*£43.0.9 **£47.6.7	Leased for £50 per annum plus £26 per annum house rent
Haruatai 5 section 5	1 rood 36 perches	*£9.3.9 **£19.0.10	Leased for £7 per annum
Haruatai 5B & 6 (Pt)	1 rood 21.6 perches	*Nil	Land consolidated and re-partitioned in August 1961 and re-named Haruatai Section 25. Occupied by sole owner.
Makuratawhiti 1B1	1 acre 16 perches	*£37.8.2 (1955/56) & 1956/57 (total of £53.19.1) **2/1	Let for £30 per annum
Makuratawhiti 9A4	1 rood 17 perches	*£4.1.3 **£0.2.1	Occupied by P Williams who wants to buy and who is paying the rates.
Makuratawhiti 9A6	2 roods 34 perches	*£6.5.0 (1956/57)	Let to P Williams; owners collect rents and pay rates

⁸⁵⁶ District Officer, Wellington to Maori Trustee, Head Office, 19 September 1956, ACIH 16036 MA1/411 20/1/37 part 3 Native - Otaki - Borough Council - Maori rates, 1951-1956, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 126-129; *New Zealand Gazette*, 22 November 1956, p. 1657.

⁸⁵⁷ District Officer, Wellington to Maori Trustee, Head Office, 19 September 1956, ACIH 16036 MA1/411 20/1/37 part 3 Native - Otaki - Borough Council - Maori rates, 1951-1956, Archives New Zealand, Wellington.

Moutere-Hanganoaiho 2B	1 rood 31.1 perches (Mangapouri Creek)	*Nil **£8.9.10	Let for £8.15.0
Otaki section 129A	23.7 perches	*Nil **£9.10.0	Occupied by sole owner
Otaki section 142	33.7 perches	*Nil **Nil	Not known
Otaki section 161	34 perches	*£10.12.6 **£20.0.8	Tenancy just expired
Otaki 178, 179, 186, 187 and Pts 177 & 185	1 acre 1 rood 2.12. perches	*Nil **£10.15.2	Leased for £20 per annum
Mangapouri Native Reserve	3 acres 3 roods 15 perches	*Nil **£249.10.0	Leased for £125 per annum
Pahianui B1, B5A, B5B	30 acres 3 roods in total	*Nil **£38.1.4	Leased for £12.10.0 per annum
Takapu B	1 rood 20 perches	Exempted 1953	
Taumanuka 1A	8 acres 1 rood 24 perches	Exempted 1953	

Source: Schedule attached to letter from District Officer, Wellington to Maori Trustee, 19 September 1956, ACIH 16036 MA1/411 20/1/37 part 3 Native - Otaki - Borough Council - Maori rates, 1951-1956, Archives New Zealand, Wellington; *New Zealand Gazette*, 22 November 1956, p. 1657. SW Document Bank, volume 7, pp. 126-129.

The second category defined by the District Officer was those sections that had a good rental or sale value but re-vesting was ‘impeded by rates outstanding’. With respect to these sections it was proposed that a review be undertaken so that proper leases at full rental value could be arranged which would provide for lessees to pay the rates and the rental to extinguish arrears. The tenancies were to return ‘full rental value’ as it was acknowledged again that previously many sections had been ‘let for the amount of the rate struck at the time’. The District Officer noted that rates tended to increase and therefore income did not meet outgoings. Action would also be taken in cases where lessees or tenants persistently failed to pay the rents. This would take the form of summons, re-entry or re-leasing. Where this produced enough rental to meet current rates, re-vesting would be possible within two years and it was ‘likely that some blocks may be disposed of by sale’.⁸⁵⁸

The third category was those sections where no income was being derived from the land. In these cases, ‘potential’ would be reviewed, exemptions would be sought (and then the land re-vested) or in cases where rental and selling value was considered reasonable, they would

⁸⁵⁸ District Officer, Wellington to Head Office, Department of Maori Affairs, 19 September 1956, ACIH 16036 MA1/411 20/1/37 part 3 Native - Otaki - Borough Council - Maori rates, 1951-1956, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 126-129.

seek lessees, tenants or (if the owners agreed) buyers.⁸⁵⁹ Of note was that there is no record in subsequent correspondence that any further exemptions were sought at this time.

Shortly after another series of requests for re-vesting were made. These were in respect to Paremata 15A No 5 where it was stated that the land was occupied by the Ryder brothers and that all rates had been paid to 31 March 1957 and Makuratawhiti 8B2B where the land was occupied by one of the owners who was paying the rates.⁸⁶⁰

8.32 Sales of vested land by Maori Trustee, 1956-1957

As a result of the decision to divest itself of the vested lands, a request was made to the Maori Trustee by the District Officer in October 1956 seeking permission to sell some of the vested lands. These were Titokitoki 2, 2A and 3C5 which were all larger than most of the other vested land sections with 2 and 2A consisting of over two acres in size and 3C5 being almost four acres in size. The blocks had been leased to Francis Eales of Otaki for 10 years from 14 May 1953 (having previously been leased to the Otaki Maori Racing Club) but Mr Eales had, according to the District Officer, found the land unsuitable for commercial gardening and the expense of top-dressing the land ‘exorbitant’. Rental had been paid to 13 May 1956. Mr Flowers (who at this time worked for the Maori Affairs Department) had also inspected the property and found that the lessee had made an ‘honest mistake regarding the potential of the land and [that] the cost of clearing the thick blackberry would be £200’. Mr Eales was advised that unless a new lessee could be found, the Maori Trustee ‘could not accept a surrender [of the lease] without payment of compensation’. The views of the Otaki Borough Council were also ‘sought as to the non-payment of rates in the future’. This appears to have then prompted the Council to make an offer of £400 to purchase sections 2 and 2A for the purposes of a cemetery reserve as the land adjoined an existing cemetery. The valuation of each section was £80. In addition, the owner of the adjoining property to 3C5, Mr Dixon, had offered £600 for 3C5 (the ‘existing’ valuation was £200). It was noted that the District Officer did not have the necessary delegated authority so that the matter was submitted to

⁸⁵⁹ Ibid.

⁸⁶⁰ District Officer, Wellington to Head Office, Department of Maori Affairs, 1 October 1956 (two letters); ACIH 16036 MA1/411 20/1/37 part 3 Native - Otaki - Borough Council - Maori rates, 1951-1956, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 138-139.

Head Office for decision. The final sentence of the letter made mention of the owners and another reason behind the request:

It would seem to be a good opportunity, subject to the consent of the owners, to rid ourselves of these three sections.⁸⁶¹

Another letter from the District Officer shortly afterwards said that an offer had also been received from a Mr M Winiata of Otaki with respect to 3C5 for £600 or as much as anyone else was prepared to pay for it over £600. It was also noted that the only way of getting an indication from the owners as to whether they would like to sell would be for succession orders to be made to seven of the original owners in the name of the Registrar which could be made at the next Levin Court. He also stated:

It seems that the land should be sold to a Maori in preference to an European provided that he is prepared to pay the same price. My previous memorandum was perhaps incorrect in that the blocks should not be sold without the consent of the beneficial owners.⁸⁶²

The Maori Trustee responded that he agreed to the sale of sections 2 and 2A for £400 subject to the owners' agreement. With regard to 3C5, he agreed that the lands should preferably be sold to a Maori but that an indication from the owners as suggested (through the processing of succession orders) should be obtained.⁸⁶³

In February 1957, the District Officer, who said that the office held the authority of the Maori Trustee to sell the two blocks for £400 advised that the office had 'looked very carefully at ways and means of obtaining the owners' [of Titokitoki 2 and 2A] consent' but that it would 'not be easy'. He said that there were 49 owners and a great number were dead. The number of successors would most likely 'swell [the number of owners] considerably'. The District

⁸⁶¹ District Officer, Wellington to Head Office, Department of Maori Affairs, 8 October 1956, ACIH 16036 MA1/411 20/1/37 part 3 Native - Otaki - Borough Council - Maori rates, 1951-1956, Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 140.

⁸⁶² District Officer, Wellington to Head Office, Department of Maori Affairs, 26 October 1956, ACIH 16036 MA1/411 20/1/37 part 3 Native - Otaki - Borough Council - Maori rates, 1951-1956, Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 141.

⁸⁶³ Maori Trustee to District Officer, Wellington, 31 October 1956, ACIH 16036 MA1/411 20/1/37 part 3 Native - Otaki - Borough Council - Maori rates, 1951-1956, Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 142.

Officer admitted that they were not even sure which of the owners were alive and in many cases, did not hold the addresses of either the owners or their successors. There was also no single large owner. The biggest share was one-seventh of the block but they were not sure whether any of the five owners who owned one-seventh were alive. It was also ‘unlikely’ that anyone held a share in excess of one twenty-eighth. The District Officer said that a meeting of owners could be called but in the circumstances he felt that ‘the Maori Trustee should use his authority and sell immediately, particularly as there ... [was] not much likelihood of there being objections’ (though he did not state on what basis he made this assumption). His argument for this position continued:

The land is leased to Mr F Eales, who wants to surrender his lease, because he finds it uneconomic to clear the land of blackberry. The Borough has given us formal notice to get rid of the noxious weeds and if we accept Mr Eales surrender of the lease and sell to the Borough Council we get the land off our hands and avoid the cost of clearing the blackberry. The land is of little potential use with the blackberry on it. The blackberry, however, will have to be cleared if the title remains with the Maori Trustee and, therefore as a precaution we have told Mr Eales that we cannot accept surrender of the lease while the notice regarding noxious weeds remains.⁸⁶⁴

He also argued that the £200 to clear the noxious weeds would put the land in debt and then the re-vesting would be more difficult. Therefore, they asked the Maori Trustee to approve the land being sold to the Borough for £400 ‘without the formality of seeking the consent of the owners’. The Maori Trustee then agreed on 8 February 1957 to the sale ‘without the formality of seeking the consent of the owners’. While confirmation of the sale is not on either the Maori Affairs or Maori Land Court block order file, it is likely that it was sold at this time given that the Maori Trustee gave his consent, that it is no longer Maori land and there is nothing in the Maori Land Court block order file to indicate that it was Maori land in the 1960s when a memorial schedule was prepared for all Maori land blocks still in Maori ownership.⁸⁶⁵

⁸⁶⁴ District Officer, Wellington to Head Office, Department of Maori Affairs, 4 February 1957; Maori Trustee to District Officer, 8 February 1957, ACIH 16036 MA1/412 20/1/37 part 4 Otaki - Borough Council - Maori rates, 1957-1959 Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 153, 156.

⁸⁶⁵ Ibid.

Vesting in this instance allowed the Maori Trustee to agree to the sale of the two blocks without reference to any of the owners with the consent of the owners seen as a mere 'formality'. The Maori Trustee was able to bypass the succession process and make a decision regarding alienation without the consent of the owners or potential successors. It also puts into question the ability of the land to support rates with the lessee finding it impossible to make it revenue producing. The response, however, was not to exempt the land but to sell it.

With regard to Titokitoki 3C5, the views of successors were sought though it appears to have been at the instigation of the purchaser (and not the Maori Trustee). Kurupai Dickson, who was Maori, wished to purchase the section for £200 per acre. She obtained approval from 'prospective successors' who represented 'little more than half' of the shares in the block. She also agreed to sell about one fifth of an acre to one of the successors to an original owner for a housing site. The Maori Trustee agreed to the proposal.⁸⁶⁶

8.33 Further Sales, 1959

These were not the only sales that the Maori Trustee was involved with during the re-vesting process with sales forming part of the strategy to get 'rid' of the administration of the blocks. In 1959, the District Officer reported that for the previous two years, efforts had been made to obtain 'sufficient consents' from the 16 beneficial owners to the sale of Makuratawhiti 5A (31 perches) to an adjoining owner. It was noted that the section was a 'small triangle with poor access to Rangatira Street' and that it would be 'extremely difficult to dispose of it to anyone else but an adjoining owner'. Of the 16 owners, eight had been traced. Of the eight, six had consented to the sale and two had objected. The roll valuation as at 30 November 1957 was £200 with arrears of rates totalling £57.7.10 which was over twenty five percent of the land value. This level of rates arrears suggests that the administration of the block over the previous 30 years by the Ikaroa Maori Land Board (and latterly the Maori Trustee) had not resulted in a lease that had covered the rates (let alone given the owners an income). Again, the solution was not to exempt the land but to sell it. The District Officer asked that the Maori Trustee consent to the sale to the adjoining owner for not less than the special

⁸⁶⁶ District Officer, Wellington to Head Office, Department of Maori Affairs, 2 April 1957, Maori Trustee to District Officer, Wellington, 8 April 1957, ACIH 16036 MA1/412 20/1/37 part 4, Otaki - Borough Council - Maori rates, 1957-1959 Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 157, 164.

government valuation of £225 made in April 1958 on the basis that there were difficulties locating the other owners and that some were deceased and their interests had not been succeeded to. Approval was given to the sale by the Maori Trustee in September 1959 for £225.⁸⁶⁷

Another sale by the Maori Trustee of vested lands at this time was in respect to Haruatai 16A2. The District Officer advised in 1959 that a Father McGrath had obtained the consent of 140.78 shares out of the 475 shares (about 30 percent) in this block to the sale of the land to the Catholic Church as a site for a new church in Otaki. It was noted that the remaining living owners had 56.36 shares between them and that the owners of all of the other approximately 278 shares in the title (which was the majority of the interests) were dead and their interests had not been succeeded to. The District Officer noted that in view of the purpose for which the section was required and the ‘unanimity of the owners that can be traced’, Father McGrath had asked whether the Maori Trustee would be ‘prepared to consent to the sale at £1550 which was the 1957 Government valuation’.⁸⁶⁸ The matter was then discussed between officials - one of whom stated:

In terms of the Maori Purposes Act 1931 – section 63 – which governs the admin[istration] of this land the MT has the right of sale in his own discretion and over the years the owners have been consulted only as a matter of courtesy. We are anxious to clear up our admin of this land and some progress has been made....⁸⁶⁹

The official recommended that the sale be agreed to. The Maori Trustee then gave his consent though the price was to be the amount of an up to date special government valuation.⁸⁷⁰

⁸⁶⁷ District Officer, Wellington to Head Office, Department of Maori Affairs, 20 August 1959; Head Office, Department of Maori Affairs to District Officer, Wellington, 7 September 1959, ACIH 16036 MA1/411 20/1/37 part 5 Native - Otaki - Borough Council - Maori rates, 1959-1960, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 166 & 172.

⁸⁶⁸ District Officer, Wellington to Head Office, Department of Maori Affairs, 25 August 1959, ACIH 16036 MA1/411 20/1/37 part 5 Native - Otaki - Borough Council - Maori rates, 1959-1960, Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 170.

⁸⁶⁹ Note between officials at Head Office, Department of Maori Affairs, 4 September 1959, ACIH 16036 MA1/411 20/1/37 part 5 Native - Otaki - Borough Council - Maori rates, 1959-1960, Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 171.

⁸⁷⁰ District Officer, Wellington to Head Office, Department of Maori Affairs, 25 August 1959; Maori Trustee to District Officer, Wellington, 7 September 1959, ACIH 16036 MA1/411 20/1/37 part 5 Native - Otaki - Borough Council - Maori rates, 1959-1960, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 170 & 172.

The price, however, was an issue for the purchaser. Father KI McGrath wrote to the Maori Trustee complaining that the new valuation of £1750 (which had increased from £1550) was 'not warranted' and that a 'more favourable price was anticipated'. He said that the section was uneven and 'entirely unsuitable for a subdivision' which the new valuation envisaged. In addition, only about one acre of the whole strip was 'arable' the front being an old stony creek bed'. He said that better land at Otaki was let for market gardening at £25 per acre and that rates were over £45. The Maori Trustee responded that he could not agree to the sale to the church at the figure offered but was prepared to offer the property for sale by public tender and instructed the District Officer at Palmerston North to advise Father McGrath of this. The sale proceeded in 1961 and the block was later transferred to the Department of Maori Affairs for Maori housing purposes. It is though no longer Maori land.⁸⁷¹

Also at this time, owners purchased the interests held by fellow owners. In 1956, Maraea Clarke, who wished to purchase Otaki township section 138 as a housing site obtained signatures which represented 'more than 51% of the total value' consenting to the purchase at a price of £350. This was agreed to with the decision-making official at Head Office asking another official to keep the file relating to the vested lands under review 'with the idea of getting shot of the rest of the blocks'.⁸⁷²

8.34 Leasing issues, 1956-1957

The Maori Trustee also had issues with some of the Otaki vested lands that were leased and endeavoured to rectify these so that re-vesting could take place. The District Officer asked for permission in 1956 to take legal action in respect to the tenant of Makuratawhiti 6A who was not paying rent and described as a Pakeha married to a Maori with a large family. He occupied the 'old house' on the section which was almost one acre in size, and had gardens on the balance. The valuation of the section in 1953 was £1040 (improvements of £240). The District Offices' recent review of the vested lands had revealed that the rental charged was far

⁸⁷¹ Rev KI McGrath, Catholic Presbytery, Otaki to Maori Trustee, 9 November 1959, ACIH 16036 MA1/411 20/1/37 part 5 Native - Otaki - Borough Council - Maori rates, 1959-1960, Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 175; Certificate of title Vol 921/8; Senior and Land Purchase Officer to District Commissioner of Works, 10 August 1972, AAQB W3950 889 Box 416 24/2646/11/5 part 1 Maori Housing: (Otaki), 1961-1975, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 125-127.

⁸⁷² District Officer, Wellington to Head Office, Department of Maori Affairs, 5 December 1956; note between Head Office officials annotated on letter, undated; Maori Trustee to District Officer, Wellington, 10 December 1956; ACIH 16036 MA1/411 20/1/37 part 3 Native - Otaki - Borough Council - Maori rates, 1951-1956, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 144-145.

too low (£20 per annum.) and that it should have been assessed at five percent of the unimproved value which was £40. Officials at Head Office advised that it was clear that a higher rental should be charged but that perhaps the tenancy should be terminated. Several months later the District Officer advised that one payment had been received in the previous three months and asked again whether they should commence proceedings.⁸⁷³

There followed much discussion between officials with one even noting that it ‘may be a case where the beneficial owners should be consulted as to what they desire to be done’ with the possibility that it be re-vested and ‘left to them to arrange for the future’ (suggesting the approaching the owners about such matters was the exception rather than the rule). It was considered that the District Officer should be advised to get in touch with the owners, if that was a ‘practical proposition’ to see if it was possible to ‘hammer out any solution with them’. Head Office said that this might just be ‘beating the air, but it would be as well to do everything that is possible, short of taking proceedings against ... [the lessee] for possession’. If no solution was forthcoming, then a decision would have to be made as to whether to instigate proceedings against the lessee. This was relayed to the District Officer who was also asked to establish whether the wife of the lessee was one of the owners or if she had applied for a housing loan using the proceeds of a recent land sale.⁸⁷⁴

Eventually it was established that the lessee was married to one of the owners whose share comprised 6/180th (3.33 percent) of the entire block which consisted of 3 roods 3.1 perches. It was reiterated that there were ‘some 20 owners’ some of whom had died and whose interests had not been succeeded to. The District Officer said that it would be ‘most difficult to get in touch with all those owners that live, some in Hawke’s Bay and Rotorua, some in the Waikato and some in the Manawatu’. He also said that it was unlikely that the lessee would pay his debt (£33.1.8 plus £25 owing for rates for the previous year) and that the land should instead be re-vested in the owners. Further:

⁸⁷³ District Officer, Wellington to Head Office, Department of Maori Affairs, 29 October 1956 and 25 January 1957 and note between Head Office officials, 29 January 1957 on 29 October letter; ACIH 16036 MA1/411 20/1/37 part 3 Native - Otaki - Borough Council - Maori rates, 1951-1956 and ACIH 16036 MA1/412 20/1/37 part 4, Otaki - Borough Council - Maori rates, 1957-1959 Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 143 & 152.

⁸⁷⁴ Handwritten note between officials (to Mr Williams), 4 February 1957; Head Office official to Mr Williams (Head Office official), 5 February 1957; Maori Trustee, Head Office to District Officer, Wellington, 7 February 1957, ACIH 16036 MA1/412 20/1/37 part 4 Otaki - Borough Council - Maori rates, 1957-1959 Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 153-155.

We have the addresses of some of the owners and if this proposal to re-invest [sic] is approved we can tell these owners that the Maori Trustee is no longer the Trustee and that the question of occupancy and rent collection is one between them and the Brunnings.⁸⁷⁵

Officials for the Maori Trustee, Head Office, however, refused stating that given the situation, they could 'hardly, with justification' proceed with re-vesting and the District Officer advised to undertake proceedings for the recovery of the rent. In 1959, the block was partitioned into three parts with Makuratawhiti 6A2 re-vested in April 1959 and later Europeanised. Makuratawhiti 6A1 and 6A3 were re-vested in October 1959, but, it would appear, without arrangements being made for the on-going payment of rates. Both sections, neither of which had improvements of note on them, were vested again in the Maori Trustee in 1963 and 1967 respectively to be compulsorily sold due to the non-payment of rates. Makuratawhiti 6A1 was sold in 1963 and 6A3 sold in 1970.⁸⁷⁶

Similarly, a request was made for legal proceedings to be authorised against the lessee of Otaki 178, 179, 186, 187 and parts 177 and 185 (all one section) who had not paid rent since 1953 and owed £60. The Maori Trustee agreed to the proceedings though noted that it was actually a case covered by delegated authority given to District Officers in 1952.⁸⁷⁷

Between August and September 1958, the Maori Trustee arranged for a further nine sections to be re-vested. Officials at Head Office were advised by the District Officer to arrange for the re-vesting of the sections promptly as demands for rates for the following year had already been sent. The District Officer noted that they had to be paid in February 1959 and he was 'anxious to quit our responsibility before the last day for payment'.⁸⁷⁸

⁸⁷⁵ District Officer to Head Office, Department of Maori Affairs, 11 April 1957, ACIH 16036 MA1/412 20/1/37 part 4, Otaki - Borough Council - Maori rates, 1957-1959 Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 158.

⁸⁷⁶ Head Office, Department of Maori Affairs to District Officer, Wellington, 30 April 1957, ACIH 16036 MA1/412 20/1/37 part 4, Otaki - Borough Council - Maori rates, 1957-1959 Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 159.

⁸⁷⁷ District Officer, Wellington to Head Office, Department of Maori Affairs, 14 November 1956; Maori Trustee to District Officer, Wellington, 16 November 1956, ACIH 16036 MA1/411 20/1/37 part 3 Native - Otaki - Borough Council - Maori rates, 1951-1956, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 146-147.

⁸⁷⁸ District Officer, Wellington to Head Office, Department of Maori Affairs, 13 August 1958 & 10 September 1958, ACIH 16036 MA1/412 20/1/37 part 4 Otaki - Borough Council - Maori rates, 1957-1959 Archives New

8.35 Re-vesting of land with one owner, 1959-1960

In September 1959, the Town Clerk advised the District Officer at Wellington that the Council had agreed that any sections owned by one person only should be re-vested in that owner. The Council could then take the 'usual steps for recovery of the rates' which likely meant that they could sue the owners. Three sections were affected: Otaki Section 143, Makuratawhiti 5B1 and Makuratawhiti 5B2. With regard to Otaki section 143, it was stated that the sole owner had 'recently refused to accept a reasonable offer for the property' (meaning she did not want to sell) and the Council had agreed that the land should be re-vested in her. No mention was made of any house on the land or that the land was occupied in any way. With respect to Makuratawhiti 5B1, the sole owner lived at Fraser Town near Wairoa and again no mention was made of any house being located on the land or any occupation. In contrast, an 'old' house was located on Makuratawhiti 5B2 and occupied by a relative of the sole owner. The re-vesting was agreed to and an order in council re-vesting the blocks in their owners issued on 15 October 1959. None of these three sections are still Maori land. Alienation details of Otaki section 143 are not known but Makuratawhiti 5B1 was sold to a European in 1961 and Makuratawhiti 5B2 was vested in the Maori Trustee to be sold in 1963 (discussed further below).⁸⁷⁹

Similarly, a request was made by the Council to have Otaki town section 139, which had two owners who were using the land as a domestic garden re-vested in its owners. The Council asked that the land be re-vested so it could take action for recovery of the rates from the owners. This was agreed to by the Council and an order in council made on 31 March 1960. No reference was made to the wishes of the owners. Of note is that section 139 is still Maori land. Therefore, rates must have been paid to avoid the fate of other land which, in the 1960s, was vested in the Maori Trustee to be sold.⁸⁸⁰

Zealand, Wellington; New Zealand Gazette, 17 September 1958 & 6 October 1958. SW Document Bank, volume 7, pp. 160-161.

⁸⁷⁹ District Officer, Wellington to Head Office, Department of Maori Affairs, 11 September 1959; *New Zealand Gazette*, 15 October 1959, ACIH 16036 MA1/411 20/1/37 part 5 Native - Otaki - Borough Council - Maori rates, 1959-1960, Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 173.

⁸⁸⁰ District Officer, Palmerston North to Head Office, Department of Maori Affairs, 12 February 1960, ACIH 16036 MA1/411 20/1/37 part 5 Native - Otaki - Borough Council - Maori rates, 1959-1960, Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 176.

8.36 Complaints by the Otaki Borough Council and the Minister's response, 1959

While not all of the sections vested in the Ikaroa Maori Land Board had been re-vested in their owners by 1959, the majority of them had. This appears to have prompted a letter from the Town Clerk for the Otaki Borough Council, PS McLaren, to the Minister of Maori Affairs, Walter Nash, complaining about the rating of Maori land in Otaki. Mr McLaren said that for many years the Otaki Borough Council had 'faced the problem of having periodically to write off large amounts of Maori Rates' which had become 'irrecoverable' and while he had given the matter much thought he could not solve what seemed to be a 'hopeless task, i.e. to collect rates from land owned by many owners, most of whom cannot be traced'. Further:

Some of this Maori land has been vested in the Maori Trustee for many years and is now being re-vested back into the name of the owners. The number of owners for any one block of land is often numerous, and may even be as many as forty, and as in most cases the land is unoccupied my Council is unable to name any individual owner as the occupier. A rate demand served on this type of land is not paid as it is not practicable to collect rates from each individual part owner.⁸⁸¹

He reported too that in the financial year of 1957-1958 the Council was 'forced to write off Maori rates amounting to £1696 and was proposing to write off £1838 for the current financial year. This, he said, 'represented a large proportion of the rates estimated to be received and spent on Borough amenities'. He argued that other ratepayers, 'mainly Europeans', were being asked to pay more rates each year 'to provide the amenities and services provided for Maori ratepayers'. He asked that the Minister give the Otaki Borough Council some money to compensate for this. He also made a statement that suggested that not all of the Maori in Otaki enjoyed this same level of housing as Europeans. He said:

My Council has been, and still is desirous of seeing the Otaki Maori population properly housed and provided with the services that are enjoyed by all European ratepayers.⁸⁸²

⁸⁸¹ Town Clerk, Otaki Borough Council to Minister of Maori Affairs, 19 August 1959, ACIH 16036 MA1/411 20/1/37 part 5 Native - Otaki - Borough Council - Maori rates, 1959-1960, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 168-169.

⁸⁸² Ibid.

He noted, however, that in state housing and other residential areas in Otaki, Maori were 'placed between European residents and the standard of their housing maintenance is very high'.⁸⁸³

His letter also contained one statement that considered the views of Maori. He pointed out that in some cases Maori owners differed on the matter of selling their land with some owners wanting to sell and others wanting to retain their land for their families. He concluded by suggesting that Maori land should be rated like European land and that a deputation from the Otaki Borough Council meet with the Minister.⁸⁸⁴

Thus, while acknowledging the difficulties associated with multiply owned Maori land; that in many cases land where rates were not paid was unoccupied; that there was a difference in housing standards; and that Maori did not necessarily want to sell and instead wanted to retain the land for their families, the Town Clerk's conclusion was that Maori land should be rated like European land. By suggesting such a solution, the Otaki Borough Council was effectively saying that the only way to alleviate the council's problem was to give it the power to sell land where rates were not being paid – which was what ultimately happened with the utilisation of section 109 of the Rating Act 1925 in the 1960s.

Of note too was that the Town Clerk argued that on the one hand there was much Maori land in the township that was unoccupied yet he also argued that Europeans had to pay more rates to provide 'amenities and services provided for Maori ratepayers'. It is evident from subsequent correspondence that the Otaki Borough Council did not provide amenities and services to these unoccupied sections. For instance, both Makuratawhiti No 1 section 171 Otaki township and Otaki township sections 175 & 176 had no formed access and water and electric power were 'not immediately available'.⁸⁸⁵

⁸⁸³ Ibid.

⁸⁸⁴ Ibid.

⁸⁸⁵ Ibid; District Officer, Palmerston North to Head Office, 17 September 1968, ABJZ 869 W4644/59 20/1/37 part 1 Rating - General - Otaki Borough Council – Maori Rates, 1961-1979, Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 185; District Officer, Palmerston North to Head Office, 15 April 1969, ACIH 16036 MA 1/765 54/22/11 Otaki 175 and 176A – Vesting under Rating Act 109, 1968-1969, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, p. 31.

The Minister of Maori Affairs responded with a summary of the legislative options available to the Otaki Borough Council. These included charging orders (section 108 (7) Rating Act 1925), vesting in the Maori Trustee for lease or sale (section 387 of Maori Affairs Act) and vesting in the Maori Trustee for sale (section 109 of Rating Act 1925) which required the consent of the Minister. It is of note that section 109 was mentioned as at this time councils in this inquiry district had rarely made applications under it (while the one that had been made could not be upheld by the Minister as the application was not properly made). The Minister added that the Court and the Minister would ‘normally expect to be satisfied that there ... [was] no reasonable prospect of collecting the rates by one of the other less drastic alternative methods.’ Of note was that the Minister did not make any suggestions to exempt any of the land from rates (section 104, Rating Act 1925).⁸⁸⁶

The Minister also said that the land vested in the Maori Trustee under 63 of the Maori Purposes Act 1931 (which had superseded the 1928 Act) had been ‘exercising the mind of the Maori Trustee’ as well as the Otaki Borough Council for ‘some time’. He noted that there were originally 135 blocks vested in the Ikaroa Maori Land Board of which the Maori Trustee was the ‘statutory successor’ and that ‘much work and effort was put into making these lands revenue-producing in various ways’. Further:

As a result of numerous exchanges and partitions through the Maori Land Court, the ownership of many of the titles has been simplified and a large number of sites have been made available for Maoris who have had houses built under the Maori Housing Act 1935. A number of areas have been sold either at the request of the owners or where the shares of the owners were so small that the sections were of little value to them.⁸⁸⁷

Of note is that only a few details of exchanges, partitions and simplification of titles are recorded on the Maori Affairs Department files regarding the Otaki vested lands though there are some references to land being sold to the Maori Affairs Department for Maori housing. Examples of Maori asking for their land be sold are also few though there are examples of the Maori Trustee selling the land without reference to the owners or with minimum reference to

⁸⁸⁶ Minister of Maori Affairs to Town Clerk, Otaki Borough Council, 8 September 1959, ACIH 16036 MA1/411 20/1/37 part 5 Native - Otaki - Borough Council - Maori rates, 1959-1960, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 177-178.

⁸⁸⁷ Ibid.

them. There is also no reference in these files to Maori stating that their shares had no value to them. As well, the Minister did not comment on the effectiveness of the ‘work and effort ... put into making these lands revenue-producing’ whereby in 1956 (almost 30 years after the Ikaroa Maori Land Board first began to administer the land) just eight of the remaining 62 sections earned sufficient revenue to pay both rates and owners.

The Minister also said that 12 areas remained vested in the Maori Trustee and that ‘various negotiations were in train which should result in practically all of these passing out of the Maori Trustee’s control within the next twelve months’. He suggested that if the Council showed, by ‘availing itself of the means to hand’, that it was ‘determined to get its rates for the lands concerned, the Maori owners will become more alive to their responsibilities and more willing to come to arrangements that will enable rates to be paid in the normal way’.⁸⁸⁸

He concluded by stating that he regretted that he could not recommend that the government make a grant towards any loss the Otaki Borough Council had incurred because of unpaid rates on Maori land.⁸⁸⁹

8.37 Re-vestings, 1960s

A list prepared in March 1965 showed 34 blocks still vested in the Maori Trustee. Of these, several were re-vested in owners in 1965 but no other action was taken in terms of re-vesting for the several years prior to this. Indeed, many on the list had actually been sold previously (for example Kaingaraki 1B (Pt) in 1951, Makuratawhiti 1A2B in 1954 and Makuratawhiti 5A in 1959) indicating that the list was actually incorrect and the Maori Trustee was operating off incorrect information (which is further evidence of the Trustee’s flawed administration). In 1968, the Maori Trustee asked the Palmerston North District Office to provide him with a schedule of the blocks remaining vested in the Maori Trustee under the 1929 order in council and whether there was any reason why the remaining blocks should stay vested. He was told that there weren’t any. Details of any final re-vestings (if there were

⁸⁸⁸ Ibid.

⁸⁸⁹ Ibid.

any) are not recorded on the Department of Maori Affairs Head Office file which recorded the other re-vestings.⁸⁹⁰

8.38 Charging orders, April 1962

In the interim, on 4 April 1962, the Otaki Borough Council applied for charging orders in respect to 11 blocks within the Borough. These were the first charging orders applied for since 1926. The blocks affected were: Hanganaiho 1E, Makuratawhiti 1H, Makuratawhiti 5B2, Makuratawhiti 6A1, Otaki township 178, 179, 186, 187 and parts sections 177 & 185, Taumanuka 4B2B, Whakarangirangi 29N1, Whakarangirangi 29N7, Whakarangirangi 29N12, Whakarangirangi N14, Whakarangirangi 29N11, 29N13. The rates owed ranged from £24.6.2 (Whakarangirangi 29N7) to £78.16.9 (Whakarangirangi 29N11, 29N13) and were for the years 1 April 1960 to 31 March 1962.⁸⁹¹ All these blocks, apart from Taumanuka 4B2B had been vested in the Ikaroa Maori Land Board (later Maori Trustee) in 1929 and four had only just been re-vested in their owners in 1959 (Makuratawhiti 5B2, Makuratawhiti 6A1, Otaki township 178, 179, 186, 187 and parts sections 177 & 185 and Whakarangirangi 29N7). The others had been re-vested in their owners between 1947 and 1954.⁸⁹²

A Mr Jones, presumably for the Council, attended the Court hearing which was before Judge Jeune. Mr Jones said that there was a large amount of rates owed and that no previous orders had been applied for. He stated that the land was of value and that the Town Clerk would apply for receivership to lease or proceed to sale. He also asked for solicitor's costs. Charging orders were then made by the Court with 10/- costs. The decision regarding solicitor's costs was reserved. No owners were recorded as being present and no evidence was presented that the rates were properly levied on the actual owners (as opposed to those who had died).⁸⁹³

8.39 Section 109 Applications, April 1963

⁸⁹⁰ *New Zealand Gazette* 25 March 1965, p. 383; Schedule of Otaki Vested Lands: Blocks still vested as at 31 March 1965; Head Office to District Office, Department of Maori Affairs, Palmerston North, 26 September 1968, ABJZ 869 W4644/59 20/1/37 part 1 Rating - General - Otaki Borough Council – Maori Rates, 1961-1979, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 180-181, 195.

⁸⁹¹ Otaki Minute Book 69, 4 April 1962, p. 236.

⁸⁹² Ibid.

⁸⁹³ Ibid.

Almost one year later, applications were made under section 109 of the Rating Act 1925 by the Otaki Borough Council in respect to six of the eleven blocks that were affected by charging orders the previous year. These were Hanganoaiho 1E, Makuratawhiti 1H, Makuratawhiti 5B2, Makuratawhiti 6A1, Otaki township 178, 179, 186, 187 and parts sections 177 & 185 and Whakarangirangi 29N1. Under section 109, land was vested in the Maori Trustee for the purpose of sale but required the consent of the Minister. These were the first applications under section 109 made by the Otaki Borough Council since its failed attempt in 1927. These were also the first known applications under this section made by any local authority within the inquiry district.⁸⁹⁴

Initially the applications in respect to these blocks were made under section 387 of the Maori Affairs Act 1953 which provided for the Maori Trustee to be appointed by the Court on the application of a local authority as agent to dispose of unproductive lands where there were noxious weeds or rates issues either by lease or sale. Unlike section 109, however, where the Maori Trustee sought to sell the land he had to attempt to sell the land to Maori before offering it to Europeans.⁸⁹⁵

The section 387 applications were heard on 3 April 1963 before Judge Jeune. Mr Steele for the Council noted that charging orders for all six blocks had been made on 4 April 1962 but no rates had been paid but that ‘where the Town Clerk was applying to be appointed receiver’ all rates had been paid though quite what this implied was not stated. He said that the blocks were all residential sections and in all cases, there were many owners with small amounts of shares. With regard to Otaki Township sections he said that the solicitors for some of the owners had asked for the land to be sold. He said that he accepted the Court’s suggestion that section 387 would not assist the Borough and asked instead for the order to be made under section 109 of the Rating Act 1925. The Court was indeed supportive of the application being made under section 109/1925 and not 387/1953 stating:

The Court is satisfied that it is not expedient in any of these cases to appoint a receiver and also that the appointment of the MT under 109 of Rating Act is proper but one year must elapse.⁸⁹⁶

⁸⁹⁴ Otaki Minute Book 70. 3 April 1963, p. 54.

⁸⁹⁵ Ibid.

⁸⁹⁶ Ibid.

The one year referred to by the Court was the period of time required after a charging order had been made before further applications such as under section 109 could be made. That is why the applicant was told that if he produced a report regarding charges unpaid after 5 April 1963 then orders could be made under section 109.⁸⁹⁷

On 9 April 1963, the Court heard the applications made under section 109. Mr Steele for the Council confirmed that the outcome of a discussion with the Court the previous week in the presence of the Town Clerk was the decision to prosecute applications under section 109 of the Rating Act 1925 as this was a 'better procedure'. Mr Steele said a certificate had been produced by the Town Clerk which stated that the rates where charging orders had been made on 4 April 1962 were still unpaid. The Court concluded:

These small sections are not suitable for leasing on the rigid form of 387/53 lease & the Court is satisfied it is not expedient to appoint a receiver.⁸⁹⁸

The Court then ordered that the blocks be vested in the Maori Trustee for the purpose of sale under section 109. That the Court did not consider section 387 'appropriate' and the appointment of a receiver 'expedient' was reiterated on the order presented to the Minister to be signed.⁸⁹⁹

In October 1963, the Maori Land Court order was sent to Maori Affairs Head Office by the District Office at Palmerston North together with particulars of title and valuations (recorded in the table below). It was also noted that the Valuation Department had inspected the blocks and advised that all were vacant with the exception of 'derelict cottages' situated on three of the blocks. These, the Valuation Department stated, had been condemned and were only valued for demolition purposes (£25 and £50). This information, however, contradicts the District Officers statement in 1959 that the house on Makuratawhiti 5B2, one of the blocks in question, had been occupied for a number of years by a relative of the owner. The District

⁸⁹⁷ Ibid.

⁸⁹⁸ Otaki Minute Book 70, 9 April 1963, p. 87.

⁸⁹⁹ Ibid; Order of Maori Land Court (Judge Jeune) under section 109, Rating Act 1925, 9 April 1963, ACIH 16036 MA1/765 54/22/2 Maori Trustee - Pt. Hanganoiho 1E Makuratawhiti Subdivisions - Town of Otaki subdivisions etc. - Vested in Maori Trustee (see 109 Rating Act) Sale. 1963-1965, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 9-10.

Valuer had also told the Department that there should be ‘no difficulty’ selling the land. The letter did not contain any statement about the use of section 109 being a rarity but did state that there appeared to be ‘no reason why approval should be withheld’ and that they recommended that the Minister sign the order.⁹⁰⁰

Officials at Head Office were not immediately convinced stating that in view of the capital value of the land they had some ‘qualms’ about recommending that the Minister approve the order. Before making the recommendation, they required more information from the District Office. This included whether there was anyone in occupation of any of the sections, whether the owners were known to be living at Otaki and if any of the owners were aware of the applications made to the Court. The District Office was also told that they should obtain the owner’s reaction to the vesting in the event that they got in touch with them.⁹⁰¹

The information requested was not gathered by the District Office who instead asked the Otaki Borough Council for it. This meant that the Crown was considering consenting to the compulsory alienation of land yet it was passing responsibility to properly inquire into the circumstances to the very body seeking the sale of the land.

The Town Clerk for the Council, PS McLaren, advised the Maori Affairs Department, Head Office on 1 November 1963, that since his appointment in 1958 he had been in ‘constant contact’ with the Maori Affairs Department over the six properties as well as others. In the case of the six properties, he said, no rates had been paid and the Department needed to realise that none of the owners of the six blocks had taken responsibility for the payment of rates. This was despite owners being constantly written to and court proceedings taken. Mr McLaren said that his Council had written to the Minister of Maori Affairs, Walter Nash in 1959 about the matter. Mr Nash had then outlined ‘the proper action to take for recovery of rates on Maori land’. Mr McLaren described applying for charging orders as a ‘final step’. He also said that at that hearing where the charging orders were made, Judge Jeune advised

⁹⁰⁰ District Officer, Palmerston North to Head Office, Maori Affairs Department, 11 October 1963, ACIH 16036 MA1/765 54/22/2 Maori Trustee - Pt. Hanganoaiho 1E Makuratawhiti Subdivisions - Town of Otaki subdivisions etc. - Vested in Maori Trustee (see 109 Rating Act) Sale. 1963-1965, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, p. 11.

⁹⁰¹ Maori Affairs Department Head Office to District Office, Palmerston North, 23 October 1963, ACIH 16036 MA1/765 54/22/2 Maori Trustee - Pt. Hanganoaiho 1E Makuratawhiti Subdivisions - Town of Otaki subdivisions etc. - Vested in Maori Trustee (see 109 Rating Act) Sale. 1963-1965, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, p. 13.

the solicitor for the Council that although he would grant the charging orders on the six blocks he did not wish to see the Council coming back to the Court asking for further orders in subsequent years. Instead, the Judge advised the Council to apply in twelve months to have the lands vested in the Maori Trustee for the purpose of sale and then all rates and expenses would be paid from the proceeds. This action, Mr McLaren said, had finally been taken.⁹⁰²

Although Mr McLaren had previously stated that the owners had been constantly written to, he also admitted that the addresses of most of the owners of the land were not known and they therefore 'could not be advised'. It was because of this 'fact' that the vesting of the blocks in the Maori Trustee for sale 'remained the only action' the Council could take.⁹⁰³

Mr McLaren advised that all six blocks were unoccupied and that three of the sections had 'old dilapidated batches on them' [sic]. He claimed that 'no use' had ever been made of the land (despite evidence cited above that houses on the blocks had been lived in for a number of years) and rates had accrued. He noted that other lands in the Borough were also in this category but were considered 'leaseable' by the Council. Because of this the Council was able to apply to the Court for the appointment of a receiver to lease the lands and recover the rates. The owners also preferred to 'pay the rates and carry on'.⁹⁰⁴

Mr McLaren complained too that the blocks were fire hazards and infested with noxious weeds and that the Council 'once again' had no redress as there was no particular person to whom the matter could be referred to. He said that the Council had recently written to Matenga Baker, an owner of Makuratawhiti 1H, to advise that a 'dilapidated shed on the property was a distinct danger to children from neighbouring houses' and that no reply had been received. Mr McLaren said that Mr Baker had previously had rates notices served on him at a Wellington address but that he had 'never made any contact' with the Council. If no response was received, the Council would arrange to demolish the building and 'ask for all costs to be made a charging order on the land'. Of note was that Matenga Baker was one of 11 owners but there is no mention of anyone else being contacted or any checks made that the

⁹⁰² PS McLaren, Town Clerk, Otaki Borough Council to Maori Affairs, Head Office, 1 November 1963, ACIH 16036 MA1/765 54/22/2 Maori Trustee - Pt. Hanganooiho 1E Makuratawhiti Subdivisions - Town of Otaki subdivisions etc. - Vested in Maori Trustee (see 109 Rating Act) Sale. 1963-1965, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 14-15.

⁹⁰³ Ibid.

⁹⁰⁴ Ibid.

Council had the correct address let alone whether owners were in a financial position to pay the £75 (\$150) owed.⁹⁰⁵

Mr McLaren concluded that the section 109 application was the only action that the Council could take and that his Council would appreciate it if it was recommended to the Minister that he give his approval.⁹⁰⁶

Of note is that Mr McLaren did not refer to any contact with the owners, just with the Crown. Indeed, Mr McLaren did not elaborate on any reaction from owners to the vesting presumably because he had not personally spoken, seen or heard from any of them. This was likely to have been due to having few of the owner's addresses. There could well have also been difficulties with contacting those said to be owners given that some of these owners had died. The particulars of title prepared by the Maori Land Court for Whakarangirangi 29N1 records the sole owner as George Cootes which was also the name of the owner given in the late 1920s when the land was vested in the Ikaroa Maori Land Board. Indeed, Mr Cootes had died in 1938. This was known by the Maori Trustee as it was recorded in the Maori Affairs file when the land was re-vested in 1947. It was also noted in the file at this time that an application for succession had been lodged. Indeed, Maori Land Court minutes record that it was Delia Cootes who applied to the Court have the land re-vested in March 1947. She told the Court that she was the sole owner of the land and that all rates had been paid. She produced a statement from the Borough that this was so. As rates had been paid up to 31 March 1948 the land was re-vested. At the succession hearing in August 1948, the Court stated that Delia Cootes had acquired the life interest in the land (that was determinable on her re-marriage) with one quarter of a share each awarded to Rangi Collins and Polly Cootes. Delia Coote's one half share would be succeeded to eight others none of whom were named George. Why George Cootes was still recorded on the particulars of title as the sole owner in 1963 when he was known to have died in 1938 was never stated, but the failure to maintain accurate ownership details by the Court and the Council was likely to have had an impact on the successors ability to have received the rates advice in the first place and known of the impending compulsory sale action by the Council, Minister and Maori Trustee.⁹⁰⁷

⁹⁰⁵ Ibid.

⁹⁰⁶ Ibid.

⁹⁰⁷ Particulars of title for Whakarangai 29N1, 29 August 1963, ACIH 16036 MA1/765 54/22/2 Maori Trustee - Pt. Hanganohi 1E Makuratawhiti Subdivisions - Town of Otaki subdivisions etc. - Vested in Maori Trustee (see 109 Rating Act) Sale. 1963-1965, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 3-8;

Despite this, on receipt of Mr McLaren's letter an official commented that in view of what Mr McLaren had said it seemed 'that the Court orders could be recommended for approval' and that 'the owners do not appear to be very interested'. Officials then recommended to the Minister that he sign the order. The recommendation letter stated that the six blocks were small and subject to charging orders totalling £310.19.1. None were subject to confirmed alienations. It was explained to the Minister that the Otaki Borough Council made application to the Maori Land Court to have the land dealt with under section 387 of the Maori Affairs Act 1953 but that it was 'agreed that the size of the sections made them unsuitable for leasing under that Part of the Act'. It was not suggested that they instead be exempted given that they could not be viably leased. The Minister was also told that the Council had endeavoured for some years to get the owners to pay rates or to make the land revenue producing but that they had 'displayed no interest'. It was recommended that the Minister approve the order. The Minister duly approved the order to compulsorily sell the land.⁹⁰⁸

Of note regarding this recommendation letter was that it contained nothing about the absence of addresses for all the owners which could well have accounted for the stated 'lack of interest' from them. This meant the Crown consented to the compulsory alienation of the land without telling the owners, because no one bothered to locate them.

Following the confirmation of the order, little is recorded on the Head Office file regarding the sale of the land until March 1965 when Mr McLaren wrote again, this time to the Minister of Maori Affairs. He reported that three of the sections had been sold or were in the process of being sold. He stated that in the case of Makuratawhiti 1H, which was being settled, the Maori Trustee had paid to the Council the rates secured by the charging orders (1960-62) and for the year 1963-64 (which was at the time land was vested in the Maori Trustee). In addition, the purchaser had paid the rates for 1964-65. Mr McLaren complained to the Minister that the Maori Trustee had refused to pay the rates for 1962-63 as he said that he did

Registrar, Native Land Court to Under Secretary, Native Department, 23 May 1947, ACIH 16036 MA1/411 20/1/37 part 2 Native - Otaki - Borough Council - Maori rates, 1938-1950, Archives New Zealand, Wellington. SW Document Bank, volume 7, p.111; *New Zealand Gazette*, 14 August 1947, p. 987; Otaki Minute Book 63, 26 March 1947, p. 132; & 6 August 1948, p. 317.

⁹⁰⁸ Handwritten note on letter from District Office, Palmerston North to Maori Affairs, Head Office, 7 November 1963, Secretary for Maori Affairs to Minister of Maori Affairs, 14 November 1963, ACIH 16036 MA1/765 54/22/2 Maori Trustee - Pt. Hanganoiho 1E Makuratawhiti Subdivisions - Town of Otaki subdivisions etc. - Vested in Maori Trustee (see 109 Rating Act) Sale. 1963-1965, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 16-18.

not have the authority to do so. Mr McLaren pointed out that if this was the case for Makuratawhiti 1H, then the same would occur in all the other cases. He concluded:

Having carried out the correct procedure in this case, it would appear that my Council would have to continue going back to the Maori Land Court and obtaining a charging order each year. This creates a position where legal costs and court costs accumulate until the sale money is completely used up and there remains nothing left for any owners of the property. The time of the Court and others is also an important matter.

He then suggested that amendments be made to the Rating Act.⁹⁰⁹

The Minister of Maori Affairs, Mr Hanan, responded with a detailed explanation of the legislation. He said that section 109 of the Rating Act 1925 enabled the Maori Land Court to vest in the Maori Trustee for sale Maori land in respect of which charging orders for rates had not been satisfied for a period of one year after the charging order had been granted. He said that under subsection (3), the Maori Trustee, after selling the land, first took from the proceeds the costs and expenses of the sale as well as his commission. He then satisfied the charges secured by charging orders and finally paid the residue to those persons entitled. The only charging orders in the case of Makuratawhiti 1H were for the years 1960-61 and 1961-62 which had been paid by the Maori Trustee. With regard to the rates for 1963-64, the time allowed by section 108 of the Rating Act 1925 for making application for a charging order had not passed when the purchase money was received. In order for the Trustee to give the purchaser a clear title these rates were paid to 'protect the purchaser'. The rates for the years 1956-57, 1957-58, 1958-59, 1959-60 and 1962-63 were 'levied more than two years from the date of receipt of the purchase money, so it was therefore too late to apply to the Court for charging orders. These rates (from 1956 to 1963) were therefore 'not an encumbrance on the title for clearance before giving title to the purchaser'. The Minister stated that if the Maori Trustee had paid the amount of the rates to the Council instead of to the owners then the owners could have sued the Maori Trustee for 'wrongfully withholding their money and he would have had no legal defence to their claim'. The Council could have 'ensured the payment of the 1962/64 rates if it had applied in time for a charging order in respect of them'.

⁹⁰⁹ PS McLaren, Town Clerk, Otaki Borough Council to Minister of Maori Affairs, 15 March 1965, ACIH 16036 MA1/765 54/22/2 Maori Trustee - Pt. Hanganohi 1E Makuratawhiti Subdivisions - Town of Otaki subdivisions etc. - Vested in Maori Trustee (see 109 Rating Act) Sale. 1963-1965, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 19-20.

As the time limit for suing has not yet elapsed, the Borough could still recover the rates for the current year from the owners of the land by suing them. Alternatively, he said, ‘if there was some person other than one or more of the owners in actual occupation, the Council could sue the occupier under section 100 of the Rating Act 1925’.⁹¹⁰

The Minister also noted that a revision of rating legislation was being considered but what amendments (if any) were to be made to the law had ‘not yet appeared’. He concluded that if the present procedure, which had ‘existed for forty years without substantial change, [was] ... a little cumbersome it provide[d] ... a remedy for those local authorities who ... [chose] to exercise their rights’.⁹¹¹

All the blocks were sold. The details concerning the purchase date, price and purchaser (where located) are noted in table 17 below. No details regarding how the purchase money was disbursed and to whom have been located given the Council had few of the owners contact details.

8.40 Makuratawhiti 1H

Makuratawhiti 1H, which as noted above, was vested in the Maori Trustee for sale due to the non-payment of rates and sold, is the subject of a claim by Matiu Baker, André Baker and Lois McNaught as descendants of Matenga and Haua Baker of Ngati Raukawa, Ngati Toa and Te Ati Awa (Wai 1628). The claim refers to the ‘forced acquisition’ of Baker whanau property at Mill Road, Otaki. The claim states that the property at Mill Road, Otaki was part of the Makuratawhiti block and was ‘originally gifted to the mother of Matenga Baker, Kimihangaroa Matenga, by her sister Ngahoki Rakete Rikihana and her husband Pairoroku Rikihana for residential purposes’. Further, Kimihangaroa and her husband Matenga Winiata Southey Baker ‘built and developed the property, including building a family home where they continued to raise their family’. The statement of claim records that their son Matenga Baker ‘continued to live on the property, occupying the family home, after his marriage to Haua Tuhera Kiriona, about the year 1924, and that they raised a family of ten children and

⁹¹⁰ JR Hanan, Minister of Maori Affairs to County Clerk, Otaki Borough Council, 31 March 1965, ACIH 16036 MA1/765 54/22/2 Maori Trustee - Pt. Hanganoaiho 1E Makuratawhiti Subdivisions - Town of Otaki subdivisions etc. - Vested in Maori Trustee (see 109 Rating Act) Sale. 1963-1965, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 21-22.

⁹¹¹ Ibid.

cared for grandchildren on the property until it was forcibly acquired for the non-payment of rates'. The claimants state that they have been 'prejudicially affected by the Crown under section 6:1-a, b, c, d of the Treaty of Waitangi Act 1975, whereby the Baker whanau have been dislocated by these actions leaving the now aged and retired Matenga and Haua Baker without their own home and dependant on the State to provide rental accommodation'. The Crown, they also state, deprived the Baker whanau of Turangawaewae and the 'ability to continue to live on their own whanau lands as members of their tribal community'. These actions 'have had severe ongoing detrimental social costs for the extended whanau'.⁹¹²

Some information from government records concerning Makuratawhiti 1H has been located. Matenga Baker (1902-1988) was listed as the owner and occupier of the block in 1928 when the land was vested in the Ikaroa Maori Land Board. It was subject to a charging order in 1926. In 1937, as part of a Maori Affairs assessment of Maori housing in Otaki, it was reported that the house on Makuratawhiti 1H was occupied by Matenga Baker and six others and that Mr Baker had applied for funding to improve the house. The house was described as a 'small cottage of four rooms in only a fair state of repair'. The assessor considered that it 'hardly warrant[ed] the necessary expenditure to effect a satisfactory improvement'. (It is not known whether Mr Baker received a loan for the purpose of improving the house). In 1951, when an assessment was made on all remaining vested Otaki lands, it was noted that part of the block south of the road was leased to Pumau Baker (Teora Pumau Baker was also listed as an owner) for £9 per year. The rental was £21.10.0 in arrears and action was being taken, presumably by the Maori Trustee, to recover the arrears. There is no documentation in the Maori Affairs Head Office file regarding the re-vesting of the land in its owners in 1953 though Maori Land Court minutes indicate that Matenga Baker applied for the re-vesting. He produced a certificate from the Otaki Borough Council that all rates had been paid. Rates were not paid from 1956-57 and in 1962 a charging order for £75.4.7 was made by the Court on the application of the Otaki Borough Council. As noted above, a year later it was vested for sale and sold in 1964. The Borough Council said that the section was unoccupied and unable to be leased. Mr McClaren, the Town Clerk claimed that he had written to Matenga Baker to advise that a 'dilapidated shed on the property was a distinct danger to children from neighbouring houses' but no reply had been received. The Town Clerk also said that Mr Baker had previously had rates notices served on him at a Wellington address but that he had

⁹¹² Matiu Baker, André Baker and Lois McNaught of Ngati Raukawa, Ngati Toa and Te Ati Awa and descendants of Matenga and Haua Baker Statement of claim, Wai 1628 # 1.001.

‘never made any contact’ with the Council. Mr McClaren threatened to arrange for the building to be demolished and the costs made a charging order on the land. Matenga Baker was one of 11 owners but there is no mention of anyone else being contacted or if indeed, the Council had the correct address for Mr Baker. As noted above, when Mr McClaren told the Department of Maori Affairs that he did not have all the addresses of the owners that he was applying for vesting orders over in 1963, this was deemed to be satisfactory by the Department and the Minister.⁹¹³

André Baker has also stated that:

The Māori world view my grandfather Matenga expressed always confirmed Makuratawhiti 1H as a papakāinga which he inherited from his mother Kimihangaroa Epiha Matenga Baker with the primary responsibility as kaitiaki to his siblings and extended whānau.

The decision taken by Matenga and his younger brother Whata to file for a caveat to protect Māori freehold land is seen as the result of the discourse between these brothers and a concession to invoke Pākehā law over tikanga which we find oppressive and offensive.⁹¹⁴

The caveat Mr Baker refers to was a caveat ‘forbidding registration of dealing with estate or interest’ lodged by Matenga and Whata Baker on 8 May 1964 and registered on the certificate of title. The caveat forbade the ‘registration of any memorandum of transfer or other instrument affecting the said land’ until the caveat was withdrawn by the applicants or by an order of the Supreme Court. Matenga and Whata Baker were advised by the Land Registrar on 3 June that application had been made to register the order of the Court (under section 109) vesting the land in the Maori Trustee and that their caveat would lapse unless notice was given within 14 days from the date of service for an ‘order to the contrary’ to be

⁹¹³ National Library website: <https://natlib.govt.nz/>; Schedule of Otaki vested lands prepared by Maori Trustee, 1 June 1951, ACIH 16036 MA1/411 20/1/37 part 3 Native - Otaki - Borough Council - Maori rates, 1951-1956, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 113-118; Otaki Minute Book 65, 19 March 1953, p. 61; PS McLaren, Town Clerk, Otaki Borough Council to Maori Affairs, Head Office, 1 November 1963, ACIH 16036 MA1/765 54/22/2 Maori Trustee - Pt. Hanganoaiho 1E Makuratawhiti Subdivisions - Town of Otaki subdivisions etc. - Vested in Maori Trustee (see 109 Rating Act) Sale. 1963-1965, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 14-15.

⁹¹⁴ Email from André Baker to Suzanne Woodley, 6 April 2017.

made to the Supreme Court. The caveat was noted as ‘lapsed’ on the certificate of title on 18 June 1964 which was the same day that the section 109 order was registered against the title. The land was transferred to Hugh McGavestone, farmer of Otaki, on 30 November 1964.⁹¹⁵

Of note was that the address of the applicants was Porirua East which is not an address ever mentioned by the Town Clerk.

The caveat was lodged by Messrs Baker in an attempt to stop the registration of the section 109 order on the title. The caveat, however, was unable to serve this purpose long-term, as the order was able to be registered and the sale went ahead. Caveats were referred by the District Officer of the Palmerston North Office of the Department of Maori Affairs in 1967. He said that the policy in 1967 was to ‘try to keep the owners informed’ and that this policy had arisen from ‘troubles’ they had had with vestings ‘in the past’. In three cases, he said, the owners had only become ‘aware of the vestings ... when the sales ... [were] almost completed, leading to caveats being lodged etc.’. It seems likely that he was referring to the caveat lodged on Makuratawhiti 1H and this is further evidence that the owners were not told of the vesting.⁹¹⁶

That the caveat was lodged in May 1964 also suggests that this was when the owners discovered the impending sale of their land. The section 109 vesting order had been made by the Maori Land Court in April 1963 and consented to by the Minister in November 1963. This meant a year had elapsed and the sale process begun before the owners were advised of the compulsory sale of their land.

8.41 Charging and receivership orders, 1965-1967

Seven applications for charging orders were made by the Otaki Borough Council in July 1965. Mr Roussell, solicitor for the Council appeared ‘in support’ and said that he would ‘call the evidence’ which was mostly given by Mr McLaren (the Town Clerk). The first application was in respect to £42,830 owed on Haruatai 2A (which was not part of the 200

⁹¹⁵ Certificate of title for Makuratawhiti 1H, Vol 216, folio 266; Caveat on Makuratawhiti 1H, 8 May 1964 from André Baker. SW Document Bank, volume 4, pp. 51-54.

⁹¹⁶ District Officer, Palmerston North to Head Office, Department of Maori Affairs, 24 February 1967, ACIH 16036 MA1/765 54/22/5 Maori Trustee – Ngarara West A3C Subdivisions and other blocks – vested under section 109, 1964-1970, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, p. 63.

plus acres vested in 1929) which comprised 6 acres 1 rood 5 perches. Mr McLaren said the land had been occupied by Mihi Taylor who was also an owner but she had died. Demands had been served by post. Mrs Taylor's husband had promised to pay but no money was received. Mr McLaren said that he had instructed the Borough solicitor to apply to the mortgagee for the rates (it was not specified who the mortgagee was) but he had 'no success'. The Court ordered the charging order for £19.15.1 for the year to 31 March 1964 and £22.13.2 for the year to 31 March 1965 plus costs of 10/-. In April 1967, the Council applied for a receivership order in respect to the block but it was dismissed as the rates had been paid in full. Further charging orders were, however, ordered at the same hearing for £23.6.3 for the year ending 31 March 1966 and £29.13.7 for year ending 31 March 1967 plus costs of 10/-. At the hearing Mr Roussell said that demands had been served on the owner and occupier though the 'actual physical occupation' was by the owner's father who was described as a 'persistent judgement debtor who normally pays at last moment'. The block was purchased by NA Taylor, the husband of the late owner in May 1975 and is no longer Maori land.⁹¹⁷

Other applications for charging orders made in July 1965 were in respect to Haruatai A (Mill site) which was adjourned and Haruatai B (Mill Site) B. Both had been vested in 1929. Mr McLaren (the Town Clerk) said that Mihi Taylor was shown as the owner of Haruatai B (Mill Site) (though as noted above she had died) and (her husband) NA Taylor as occupier. Demands had been served on the occupier. Mr McLaren said that the land was leased to Pyramid Cement Products Ltd but they had moved out two years previously. He said that the Council had secured a letter from NA Taylor promising to pay, but nothing had been received. The charging order was made for £2.16.6 for year ending 31 March 1964 and £3.4.9 for year ending 31 March 1965 plus costs of 10/-. In April 1967, the application for a receivership order in respect to Haruatai Mill Site B which had been subject to a charging order two years previously was dismissed as Mr Roussell, for the Council said that that rates had been paid. A charging order was still, however, made for £3.6.10 for year ending 31 March 1966 and £4.4.10 for year ending 31 March 1967. No more details regarding Haruatai B have been located but the block is no longer Maori land.⁹¹⁸

⁹¹⁷ Otaki Minute Book 72, 23 July 1965, p. 32; Otaki Minute Book 73, 26 April 1967, p. 174; Walghan Partners, Draft, 1 May 2017, volume 2, pp. 106-114.

⁹¹⁸ Otaki Minute Book 72, 23 July 1965, pp. 32-33; Otaki Minute Book 73, 26 April 1967, pp. 173, 175

On 12 November 1965, the charging order application was again heard in respect to Haruatai A. On this occasion, the Court made the order. The application was amended in respect to Haruatai A to include rates owed for the three years to 31 March 1966 totalling less than £5. Haruatai A was also owned by Mihi Taylor, who in 1951, had asked the Maori Trustee for the land to be transferred to herself and her husband (NA Taylor) as tenants in common. The capital value of the land was £10 and the Maori Trustee's approval was given after the Otaki Borough Council advised that all rates had been paid. The block is no longer Maori land.⁹¹⁹

Also in July 1965, a charging order was made for £6.15.6 for the year ending 31 March 1964 and £7.15.5 for year ending 31 March 1965 plus costs of 10/- in respect to Lot 1 Section 147 Town of Otaki which was one of the earliest sections to have been re-vested in owners (in 1930). Mr McClaren said that demands had been sent to the owners and occupier, Whero Wiremu Davis, which had not been returned unclaimed (so it was assumed that it had been received by him). Demands had also been sent to his employer at Huntly where he was warned that if rates were not paid then a charging order would be applied for. This block, which contained a 'derelict' building, was later sold to the Otaki Borough Council in 1974 so that the owner could use the proceeds to buy a flat.⁹²⁰

Three other applications were made in 1965 for charging orders in respect to lands that were later vested in the Maori Trustee for sale. These were Makuratawhiti No 1 section 171 Town of Otaki, Makuratawhiti 6A3 and Makuratawhiti 6C which are discussed further below.

In July 1967, a charging order was also made in respect to Whakarangirangi 29N15 which had been vested in the Ikaroa Maori Land Board in 1929 and re-vested in owners in 1958 as rates were up to date and the occupier, Arda Hakaraia, was negotiating a further tenancy agreement. The block comprised 1 acre, 26 perches. Mr Roussell said that the rate card was in the name of Mrs G Hakaraia of Rangiuri Rd Otaki and that she had told him that as she owned half of the block she had paid only half of the rates (which had then been taken off the arrears). It was recorded that the other owner 'refused to make any payments whatsoever' and

⁹¹⁹Otaki Minute Book 72, 12 November 1965, p. 123; District Office, Wellington to Department of Maori Affairs, Head Office, 23 February 1953; Otaki Borough Council to District Office, Department of Maori Affairs, 23 March 1953; Maori Trustee to District Officer, Wellington, 31 March 1953, ACIH 16036 MA1/411 20/1/37 part 3 Native - Otaki - Borough Council - Maori rates, 1951-1956, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 148-150.

⁹²⁰Otaki Minute Book 72, 23 July 1965, p. 34; Otaki Minute Book 78, 8 November 1974, p. 348.

that Mrs Hakaraia might apply for a partition. The Court ordered that the land be charged with arrears of rates of \$57.28 for the year ending 31 March 1966 and \$73.03 for year ending 31 March 1967 plus costs of \$1. No further charging orders against the block have been located. The block was later Europeanised (but not partitioned).⁹²¹

8.42 Section 109 Applications, 1967

A further three applications for sale were made under section 109 in July 1967, before Judge Smith. The first application was in respect to Makuratawhiti No 1 section 171 Town of Otaki consisting of 32 perches which was a section very close to the Raukawa Marae. The block had previously been vested in the Ikaroa Maori Land Board but had been re-vested in owners in 1960.⁹²²

Charging orders had been made in respect to the land in 1965. At this hearing Mr McClaren said that the owner and occupier of Makuratawhiti section 171 Town of Otaki was Ada Graham (though her name is given as Aila McGrath on the investigation of title sheet) and that a rates demand had been sent by post and not returned unclaimed (therefore it was assumed by the Council that it had been received by her). It was noted that the section was on an unformed street at the 'back of town' which was not sufficient to prevent a charging order being made for £6.9.11 for the year ending 31 March 1964 and £7.9.0 for the year ending 31 March 1965 plus costs of 10/-. A receivership order was applied for in April 1967 but it was adjourned as, according to Mr Roussell, the Town Clerk had heard from solicitors for the owners that the owners were making arrangements for payment and had requested the adjournment.⁹²³

Two months later, however, on 19 July 1967, the Maori Land Court heard the vesting order application. It was recorded at the hearing that the 'main owner' Aila McGrath or Mrs Graham lived in Feilding and had been told of the vesting application. Five years of rates were outstanding and a charging order was more than a year old. The Court was advised that

⁹²¹ Otaki Minute Book 73, 19 July 1967, p. 253; Walghan Partners, Draft, 1 May 2017, volume 3, p. 412.

⁹²² Otaki Minute Book 73, 19 July 1967, p. 253.

⁹²³ Otaki Minute Book 72, 23 July 1965, p. 34; Otaki Minute Book 73, 26 April 1967, p. 174.

the valuation of the land was £230 (\$460) and there were no buildings located on the land. The Court made the order as sought.⁹²⁴

The particulars of title recorded that there were nine owners (all members of the McGrath whanau) and that the block had been partitioned in 1951. Mrs Graham held one-third of the shares in the block. Rates charging orders were recorded as totalling £62.3.6 plus £2 costs (\$126 aprox) and £4.4.1 (\$8 aprox) for survey charges were also due. It was recorded that the land was not leased.⁹²⁵

The District Officer at Palmerston North forwarded the order to the Department of Maori Affairs, Head Office and asked for the Minister's consent to be obtained so that tenders could be called. The District Officer advised that six of the nine owners, including the major owner (Mrs Graham) and Alex McGrath, who was the only one of the 'next biggest owners who could be traced' had been advised of the vesting and that the land would be sold unless the rates were paid in full and arrangements made for the payment of future rates. The District Office said that only Mr McGrath had 'showed any interest' but had 'taken no effective steps'. The section had been inspected and the Building Supervisor (presumably for the Department of Maori Affairs) had estimated that the market value of the section was \$1000 (£500) which was significantly more than the valuation. It was said to be an 'ideal building site' was flat and close to the town centre. There was, however, no formed access and water and electric power were 'not immediately available' meaning that only limited services had ever been provided by the Council for the rates it claimed. The matter had, however, been discussed with the Town Clerk who said that if the Council could be assured that a dwelling would be built on the section, then services would be 'laid on'. It was also noted that the land had not been surveyed (this was despite the survey lien against the title).⁹²⁶

The Minister was then advised to sign the order on the basis that five years of rates were owed, none of the owners had taken any action to pay the rates and that the section was an

⁹²⁴ Otaki Minute Book 73, 19 July 1967, p. 253.

⁹²⁵ Particulars of title to Makuratawhiti No 1 Section 171 Otaki Township, circa 1967, ABJZ 869 W4644/59 20/1/37 part 1 Rating - General - Otaki Borough Council – Maori Rates, 1961-1979, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 182-184; Schedule of Otaki vested lands prepared by Maori Trustee, 1 June 1951, ACIH 16036 MA1/411 20/1/37 part 3 Native - Otaki - Borough Council - Maori rates, 1951-1956, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 113-118.

⁹²⁶ District Officer, Palmerston North to Head Office, 17 September 1968, ABJZ 869 W4644/59 20/1/37 part 1 Rating - General - Otaki Borough Council – Maori Rates, 1961-1979, Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 185.

ideal building site. The Minister duly approved the order. A transfer was executed on 9 September 1969 to WH Inglis for \$700 (£350). Rates and survey liens totalling \$134 (£66) would have been deducted representing 19 percent of the purchase price.⁹²⁷

Eddie Penetito recalls that his mother, Alia or Ada McGrath (also known as Mrs Kereama/Graham) who one was of nine owners of the block, asked him to go to the Otaki Borough Council to get the purchase money which comprised just £30 (out of a total of £350 (\$700)). He states that the attitude of the Council to his request to have the vesting overturned was dismissive, and that the distress of seeing the land taken from his mother and the impact on her has always stayed with him.⁹²⁸

The second application under section 109 of July 1967 was in respect to Otaki township sections 175 & 176 (1 rood 27.2 perches). It was noted at the hearing that the owner and occupier according to the rates roll was Oma Williams of Tokorangi, Halcombe and that no rates had been paid for ten years. Charging orders were said to have been obtained for 1964, 1965 and 1967 (though details have not been located). The actual total of rates arrears as at 31 March 1967 was recorded as £118.2.2 and a further year's rates was due at the end of the month. The section was vacant and the valuation £435. Therefore, over one quarter of the value of the section was owed in rates. A receivership order had been applied for in the previous April but this had been dismissed due to the evidence of Mr Roussell who said that there was 'no possibility of leasing [the land]'.⁹²⁹

The application was sent by the District Officer in Palmerston North to the Department of Maori Affairs Head Office to secure the Minister's consent about nine months after the vesting hearing (no reason was given for the delay). It was noted that rates had been secured by charging orders of \$143 (£71.10.0), that six of the 'major owners' had been advised of the vesting and that the land would be sold unless rates were paid. No replies had been received. The sections had been inspected and although they were 'said to be ideal building sites and

⁹²⁷ Secretary, Department of Maori Affairs to Minister of Maori Affairs, 24 September 1968, Maori Trustee, Head Office to District Office, Department of Maori Affairs, Palmerston North, 27 September 1968, ABJZ 869 W4644/59 20/1/37 part 1 Rating - General - Otaki Borough Council – Maori Rates, 1961-1979, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 186-187; Schedule of all trusts under section 109 Rating Act 1925, 14 April 1960, AAMK W3074 869 1195 54/18 Maori Trustee – Land Vested in Maori Trustee under Section 438/1953 – Policy, 1963-1967, Te Tumu Paeroa, Wellington; Walghan Partners, Draft, 1 May 2017, volume 2, pp. 203-211; volume 8, pp. 34-37.

⁹²⁸ Eddie Penetito, as discussed at claimant hui, Feilding, 2 March 2017 and by email April 2017.

⁹²⁹ Otaki Minute Book, 73, 26 April 1967, p. 174; 19 July 1967, p. 254.

within 4 minutes walking distance of the Otaki town centre' just as with section 171 Town of Otaki, there was 'no formed access and water and electric power ... [were] not immediately available'. The question of provision of services was discussed with the Town Clerk who said that if there was an assurance that dwellings would be built on the sections, then the services would be 'laid on'. The Building Supervisor's estimates of present day market value was \$1000 (£500) for each section. He noted too that there was a 'difficulty' in that the sections had not been surveyed though it was thought that the Chief Surveyor's office might be able to provide a 'compiled plan suitable for registration purposes at a minimum cost'. The District Officer thought that they would investigate the provision of a survey and then call tenders. He said that he recommended that the Minister consent to the order.⁹³⁰

In response, an official at the Department of Maori Affairs, Head Office advised that prior to submitting the order to the Minister that the District Office was to write to the owners again telling them that the Court had made an order under section 109 and giving them six weeks to either settle the rates or 'come to some satisfactory arrangement with the local body'. The District Officer was then to report on the matter after the six weeks was up. After seven weeks, the District Officer advised that no approach or payment had been made to the Otaki Borough Council and nor had any contact been made by owners with the District Office. He therefore asked that the Minister's consent be endorsed on the original Court order.⁹³¹

The Maori Trustee also asked for particulars of title at this time which showed that the 1 rood 27 perch block had 11 owners of whom two people, Riria Epiha Hawea and Apera Heta owned the most shares (about 44 percent of the block). The other owners were not named. A new valuation as at 1 October 1967 was \$1150 (£575) with no improvements.⁹³²

On 21 June 1968, the Secretary for Maori Affairs sent the Minister of Maori Affairs a letter explaining that an application had been made by the Otaki Borough Council in respect of Otaki sections 175 and 176A to vest the land in the Maori Trustee for the purpose of a sale.

⁹³⁰ K Morrill, District Officer, Palmerston North to Head Office, Department of Maori Affairs, 3 April 1968, ACIH 16036 MA 1/765 54/22/11 Otaki 175 and 176A – Vesting under Rating Act 109, 1968-1969, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, p. 24.

⁹³¹ ACP MacRae, for Maori Trustee to District Office, Palmerston North, 10 April 1968; District Officer, Palmerston North to Head Office, 7 June 1968, ACIH 16036 MA 1/765 54/22/11 Otaki 175 and 176A – Vesting under Rating Act 109, 1968-1969, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 25-26.

⁹³² Particulars of title, 18 June 1968, ACIH 16036 MA 1/765 54/22/11 Otaki 175 and 176A – Vesting under Rating Act 109, 1968-1969, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, p. 27.

The Minister was told that there were eleven owners, that there were no improvements on the land, that rates had not been paid for ten years, that the total outstanding was \$236 (£118), that the owners had been informed 'but made no arrangement with the Council to meet the rates'. The Secretary said that there was 'no reason ... why the vesting should not be approved' and attached the order for signature. The order was duly signed by the Minister (Hanan).⁹³³

A compiled plan was prepared and tenders called. By April 1969, no offers had been received which was put down to a 'lack of formed access'. The District Officer said that they intended to put the sections in the hands of land agents. In October, it was reported that the sections had been sold to Europeans for \$1400 (£700). Details of how the purchase money was disbursed has not been located though it was noted by the District Office that rates had been cleared. As noted above, the rates were at least \$236 (which does not include rates for the year ending 31 March 1969 which the Borough most likely levied). This represented about 17 percent of the purchase price of the multiply owned unoccupied section which had no formed access, water or electric power.⁹³⁴

The third application related to Makuratawhiti 6A3 (1 rood 10.7 perches). Charging orders had been applied for in July 1965 when the Court had been told that the owner and occupier for the block was PP Stringer and Riria Luthell. Mr McClaren said that a demand had been served on Mr Stringer who later met with him at the Borough office. Mr Stringer said that he had been paying the rates himself but was not proposing to pay any more (he lived at Palmerston North). The Court considered that before a charging order was made an effort should be made by the Council to contact the main owner (Riria Luthell) as it appeared that the Council's records were 'not complete as to ownership'. The application was adjourned. On 12 November 1965, the charging order applications were again heard and on this occasion

⁹³³ JM McEwen, Secretary, Department of Maori Affairs to Minister of Maori Affairs, 21 June 1968, ACIH 16036 MA 1/765 54/22/11 Otaki 175 and 176A – Vesting under Rating Act 109, 1968-1969, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 28-29.

⁹³⁴ District Officer, Palmerston North to Head Office, 8 November 1968, 15 April 1969 & 21 October 1969, ACIH 16036 MA 1/765 54/22/11 Otaki 175 and 176A – Vesting under Rating Act 109, 1968-1969, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 30-32; Schedule of all trusts under section 109 Rating Act 1925, 14 April 1960, AAMK W3074 869 1195 54/18 Maori Trustee – Land Vested in Maori Trustee under Section 438/1953 – Policy, 1963-1967, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 34-37.

the Court made the order. The charging order for Makuratawhiti 6A3 was in respect to rates of £17.16.2 for the year ending 31 March 1965.⁹³⁵

At the vesting hearing in July 1967, it was recorded that the occupier, as shown on the rating roll, was PP Stringer and that demands had been sent to him. (This was despite Mr Stringer telling Mr McClaren in 1965 that he was not the occupier but lived at Palmerston North and the Council acknowledging that their ownership records were ‘not complete’.) No payments had been received since 31 March 1964 when Mr Stringer paid all outstanding rates. Mr Stringer was said to have been advised of the intention to make the section 109 application. Mr Roussell said that Riria Luthell’s address was not known to the Council and she had therefore not been notified. The valuation of the land was £550 and there were no buildings on the land. The Town Clerk thought the section would be difficult to sell as a ‘proposed road’ in the Town Plan went over the land. Despite this, the order was made by the Court. By October 1967, \$208.48 was owed in rates which the District Officer acknowledged represented one-sixth of the valuation. He also said that Mrs Luthell had been advised of the vesting and how to avoid the sale but had ‘taken no steps in the matter’. In the same year, the Otaki Borough Council revised its Town Plan and removed the ‘proposed road’ through the section from the plan so it could be sold for residential purposes. This was achieved by the Council objecting to its own plan and then allowing the objection. Prior to submitting the application to the Minister of Maori Affairs, the Maori Trustee asked the District Office to provide information on the section’s ‘suitability for building’, the prospects for sale in the area and its current market value. The building report said it was not a very desirable section as it was in a ‘hollow’ that would require levelling. It was estimated that the maximum asking price would be £400 (\$800). The District Officer commented that he could not understand why the valuation was so high. Neighbours, he said, had indicated that ‘for sale’ signs had in the past been placed on the section for lengthy periods. The Minister was initially advised not to consent to the order on the basis that the section was too difficult to sell but when the Maori Trustee was advised that a purchaser had been found, the Minister was advised to sign the order (which he did). The sale went ahead in 1969 with an offer of £700 (\$1400) by TW Adams accepted by the Maori Trustee. The \$208.48 deducted for rates represented 15 percent of the purchase money.⁹³⁶

⁹³⁵ Otaki Minute Book 72, 23 July 1965, p. 33; Otaki Minute Book 72, 12 November 1965, p. 123.

⁹³⁶ Otaki Minute Book 73, 19 July 1967, pp. 253-254; Schedule of all trusts under section 109 Rating Act 1925, 14 April 1960, AAMK W3074 869 1195 54/18 Maori Trustee – Land Vested in Maori Trustee under Section

It is of note that the Borough was prepared to adjust its Town Plan and remove the ‘proposed road’ to facilitate the sale of this Maori land. In the next section, it is apparent that the Borough was not prepared to adjust its zoning in a timely fashion so as to facilitate a reduction in rates on Maori land.

8.43 Makuratawhiti 6C, section 155/1967 Act and section 438/1953 Act vesting, 1970

One other section was vested for the purpose of sale due to the non-payment of rates in the Otaki Borough but under other legislation. In November 1970, an application was made by the Otaki Borough Council for a charging order under section 153 of the Rating Act 1967 and a trustee order under section 155 of the 1967 Rating Act in respect to Makuratawhiti 6C (1 acre 27 perches).

Makuratawhiti 6C had been subject to previous charging orders in July 1965. At this hearing, Mr McClaren (the Town Clerk) said that £39.19.0. was paid on 12 February 1965 by an occupier who was growing tomatoes on the land but that an owner he had visited refused to pay subsequent rates as the other owners refused to assist. Various tomato growers occupied the land for about three months per year but there was no current occupier. He said it was a valuable piece of gardening land and if offered for lease, then a lessee would be found. The charging order was then made for £2.7.7 for the year ending 31 March 1964 (presumably the remainder of the rates owed for this year) and £48.11.1 for the year ending 31 March 1965 plus costs of 10/-. In addition, an order was made under section 33 of the Maori Affairs Act 1953 appointing the Town Clerk, Mr McLaren as receiver in respect of the land to enforce the charge with ‘power to lease for a term not exceeding 10 years’.⁹³⁷

In April 1967, further charging order applications by the Borough were heard by the Maori Land Court in respect of the block. Mr Roussell gave evidence stating that Mr McLaren had

438/1953 – Policy, 1963-1967, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 34-37; District Officer, Palmerston North to Department of Maori Affairs, Head Office, 10 October 1968, 17 January 1969, 11 July 1969 & 30 January 1970; Secretary, Department of Maori Affairs and Maori Trust Office to Minister of Maori Affairs, 23 January 1969 & 18 July 1969; Department of Maori Affairs, Head Office to District Office, Palmerston North, 4 February 1969, ABJZ 869 W4644/59 20/1/37 part 1 Rating - General - Otaki Borough Council – Maori Rates, 1961-1979, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 188-194.

⁹³⁷ Otaki Minute Book 72, 23 July 1965, pp. 33-34.

had ‘quite a bit of difficulty’ with the section. He said that Inia Wiata, who he had contacted about the payment of rates, had ‘denied liability for rates’ and that Mr McLaren, as receiver, had arranged a lease of the section for five years at £55 per annum. He said that this would be the ‘top price’ for market gardening, that the lessor was liable for rates under the lease but that the rent received was ‘not sufficient to meet ... current rates’. He noted that the land was zoned residential. Mr McLaren elaborated further on the zoning stating that the Council had an ‘Urban Farm Lands list’ but, as the area was under three acres, an application had to be made to the Magistrates’ Court when the next Urban Farm Land list was compiled (so until then it was rated as a residential section which was at a higher rate). He reported that the lease he had organised had three years to run and the amount of rates owing had reduced to £54.9.9 but if the land was placed on the Urban Farms Land list, the reduction in rates would ‘probably be about 20%’. That is, if the land had been on this list, then it would have been rated at a lesser amount instead of the more expensive residential rating. He did not, however, offer to help facilitate the change in zoning status which would have at least reduced the rates to a level where the rental would cover them (though would still leave little for the owners). Mr McLaren added that that he did not have addresses of any of the owners other than Inia te Wiata whose address was in London (Inia Te Wiata was an opera singer and carver mainly based in London at this time). The land was then charged with a further £54.9.9 for the year ending 31 March 1967 plus costs of 10/- which was the amount of the yearly rental.⁹³⁸

At the vesting hearing in November 1970, Mr Roussell, solicitor for the Council produced a list of owners (he did not say how many there were), a copy of correspondence between the Town Clerk and Maori Trustee and a copy of an application that he was going to lodge but that the Deputy Registrar said could be dealt with under section 155 of Rating Act 1967. (Section 155 allowed the Court, if it was satisfied that it was in the interests of the beneficial owners to do so, to vest land where rates had not been paid in a trustee for sale or lease). He also produced a rate card showing that \$361.68 (approximately £180) was owed. This included current rates. He said that Inia Te Wiata was one of the owners but he was not prepared to pay and that Mr McClaren had written to him on several occasions. It was noted that there were earlier charging orders from 1965 and that Mr McClaren had been appointed receiver. The tenancy arranged by Mr McClaren as receiver had expired. The Court made a

⁹³⁸ Otaki Minute Book 73, 26 April 1967, p. 175; Beryl Te Wiata, ‘Te Wiata, Inia Morehu Tauhia Watene Iarahi Waihurihia, from the Dictionary of New Zealand Biography. Te Ara – the Encyclopedia of New Zealand, <http://www.TeAra.govt.nz/en/biographies/5t12/te-wiata-inia-morehu-tauhia-watene-iarahi-waihurihia> (accessed 18 February 2017).

charging order under section 153 of the Rating Act 1967 which charged the land with arrears of rates of \$137.67 (approximately £69) for the year ending 31 March 1970 plus costs of \$1 (10/-). This indicates that there had been an increase in rates since 1967 (the charging order for the year ending 31 March 1967 was £54.9.9) and suggests that there had been no re-zoning that provided for a reduction of 20 percent in the rates levied. As well, an order was made under section 155 of the 1967 Act and section 438 of the Maori Affairs Act 1953 vesting the block in Raymond William Roussell of Otaki, solicitor as trustee. The section 438 trust was as follows:

- (1) To sell the land in such manner and at such price as the trustee may decide.
- (2) After deduction of the costs of sale including the professional charges of the trustee as a solicitor (which the trustee shall be authorised to make notwithstanding his appointment as trustee) to [can't read] of the proceeds of sale:
 - (a) To pay all outstanding rates and charges on the land any means necessary to perfect the title to the land.
 - (b) To pay the balance remaining in his hands to the Maori Trustee for distribution to the beneficial owners in their shares.⁹³⁹

Mr McLaren was also discharged as receiver, who given his failure to lease the land for a sum in excess of the amount of rates levied, had enjoyed limited success in the role. He did not suggest, however, that a reason for this was that the rates were too high or that the block was a candidate for exemption. As it was Mr Roussell who was appointed trustee to sell the land (and not the Maori Trustee), no file is available concerning how he negotiated the sale or whether he ever contacted any of the owners. No details as to how the proceeds were disbursed have been located though the memorial schedule in the Maori Land Court block order file confirms that it was sold to GA and S Young for \$3600 (£1800) in 1971.⁹⁴⁰

Of note is that out of the ten blocks compulsorily sold for non-payment of rates, seven had been re-vested in owners between 1958 and 1960 which was when the Maori Trustee was trying to divest itself of Otaki lands. This would suggest that the Maori Trustee had not

⁹³⁹ Otaki Minute Book 75, 6 November 1970, p. 238.

⁹⁴⁰ Otaki Minute Book 75, 6 November 1970, p. 238; Memorial Schedule, Makuratawhiti 6C, Makuratawhiti Block Order file, Porirua ki Manawatu Inquiry District Research Assistance Projects: Whanganui Maori Land Court Records (Block Order Files): Document Bank Project, volume 10.

ensured that owners were in a position where they could pay rates or assessed whether the land could support the payment of rates.

Table 17: Otaki Borough blocks vested in Maori Trustee under section 109 of Rating Act 1925 in 1963 and 1967 and in Borough solicitor under section 438 of Maori Affairs Act 1953 in 1970.

Block name and area	Owners	Rates owed	Lease & occupation details	Valuation as at 1 October 1962	Vesting and sale information
Whakarangirangi 29N1 (1 acre 32 perches) (1963)	One: George Cootes (deceased – recorded as the owner in 1927 and that he had died in the 1940s)	£39.8.4 + 10/- costs (charging order)	None	£875 including £25 impts	Vested in IMLB in 1929; re-vested in owners in 1947; vested in MT for sale in 1963; sold in 1963 to WA & J Storm for £915.
Otaki township sections 178, 179, 186 187 & Pts 177 & 185 (1 acre 1 rood 2.12 perches) (1963)	Eight: Keremihana, Kereama, Walker, Wiki, Winiata & Ranapiri whanau	£72.5.3 + 10/- costs (charging order)	None	£1675 including £210 impts	Vested in IMLB in 1929; re-vested in owners in 1959; vested in MT for sale in 1963; sold in 1963 to JM Parker for £1825.
Makuratawhiti 6A1 (1 rood 10 perches) (1963)	Nine: Webby, Hohipuka, Wallace, Tawharu whanau	£29.11.3 + 10/- costs (charging order)	None	£700 including £65 impts	Vested in IMLB in 1929; re-vested in owners in 1959; vested in MT for sale in 1963; sold in 1963 to Europeans (price not located).
Makuratawhiti 5B2 (1 rood 6.4 perches) (1963)	One: Mohi Wharewhiti	£26.5.7 + 10/- costs (charging order)	None	£700 including £140 impts	Vested in IMLB in 1929; re-vested in owners in 1959; vested in MT for sale in 1963; sold in 1965 to MAL Mager for £750.
Makuratawhiti 1H (1 acre 1 rood 27.2 perches) (1963)	Eleven: Baker and Tuku whanau	£75.4.7 + 10/- costs (charging order)	None	£1650 including £50 impts	Vested in IMLB in 1929; re-vested in owners in 1953; vested in MT for sale in 1963; sold in 1964 to HT McGavestone (price not located).
Hanganoaiho 1E (1 rood, 35 perches) (1963)	Six: Roach whanau	£65.3.11 + 10/- costs (charging order)	None	£1800 (no impts)	Vested in IMLB in 1929; re-vested in owners in 1954; vested in MT for sale in 1963; sold circa 1963-1965 (details not located).
Makuratawhiti No 1 section 171 Town of Otaki (30 perches) (1967)	Nine: McGrath whanau	\$103.52 (£52) part secured by charging order	No formed access and water and electric power were ‘not immediately available’	£100 in 1951; £230 in 1967; estimated to be £500 (\$1000) in 1968.	Vested in IMLB in 1929; re-vested in owners in 1960; charging orders in 1960s; vested in MT for sale in 1967; sold in 1969 to WH Inglis for \$700 (£350).
Sections 175 & 176A Town of Otaki (1 rood 27.2 perches)	Initially said to be one owner: Oma Williams,	\$181.49 charging order (owed	Not leased. Vacant section, no improvements,	\$1150 (no impts) as at 1967	Vested in IMLB in 1929; re-vested in owners in 1959; vested in MT for sale in 1967; sold in 1969 to MJ & JLP Allen

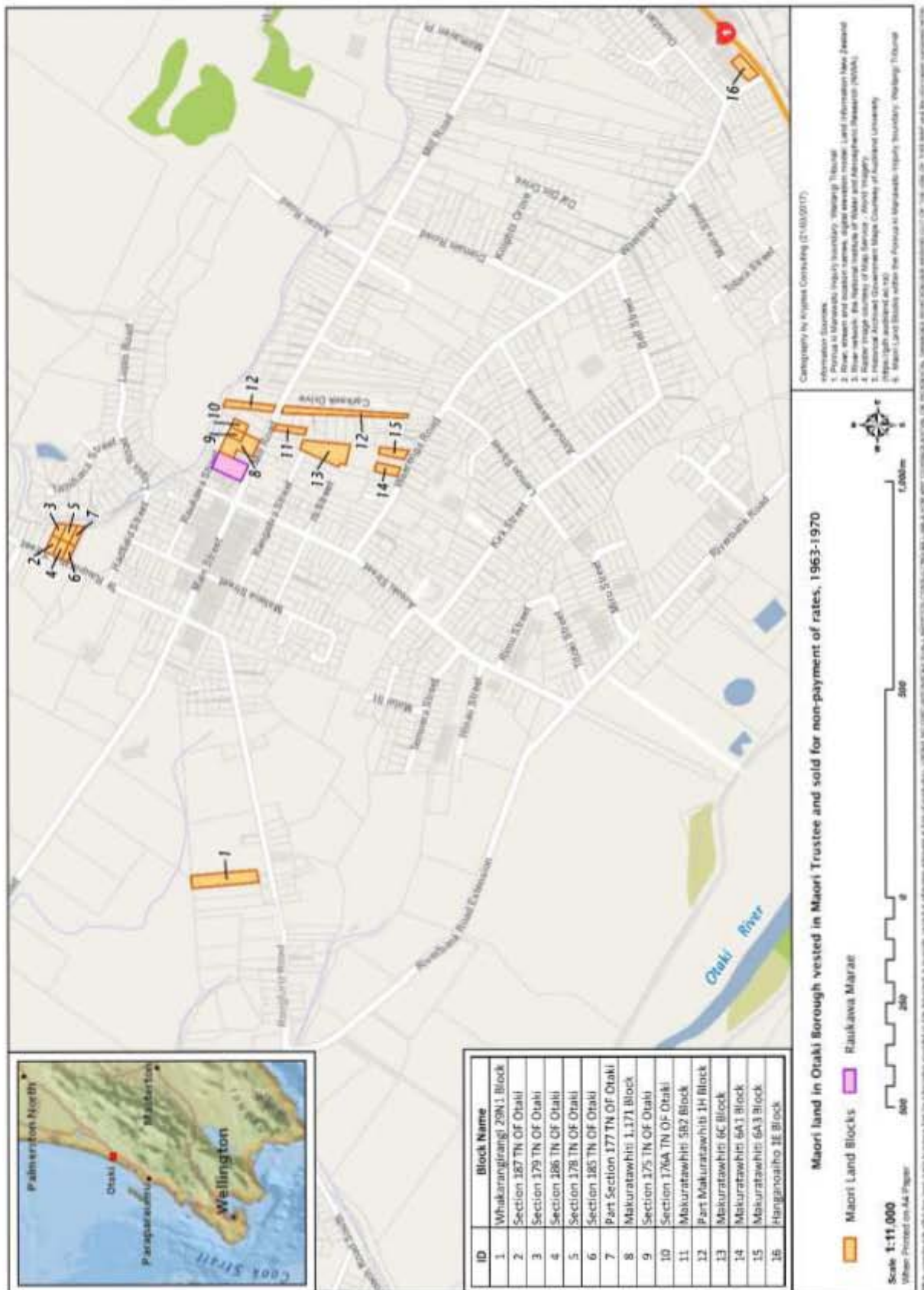
(1967)	Later 11 owners (Riria Hawea & Apera Heta and 9 others)	\$236 in total) Rates said to be unpaid for 10 years	no formed access, no electricity		for \$1400 (£700).
Makuratawhiti 6A3 (1 rood 10.7 perches) (1967)	Three: Patrick Stringer, Riria Luthell and Waipuru Stringer	\$35.62		£550 (\$1100) in 1967	Vested in IMLB in 1929; re-vested in owners in 1959; vested in MT for sale in 1967; sold in 1970 for \$1400 (special government valuation) to TW Adams.
Makuratawhiti 6C (1 acre 27 perches) (1970: 1953 Act)	Not stated	\$361	Leased under receivership order for 5 years in late 1960s.	Not stated.	Vested in IMLB in 1929; re-vested in owners at instigation of MT in 1958. Charging & receivership orders in 1960s; vested in solicitor for Borough Council 1970; sold in 1971 to G & SA Young for \$3600
Total: 7 acres, 7.62 perches					

Sources: Particulars of title, 19 August 1963, ACIH 16036 MA1/765 54/22/2 Maori Trustee - Pt. Hanganoaiho 1E Makuratawhiti Subdivisions - Town of Otaki Subdivisions etc. - Vested in Maori Trustee (see 109 Rating Act) Sale. 1963-1965, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 3-22; Otaki Minute Book 75, 6 November 1970, p. 238; Memorial Schedule, Makuratawhiti 6C, Makuratawhiti Block Order file, Porirua ki Manawatu Inquiry District Research Assistance Projects: Whanganui Maori Land Court Records (Block Order Files): Document Bank Project, volume 10; Otaki Township Block Order Files, Document Bank, volume 20, pp, 238; Walghan Partners, Draft, 1 May 2017, volumes 2 & 3.

IMLB= Ikaroa Maori Land Board

MT = Maori Trustee

Map 12: Maori Land in Otaki Borough vested in Maori Trustee (and Borough Solicitor) and sold for non-payment of rates, 1963-1970



8.44 Rating post 1970s

Nothing further has been located regarding rating of the Otaki Borough Council lands as the Maori Trustee file peters out at this point and as noted previously, none of the Maori rating files of the Otaki Borough Council have survived. In addition, there are no further references to charging, receivership and vesting orders in the relevant Maori Land Court block order files or in Otaki Maori Land Court minute books checked up until August 1982. It is possible that instead, the Otaki Borough Council used other means to enforce the payment of rates such as suing. As well, little Maori land remained in the Borough with much of that vested sold by the early 1970s or Europeanised. Of note is a comment by Te Waari Carkeek made in 2017 that Maori families still live in Otaki on their ancestral lands but the land is not necessarily Maori land. He states that this was due to the necessity of Europeanising the land in order to secure funding for housing. Further research is required to confirm the extent to which this occurred.⁹⁴¹

The map at the end of the chapter also shows just how little Maori land remains in 2016 in what was the old Otaki Borough. Of note is that there is no land remaining in Maori ownership to the west (at Otaki Beach) hence the focus of the map on the central area.

8.45 Rating Summary

In 1928, the position of the Minister of Native Affairs, Apirana Ngata, regarding the rating of Maori land was spelt out to the Otaki Borough Council. He outlined the difficulties Maori had with title and with multiple ownership, with the accuracy of the valuation roll, the ability of Maori to pay and the ability of land to support rates. He argued that Maori land should be rated the same as European land only when conditions were the same. Tau Henare recognised that the Otaki Borough Council were blaming its financial troubles on Maori for non-payment of rates when in fact the Council was in debt because of questionable decisions about loans and drainage. Rere Nikitini told the Otaki Commission of Inquiry that land was being rated that would never be revenue producing and asked for this land to be exempted. He also alluded to many Maori who could not afford the rates. Mr Shepherd of the Native

⁹⁴¹ Feedback from Te Waari Carkeek, Porirua ki Manawatu, Local Authorities Issues Draft Report Hui, Otaki, 2 March 2017. Advice regarding the records of the Otaki Borough Council was received from the Otaki Museum. Otaki Maori Land Court Minute Books up to No 83 (August 1982) have been checked.

Department reflected that rates on Maori lands in Otaki were so high and the ‘potential revenue so low’ that to ‘continue to levy the present high rates upon the lands looked remarkably like confiscation in a most insidious form’.⁹⁴²

The Otaki Borough Council was not, however, prepared to compromise, not wishing to exempt any land that was not revenue producing and the Crown was not willing to force the issue. With respect to owners who were not in a position to pay, of the over 90 charging orders made in 1926 on the application of the Council, just three were reduced by half of that levied (so one year instead of two years rates) which for at least one of the recipients of the remission, was clearly inadequate. Wiremu Rikihana was 67 years old, in ill-health, unable to grow food on the land in question and had little other land. He told the Court that he had no means to pay the rates and yet the charging order for £7 was still made.⁹⁴³

The Council instead pushed for Maori land, where there were arrears of rates, to be sold. The response from Maori was not to pay. Those who did not pay included ex Town Board and Council members as well as hapu leaders. One owner said that Tiemi Rikihana, who had been a borough councillor between 1923 and 1925, had advised them not to pay. It is possible, therefore that there was an element of protest to what was almost an across-the-board non-payment of rates by Maori in the 1928-1929 financial year (just 1.63 percent of that levied on Maori land in the Borough was paid). It is also possible, however, that it was a continuation of a pattern of non-payment due to the factors identified by Ngata such as the economic situation of the owners and inability of land to support rates. Rather than address the Borough’s poor fiscal performance and its failure to properly utilise exemption measures, the government instead vested over 200 acres within 135 sections of Maori land in the Ikaroa Maori Land Board meaning Maori no longer had jurisdiction over their own land. The land vested comprised 80 percent of the total value of Maori land in the Borough. While the land was not compulsorily taken as proposed by the Otaki Borough Council, Maori owners lost authority over their land for the duration that it was vested which for some, was for over 30 years.

About five sections were re-vested back in the owners in the late 1920s and early 1930s. One of the earliest sections to be re-vested was owned by Pirihiira Hohepa who in order to pay

⁹⁴² *Evening Post*, Volume CV, Issue 110, 11 May 1928, p. 14.

⁹⁴³ Otaki Minute Book 57, 15 March 1926, p. 328.

rates on one non-revenue producing section, had to use the rental from another section that she owned in the township that was being leased. Another section re-vested at this time was leased by the Board and arrangements made for the rates to be deducted from the rental. At the same time, four more sections were vested in the Board – one of which was described as ‘river bed covered in gorse’. Twenty years later, it had still not been leased.

In 1933, the County Clerk gave evidence to the Native Rates Committee. He told the Committee that there had been few issues with the rating Maori land until 1921 but that the issue became more ‘acute’ when the Borough began to develop and raise loans. He recorded that the percentage of rates collected since 1929 (since the bulk of the Maori land in the borough had been vested in the Board) had only improved from 1.63 percent to 17 percent. He also noted that the land had been vested in the Board so that it could be leased but that only a small proportion of that vested had been leased. (He did not note, however, that this might mean that the land could not support rates and should be exempted). He said too that there was no chance of leasing or getting rates on some of the land as Maori were living on it. He also denied that rates were high in the Borough (despite the almost trebling of rates between 1921 and 1927) and argued that many more Maori could afford their rates than were actually paying. The Mayor also blamed Maori for not working (despite it being in the middle of the Depression) and said that the Borough could not operate without rates from Maori land.

One of the recommendations made by the Committee was for local authorities to investigate exempting non-revenue producing land from rates. There is no evidence that the Otaki Borough Council did this at this time and indeed there is no evidence of land being formally exempted for not being revenue producing until 1953 when two sections, described as ‘raw sand dunes with no revenue producing possibilities at all’ and ‘old river bed and worthless in value’ were formally exempted under the Rating Act 1925.

With regard to land that was vested in the Board, several applications a year were made by owners in the 1930s, 1940s and 1950s to have the land re-vested in them. All rates had to have been paid and owners had to prove that they would pay rates in the future. This proved problematic for Takutai Stephens in 1943 who wished to gift one of her sections (which was ‘unfortunately’ vested in the Board) to her brother who was an indigent, ill, world war one veteran. Despite her brother’s circumstances, and that all the rental monies from a second

section vested in the Board were going towards rates, she was obliged to pay the £30 arrears before the land was re-vested in her. It took three years for her to pay them. No suggestion was made that the land should be exempted even though the house and section was to be gifted to her ill brother. Instead the exemption provisions remained unused.⁹⁴⁴

With respect to other land that was re-vested, this was sometimes done so that the land could be sold for housing purposes. As well arrangements were sometimes made for one owner to buy the others out. There was some involvement by Mr Hakaraia who was an Otaki Borough Councillor from 1943 and member of the Raukawa Tribal Executive from the late 1940s. He assisted with the re-vesting of two sections in 1946. He also liaised with owners concerning the provision of better housing.

By 1956, around 62 of the 135 sections (about 46 percent) remained vested in the Maori Trustee. This was when the District Officer at Wellington, frustrated with the amount of time it spent administering the lands, asked the Maori Trustee for the sections to be re-vested in owners. The Maori Trustee described himself as a 'poorly paid rate collector' and admitted that 'for the most part' owners were not 'gaining a great deal by his administration of the Blocks'. He noted that in the previous two years 'distribution has been made to owners from only eight of the blocks under administration and most of these have been very small'. It was also acknowledged that where land was leased the amount of annual rates was one of the main factors considered when deciding on the rental and that the main 'burden' of administration had been 'ensuring that sections derive enough income each year to meet the rates'. As well, it was admitted that the Trustee had only just begun to set rentals at a market rate (as opposed to at a level where they only covered the rates). This meant that most owners had never received any revenue from their land and that any money earned of the land had been paid instead to the Otaki Borough Council. Therefore, it had taken thirty years for the Board, and later the Maori Trustee to even attempt to obtain the full rental value of the block. It was also noted in 1956, again, thirty years after the land was first vested, that the occupancy of a few of the sections remained 'obscure'. All these factors raises questions

⁹⁴⁴ Wellington Minute Book 36, 21 January 1947, p. 174; Takutai Stephens to Minister of Maori Affairs, 17 October 1943; Otaki Borough Council declaration regarding payment of rates, 20 September 1946, ACIH 16036 MA1/411 20/1/37 part 2 Native - Otaki - Borough Council - Maori rates, 1938-1950, Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 110; Schedule of Otaki vested lands prepared by Maori Trustee, 1 June 1951, ACIH 16036 MA1/411 20/1/37 part 3 Native - Otaki - Borough Council - Maori rates, 1951-1956, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 113-118.

about the effectiveness of the Ikaroa Maori Land Board, and later the Maori Trustee's administration of Otaki vested lands.⁹⁴⁵

When the decision was made for the Maori Trustee to divest himself from the administration of the sections, the attitude was one of getting 'rid' of the work as soon as possible. Many of the District Office's and Maori Trustee's actions during this process saw Maori interests set aside in favour of administrative expediency. After a review of the 62 sections was undertaken, 17 sections were immediately re-vested. These were sections where rates were up to date, were leased or had been exempted from rates (the two sections mentioned above). Also in an attempt to divest itself of some more of the sections, the Maori Trustee arranged for the sale of a number of them. The first sales in 1957 were organised without reference to the owners. In the words of the Maori Trustee, it was decided that land was to be sold 'without the formality of seeking the consent of the owners'. This meant that the Maori Trustee was allowed to bypass the succession process and make a decision regarding alienation without the consent of the owners.

The Maori Trustee justified his actions stating that under the Maori Purposes Act he had the right to sell the vested lands and that 'over the years' the owners had only been consulted 'as a matter of courtesy'. Consent then, had become a formality. The Maori Trustee also prioritised the processing of a further nine sections to be re-vested at the end of 1958 so that the Trustee was no longer responsible for them by the time rates had to be paid in February 1959.⁹⁴⁶

Further sales were organised by the Maori Trustee in 1959 with some owner involvement. One section was sold with the permission of six of the 16 owners of whom just eight had been traced. The other two owners did not agree to the sale. Another section was sold with the agreement of owners who held about 30 percent of the shares in the block. In both instances, interests of deceased owners had not been succeeded to. It is apparent, therefore, that although the land had been vested in the Board and later the Maori Trustee for thirty

⁹⁴⁵ District Officer, Wellington to Maori Trustee, 17 April 1956; Maori Trustee to Town Clerk, Otaki Borough Council, 12 September 1956, ACIH 16036 MA1/411 20/1/37 part 3 Native - Otaki - Borough Council - Maori rates, 1951-1956, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 120-121, 137.

⁹⁴⁶ Note between officials at Head Office, Department of Maori Affairs, 4 September 1959, ACIH 16036 MA1/411 20/1/37 part 5 Native - Otaki - Borough Council - Maori rates, 1959-1960, Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 171.

years, they had not seen their role as extending to ensuring that ownership details were kept current.

In contrast, a Maori purchaser of another vested section where the sale was being negotiated at this time, sought out the consent of the other owners and 'prospective successors'. She also agreed to sell part of the block to one of the successors for a housing site.

The Maori Trustee also concentrated on re-vesting four sections that were owned by one or two people as the Council could then sue the owners if rates were not paid. One section was sold within two years of the re-vesting and the other later vested again in the Maori Trustee but this time so it could be compulsorily sold.

The response of the Otaki Borough Council to all the re-vestings was to complain to the Minister of Maori Affairs. While acknowledging the difficulties associated with multiply owned Maori land; that in many cases land where rates were not paid was unoccupied; that Maori generally did not enjoy the same level of housing as Europeans; and that Maori did not necessarily want to sell and instead wanted to retain the land for their families, the Town Clerk's conclusion was that Maori land should be rated like European land. By suggesting such a solution, the Otaki Borough Council was effectively saying that the only way to alleviate the Council's 'problem' was to give it the power to sell land where rates were not being paid. This was what ultimately happened with the utilisation of section 109 of the Rating Act 1925 in the 1960s.

The Town Clerk's complaint was that rates demands' on multiply owned land were not paid and that it was 'not practicable to collect rates from each individual part owner'. The Town Clerk contrasted this with Maori in state houses in residential areas that were placed between Europeans who were paying rates and maintaining their houses. This referred to the state housing 'pepper potting' policy and showed that Maori were just as capable of paying rates and maintaining houses as Pakeha. The issue was that Maori had a title system imposed on them which, when there were a number of owners, made the development of the land and the collection of rates difficult. One such case was the aforementioned Titokitoki 2 and 2A which were sold without reference to the owners as the Maori Affairs Department, the lead agency in Maori matters, could not figure out who owned the land. Yet it was Maori who were blamed for this and made to pay through charges on and alienations of their land.

The Town Clerk also argued that on the one hand there was much Maori land in the township that was unoccupied yet he also argued that Europeans had to pay more rates to provide ‘amenities and services provided for Maori ratepayers’. It is evident from subsequent correspondence that the Otaki Borough Council did not provide amenities and services to these unoccupied sections. For instance, both Makuratawhiti No 1 section 171 Otaki township and Otaki township sections 175 & 176 had no formed access and water and electric power were ‘not immediately available’. As well, many of the owners did not live at Otaki so were not receiving any of the services the Otaki Borough Council said it was providing.⁹⁴⁷

In 1962, charging orders were issued over eleven blocks of which ten had been previously vested in the Maori Trustee. One year later applications under section 109 of the Rating Act 1925 were made in respect to six of the blocks to have the land vested in the Maori Trustee for sale due to non-payment of rates. These were the first in the inquiry district to be ordered and the first applied for by the Otaki Borough Council since 1929. This was because the Minister of Maori Affairs, whose permission was required to make the order, had previously been reluctant to use this provision. Indeed, earlier Ministers such as Coates had described it as ‘not in the interest of the Maori people and government officials had compared the provision with confiscation. In the 1980s the Crown acknowledged that it was contrary to the Treaty of Waitangi. In the 1960s, however, the Chief Judge of the Maori Land Court, Judge Prichard, promoted section 109 applications as a solution for unoccupied land that could not be leased and where rates had not been paid. Judge Jeune who also heard these first applications was a supporter of this stance advising the Council that if sections could not be leased it was ‘not expedient’ to appoint a receiver and instead ‘proper’ for a section 109 order to be made. The orders were then sent to the Minister of Maori Affairs for his consent accompanied by a recommendation from officers of the Department of Maori Affairs. In all the section 109 applications viewed for this report, the Minister simply agreed with the recommendations made by Maori Affairs Department officials which in the majority of instances was to sign the vesting order so that the land could be sold. In all ten Otaki Borough Council cases, once the order was signed, the land was sold. There was no respite for owners

⁹⁴⁷ District Officer, Palmerston North to Head Office, 17 September 1968, ABJZ 869 W4644/59 20/1/37 part 1 Rating - General - Otaki Borough Council – Maori Rates, 1961-1979, Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 185.

such as those of Makuratawhiti 1H who registered a caveat on the title in an attempt to stop the sale. The section 109 order took precedence, was registered on the title and the land sold.⁹⁴⁸

It is of note that Maori Affairs officials at Head Office did not deem the first applications to have sufficient information asking the District Officer for details of who was occupying the land, where they were living and if they knew of the application. It is also of note that it was the Otaki Borough Council rather than the officials responsible, who provided the response. Therefore, information received from the Council, the body asking for the land to be sold, was relied on and deemed adequate for the order to be submitted to the Minister with the recommendation that it should be approved. The Town Clerk told the Department that owners had been constantly written to though he also admitted that he did not know the addresses of most of the owners who could therefore not be advised. In another case, an owner whose land was vested had died and successors not appointed. One of the questions that remains unanswered from the Maori Affairs and Maori Trustee files is just who the Maori Trustee distributed the purchase money to given that so many of the owner's addresses were unknown and that the interests of many of the owners had not been succeeded to.

Of the ten blocks compulsorily sold for non-payment of rates, seven had been re-vested in owners between 1958 and 1960 when the Maori Trustee was trying to divest itself of the vested township lands. This would suggest that the Maori Trustee did not ensure that the land was revenue producing and that the owners were in a position where they could pay rates. In addition, the Maori Trustee did not maintain ownership details which would have ensured that owners were advised that their land was in danger of being sold. This raises further questions about the adequacy of the Trustee's administration of the land.

The Council's attitude towards the rating of Maori land remained relatively constant from the 1920s to the early 1970s. It is clear that the Council did not take into account the comment of Apirana Ngata that Maori land should only be rated the same as European land when conditions were the same for each. Instead, the Council continued to rate every Maori owned section of the Borough (except for the two exempted) regardless of whether they were

⁹⁴⁸ Minutes entitled 'Non payment of Native Rates: Deputation to the Prime Minister (Rt. Hon JG Coates) at Wellington', 6 October 1927 ACIH 16036 MA 1/408 20/1/14 Rates – Native Land – Miscellaneous papers, 1924-1927, Archives New Zealand, Wellington. SW Document Bank, volume 1, pp. 109-123.

unoccupied, unutilised or undeveloped or unable to produce enough revenue to cover the rates. That Maori may have had difficulties financially with meeting rates, or remained unaware of rates demands, was not considered sufficient reason for not paying, nor were the difficulties inherent with land that was multiply owned (though this was used as an excuse to justify not being able to actually contact the owners). That the Council was able to rate Maori land as they did, however, was because the legislation allowed the Council to do so. The Crown was also responsible for approving the compulsory sale of ten sections with the Borough. The distress caused by these compulsory sales is still felt by whanau of the owners from whom the land was taken, today.

8.46 Raukawa Papakainga on Mill Road

Claimants from Te Hono ki Raukawa have raised the issue of the Borough Council's impact on the retention of the papakainga around Raukawa Marae on Mill Road (as far as the main road (SH1)). They state that the failure to have proper regard for the papakainga resulted in the dispersal of Maori and have queried whether the local authority took into consideration the existence of papakainga when planning. Because there is a paucity of records created by the Borough still in existence (the above examination of rating issues is largely based on Maori Affairs and Maori Trustee files) it has not been possible to provide a comprehensive examination of this issue. In addition, no comprehensive alienation data of Otaki township lands has as yet been prepared for the inquiry making it difficult to identify any patterns with alienation around the marae such as when the bulk of alienations occurred. There is, however, enough evidence relating to the use of compulsory sale legislation in respect to land around the marae in the 1960s, to examine the impact of the Otaki Borough Council's actions in this respect as well as the involvement of the Council in other sales.

The Raukawa Marae is located on Otaki Township sections 166, 167, 168 and 169 on Mill Road, the main road which runs from SH1 through the town to the beach. In 2016, these four sections comprise almost half the remaining Maori owned land on the northern side of Mill Road between the beach and SH1. There are nine Maori owned sections on this side of the road in total. On the southern side of Mill road, there are six sections that are Maori land. All the land surrounding the Raukawa Marae is no longer Maori land.⁹⁴⁹

⁹⁴⁹ Maori Land Online: <http://www.maorilandonline.govt.nz/> accessed October 2016.

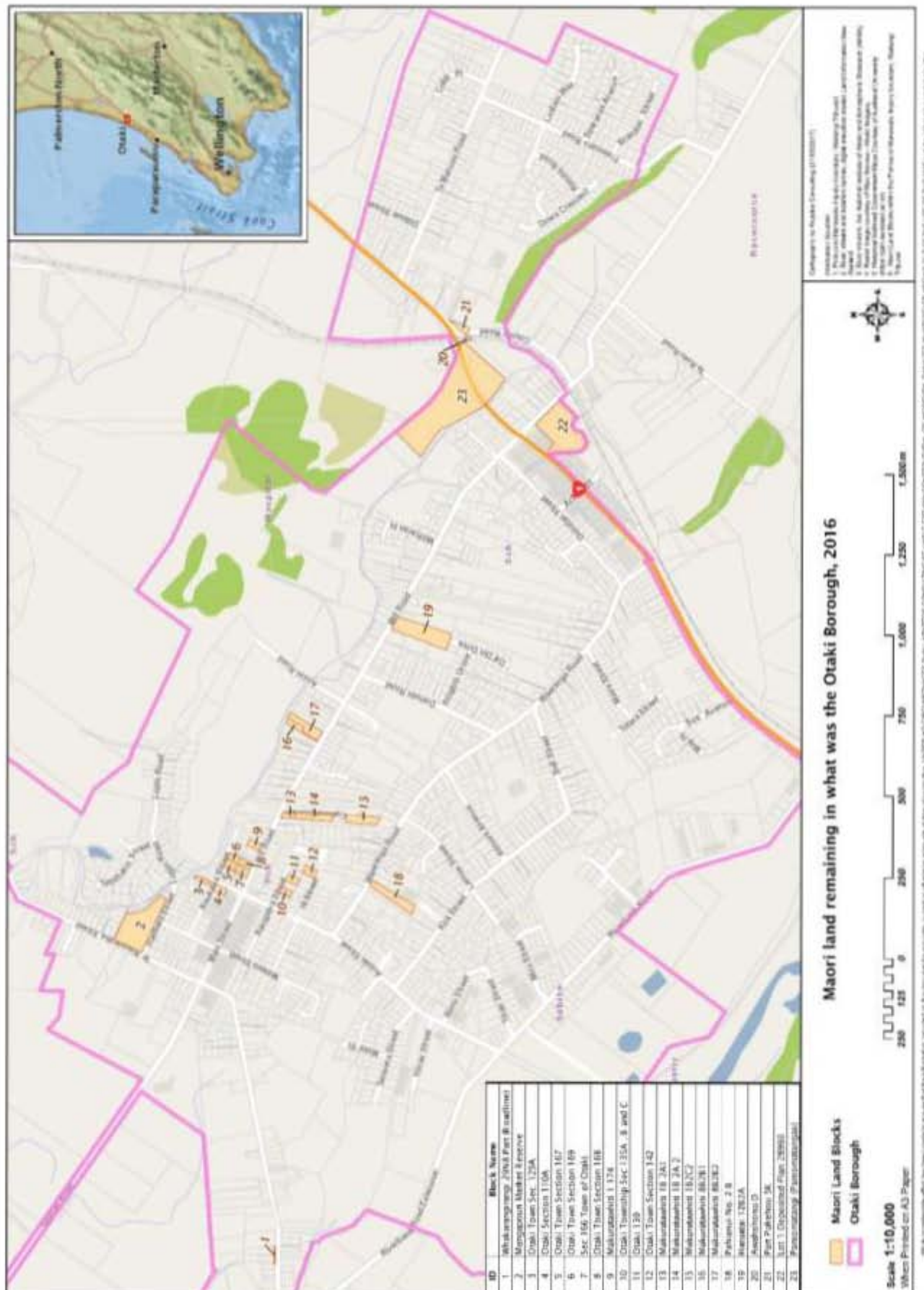
Immediately surrounding the marae sections to the west are Otaki Township sections 162, 163, 164 and 165. Immediately to the west are Otaki Township sections 170, 171 (which is also known as Makuratawhiti 1 section 171), 172, 173, 175, 176 and 176A. Next to the Otaki township sections to the east are the Makuratawhiti and Haruatai blocks. There is one Haruatai section (12B2A) and seven Makuratawhiti sections that are still Maori land.

Of note is of the ten sections sold in the late 1960s at the instigation of the Otaki Borough Council under section 109 of the Rating Act 1925 or section 438 of the Maori Affairs Act 1953, all but three were sections of the Otaki township or from the Haruatai block so in close proximity to Raukawa Marae (as demonstrated in map 12). There is nothing to suggest in any of the correspondence between the Council's solicitors and the Maori Trustee and Maori Land Court about the vestings that the Otaki Borough Council considered how these sales would impact on the ability of Maori to live in close proximity to their marae.

The sale of Otaki Township section 147, which was located immediately across the road (Mill Road) from the marae in 1974 to the Otaki Borough Council also does not suggest that the Council was concerned about maintaining or ensuring Maori housing around the marae particularly as the section was zoned commercial. This section had also been vested in the Ikaroa Maori Land Board in 1929 but within one year the rates were paid and it was re-vested back in its owner, Pirihira Hohepa. She had other interests around Otaki including another vested block that had been leased. This covered the rates on that land and section 147. She planned to use the rental monies from section 147 which had been leased to the Bank of Australasia to support herself. By 1974, however, the building was described as derelict. It also encroached on an unformed street. It was sold to the Otaki Borough Council so the owner could use the proceeds to buy a flat. The same owner also owned section 163 (which was likely to have been the other land mentioned as vested in 1929) which by 1974 had become European land (possibly Europeanised under the 1967 Act). This block, located on a section to the west of the marae on the same side of the road, was also sold to the Otaki Borough Council by the same owner as section 147 at this time.⁹⁵⁰

⁹⁵⁰ Otaki Minute Book 78, 8 November 1974, p. 348.

Map 13: Maori Land remaining in what was the Otaki Borough, 2016



9 Horowhenua County Council and Horowhenua District Council, 1885-2017

9.1 Establishment of Horowhenua County Council, 1885

The Horowhenua County Council was established in 1885. Its area encompassed the southern area of the Manawatu County (the Horowhenua Riding). The northern boundary was the Manawatu River as far as Opiki, and the southern boundary the Waikanae River. The western boundary was the sea and the eastern the Tararua ranges. The Horowhenua county and the Hutt county, which was established in 1877 and comprised the western side of the lower North Island south of the Waikanae River (with the exception of Wellington city), were the two counties whose boundaries covered the largest area of inquiry district land at this time.⁹⁵¹

The establishment of the County was instigated by Horowhenua Riding European landowners. They sent a petition to the Colonial Secretary which, according to AJ Dreaver who wrote a centennial history of the Horowhenua County, was a ‘deliberate act of defiance against the Manawatu County Council’. Dreaver also states that although the petition was signed by only 96 men it ‘represented almost the whole ratepaying population of the region’. The Manawatu County Council disagreed with the proposal stating that there were insufficient settlers in the Horowhenua Riding to warrant a separate council and that the interests of ‘opening up and developing’ the area was ‘more likely to be attended to by the Manawatu County than by a separate body’. Maori (and Crown) land was also mentioned as a reason why a separate county should not be established. The Manawatu County chair stated that the interests of Crown and Maori lands were ‘more likely to be considered when administered by a Council having a strong interest in keeping up the main lines of communication, than by a body which would be elected and controlled by a few ratepayers located in one small township’[Otaki]. The Colonial Secretary disagreed, however, and granted the request of the petitioners.⁹⁵²

⁹⁵¹ Archive Central: archivescentral.org.nz; A J Dreaver, *Horowhenua County and its People A Centennial History*, Levin, 1984, p. 11; Jan Kelly & Brian Marshall, *Atlas of New Zealand Boundaries*, Auckland, 1986, pp. 1.5.3 and 1.5.4.

⁹⁵² A J Dreaver, *Horowhenua County and its People A Centennial History*, Levin, 1984, p. 11; Jan Kelly & Brian Marshall, *Atlas of New Zealand Boundaries*, Auckland, 1986; Ernest S Thynne, Chairman, Manawatu County Council to Colonial Secretary, 27 September 1884, quoted in A J Dreaver, pp. 66, 79.

When it was first established the County had three ridings: ‘Otaki (the area surrounding Otaki Township), Te Horo (the southern portion of county around Waikanae) and Whirokino (the northern part of county including Levin and Shannon)’. In 1893, ‘part of Whirokino Riding was split off to form Tokomaru Riding which started just south of Shannon and covered the northern most part of the county’.⁹⁵³

In 1912, the Otaki Town Board was established which affected 1190 acres of the county. Two years later it became an independent town district so assumed all the powers of a county council including rating. In 1921, the Otaki Borough Council was established. It encompassed 2052 acres but this was reduced to 1421 acres in 1927. This is discussed in the previous chapter. The Otaki Borough Council was dis-established in 1989 and the area now forms part of the Kapiti Coast District Council.⁹⁵⁴

The offices of the county were initially located at Otaki but were moved to Levin in 1896. Archives Central records that on 9 February 1898 a ‘major fire destroyed the County Offices and many early records were lost. Some records survived the fire in a safe, although many were badly charred’.⁹⁵⁵

As noted, the Waikanae River was the southern boundary of the Horowhenua County which meant that Waikanae was within the council’s jurisdiction (it was part of Te Horo Riding). Chris and Jean Maclean, who wrote a history of Waikanae, record that in 1953, the Waikanae County Town Committee (a standing committee of the Horowhenua County Council) was formed ‘to give Waikanae more say in its own affairs’. In 1971, the Waikanae County Town became a county borough and in 1974 the Waikanae District Community Council was established. In 1987, there were ‘four representatives [from the District Community Council] on the Horowhenua County Council’.⁹⁵⁶

In 1977, the Interim Horowhenua United Council was formed by the Horowhenua County Council and the Levin, Otaki and Kapiti Borough Councils. Archives Central records that ‘although it did not have any statutory backing under the Local Government Act 1974, it was

⁹⁵³ Archives Central website: <http://archivescentral.org.nz/> accessed April 2016.

⁹⁵⁴ <http://otakihistoricalsociety.org.nz/Otaki+History>; <http://archivescentral.org.nz/>; Dr John Cookson, ‘Three Commissions of Inquiry: Ratepayer Disaffection in Otaki Borough During the 1920s’, *Otaki Historical Journal*, 2010, p. 63.

⁹⁵⁵ Archives Central website: <http://archivescentral.org.nz/> accessed April 2016.

⁹⁵⁶ Maclean, Chris and Joan, *Waikanae Past and Present*, Whitcombe Press, 1988, p. 80.

a completely legal body under the Counties Act 1956, the Municipal Corporations Act 1957, the Civil Defence Act 1956 and the Town and Country Planning Act 1977'. The Council had responsibility for 'the coordination of civil defence and development of a regional plan'. Further:

The Council did not have its own staff, instead they were provided by the Horowhenua County Council based in Levin. In 1980 the United Council was officially created following declarations from the four local councils. The inaugural meeting was held in the Horowhenua County Council chambers in Levin on the 30th July.⁹⁵⁷

In 1989, the United Council was amalgamated with a number of other authorities to form the Manawatu Wanganui Regional Council.⁹⁵⁸

Also in 1989, as part of the nationwide local government re-organisation, the Horowhenua County Council was amalgamated with Levin Borough, Foxton Borough and part of the first Manawatu District Council to form the Horowhenua District Council. The Waikanae, Paraparaumu and Otaki areas (including the Otaki and Kapiti Borough Councils – the latter being established in 1974 from part of the Hutt County Council) became part of the new Kapiti Coast District Council (KCDC).⁹⁵⁹

9.2 The Councillors of the Horowhenua County Council

The first meeting of the Council was held 24 January 1885. The first Council was made up of European men: AJ Hadfield (chair), John Davies, J Jones, John Kebbell, WH Simcox, Alexander Small and WN Ward. The list of councilors names up until 1983 provided in Dreaver's book reveals with one exception, no Maori names. There has also been no mention of any Maori councilors in any of the records examined for this report with the exception of Te Aputa Kauri who was elected to represent the Waikanae Riding between 1980 and 1983. She was the daughter of Tohuroa and Teoiroa Parata and great-granddaughter of Wi Parata. The Maclean's quote a tribute to her which stated that she 'provided a strong link between the

⁹⁵⁷ Archives Central website: <http://archivescentral.org.nz/> accessed 2016.

⁹⁵⁸ Ibid.

⁹⁵⁹ Ibid; Maclean, p. 82.

Maori people and the council'. She was also an advocate for Maori, objecting in 1970 to the rezoning by the Horowhenua County Council of Ngarara West A14B1 from cemetery reserve to 'residential' (discussed towards the end of this chapter). She was also said to be 'heartbroken' when the land on which her home stood in Waikanae was rezoned 'commercial' in 1965 to allow for the commercial centre of Waikanae to be built. Her land was acquired in conjunction with the Waikanae County Town Committee, by the Horowhenua County Council in 1969 under the Public Works Act. These actions of the Council may well have been what prompted her to stand for and be elected to the newly constituted Waikanae Borough Council in October 1971. She continued on the Council (which later became the District Community Council) until she died in 1985.⁹⁶⁰

At Mrs Kauri and the Borough Council's inaugural meeting, the Horowhenua county clerk, JH Hudson (who, despite Mrs Kauri's evidence had supported the change in designation of the cemetery) said that it 'seemed appropriate and felicitous to have a descendant of one of the paramount chiefs of Waikanae to serve on the Council – in the person of Councillor Mrs Kauri – thus providing a link with the past'.⁹⁶¹

In an undated paper containing biographical statements of those seeking appointment to the Waikanae County Borough, Mrs Kauri stated firstly that she had four children, that she was born in Waikanae and had a 'long historical association in the growth and progress of Waikanae'. She said she was 'keen to retain Maori culture' which was apparent from her service on Maori committees since 1950. She was serving on a Maori committee of the Ikaroa District under the New Zealand Maori Council. She said she had 'always shown interest in and participated in community organisations'. She was the 'first active President of the Waikanae Art Society Inc., having been honoured that year as a Life Member'. She said that she was in favour of remaining with the Horowhenua County for 'many years', that she was 'not against progress, providing it was 'gradual and not brought about at the expense of the environment'. Her 'object' was to be 'philosophical and practical in the progress of Waikanae, on the problems confronting the community'.⁹⁶²

⁹⁶⁰ Dreaver, pp. 301-303; Maclean, p. 83.

⁹⁶¹ Minutes of the First Meeting of the Waikanae County Borough Council, 28 October 1971, Horowhenua County Council records, series 2, 1/10 Waikanae County Borough Council Minutes, 21 May 1961-20 June 1975, Kapiti Coast District Council, Paraparaumu. SW Document Bank, volume 4, p. 57.

⁹⁶² Biographies of those seeking appointment to Waikanae County Borough, undated (circa 1971), Horowhenua County Council records, series 3- Correspondence files [Box 1/103] 3/51 26/17 Waikanae County Town

9.3 Population

In 1878, there were 672 Maori recorded as living in the Horowhenua District. In 1901, the census recorded that there were 4655 Europeans and 1149 Maori in the county which meant that Maori made up almost 25 percent of the population. In 1926, the proportion of Maori had reduced with 1236 Maori and 6631 European living in the county. This meant that Maori made up about 18.5 percent of the population at this time.⁹⁶³

9.4 Chapter focus

The main focus of this chapter on the Horowhenua County Council is rates. This is because the County, like the Otaki Borough Council had much Maori land within its jurisdiction and as it did not always receive all the rates it levied, it pursued the rates vigorously particularly in the 1960s and early 1970s. This pursuit of rates involved a large amount of charging and receivership orders and culminated in the compulsory sale of 57 parcels of Maori land. This land was vested in the Maori Trustee or the Council's rate-collector by the Maori Land Court under section 109 of the Rating Act 1925 and under section 438 of the Maori Affairs Act 1953.

In addition, the restriction on the subdivision of rural Maori land by the Council as per the Town and Country Planning Acts will also be discussed with a particular emphasis on the Ohau block. As well as the actions of the Council and Waikanae County Town Committee concerning Karewarewa Urupa at Waikanae (Ngarara West A14B1) are examined.

9.5 Rating, 1882-1889

As noted in the legislative chapter of this report, between 1882 and 1888, councils received the rates that they levied on Maori land from the Crown. The following tables shows some of the money that the Horowhenua County and Road Boards within its boundaries received during this period:

Committee, CF762 9 Mar 1960-11 Jun 1976, Kapiti Coast District Council, Paraparaumu. SW Document Bank, volume 4, pp. 59-60.

⁹⁶³ *Manawatu Times*, Volume XXVI, Issue 7215, 22 April 1901, p. 3.

Table 18: Payments to Local Bodies in inquiry district under Crown and Native Lands Rating Act, 1882, from 23 July 1885 to 31 May 1886

Local authority	Crown	Maori	Total
Horowhenua County Council	£96.11.4	£152.8.8	£249.0.0
Otaki Road Board	£23.16.10	£45.17.11	£69.14.9
Whirokino Road Board	£42.19.10	£268.6.6	£311.6.4
Te Horo Road Board	£11.0.4	£24.16.8	£35.17.0
Total	£172 (aprox)	£491 (aprox)	£665 (aprox)

Source: Payments to Local Bodies in inquiry district under Crown and Native Lands Rating Act, 1882, 23 July 1885 to 31 May 1886; AJHR, 1886, B15

Table 19: Payments to Local Bodies in inquiry district under Crown and Native Lands Rating Act, 1882, from 1 June 1886 to 30 September 1887

Local authority	Crown	Maori	Total
Horowhenua County Council	£208.18.1	£506.15.9	£715.13.10
Otaki Road Board	£38.9.2	£41.4.7	£79.13.9
Whirokino Road Board	£66.6.7	£310.11.10	£376.18.5
Te Horo Road Board	£56.11.9	£28.11.11	£85.3.8
Total	£368 (aprox)	£885 (aprox)	£1253 (aprox)

Source: Payments to Local Bodies in inquiry district under Crown and Native Lands Rating Act, 1882, 1 June 1886 to 30 September 1887, AJHR, 1887, Session II, B7.

Research has not established what the rates the Horowhenua County Council received on Maori land under the 1882 Act were spent on. No further information on the rating of Maori land during this period has been located.

9.6 Rating in the 1890s and response to the change in legislation

As discussed in the legislative section, in 1888, legislation was enacted so that rates levied on Maori land by local authorities were no longer paid for by the Crown and authorities had to recoup the rates they levied themselves. The response of the Horowhenua County Council in June 1890 to this was to endorse the opinion of the Cook County Council that all county chairs be authorised to urge their member of parliament to bring the matter of the rating of Maori land before parliament.⁹⁶⁴ The Council, together with the Ohinemuri County Council also wrote to other councils in 1891 asking that they support its petition to the government

⁹⁶⁴ *Manawatu Herald*, Volume III, 20 June 1890, p. 2.

which proposed that the government resume the payment of rates on Crown and Maori land.⁹⁶⁵

In August 1894, representatives of the Horowhenua County Council attended a County Councils' conference where the issue of the rating of Maori land was discussed. In attendance for Horowhenua was the chair Mr Kebbell and a councillor Mr Engels. In this instance, the request to government regarding the rating of Maori land had changed. The conference carried the motion: 'That the Government be asked to introduce a measure providing for the rating of Native lands by County Councils and Road Boards, for the purpose and upon the same basis as that obtaining in respect of European lands'.⁹⁶⁶ The Horowhenua County Council continued in this vein of asking for Maori land to be rated as European land in August 1898 at the conference of the New Zealand Counties Association. Representing the Horowhenua County Council was councillor HJ Richards who resolved: 'That the Government be asked to have Native lands brought into special rating districts and made amendable to the Local Bodies Loans Act and the Government Loans to Local Bodies Act'.⁹⁶⁷

Councillor HJ Richards made other proposals regarding the rating of Maori land at a meeting of counties in 1901. He proposed that the government amend the Rating Act so that Maori were 'liable for full rates in lieu of only half as at present'. Also, that the Act be altered so that where more than one Maori appeared as the owner of land, the local body could recover the rates 'from the first name appearing on the rate book'. Finally, he suggested that 'a clause be inserted to make land included in a special district, and afterwards passing into the hands of natives, liable for said rate'. An amendment to these suggestions was proposed by J. Davies who was also a councillor for the Horowhenua County. He asked that the rating on all Maori land, where title had been ascertained 'be the same as on that owned and occupied by all other persons in the colony, and that the person whose name first appears on the list of owners shall be the person to sue for all rates due also, native lands shall be included in a

⁹⁶⁵ *Wanganui Chronicle*, Volume XXXIII, Issue 11236, 7 April 1891, p. 2; *Evening Post*, Volume XLI, Issue 87, 14 April 1891, p. 2. Further details on the petition could not be located in the AJHRs for the period 1890-1892.

⁹⁶⁶ New Zealand County Councils' Conference, August 1894, AJHR, 1895 Session I, H-05.

⁹⁶⁷ *Evening Post*, Volume LVI, Issue 41, 17 August 1898, p. 5. J Kebbell was a councillor between 1885 and 1902 and 1911 to 1914; GN Engels was a councillor between 1893 and 1899; and HJ Richards was a councillor between 1893 and 1902 and 1905 to 1914. Dreaver, pp. 301-303.

special rating district where it is shown that such lands are benefitted by the expenditure of the special rates'. The remits were passed unaltered.⁹⁶⁸

Comments were also made by newspaper correspondents which directed criticism at Maori for not paying rates. In 1896, it was reported that the Road Board had made good use of its time during the previous months as roads were now in 'very respectable order'. The exception 'of course' was three miles of 'mire' which ran through a 'piece of bush known as Ihakara's Reserve'. It was noted that the reserve was Maori land for which the Council received no rates but it was understood that steps were to be taken 'to remedy the evil of this block in the road which practically shuts off Levin from the northern part of the country'.⁹⁶⁹

9.7 Early Rating of the Horowhenua Block, 1896

It is clear that parts of the Horowhenua block were being rated in the late nineteenth century and that the Council and Whirokino Road Board were receiving payment. In 1893, correspondence was received by the Road Board from Sir W Buller and Mr Stuckey regarding Maori rates on Horowhenua block sections and past expenditure of Maori rates. The Council decided that the chair would reply to Messrs Buller and Stuckey that the Board's engineer was arranging a 'scheme of roads to give access to each block if possible'.⁹⁷⁰ This would indicate that Buller and Stuckey were challenging the Council to spend the rates on access to Maori land. Further research is required as to how extensive this roading was and whether the access was in respect to only that land leased to Europeans or was also in respect to land occupied by Maori.

It was also recorded in the 'Report and Evidence of the Horowhenua Commission' held in 1896 that two leases of land within subdivision 14 of the block executed by Keepa Te Rangihwinui (or Major Kemp) to Sir Walter Buller (who represented Kemp and a large portion of Muaupoko at the commission) contained provisions to clear arrears of rates. The area of the Horowhenua block located on the eastern side of the railway and leased in 1892 for six years contained the provision that Buller would pay the arrears of rates amounting to £8. In addition, Buller was to pay outstanding rates of £40 on another area of the block leased

⁹⁶⁸ *Evening Post*, Volume LXII, Issue 18, 20 July 1901, p. 5.

⁹⁶⁹ *Evening Post*, Volume LIII, Issue 2, 27 May 1896, p. 2.

⁹⁷⁰ *Manawatu Herald*, 26 January 1893, p. 2.

to him for a period of 27 years by Kemp, also in 1892. A third section contained the provision for the lessee to pay £48 in outstanding rates.⁹⁷¹

In 1904, Hopa Te Piki and three others offered to sell a portion (250 out of 315 acres) of the Horowhenua No 11 block at Te Ara Paepae to the Crown. His reason was rates related as he told the Native Minister:

Pakehas do not want to lease it or to deal with it, well, we are continually paying rates thereon year after year and your [can't read] – see that we get no benefit therefrom this is the land that you and Mr J Stevens were told about and you said that he would go and look at it.⁹⁷²

9.8 Rating, 1910 – 1927

Little else has been discovered regarding the rating of Maori land by the County in the first decade of the twentieth century. There is extensive evidence of debate on the issue, however, from 1913. In November of that year, it was reported that the Horowhenua County Council intended to discuss fully at its next meeting the question of collecting rates on Maori land. It was claimed that ‘several well-to-do natives, owning large areas of land, fail[ed] to pay rates’ and that a move would be made to get them do so.⁹⁷³ The intention to discuss the matter could well have stemmed from a change in the rating legislation which allowed for rating liens to be registered on the title of Maori land. The legislation, section 14 of the Rating Amendment Act, 1913, was enacted in December 1913. Several local newspapers reported on the council’s meeting held in December 1913 where the issue was discussed. The *Horowhenua Chronicle* firstly commented that rating of Maori land had been an ‘unprofitable undertaking’ for the county in recent years but that a ‘way-out’ had been found by Councillor GA Monk who addressed the council on the subject. Mr Monk moved that the county clerk be ‘instructed to issue rate accounts to all native ratepayers resident within the Horowhenua County’ and that a committee consisting of one representative from each riding, together with the Clerk, be set up to consider the advisability of taking legal proceedings against those who

⁹⁷¹ Report and Evidence of the Horowhenua Commission, 1896, AJHR, 1896 Session I, G-02, p. 15.

⁹⁷² Hopa Te Piki and three others to Minister for Native Affairs, 12 December 1904, ACIH 16082 MA75/4/24 Miscellaneous papers, including a sketch plan of subdivisions of No 11 Block, Horowhenua, 1893, 1896-1905 Archives New Zealand, Wellington. SW Document Bank, volume 5, pp. 104-108.

⁹⁷³ *Evening Post*, Volume LXXXVI, Issue 117, 13 November 1913, p. 4.

were defaulters at the end of six months ‘with a view, where practicable of having the different amounts for which judgement may be obtained registered against the various titles concerned’. The motion was agreed to with councillors commenting that it was a ‘step in the right direction’. Councillors Stephenson, Richards, Freeman and Monk were appointed to be the committee. There was no mention of any Maori involvement or a discussion with Maori leaders though Mr Monk also stated that it was a ‘puzzle to him’ why some Maori who never paid their rates were ‘allowed to vote on the issue as to raising special loans’.⁹⁷⁴

The *Manawatu Standard* also reported on the same meeting noting that the Horowhenua County Council had deliberated over what was described as ‘the much-discussed question of native rates’. The *Standard* reported on the decision of the council to issue rate accounts to all Maori rate-payer’s resident in the county and to set up a committee. It also reported a statement by Councillor Monk who said that he did not know whether in the past the Council itself had collected rates from Maori or left it to the clerk. He had ascertained, however, from the Clerk that the council had not paid to collect the rates. He said that in his part of the district there were ‘many acres of fertile land’ owned by Maori who were not paying rates. Recently a petition was circulated asking for river protective works with people forming themselves into a special rating area to ‘carry a loan’. There were Maori signatures attached to the petition so thought that if Maori were petitioning the council then they should pay rates. The Council also discussed registering judgements against Maori land and selling it and whether this was legal. It was pointed out that the consent of the Native Minister had to be secured first before land could be sold.⁹⁷⁵

It is not clear what the Council did in the interim, but almost seven months later, the situation, from the Council’s perspective, had not improved. In July 1914, it was reported that the Horowhenua County Council had received no rates on the estimated 15,034 acres of Maori land within the county at that time.⁹⁷⁶ It is very likely, however, that this figure did not include Maori land leased to Europeans.

⁹⁷⁴ *Horowhenua Chronicle*, 15 December 1913, p. 2. Note that nothing was located within Horowhenua county records located at Archives Central about the committee.

⁹⁷⁵ *Manawatu Standard*, Volume XLI, Issue 9675, 15 December 1913, p. 5.

⁹⁷⁶ *Auckland Star*, Volume XLV, Issue 179, 29 July 1914, p. 7.

The *Chronicle* reported several years later that the County Clerk had found in 1914 that a large amount of rates on Maori land was levied and ‘found uncollectable’. A councillor, Mr Kebbell, also mentioned that in some cases, properties held by European lessees had ‘lapsed back’ to Maori owners ‘from whom the rates were unrecoverable’.⁹⁷⁷

The Council discussed the rating of Maori land again in January 1915, stating that Europeans paid their rates, including special rates, and that it was ‘time the Council took steps to recover the rates from the Natives’.⁹⁷⁸ In November 1915, another committee consisting of Councillors Stephenson, Retter, Freeman and Monk was established to ‘go into the question of native rates’. Councillor Monk was reported as saying that as Maori used the roads they should pay rates.⁹⁷⁹

Also in January 1915, a petition regarding the extension of a water race so as to irrigate farm land was received from various rate payers including Ropata Metapere. He was included in the list of five Maori who were rated in the Horowhenua County Council rates books, Te Horo riding for 1917-1918 though he is not recorded as having paid.⁹⁸⁰ It has not been established whether assistance was forthcoming in regard to the water race extension.

By the end of 1915, GA Monk, who had become a councillor in 1911, was appointed chair. He remained in this position until 1947.⁹⁸¹ It was not just the rating of Maori land that concerned him but the payment of all rates. Mr Monk told the Council in January 1916 that it ‘had to be serious in the matter’ and that they ‘wanted the rates in’. He thought that ‘the farmers on the coast must be doing well in these prosperous times and if they could pay now they would not be able to pay any other time’. He said that the auditor had advised that the Horowhenua County Council was the ‘worst council in the dominion in regard to unpaid rates’ and that he ‘wished it to be distinctly understood that the council could take action for the recovery of the rates due 14 days after the issue of the rate notice’. A councillor, Mr Retter, added that the clerk should be given a free hand to prosecute and that formerly councillors had interfered when prosecutions were threatened. Mr Kebbell, who had been chair between 1888 and 1895, disagreed stating that he had never interfered to save anyone

⁹⁷⁷ *Horowhenua Chronicle*, 17 April 1917, p. 2.

⁹⁷⁸ *Horowhenua Chronicle*, 11 January 1915, p. 3.

⁹⁷⁹ *Horowhenua Chronicle*, 15 November 1915, p. 2.

⁹⁸⁰ *Manawatu Standard*, Volume XLI, Issue 9976, 12 January 1915, p. 6.

⁹⁸¹ Dreaver, p. 222; 301-303.

being prosecuted – rather the other way around. It was, however, decided to ‘give the clerk the authority to take any steps that he may consider necessary to collect all rates due’.⁹⁸²

This new stance was reflected at a meeting of the council several months later when it was resolved to inform Mr CH Treadwell, solicitor for Hira Parata of Waikanae, who was ‘cutting up’ a block of land, and who had asked through his solicitors about the council’s requirements for taking over a new road through the property, that ‘the council adheres to its former resolution that the road must be formed and metalled to the satisfaction of the council’s engineer, and that all rates due on the land be paid’.⁹⁸³ The rates, however, do not appear to have been paid as in October of that year, the Levin Stipendiary Magistrates’ Court dealt with the claim of Horowhenua County Council v Hira Parata amounting to £145.9.2. Judgement was given for the plaintiff ‘by default’ and costs amounting to £7.8.0 were also allowed.⁹⁸⁴

The Council also had to contend with settler agitation on the issue. In July 1916, the Whirokino Riding Ratepayers Association met and agreed on a resolution to be forwarded to the chair of the County Council. The Council was asked to advise the association how rates were collected from Maori occupiers of land and whether the legislation which provided for the collection of such rates enabled Maori occupiers to ‘escape his liability in this respect’.⁹⁸⁵ The Council responded to the request at a meeting held the following month. Councillor Retter moved that the County Clerk inform the Whirokino Riding Ratepayers Association that the council hoped to put the collection of rates on Maori land ‘upon a better footing during the current year, and that a committee has been set up and is dealing with the question and is instituting proceedings against the largest defaulters’. Mr Retter said too that the association could assist the council by supplying the names of owners not on the Council’s books, which would, the Chair stated, ‘make the association of some use’. The motion was carried.⁹⁸⁶ This would suggest that the Council did not have full information regarding current owners and occupiers (and was asking ratepayers to do its job for it). This brings in to

⁹⁸² *Horowhenua Chronicle*, 11 January 1916, p. 3.

⁹⁸³ *Horowhenua Chronicle*, 13 March 1916, p. 2.

⁹⁸⁴ *Horowhenua Chronicle*, 20 October 1916, p. 2.

⁹⁸⁵ *Horowhenua Chronicle*, 18 July 1916, p. 3.

⁹⁸⁶ *Horowhenua Chronicle*, 14 August 1916, p. 2.

question its systems used to levy rates as rates could not be collected if they were not properly levied against current owners and occupiers.⁹⁸⁷

By the end of 1916, the Chair, GA Monk, was reported as stating that the Council needed 'perseverance' in regard to the collection of rates on Maori land.⁹⁸⁸

Little else was noted about the issue from July 1916 to August 1917 by the Council although the *Horowhenua Chronicle* reported in February 1917 on a letter received by the Council from an unnamed Maori which advised that he was unable to pay the rates asked for as he had sold the section. This was described by the *Chronicle* as 'naïve'.⁹⁸⁹

In August 1917, the solicitor to the Horowhenua County Council (WS Park) advised the Council to trial the use of provisions within the Rating Amendment Act, 1910 which allowed for judgements obtained by local authorities in respect to Maori land to be enforced. Mr Park asserted that this 'might dissipate the current among natives ... that they can refuse to pay their rates with impunity'. The Council agreed to take the action recommended by Mr Park to recover rates due on Maori land for which judgement had already been obtained in the Levin Stipendiary Magistrates' Court.⁹⁹⁰ Mr Park quickly got to work as two months later, in November 1917, WS Park forwarded to the Council a cheque for £143.16.9 which was most of the judgement made for rates on section 78 Ngarara West in the case of the Council versus (Hira) Parata and a refund of Court costs of £9.0.6 less 3s 9d exchange.⁹⁹¹

Also in 1917, the Council decided to support the Hokianga County Council's proposal to have liens for unpaid rates on Maori land registered in the Native Land Court where Maori land had not been brought under the operations of the Land Transfer Act.⁹⁹²

Nothing further about the rating of Maori land was recorded as being discussed during the subsequent months (from December 1917) until December 1918 when Mr Monk referred to a scheme put into practice by the Council for the collection of rates on Maori land stating that it

⁹⁸⁷ *Horowhenua Chronicle*, 9 December 1916, p. 3.

⁹⁸⁸ *Horowhenua Chronicle*, 9 December 1916, p. 3.

⁹⁸⁹ *Horowhenua Chronicle*, 10 February 1917, p. 3.

⁹⁹⁰ *Horowhenua Chronicle*, 14 August 1917, p. 2.

⁹⁹¹ *Horowhenua Chronicle*, 10 November 1917, p. 3.

⁹⁹² *Horowhenua Chronicle*, 11 September 1917, p. 3.

had ‘proved most successful and more than justified its adoption’. This ‘scheme’ appears to be obtaining judgement in the Magistrates’ Court and the Court enforcing payment.⁹⁹³

It was, however, reported in June 1919 that more rates on Maori land were being collected than previously, but that it was still, according to the Treasurer of the Horowhenua County Council, PW Goldsmith ‘not too satisfactory’.⁹⁹⁴ The *Horowhenua Chronicle* reported along similar lines adding the Treasurer’s statement that ‘every effort should be made to make those properties at least which are largely benefited by the public roads pay a fair contribution towards their upkeep’.⁹⁹⁵

The only mention of rates on Maori land for the rest of 1919 was in December when the Council decided that 10 percent penalty would be added to all rates due and outstanding after 21 February 1920. In May 1920, it was recorded that the Council had written off rates of around £150 and special rates of £26 for the year 1916-1917 though it was not specified whether this was on Maori land or not.⁹⁹⁶

Clues as to the Horowhenua Council’s ongoing strategy during this period can be found in several newspapers reports from 1920. It was reported in March 1920, that Rangihutu Rema was ordered to pay the Horowhenua County Council £6.2.11 at a sitting of the Magistrates’ Court before Mr Stout Stipendiary Magistrate. Similarly, in August 1920, at the Levin Magistrates’ Court, WS Park, the lawyer for the Horowhenua County Council was recorded as winning judgement by default against Erena Ropiha for £8.7.8 plus costs of £1.3.6. Although it is not stated that it was rates related, it does appear to be the likely reason.⁹⁹⁷

In 1920, the Horowhenua County Council supported a resolution of the Bay of Islands County Council that local authorities should have ‘full powers to enforce payment of native

⁹⁹³ *Horowhenua Chronicle*, 17 December 1918, p. 4. The *Horowhenua Chronicle* was also checked for 8 December 1917, 12 January 1918, 12 February 1918, 14 March 1918, 13 April 1918, 14 May 1918, 11 June 1918, 18 July 1918, 13 August 1918, 14 September 1918, 17 October 1918, 14 November 1918. Also checked from January 1919 to May 1919.

⁹⁹⁴ *Manawatu Standard*, Volume XLIII, Issue 1552, 5 June 1919, p. 3.

⁹⁹⁵ *Horowhenua Chronicle*, 5 June 1919, p. 4.

⁹⁹⁶ *Horowhenua Chronicle*, 16 December 1919, Page 4; *Horowhenua Chronicle*, 10 May 1920, p. 4. The *Horowhenua Chronicle* was also checked from July 1919 to February 1920.

⁹⁹⁷ *Manawatu Times*, Volume XLIII, Issue 1520, 20 March 1920, p. 2; *Horowhenua Chronicle*, 20 August 1920, p. 3.

rates'. There is no other mention of the rating of Maori land during 1920 in the accounts of meetings recorded in the *Horowhenua Chronicle*.⁹⁹⁸

FH Hudson, who was County Clerk from 1923 to 1959, also spoke before the Otaki commission in 1928 (discussed in the Otaki Borough Council chapter). He said that 'speaking generally, he did not think it was the desire of Natives to get out of their obligations, for he considered that many of them did not understand the position properly'. So far as the Horowhenua County was concerned, he thought that Maori were 'not failing in their obligations. All Europeans did not pay their rates, but in their case the rates could always be secured against the land'.⁹⁹⁹

9.9 First charging orders, 1927-1933

Not long after the passing of the Rating Act 1925, which allowed for charging orders against the land to be made by the Native Land Court (section 108), the Horowhenua County made its first applications for charging orders. They were heard by the Native Land Court in March 1927. The six applications were for the years 1 April 1925 to 31 March 1926 and 1 April 1926 to 31 March 1927 concerning the following blocks:

- Ngakaroro 1A6C - £23.15.4
- Ohau 3A2, 4A1, 3A2, 4B - £20.4.3
- Ohau 3 Nos V & VI, Waitohu SD - £38.11.4
- Ohau 3 No 13, Block V Waitohu SD - £10.4.3
- Ohau 3 sub 21 lots 1, 3, & 4 - £32.6.6
- Ohau 3 No 262C - £9.11.5

Initially no Council officers or solicitors were present at Court or any of the Maori owners. Later, Mr Adams appeared for the council as well as FH Hudson, the county clerk, but the owners remained absent. A Mr McDonald, whose role is not clear from the minutes, said he understood that the Native Trustee was administering Ohau 3 sub 21 lots 1, 3, & 4 so the application was 'held over'. Charging orders were, however, made in respect of the other

⁹⁹⁸ *Evening Post*, Volume XCIX, Issue 140, 14 June 1920, p. 2.

⁹⁹⁹ *Evening Post*, Volume CV, Issue 114, 16 May 1928, p. 6.

applications. No other discussion about the land or the owners was recorded in the minutes.¹⁰⁰⁰

In August 1928, the charging order for Ohau 3 sub 21 lots 1, 3 & 4 was made. The minutes record that it had been deferred to allow the owner to pay the rates but they had not done so. No further information was given. Of note, was that on the same day as this later charging order was made, the Horowhenua County Council appeared before the Native Land Court in respect to 1 rood 7 perches of the Pukehou 4B4A1B1 block the Crown had taken on its behalf for road straightening purposes under the Public Works Act. The owners were awarded compensation of £15 (above the valuation of £10.5.0) though again it does not appear that they were in Court.¹⁰⁰¹

Three further applications for charging orders were made on 30 April 1930 in respect to unpaid rates for 1927-1929 and 1928-1929. These were in respect to two of the blocks already subject to charging orders (Ohau section 3 & 4 of blocks V & VI and section 3/13 of block IV; and Ohau 3A2, 4A1, 3A2 4B). Charging orders of £54.9.8 and £22.1.0 plus costs were made for these blocks respectively. The third application was for the Raumatangi block (104 acres 1 rood 24 perches) but it was held over as it was considered that the lessee, Rere Nicholson (Eruera Nikitini), should pay the rates. Nothing else about the land or the owners was mentioned in the Court minutes though a file note on a Horowhenua County Council file recorded that the case had been adjourned in order that Rere Nicholson receive a rate notice (meaning that again, the rates had not been properly levied against the responsible occupier). The writer said that if he failed to pay the rates an order would then be granted. Also, that the rates owing were attached and ready for posting out but the Judge would only grant an order for the previous two years. The note concluded: 'Probably Nicholson will evade the order'. In fact, no charging orders against this block have been located in the Maori Land Court block order file for Raumatangi. As well, in September 1930, a request was made by the owners to the Native Department for five acres of the Raumatangi B block (101 acres 36 perches) which comprised a cemetery to be exempted from rates. The Under Secretary for the Native Department was told by the Chief Surveyor that the area of the urupa comprised just 1 rood 05 perches. He in turn advised the Native Minister that although the urupa was located on a plan, it was not surveyed and would be 'difficult to describe for exemption purposes'. He

¹⁰⁰⁰ Otaki Minute Book 58, 3 March 1927, p. 127.

¹⁰⁰¹ Otaki Minute Book 58, 9 August 1928, pp. 237-238.

claimed that as the block was valued at less than £15 per acre the result obtained ‘would scarcely be worth the trouble’ and that it would be ‘absurd to get 5 acres cut out for that purpose alone’. Rere Nicholson (who leased the block less three acres ‘reserved for a cemetery’ for 21 years from 1 April 1923), was then advised by the Native Minister, Apirana Ngata, that as the area was so small it was ‘not to be worth troubling about’. Also, that ‘five acres could be exempted if the Court partitioned it off as a urupa, but it would be too expensive to do this to save the rates’. In response, Mr Nikitini advised Mr Ngata that he knew that the area was three acres, that he had discussed the matter with his brother, and that the matter would be heard at the Native Land Court shortly. He said that he was asking for an area of five acres for the cemetery and for every owner of the block to contribute to that area. He was also, he said, asking for a right of way ‘20-foot-wide or whatever width is required to the cemetery’. The three-acre Raumatangi B4 block, which comprised the cemetery, was not, however, partitioned out until 1944 though valuation rolls show the three acres as exempted as per an entry made in the valuation roll in 1937. This would suggest that was when the block became exempted. An earlier valuation roll entry (pre1937) for the block was inaccurate showing the occupier as ‘Waratini and others’ instead of Rere Nikitini. This example shows too that trying to exempt an urupa from rates was not a straightforward process.¹⁰⁰²

In October 1931, eight more applications for charging orders were heard by the Native Land Court. Mr Thomson appeared for the ‘applicant’ (the Horowhenua County Council). He said that there were no Maori owners present. No other information was forthcoming including over what period the rates had been charged and the orders were made by the Court in respect to: Ohau 3 18C (£13.9.8), Ohau 3 31X (£12.5.9), Ohau 3 7A (£12.5.10), Ohau 3A24A1B

¹⁰⁰² Otaki Minute Book 58, 30 April 1930, p. 325; Maori Land Online: <http://www.maorilandonline.govt.nz/>; AFHQ 19340 V-WRolls 166 3/24 part 2 Valuation rolls Wellington – Horowhenua County – Wirokino Riding – Roll numbers 799-1424, 1930-1939, Archives New Zealand, Wellington; HRH Balneavis, Private Secretary to Minister of Native Affairs to Under Secretary, Native Department, 16 September 1930; Under Secretary, Native Department to Registrar, Native Land Court, Wellington, 24 November 1930; Registrar, Native Land Court, Wellington to Under Secretary, Native Department, 27 November 1930; Under Secretary, Native Department to Native Minister, 4 February 1931; Rere Nicholson to Apirana Ngata. 18 March 1931, ACIH 16036 MA 1 1540 1930/497 Received: 16th September 1930. - From: Private Secretary, Honourable Native Minister, Wellington. - Subject: Raumatangi Block - that 5 acres to comprise the Cemetery be exempted from payment of rates, 1930-1931, Archives New Zealand, Wellington. SW Document Bank, volume 5, pp. 109-112, 114-121. File note, 30 April, 1930, HDC 00098 1 1 Maori Land, Rate Charging Orders, 1923-1932, Archives Central, Feilding. SW Document Bank, volume 9, pp. 4-5.

(£8.0.2), Ohau 3A24 pt 4B (£8.0.2), Ohau 3A24 pt 4B [sic] (£7.0.9) Ohau 3A25A (£12.0.3) and Ohau 3A5C (£3.10.4) plus costs ranging from between 8/- and 15/-.¹⁰⁰³

One year on another tranche of applications were made. This time there were 44 (application No's 36 to 79). The minutes of 13 October 1932 record that the 44 (unnamed) applications were adjourned to the next Court sitting at Levin where, it was stated, that charging orders would be made in all cases where the Maori owners had 'failed to pay unless they can show good cause to the contrary'. The minutes also asserted that 'most of the defaulting ratepayers ... [were] dairying and sending their milk to the factory', that they got 'monthly cheques and should have money to pay'. Also, that most of the rates demands were for 'small sums' which could be 'readily met'. A Horowhenua County Council file note records that the day before the adjournment, the Judge of the Native Land Court hearing the applications received 'representations' from Hone McMillan on behalf of Ohau East Road Maori where it was stated that there was a possibility that the owners would come to some arrangement to pay the rates due. The Judge then agreed to hold over consideration on of the applications until the afternoon. In the afternoon, the Court went through each application but there was no appearance from Ohau Maori. The Judge then said he would hold over making the orders until the following days in case the owners 'made some effort to pay in the meantime'. As noted above, on the following day the Judge adjourned the applications. Solicitors for the Council, Park & Adams then advised the County Clerk that the applications had been adjourned 'on the assurance of most of the native owners that they would pay the rates during the present milking season'.¹⁰⁰⁴

On 9 March 1933, the Horowhenua County Council applied for the 44 charging orders adjourned from 1932. Of the 44, seven were dismissed as rates had been paid, and two were adjourned. No information was given regarding the status or ownership details of any of the blocks. All that was provided in the minutes is a list of blocks and the amounts owed. The blocks were subdivisions of the Ohau, Horowhenua, Manawatu-Kukutauaki, Aratangata and Waiwiri East blocks and the amounts ranged from 10/10 to £16.2.6. Just five of the 35 orders were for more than £10 (but just one over £15) and 30 were for less than £10.¹⁰⁰⁵

¹⁰⁰³ Wellington Minute Book 25, 28 October 1931, p. 157.

¹⁰⁰⁴ Otaki Minute Book 59, 13 October 1932, p. 141. File note, 12 October 1932; Park & Adams, Solicitors, to County Clerk, Horowhenua County Council, 4 November 1932, HDC 00098 1 1 Maori Land, Rate Charging Orders, 1923-1932, Archives Central, Feilding. SW Document Bank, volume 9, pp. 6-7.

¹⁰⁰⁵ Otaki Minute Book 59, 9 March 1933, p. 167.

These charging orders remained on the title until paid no matter the time period. This is demonstrated by the charging orders made on two of these blocks at this time (Manawatu Kukutauaki 4E3 and Horowhenua 9A5) not being discharged until December 1962 – almost thirty years later.¹⁰⁰⁶

In addition, the Horowhenua County Council continued to use civil remedies against Maori for non-payment of rates. In 1932, the County solicitors, Park & Adam advised the County Clerk that service of the summons concerning the case of Horowhenua County Council v Paranihia Ihakara Hora (or Mrs Robert George) had not been effected as the Bailiff's report showed that the defendant was deceased. The solicitors asked for the name of the person against whom the summons should be issued (the response is not on file). This demonstrates again that rates were being improperly levied on Maori land yet the Council still continued to complain that rates were not being paid.¹⁰⁰⁷

9.10 Native Rates Committee, 1933

As noted in the rating legislation and policy section, in April 1933, the government appointed a committee to 'look generally' into the rating of Maori land. The membership of the committee comprised three Europeans: Hon A D McLeod (the chair) and a member of parliament who, Bennion notes, 'often spoken in the House on rating issues', Mr John Henry Reid, and Judge of the Native Land Court, Robert Jones.¹⁰⁰⁸

The members of the committee were authorised to conduct the inquiry at any place they thought expedient, to call evidence from any person they thought 'capable of affording them information' and to consult any documents such as rates books and maps that they deemed necessary. Of note is that nowhere did it specify that the committee should speak to Maori. The committee's correspondence file indicates that the committee did, however, write to the

¹⁰⁰⁶ County Clerk, Horowhenua County Council to Registrar, Ikaroa Maori land Court, Palmerston North, 3 December 1962, HDC 00098 1 3 Maori Land, Rate Charging Orders, 1962-1968, Archives Central, Feilding. SW Document Bank, volume 9, p. 19.

¹⁰⁰⁷ Park & Adams, Solicitors to Clerk, Horowhenua County Council, 27 September 1932, HDC 00098 1 1 Maori Land, Rate Charging Orders, 1923-1932, Archives Central, Feilding. SW Document Bank, volume 9, p. 8.

¹⁰⁰⁸ Bennion, p. 58; Minutes of Native Land Rates Committee, 22 June 1933, pp. 611-622, ACIH 16093 MA 86 1/2 Native Land Rates Committee, Minutes of Evidence, 9 June – 29 September 1933, Archives New Zealand, Wellington. SW Document Bank, volume 1, pp. 2-22.

Registrar of the Native Land Court at Rotorua advising him of the date the committee was sitting and asked him if he would notify Maori and ‘others likely to be interested’. The Chief Judge also advised MP Tau Henare of the time that the committee was meeting. There was no correspondence with Maori from the inquiry district.¹⁰⁰⁹

Bennion notes that the committee was ‘mainly a forum for the view of local bodies’. Indeed, the County Clerk of the Horowhenua County Council, FH Hudson, who held the position from 1923 to 1959, gave extensive evidence on the County’s Maori land rating experience. Accompanying him was the solicitor for the county, WS Park, who also gave evidence to the committee. From their evidence a picture emerges as to the way in which the County approached the rating of Maori land.¹⁰¹⁰

Mr Hudson gave his evidence on 23 June 1933. He began by stating that as far the Horowhenua County was concerned ‘the Native question ... [was] not quite so acute as perhaps it is in other parts of the Dominion’ and that the county had not taken ‘very active steps in respect of the collection of rates on Native land with the exception of a few cases that have been picked out from time to time’. He said that the reason for this was that ‘it was felt that in a great number of cases it would be throwing good money after bad’. He did not draw attention to the figures he produced which revealed another reason - that 97 percent of the rates levied in the Horowhenua County Council were in respect to European land and Maori land occupied by Europeans. Just three percent was levied in respect to Maori land occupied by Maori.¹⁰¹¹

The Council had, he said, recently made a more ‘bold attempt and took charging-orders for about £170’ but after paying all the fees in connection with the orders, the revenue received was ‘covered by a £5 note’. He acknowledged that up to the present time, the County had not ‘experienced a great deal of success in respect of the method of collecting Native rates by means of charging-orders’. Indeed, he produced data (see following table) which while not showing the proportion of rates paid in respect to Maori land leased by Europeans indicated

¹⁰⁰⁹ Appointment of Committee to inquiry into matters relating to the Rating of Native Lands, 1933, ACIH 16093 MA 86 2/5 Native Land Rates Committee, Correspondence, 1933. SW Document Bank, volume 1, pp. 27-28.

¹⁰¹⁰ Bennion, p. 60.

¹⁰¹¹ Horowhenua County Council evidence to Native Land Rates Committee, 23 June 1933, ACIH 16093 MA 86 1/2 Native Land Rates Committee, Minutes of Evidence, 9 June – 29 September 1933, Archives New Zealand, Wellington. SW Document Bank, volume 1, pp. 2-22.

that just 2.67 percent of the rates levied on Maori land occupied by Maori were paid. The data also showed that of the Maori land in the County, that land leased by Europeans comprised 68.5 percent of the capital value whereas Maori occupied Maori land was worth 31.5 percent of the total capital value of Maori land.¹⁰¹²

¹⁰¹² Ibid.

Table 20: Horowhenua County Rates Data, 31 March 1933

Total rateable capital value of county:	£4,981,224.0.0
Total value of Maori land occupied by Maori:	£153,646.0.0
Total value of Maori land occupied by Europeans:	£335,293.0.0
Total rates levied for 1932-33 (Maori and European):	£19,068.18.4
Total rates levied for 1932-33 on European land and Maori land occupied by Europeans:	£18,559.13.11
Total rates levied for 1932-33 on Maori land occupied by Maori:	£509.4.5
Total rates paid for 1932-33 on Maori land occupied by Maori:	£33.3.3
Percentage of rates on Maori land occupied by Maori to the total rates levied:	2.67%

Source: ACIH 16093 MA 86 1/2 Native Land Rates Committee, Minutes of Evidence, 9 June – 29 September 1933, Archives New Zealand, Wellington. SW Document Bank, volume 1, pp. 2-22.

It was then established by the committee that the charging orders mentioned by Mr Hudson were those made four months previously and that Mr Hudson viewed the ‘charging-order system’ as unsatisfactory. He also noted that the Council wrote off approximately £509.4.5 each year (which was the amount he said was levied on Maori land occupied by Maori). The Chair then sought to establish from Mr Hudson the average amount levied each year. Mr Hudson said that it was often the amount written off but it fluctuated a bit depending if Maori land was leased or not. He explained that once it was leased, it passed out of the ‘Native class’.¹⁰¹³

Mr Hudson also complained about a situation, which he described as ‘disturbing’, with regard to a special rating district where there were a large number of Maori properties. He said that a special loan was raised to provide a road 12 to 14 years previously. At the time, there were several Europeans leasing Maori land but these had ‘run out’ and the Council was ‘faced with having to collect the special rates from the Native property’. Mr Hudson was asked whether the loan was raised by consent to which he replied that both the Europeans and Maori consented to it with the Maori occupiers signing the ‘ratepayers’ consent’ at the time. He said that it was ‘not so bad a few years ago’ but as far as Maori properties were concerned, they had not been collecting the special rate, which meant that the special rating account was ‘getting considerably behind’. He said that they had to ‘increase the rate on the Europeans to try and effect an improvement in the state of the account, but that the special rating account was still, today ‘considerably in debt and the proceeds of the special rates ... not sufficient to meet the deficit’. Consequently, the general funds of the county were ‘having to carry that

¹⁰¹³ Ibid.

burden'. He said that this was the only instance in the county that he knew of 'in which an acute effect is being felt on account of Native properties being in a special rating area'.¹⁰¹⁴

Mr Park, solicitor for the Council, also gave evidence. He said that he had gone through that part of the Rating Act that affected Maori land 'very carefully with a view to making ... suggestions'. His suggestion, however, was not original. He said that the time had arrived for Maori and Europeans to be 'put on the same footing with regard to rating'. He said that his experience for the County was that Judges of the Native Land Court were 'very reluctant to make charging-orders' and they had not had a case where the Minister had consented to a sale. On being asked by Judge Jones if he had applied in such a case, Mr Park said that they would be in the position of applying shortly. He also complained that the provisions for appointing a receiver were 'unnecessarily cumbersome'. As well, he acknowledged that much of the Maori land in the County was not capable of generating sufficient income to pay rates but that the solution was not to exempt it from rates but for the land to be purchased:

In this county, at any rate, the individual pieces of Native land are very small. In fact I do not think there is one block left in the county that would justify the appointment of a receiver to administer it. Some simpler procedure for realisation could, I think, be devised than the present one. In this county, fortunately, the problem is becoming a reducing one as the land was sold. I should say that the amount of Native land owned by natives today would not be more than half what it was twenty years ago. ... In this immediate district until 1908 the whole of Horowhenua 11B41 was community lands. The titles have since been individualised and are all in the occupation of Europeans. The question of rating there has been practically solved. That was the biggest block in this immediate neighbourhood.¹⁰¹⁵

Mr Park was also asked what the county's experience was regarding the payment of rates on Maori lands occupied by Europeans. He said that in 'almost all cases' or, where there was a lease, rates payment was the responsibility of the tenant. That person was rated and could then be sued as the occupier. Where this was not the case, the Act (section 110) provided for payment by the occupier and the amount could be taken from the rental monies. In response, the chair noted that the committee had evidence that where rents were not being paid to the

¹⁰¹⁴ Ibid.

¹⁰¹⁵ Ibid.

Maori Land Board, the rates had not been paid. The Chair said too that it had been claimed by a County Clerk and County Solicitor that there was no use attempting to obtain a charging order in this case. Mr Park responded that he did not know of any lessees of lands administered by a Board where the tenant was not responsible for the rates and that 'the good form of the Ikaroa Maori Land Board ... definitely throws the burden of the rates on to the tenant'. He also said, which was supported by Mr Hudson, that he did not think that there were any cases in the Horowhenua County where an attempt had been made to collect rates from Maori that were payable by a European occupier. Mr Hudson also confirmed that rates in such cases were coming in 'freely'. He elaborated further stating that the county's 'trouble' related to rates on lands occupied by Maori who were living in a house on the land or where there was no lease which, according to Mr Hudson's figures, comprised just 2.67 percent of the total amount of rates levied in the year to 31 March 1933 by the Council.¹⁰¹⁶

The legality of pursuing rates on Maori land through a charging order as well as suing the tenant was discussed further with Messrs Park and Hudson. Judge Jones said that it had been suggested that you could not 'go for the tenant and go for the land, too', that is, 'once you went for the tenant, they would not be able to go against the land as well'. Mr Park said that this had been his opinion too and believed that Part II of the Rating Act (that related to charging orders) would 'cease to operate once you had judgement against the tenants'. Judge Jones, however, did not agree with this position. Mr Park reiterated 'with the utmost deference' his view that where there was a tenant of Maori land, on no occasion had they endeavoured to get a charge on the land. That is, they had 'never gone beyond the goodwill of the lessee'. He said that he would have to review his opinion in light of what Judge Jones said. Judge Jones then commented:

I simply say that when you wish to chase the Native on his land, Part II provides the procedure. The ordinary law is not affected as far as a European occupier is concerned: the European is still subject to Part I of the Act. I may be wrong.¹⁰¹⁷

The discussion then moved to whether Maori in occupation of Maori land in the county were supplying the dairy factories and if they were behind in their rates. Mr Park responded that they applied for about 50 charging orders the previous November but the Judge adjourned the

¹⁰¹⁶ Ibid.

¹⁰¹⁷ Ibid.

applications to the February sitting to enable a lot of the Maori ratepayers to pay them out of their factory cheques. The ‘anticipations’, however ‘were not realised’. He said that he did not think that Maori were altogether to blame for this because of the ‘shocking slump in butter-fat prices’. Mr Hudson confirmed too that the charging orders in these cases had mostly not been paid. Judge Jones wished to establish whether the dairy company would help the Council and provide the number of Maori suppliers to the factories. Mr Park responded that it would but that there would be ‘a lot of orders for very, very small amounts’ which the Levin Dairy Company did not like. The Chair of the committee argued that most of the other county representatives had informed the committee that they would have no difficulty in getting that information and that this would be valuable to the committee. He said that the number of orders ‘would not be a great matter, subject of course to the Natives consenting to give those orders’. He said that that there would be ‘prior orders no doubt’ but that priority could be given to a rates order. Also, that it may be required to be done legislatively. Further, that ‘after all said and done the essence of production from dairy farms is that there must be road facilities; and if the Native cannot pay the whole of his rates, it is reasonable to assume he can pay a proportion of them. Our experience of counties so far is that they would be quite satisfied if they could get a proportion of the rates – not the whole of them’.¹⁰¹⁸

Mr Hudson also elaborated on the question of roading. He said that in the Horowhenua County there were approximately 126 special rating districts and that the County had received few ‘straight-out Government grants’. In the main, he said, the district had been ‘developed by means of special loans’ and that Maori had received facilities in the form of roads to give access to their properties. He said that there were ‘only a few’ properties where there was no reasonable access and in these cases it was ‘because of the fact that they could not very well raise a special loan in view of the unsatisfactory manner in which rates are paid in respect to Native land’. In the main, he reiterated, the district had been developed by means of raising special loans and ‘practically all Native properties have reasonable access provided’.¹⁰¹⁹

The Chair also asked Mr Park about charging orders on areas of land so small that they could not be successfully leased. Mr Park responded that indeed the majority of the charging orders were for ‘extremely small amounts’ and that the ‘bulk of them’ were within £3. The larger

¹⁰¹⁸ Ibid.

¹⁰¹⁹ Ibid.

charging orders, he said, were in respect to ‘blocks on hills still in bush’. These presented the ‘greatest difficulty because no income can come from them’. Mr Park was then asked by the Chair whether there was a ‘considerable area of that class of land’ in the County. He said that his reason for asking was because there was ‘already statutory power to have removed altogether from the valuation roll land that in the opinion of the Council is incapable of economic development’ (that is, they could be exempted under section 104). He said that he was ‘quite sure that in other counties where there are large areas of that class of land serious consideration will have to be given to the question of removing them from the roll’. Mr Park then asked Mr Hudson whether he had heard the statement about exemptions made by the Chair to which Mr Hudson replied in the affirmative. Mr Park then stated that it seemed to him that ‘in the case of a lot of these small amounts, the land will have to be removed from the rating roll’. The Chair commented that: ‘They would then be just in the same position as Crown lands not occupied and most of it is incapable of occupation’.¹⁰²⁰

Mr Park then gave details of the rates on some of these properties. On Horowhenua 3C3B Block II, Waiopahu SD, 104 acres, the rates for 1930-1931 were 16/11 and for the following year 15/1. The land he said, was ‘away up in the ranges in standing bush’. In the case of Horowhenua 3C3C the rates were 5/6 and 5/ for the previous two years and there were other small amounts such as £1.0.5 (Horowhenua 3C3D); 5/2 (Horowhenua 3C3F) and 11/3 (Horowhenua 3C3G), which he said, entailed ‘a lot of work’. The Chair added: ‘And encumber the roll’.¹⁰²¹

Mr Park said that of the 44 charging order applications, very few were for over £5. Judge Jones then commented that they ‘might just as well be off the roll altogether’. Mr Park responded that this was also his opinion but he did not know what the County Clerk thought about the matter. Mr Hudson responded, indicating that he was choosing to ignore exemption provisions:

I was aware of the provision for the removal of land from the valuation roll, but I find that one has to be careful about the publicity given to these matters. There are still

¹⁰²⁰ Ibid.

¹⁰²¹ Ibid.

some Natives who pay their rates, and if they got the idea that they need not pay it would make it all the harder to collect from them.¹⁰²²

The Chair also pointed out to the Horowhenua County Council representatives that if the charging order procedure was ‘followed through to its conclusion’ this would mean Maori would be dispossessed of their land. Further:

Of course, the powers of a receiver including the leasing of the land up to 21 years, and the Minister has no veto in that connection. I do not think there is any serious objection by the Native Land Boards to the leasing of the land in this manner, provided that the actual dispossession of the Maori of the land does not eventually follow. I know in the past that we used to take up the attitude that we should treat the Maori as a European; if he could not pay his rates, he must get off the land. However, we found on our travels round on this occasion a great change of sentiment in that connection. Representatives of counties in particular feel that the taking away of the land from the Maoris would result in another trouble; the native would come a charge on the general tax payer of the Dominion. In these particularly stressful times, it is wonderful how the Natives in some districts – in the far north and elsewhere – are managing to exist on their little plots of land.¹⁰²³

In addition to his appearance at the Native Rates Committee, Mr FH Hudson attended a conference of local authorities regarding the rating of Maori land at Rotorua in May 1934. He reportedly stated that the county levied about £500 a year in rates on Maori land but collected about £30. He also ‘drew attention to the burden imposed upon the pakeha ratepayers by the special rating districts of which there were no fewer than 77 in the Horowhenua county’. He did not state that the amount levied on Maori land occupied by Maori comprised just 2.7 percent of the total amount of rates levied in the County or that the rates on Maori land occupied by Europeans were, in his words to the committee, coming in ‘freely’.¹⁰²⁴

Despite all the talk about exemptions and the encouragement by the Chair of the committee in this respect, no applications for exemptions under section 104 were ever made by the

¹⁰²² Ibid.

¹⁰²³ Ibid.

¹⁰²⁴ Ibid. *Rotorua Morning Post*, 31 May 1934.

Horowhenua County Council and the only formal exemptions were for lands containing urupa or marae. The Council instead continued to apply for charging orders over large numbers of blocks and then in the 1940s for receivership orders with little examination of the block or owner's circumstances. Vesting applications followed in the 1960s.

9.11 Charging orders, 1934-1937

The next set of charging order applications after the Native Rates Committee evidence giving was in October 1934. Of the 16 applications, three charging orders were made (recorded as Horowhenua X1B36/2i3H, Ohau 3/6A and Ohau 1X/3/7A). The remainder were adjourned to enable a search to be made of Valuation Department records. The Court commented that 'at present assessments are irregular'. Indeed, even the aforementioned Horowhenua block where a charging order was made, is not recorded as an actual block of land in a list of Horowhenua block partitions prepared by Grant Young.¹⁰²⁵

On 25 June 1937, applications for charging orders in respect to 12 blocks were considered by the Court. The blocks were subdivisions of the Horowhenua, Manawatu Kukutauaki, Oturoa, Ohau and Waiwiri East blocks. Mr Hudson, however, said that it appeared 'desirable' for the applications to be dismissed as in most cases the land, as described in the valuation roll, could not be 'reconciled with Native title'.¹⁰²⁶

This suggests that again the valuation rolls were incorrect with their contents not reflective of the appellation and title information recorded by the Maori Land Court. It also means that rates had again not been properly levied. This was likely to have contributed to the stoppage, for a time, of Council applications for further charging orders as the next set of applications was not considered by the Court until June 1940.

9.12 Ratepayers meeting, 1939

¹⁰²⁵ Otaki Minute Book 59, 25 October 1934, p. 259; Grant Young, *Muaupoko Land Alienation Report*, A report prepared for the Muaupoko Tribal Authority to assist in treaty settlement negotiations with the Crown and commissioned by the Crown Forestry Rental Trust, August 2015, pp. 55-56.

¹⁰²⁶ Otaki Minute Book 60, 25 June 1937, p. 96; Otaki Minute Book 61, 4 June 1940, p. 161.

Prior to the next tranche of charging orders, a meeting of what was described as ‘farmer ratepayers’ was held in Levin to protest against a ‘heavy increase of rates’ by the Horowhenua County Council. The meeting was held in November 1939 at the instigation of the Levin branch of the Farmers Union and was attended by all members of the Horowhenua County Council including the chair, Mr Monk. The venue, the Levin Century Hall, was said to be ‘overflowing’ with attendees (though there is no mention of Maori being in attendance). It was pointed out to the council that the income of a farmer was fixed by overseas prices whereas in every other industry, increased costs were passed to the consumer. It was also contended that users should pay for the upkeep of roads and not the owners of the land through which the road ran. The system of hospital rating was also condemned with it noted that the county’s contribution had increased from £3800 to £8200 in 1939. Palmerston North, it was said, paid £16,000 and the rest of the area £30,000 ‘yet Palmerston North outnumbered other districts by two to one patients’. In response, Mr Monk said that the council was not to blame. He explained that the council had had to raise nearly £5000 to build the ‘main highway’ and while the government now administered the road, it had left the county with the liability (the repayment and interest). He said that interest, together with the hospital levy, accounted for 33 percent of the rates levied. In addition, ‘wages, salaries, plant maintenance and cost of materials had increased enormously’. The only relief they could look for was with ‘rural derating’ but although this was coming, progress had been ‘slow’. In addition, the council had asked the government for a subsidy of £1 for £1 from the petrol fund for every form of road and the Counties’ Association had asked the Minister to stabilise the rate levied by hospital boards on the charges of the previous year, but this had not been consented to. Mr Monk believed that if the social security tax was raised to 1s 2d there would be no need for a hospital rate.¹⁰²⁷

Maori were also blamed for the rates increase with Mr Monk claiming that the ‘fact that there was a large number of Maori land owners in the county, the majority of whom paid no rates added to the burden of the pakeha’. A motion from the meeting was carried ‘without dissent’. This was: ‘That this large and representative meeting of ratepayers of the Horowhenua County views with alarm the ever-increasing burden of rates and pledges to do

¹⁰²⁷ *Evening Post*, Volume CXXVIII, Issue 114, 10 November 1939, p. 13.

all in its power to assist the council to bring before the proper authorities the urgent need for the removal of the present iniquitous system of rating'.¹⁰²⁸

9.13 Rates position in 1939 & 1940

Council meetings where the rates position of the council was discussed were reported on by the *Evening Post* in both 1939 and 1940. At the meetings, Maori were again blamed by the Council for the poor rates payment record of the County but the Council said nothing about its failure to maintain an accurate rating roll for Maori land and properly levy Maori land owners (much less consider using statutory provisions to exempt land from rating where this was appropriate).

In May 1939, at the annual meeting of the Horowhenua County Council it was reported that the percentage of rates collected in the county was 88.8 percent but that if rates on Maori land were not included then the percentage rose to 91.8 percent. The Treasurer said that approximately £2700 of rates on Maori land was outstanding but it was not reported how much was levied or over how many years this was for (though it was likely, judging from the statistics provided in 1933 to the Native Rates Committee, to be for at least five years). It was reported, however, that the Horowhenua County Council considered the issue of the non-payment of rates on Maori land an 'acute' problem with rate notices being ignored. In addition, that as leases by European of Maori land 'fell in' (were cancelled), Maori were occupying the land 'making the problem still more serious'. It was noted too that nearly 30 percent of the rates collected was spent on interest on the County's debt, the greater part of which had been raised to 'provide a dustless main highway through the county'. The Council considered that it had 'suffered the penalty of pioneering' with many other counties having done 'nothing' but had roads completed at no cost to them. The county considered that it was 'high time' that the Main Highways Board took over the major portion of the county's liability'. The County could 'then pay adequate attention to its district roads'. The same article reported that 36 percent of the Council's income went to hospitals (hospital rate), 32 percent was paid for interest and 'sinking fund' which left 32 percent 'under the direct jurisdiction of the council'.¹⁰²⁹

¹⁰²⁸ *Evening Post*, Volume CXXVIII, Issue 114, 10 November 1939, p. 13.

¹⁰²⁹ *Evening Post*, Volume CXXVII, Issue 121, 25 May 1939, p. 5.

A similar position was reiterated at the meeting of the Horowhenua County Council held in May 1940, when the Treasurer reported that the amount of rates collected for the previous year (1 April 1939 to 31 March 1940) totalled £27,535 which was 88.85 percent of the amount levied. This ‘comparatively low percentage’ was, according to the Treasurer due to the large number of Maori land owners who ‘failed to pay their rates’. This statement was made despite, as noted above, The Treasurer noting the year before that the percentage of rates paid would only rise from 88.8 percent to 91.8 percent if all rates on Maori land were paid. At the same meeting, it was acknowledged that the Council had received a large amount of criticism about the high cost of rates so had made a decision to reduce them. The reduction was said to represent 10 shillings 5 pence on each £1000 and included a reduction in the hospital rate. Also at the meeting, the Chair, GA Monk was re-elected for the 26th consecutive year. Nothing was said at the meeting about the accuracy issues of the valuation rolls or that if non-revenue producing Maori land was exempted, this would reduce the total rateable value of land in the County which would in turn have reduced the amount that the Council was levied for hospital rates.¹⁰³⁰

9.14 Charging orders, 1940

Three years after the Council applied for and had dismissed 12 applications for charging orders due to inaccuracies in the valuation roll, the Horowhenua County Council applied for 30 further charging orders. Of note was that unlike at previous hearings where charging orders had been made, comments were made about each set of applications (though much of it was the same for each case) and in several cases owners were in attendance.¹⁰³¹

Of the 30 applications, just 11 were ordered. Most of those adjourned or dismissed were so that the occupier could be levied the rates or because rates had already been paid. In this latter category were various Ohau 3 blocks (No 3, 10C, 10G, 12B, 12C, and 14D) and Aratangata 2B (222 acres 2 roods 30 perches) which was adjourned sine die as arrangements were being

¹⁰³⁰ *Evening Post*, Volume CXXIX, Issue 121, 23 May 1940, p. 17. This was part of the motivation by the Rangitikei County Council to exempt some Maori land from rates in 1947. Suzanne Woodley, ‘Taihape Rangitikei ki Rangipo Inquiry: Maori Land Rating and Landlocked Blocks Report’, 1870-2015, research report commissioned by the Crown Forestry Rental Trust, 2015, pp. 150-151.

¹⁰³¹ Otaki Minute Book 61, 6 June 1940, pp. 162-175.

made for payment of rates by instalments. The amounts owed were, in comparison to most of the other blocks, significant - £29.1.3 (1938-39) and £40.13.6 (1939-40).¹⁰³²

The application for Ohau 3 13H was adjourned as the land was leased and counsel for the Council could not say what steps had been taken to collect the amount from the occupier. With regard to Horowhenua 9A6A the land was also leased (to Hohepa Jacobs for 21 years from 1924). The application was adjourned to give the County further opportunity of enforcing payment by lessee who was 'primarily liable for rates see section 110'. Similarly, the application in respect to Oturoa 3A1D was adjourned sine die to allow the Council to make a claim on the mortgagee.¹⁰³³

As well, the Council levied rates on land containing a cemetery (Horowhenua XIB40 (or 11B40)) which Mr Parks (solicitor for the Council) said did not appear to be leased. An owner, however, gave evidence to the contrary. Mrs Rhipeti Greenland nee Kenick stated that the land was occupied by a Mr Fatherley and a Chinese person. The arrangement with them was that the owners would pay the rates. Mrs Greenland stated that she was agreeable to the occupiers deducting from the rent any amounts paid by them for rates. Mrs Greenland also noted that there was a cemetery on the land that had been set aside but had no separate title. The Court then adjourned the application 'sine die' to enable the occupiers to pay the rates and the portion of the cemetery to be 'cleared up' under the Rating Act 1925.¹⁰³⁴

A charging order was also applied for in respect to Horowhenua X1B36 1E3A sections 1 and 2 (7 acres 2 roods 28 perches) for £5.2.2 and £6.19.7 for the years 1938-39 and 1939-40. Mr Park said that the rates had not been paid, that particulars were fully set out in the claim and declaration of the County Clerk (not located). Rhipeti Greenland again gave evidence. She said that she was one of the owners (she held a one-fifteenth share) which she had succeeded to in 1939 from Hare Taueki who had died in 1926. The other owners were brothers and sisters and other relatives. She said that the block did not produce any revenue and that there were two houses on the land one of which she lived in. Her uncle (Tame Taueki) lived in the other. She was married with four children, the eldest of whom was ten years old and the youngest was two years old. She said that for the past two days her husband had been

¹⁰³² Ibid.

¹⁰³³ Ibid.

¹⁰³⁴ Ibid, p. 164.

planting maram grass at Waitarere and that for the six years prior to this he had been on the unemployment benefit. She said she did not pay any rent but received some rental monies which she described as 'not much'. This was assigned, she said, to the Native Department under the Native Housing Act. She said that no part of the land was used by the adjoining farmer. She did not know the valuation of the land but it was noted by the Council that it was £825. It was recorded too that there were two milking cows on the land and that the family had been living there for about 3 years. She said that she and her uncle had separate pieces on the land and that there was a fence in-between. Makareta Taueki also gave evidence and said that she had no interest in the land herself but was trustee for her children who owned between them one fifth of the block. Neither her nor her children were occupying the land and she considered that those occupying should pay the rates especially as by building houses on the land they had 'caused the value of the property to be increased and the rates to be increased also'. She said that she wanted to occupy a portion of the land soon and when she did she would be prepared to pay her 'proper share of rates'. As well, the wife of Tame Taueki (the other occupier) was present (she was not named) and said that her husband was working for a Mr Read and had been working for him for some time. The Court said that as it appeared that there was a housing loan under the Native Housing Act 1935 on the land and therefore adjourned the application to ascertain the Native Department's position in the matter. The charging order for £12.11.9 was later made on 3 April 1941 and because it was not paid by February 1946, the Ikaroa Maori Land Board was appointed receiver.¹⁰³⁵

The Council had also sent rates notices to owners or occupiers who had died and successors had not been appointed (Manawatu Kukutauaki 3 section 2A1A2 and Ohau 3 No 26 2B2). A charging order was made in respect of the first block but not the second, as there was an occupier who could be levied the rates.¹⁰³⁶

Other charging orders were made in respect to blocks where the occupier was not known. For instance, Aratangata 2A2 (40 acres 11 perches) for rates unpaid between 1938-39 and 1939-40 (£5.12.6 and £5.10.9 respectively). Mr Park advised that Court that there were previous charging orders for rates (March 1933), that he had no personal knowledge regarding the occupation of the land and that as far as he knew, it was not leased. The land was valued at

¹⁰³⁵ Otaki Minute Book 61, 6 June 1940, pp. 171-173; Otaki Minute Book 63, 13 February 1946, pp. 25-26.

¹⁰³⁶ Otaki Minute Book 61, 6 June 1940, pp. 162-175.

slightly over £40 (capital value) and £15 in improvements. Neither of the two owners was present or represented in Court. The charging order was made.¹⁰³⁷

A charging order was also made against Aratangata 1B. The occupier was said to be Neville Winiata and the owner Edward Nicholson and Te Aohau Winiata. The owners were not present. The minutes record that ‘no defence to [the] claim [was] offered’. Based on the particulars of dates and rates levied provided in the County Clerks declaration a charging order was made for the sum of £1.1.2 for unpaid rates for the year 1939-40. Considered also was an application in respect of part Aratangata 1B which was, according to Mr Park, part of the same title as the previous application. The occupier was also the same person – Neville or Te Aohau Winiata. Mr Park said that amount had not been paid and particulars were on the declaration. Owners and occupier were not present and ‘no defence offered’. An order was made charging the land with £1.2.7. With regard to Aratangata 1A it was also recorded that the owners and occupiers were not present and no defence was offered. An order made for £2.9.3.¹⁰³⁸

Other applications were in respect to the Horowhenua block. An order was made for Horowhenua 9A7 (£3.1.6). Mr Park said that the land was occupied by Edward Nicholson and leased for 21 years from 1923. A charging order was also made for Horowhenua 9A9 (£0.5.11). Neville Nicholson was also said to be the occupier and successor to Edward Nicholson. Again, the minutes recorded that ‘No defence [was] offered’. Likewise, orders were made for Horowhenua X1B41A1 (£8.17.2) whose owner was also Neville Nicholson, and Horowhenua XC1B41E2 (£4.8.1) where the owners were not present and ‘no defence offered’. With regard to Horowhenua X1B36 section 2L1B the Court said that Mr Ryder was seeking a lease of the land and would pay his proportion of rates for 1939-40 during his occupation of the land. The Court said that if the matter was brought to the notice of the Court when the application was made for confirmation of a lease to Mr Ryder, the Court would direct payment of rates from rent receivable by the Ikaroa Maori Land Board and that lease. The application was adjourned sine die. Orders were also made for both Manawatu Kukutauaki 7D2A1 and Manawatu Kukutauaki 3 sec 2A 1A2 for £3.9.0 and £4.10.3

¹⁰³⁷ Otaki Minute Book 61, 6 June 1940, pp. 161-162.

¹⁰³⁸ Ibid, p. 165.

respectively plus costs with it again being noted that owners were not present and no defence offered.¹⁰³⁹

It is apparent then from these applications that the Council still did not have comprehensive occupation details of all the land on which it was levying rates. It was also levying rates on owners who, from their statements, did not appear to be able to afford them. It is also of note that many of the charging orders were for small amounts (less than or around £5) indicating that the Council was, as it had told the Native Rates Committee in 1933, still concentrating its efforts for rates collection on small Maori land blocks.

The Council was so pleased with the result of the hearing that the chair wrote to Judge Shepherd on 24 June 1940 that the Council had 'learnt with much satisfaction of the careful consideration which was given to applications for rate-charging orders at a recent sitting of the Court at Levin and it ... [was] the desire [of] the Council that ... [he] should express their appreciation of the action which is being taken'.¹⁰⁴⁰

9.15 First receivership orders, 1940s

Also in 1940, the County Clerk was advised by their solicitors, Park & Bertram about the legislative provisions available to them particularly receivership orders which they had not ever applied for. The provision allowing for the compulsory sale of Maori land were also noted. Park & Bertram firstly stated that they appreciated that the Council did not wish to be 'faced with expenses and costs in connection with outstanding Native rates where there ... [was] no apparent prospect of ultimately obtaining payment' but wished to point out that once the Court had made a charging order that it was 'under a duty to make, and must make a further order vesting the land in the Native Trustee for sale or appointing the Court receiver of revenue for the purpose of collecting rates for the Council'. Also, once a charging order was made, the Council was in a position to 'exercise its additional powers under the Rating Act and the Native Land Act to enforce its charging order though it may be that some months would elapse before ultimate payment could be made, by the Receiver who would collect any current and future rents from the land in question or alternatively, would arrange a sale or

¹⁰³⁹ Ibid, p. 165.

¹⁰⁴⁰ Chairman, Horowhenua County Council to Judge Shepherd, Ikaroa Native Land Court, Wellington, 24 June 1940, HDC 00098 1 2 Maori Land, Rate Charging Orders, 1932-1953, Archives Central Feilding. SW Document Bank, volume 9, p. 9.

lease of the land'. It was noted too that most of the Maori lands in the Horowhenua County were 'only small blocks', but this was not considered a deterrent to leasing by the lawyers who stated that most were 'of some value' and that it seemed 'extremely unlikely' that there was no possibility of collecting sufficient money to pay the amount owing under a charging order 'once a receiver ... [had] been appointed'. Of note, was that Park & Bertram did not provide details on how to apply for exemption orders.¹⁰⁴¹

In April 1941, Park & Bertram reported to the Council on the outcome of the Court hearings of March and April 1941 where 38 applications for charging orders had been made but only about 15 were ordered. The reasons for adjournment of the applications varied from the rates having been paid, the need for the County Ranger to verify the occupier, the need to reassess rates due to a new partition and appellations that did not marry with Maori Land Court records. Also of note was that the Court refused to make an order on Waiwiri East IA as the Court believed it would be 'unjust to the owners' who had no chance of recovering the rates from the lessee. The Court instead ordered that the amount be written off and removed from the Rate Roll.¹⁰⁴²

Park & Bertram also noted that when charging orders for rates had been made in the past, no further action had been taken. They also commented on the attitude of the Court in this regard:

Admittedly it has been the attitude of the Court in the past to decline to enforce a charging order. It has recently been held by the Supreme Court, however, that once the Native Land Court grants a charging order for rates it is bound, when asked, to make an order appointing a receiver of the land. While hearing these applications last week, Judge Shepherd hinted rather broadly that it was no use asking the Court to grant charging orders if it were not intended to enforce the order when made.

¹⁰⁴¹ Park & Bertram, Barristers & Solicitors to County Clerk, Horowhenua County Council, 5 August 1940, HDC 00098 1 2 Maori Land, Rate Charging Orders, 1932-1953, Archives Central Feilding. SW Document Bank, volume 9, pp. 10-11.

¹⁰⁴² Park & Bertram, Barristers & Solicitors to County Clerk, Horowhenua County Council, 7 April 1941, HDC 00098 1 2 Maori Land, Rate Charging Orders, 1932-1953, Archives Central Feilding. SW Document Bank, volume 9, pp. 12-17.

As you are aware, the whole success of this drive for Native rates depends upon creating in the minds of the Natives a permanent understanding of their liability. This will best be done by enforcing at an early date the orders made by the Court. Admittedly some of the lands concerned would be difficult for a Receiver to handle, but there are a number which are very valuable and should be readily leased by the Maori Land Board as Receiver. We feel sure that a great impression would be made on the Natives when they learn that valuable lands will be taken away from them for non-payment of rates. We suggest, therefore that you allow us to proceed by way of an experiment with the appointment of the Maori Land Board as Receiver, to deal with the following lands:

- Ohau 3 No 11A Section 2B
- Ngakaroro 1A6C,
- Horowhenua 9A
- Horowhenua XIB 36 3H3
- Part Manawatu Kukutauaki 4D1 No 5
- Manawatu Kukutauaki 2E10A
- Ohau 3 26 section 1A
- Horowhenua X1B36 1E3A sections 1 & 2
- Ngarara West A21¹⁰⁴³

A subsequent letter from Park & Bertram indicated that a total £173.15.2 was owed in rates for these blocks.¹⁰⁴⁴

What Park & Bertram did not note in their advice about enforcing charging orders in order to ensure rates were paid was that the payment of rates could also have been achieved by ensuring rating rolls were accurate so the correct owners and occupiers were aware of their liability. They also did not consider that communicating with Maori about rates, what they were for and why they should be paid could also assist their cause. Park & Bertram also

¹⁰⁴³ Ibid.

¹⁰⁴⁴ Park & Bertram, Barristers & Solicitors to County Clerk, Horowhenua County Council, 13 June 1941, HDC 00098 1 2 Maori Land, Rate Charging Orders, 1932-1953, Archives Central Feilding. SW Document Bank, volume 9, p. 18.

failed to consider that land that might be ‘difficult for a Receiver to handle’, that is, land where there was no potential to generate sufficient income to pay rates, should be exempted.

The first application for a receivership by the Horowhenua County Council was heard on 2 October 1941. This was in respect to Manawatu-Kukutauaki 2E10A (one of the blocks listed above). This block was a (relatively) large block of 92 acres 1 rood 25 perches and the evidence given by Park (relatively) comprehensive though devoid of some specifics such as who occupied the land. Mr Park advised the Court that the block was subject to a charging order of £41.17.2 for the period 1938 to 1940 which was granted on 3 April 1941. Mr Park said that it was not known who was occupying the land and there was ‘no information available as to whether or not there ... [was] any confirmed lease of the land’. The title to the land was as per a partition order of 18 July 1911. He said that the land was originally owned by Raiha Tupae who had died and that six successors were appointed in January 1925 (Downes, Katene and Whata whanau). He claimed that it was not known whether or not the six owners were living on the land, where they were living or what their addresses were but their interests had not been succeeded to. He said that it could therefore ‘be presumed that they ... [were] still living’. The block was valued at £3975 including £775 improvements in 1939. He claimed too that ‘land of this value should be capable of producing a rental yearly of £153.15.0 at least’ and that the annual rates were in the vicinity of £21 per annum ‘which would leave a substantial margin for the owners’. There was also no evidence in the Native Land Court tile file, he said, that the land was subject to a mortgage. The land was situated near Shannon and ‘should be readily leased at 5%’ of government valuation’. The County he said was ‘desirous of testing the efficacy of the procedure for collecting rates through a Receiver and considered the Maori Land Board of the District would be the most suitable appointment to act as Receiver’. He also asked that the Court allow his costs to the County Council in respect to the order. Objections were invited but there were no objections. The Court ordered that the Ikaroa District Maori Land Board be appointed receiver under section 108 of Rating Act 1925 and awarded costs to the County Council of 10/- for the application order and Counsels fee of £2.2.0.¹⁰⁴⁵

In June 1942, the Ikaroa Maori Land Board asked the Court to discharge the receivership. It was explained that the Board had arranged a lease but two owners ‘occupying [the] land

¹⁰⁴⁵ Otaki Minute Book 62, 2 October 1941, pp. 5-7.

objected to [the] land being leased'. They were informed that they must vacate or pay the rates. As they had paid, the lien was satisfied and the Board asked to be released from the receivership. This was ordered by the Court. This puts into question again the charging and receivership order process whereby the owners or occupiers were not contacted before orders were made. The block was later leased from December 1944 to WC Higgie for ten years at £180 per annum. In 1949, the Ikaroa Maori Land Board was again appointed receiver (along with 41 other blocks) but there was no information provided about the block (or any of the other blocks) in the Maori Land Court minutes. (It is no longer Maori land but details of any leases or sale (or possibly Europeanisation) have not been located.)¹⁰⁴⁶

Further charging orders were made on the application of the Horowhenua County Council in June 1942 but none ordered again until 1946, presumably because of the second world war.

In February 1946, the Council applied for receivership orders in respect to the following blocks many of which from the list prepared by the county solicitor's in 1941. The charging orders were mostly from rates owed to the year ending 31 March 1939 and 31 March 1940.¹⁰⁴⁷ Alienation and title details, where known, are also shown:

Table 21: First Receivership orders made on application of Horowhenua County Council, February 1946

Block name and amount of charging order (1939-40)	Area (acres, roods, perches)	Title and Alienation details
Horowhenua 9A5 (£12.8.1)	33.0.32	Partitioned 10 November 1953 into 9A5A (16 acres 2 roods 16 perches) and 9A5B (16 acres 2 roods 16 perches). 9A5A sold 9 November 1962; 9A5B Europeanised 1968
Horowhenua XIB36 1E3A sections 1 & 2 (£12.11.7)	7.2.28	Superseded by consolidation orders – now Horowhenua A2A, A2H, A2L, A3A, A3B, A3C, A3D, A3E and A6. Horowhenua A5B, formerly 1E3A1 (1 acre) sold 25 November 1957; Horowhenua A5D, formerly 1E3A2 (1 acre 2 roods 3 perches) Maori land
Horowhenua XIB36 sections 3H3 (£12.2.11)	23.3.0	Partitioned into 3H3A 5 acres 22 perches), 3H3B (9 acres 22 perches) and 3H3C (9 acres 3 roods 21 perches) on 5 November 1953 and sold, 15/6/1955, 14/11/1956 and 18/10/1957 respectively.
Manawatu Kukutauaki 4D1 No 5 (Part) (charging order of £31.7.10)	50.1.10	4D1 No 5B (5.2.25) leased to IWH Bertram for 21 years from 1938

¹⁰⁴⁶ Otaki Minute Book 62, 18 June 1942, p. 129; Otaki Minute Book 64, 15 November 1949, pp. 39-40; Walghan Partners, Draft, 1 May 2017, volume 2, pp. 213-229.

¹⁰⁴⁷ Otaki Minute Book 63, 13 & 14 February 1946, pp. 25-27; 36-39.

Ngararoro 1A6C (£23.10.0)	68.0.8	Leased in 1966 to CR Wilson (rates to be deducted from first years rent). Leased in 1995 and again in 2004. Memorandum of agreement in January 2016 between Crown and trustees of Puti-Winiata Whanau under Public Works Act 1981. Re-vested in trustees of whanau following sale of block to Crown in February 2016.
Ngarara West A21 (£13.6.7)	25.0.0	Leased (10 acres) for 21 years to WH Field in 1917; Leased (20 acres) to J Yei in 1956. Partitioned – A21A (2.3.0), B (1 rood) & C (16.0.5.2) Europeanised; A21D (6.1.36) sold (no details)
Ohau 3 No 11A sec 2B (£25.16.8)	115.3.22	Sold 1984 to JH McGaveston
Horowhenua XIA7B (£8.6.1)	11.1.0	Partitioned 16/3/1955; X1A7B1 (10 acres 1 rood) Maori land ; B2 (2 roods) Europeanised 1970; B3 (2 roods) Europeanised 1968
Horowhenua XIB40 (£6.6.5)	17.1.0	Consolidated 20/5/1948; now A5F and A5G
Ohau 3 No 14A (£5.12.7)	3.1.23	Partitioned 16/4/1958 into 14A1 (0.1.0) and 14A2 (2.3.24)
Waiwiri East 2A (£8.10.4)	10 acres/ 4.0468 ha	Leased for 15 years from 1991; Maori land
Ohau 3 No 26 section 1A (£8.15.2)	5.0.0	Maori land
Manawatu Kukutauaki 7D2A2 (£3.12.0)		No details located.
Manawatu Kukutauaki 3 section 2A No 1A2 (£4.13.3)		No details located.

Sources: Otaki Minute Book 63, 13 & 14 February 1946, pp. 25-27; 36-39; Otaki Minute Book 73, 15 November 1966, p. 66; Grant Young, Muaupoko Land Alienation Report, A report prepared for the Muaupoko Tribal Authority to assist in treaty settlement negotiations with the Crown and commissioned by the Crown Forestry Rental Trust, August 2015; Walghan Partners, Draft, 1 May 2017, volumes 2 & 3; Maori Land Online: <http://www.maorilandonline.govt.nz/>.

Little was noted about each block apart from the amount of the charging order. The Ikaoroa Maori Land Board was appointed receiver in each case.¹⁰⁴⁸

Solicitors for the Council were not back in Court again until August 1949 when 51 charging orders for rates unpaid for the years 1945 to 1946 were made. In November of the same year, the Council applied for receivership orders under section 42 of the 1931 Act to enforce rate charging orders. Mr Park explained that the orders were in respect to some of the applications made by the Court in August as the monies claimed were still outstanding. Orders were made appointing the Ikaoroa District Maori Land Board as receiver for the purpose of enforcing the charges against the lands over 42 blocks. The amounts of the charging orders ranged from

¹⁰⁴⁸ Otaki Minute Book 63, 13 & 14 February 1946, pp. 25-27; 36-39.

£73.10.7 for Aratangata 2B to 19/- for Manawatu Kukutauaki 2E10B. Fourteen of the receivership orders were in respect to blocks where the charging order was less than £5 meaning that the Council was still including smaller blocks in their applications. Thirteen of the blocks had charging orders of over £20.¹⁰⁴⁹

Charging orders continued in October 1950 (18 blocks) mostly in respect to Muhunua subdivisions and again in July 1951 (49 blocks). The blocks were simply listed with the amounts owed. No further information was given.¹⁰⁵⁰

9.16 Receivership orders, 1950s

On 31 October 1951, the Horowhenua County Council applied for a further 54 receivership orders. Thirteen were in respect to blocks where rates of less than £5 were owed and ten were in respect to blocks where more than £20 was owed. The County Clerk and 'rate collector to the Council', JH Hudson, was in attendance, who simply stated that the amount of charge shown on each application was still due and owing to the Council. In 'each case' the Court appointed the Ikarua District Maori Land Board as receiver under section 42 of the 1931 Act for the collection of the amount of the charge together with Court costs and solicitor's fees. Nine charging orders were also made on the same day.¹⁰⁵¹

Included in the blocks where receivership orders were made were seven small Muhunua 3A1E1 blocks. Charging orders had previously been made against the blocks at the October 1950 hearing. The charging and receivership orders were made despite all the rates being recoverable, according to Mr Park, from the lessee and occupier. The receivership entailed the Department of Maori Affairs in Levin locating the lease arrangements of the occupier and then the Department of Maori Affairs in Wellington following up with the occupier's lawyer to arrange for payment to be made to the Council. The charging orders for the blocks had all been satisfied by early 1953. This raises questions as to why this was left to the Department when the Council had the same ability to investigate occupation details and arrange payment from the occupier in the same way the Department had.¹⁰⁵²

¹⁰⁴⁹ Otaki Minute Book 64, 4 August 1949, pp. 23-24; 15 November 1949, pp. 39-41.

¹⁰⁵⁰ Otaki Minute Book 64, 31 October 1950, pp. 142-143; 30 July 1951, pp. 228-230.

¹⁰⁵¹ Otaki Minute Book 64, 31 October 1951, pp. 282-286.

¹⁰⁵² Otaki Minute Book 64, 31 October 1950, pp. 142-143; Otaki Minute Book 64, 31 October 1951, pp. 282-286. Form of Satisfaction of Charging orders, Horowhenua County Council, 8 October 1952, AAMK W3074

There were further applications for receivership orders on 30 October 1952 to enforce rates charges. The blocks were: Horowhenua 11A4B1, 11A4B2, 11B39A section 1, 11B39A section 2, 11B39A section 3; Manawatu Kukutauaki 4B1A1 lot A, 4B1C1 lot B, 4D1 No 1B, 4D1 No 2B3A, 4D13C2A, 4E3 No 1A1, 4E3 sec 1A2, and Ngakaroro Pt 3G. The amounts of unpaid rates ranged from £23.7.9 to £2.18.11 and had been enforced by charging orders. No explanation was given regarding the circumstances of the block. Instead the Court ordered that the Maori Trustee (who had taken over the duties of the Board) be appointed receiver for each of the 13 blocks applied for. Also at this hearing, Mr Park asked for the nine charging order applications to be dismissed. It was not stated why but presumably rates had been paid.

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Not long after these receivership orders were made, James Howard Flowers, then an official at the Department of Maori Affairs (he held the position of Field Supervisor), wrote to the District Officer of the Department of Maori Affairs at Wellington regarding the appointment of the Maori Trustee as receiver in rates related cases. Although Mr Flowers does not specifically mention the Horowhenua Council, it does seem likely that the Council's actions had at least partially prompted Mr Flower's letter as the Wellington office was where the receiverships made at the instigation of the Horowhenua County Council were administered and the letter followed shortly after 13 receiverships had been ordered. Mr Flowers complained that checking the orders and applications prior to and after receivership orders had been made, 'hardly' came within the scope of a supervisor's duties and the expense involved was 'hardly a fair charge on the taxpayers'. He said that it was clear that if any 'reasonable enquiry had been made by the County Council as to who occupied the lands they could have collected many of the rates and saved the time of the Court and our officers' (which was demonstrated in the case of the Muhunua blocks). He said that the County

869 Box 396 s 12/1/939 Maori Trustee Appointed Agent – Muhunua 3A1E1 No 4 & 9, 1950-1952; Form of Satisfaction of Charging orders, Horowhenua County Council, 8 October 1952; Registrar, Maori Land Board to Blenkhorn & Todd, Barristers & Solicitors, Levin, 11 September 1952; Blenkhorn & Todd to Registrar, Department of Maori Affairs, 19 September 1952, AAMK W3074 869 Box 396 t 12/1/940 Maori Trustee Appointed Agent – Muhunua 3A1E1 No 8B, 1950-1952; District Officer, Department of Maori Affairs to Blenkhorn & Todd, 25 November 1952; Form of Satisfaction of charging order, 14 January 1953, AAMK W3074 869 Box 396 r 12/1/937 Maori Trustee Appointed Agent – Muhunua 3A1E1 No 3 – Section 3, 1950-1953; District Officer to Blenkhorn & Todd, 25 November 1952, Form of Satisfaction of Charging orders, Horowhenua County Council, 15 January 1953, AAMK W3074 869 Box 396 q 12/1/936 Maori Trustee Appointed Agent – Muhunua 3A1E1 No 3 – Section 2, 1950-1953; Officer in Charge, Levin to District Officer, Department of Maori Affairs Wellington; District Officer, Department of Maori Affairs Wellington to Blenkhorn & Todd, 25 November 1952; Form of Satisfaction of charging order, 14 January 1953, AAMK W3074 869 Box 396 p 12/1/935 Maori Trustee Appointed Agent – Muhunua 3A1E1 No 3 – Section 1, Archives New Zealand, Wellington. SW Document Bank, volume 9. pp. 168-182.

¹⁰⁵³ Otaki Minute Book 65, 30 October 1952 pp. 12-13.

Council should present to the Court details of the occupiers and the steps that the council had taken to collect the rates. He noted that most counties employed Noxious Weeds Inspectors who, he thought, 'should be used to make reports on applications'. He cited the Raglan County as a county who did this and said that if similar reports had been presented to the Court it would have been 'doubtful if an order would have been made' particularly as he understood that in many cases the occupiers had not received demands. Mr Flowers suggested that the District Officer take the matter up with Head Office as he did not think it was intended that they should use departmental supervisors as rate collectors.¹⁰⁵⁴

Two years later, in May 1955, the aforementioned letter was discussed again by officials at the Maori Trustee Head Office. It was noted that the District Officer at Wellington had responded to Mr Flowers that he would take the matter up with the Judge. It was noted by Head Office that if he had indeed done so, there was 'no evidence that any change in the situation resulted'. A letter between Head Office officials said that receivership orders were still being sought for 'comparatively trivial amounts particularly in the case of the Horowhenua County Council'. The official said that the work involved in the administration of the receiverships was considerable and that in some cases they required:

- (1) Enquiry for the owner or occupier and request to pay rates
- (2) Field report to ascertain if land is capable of earning income
- (3) Application to Court for leave to lease or sell
- (4) Action to lease and collect sufficient rent to discharge the order.

The official said that the 'unfortunate part' of the work was that the Maori Trustee was apparently entitled to 'only his scale rate of commission on the amount of the order, which in many of the small cases would not cover the cost of setting up the records'. In addition to the 'unremunerative factor', the office did not have the staff to handle the work and as far as Wellington District Office was concerned, did not have the staff in the field to handle it. The writer said that he was not familiar with the law on the subject but it appeared that the Court was not required to appoint the Maori Trustee. From a perusal of some of the files in Wellington, it could even be said that the Maori Trustee was not the most 'competent body'

¹⁰⁵⁴ JH Flowers to District Officer, Wellington, 18 December 1952, ACIH 16036 MA1/764 54/21 Maori Trustee - Receivership rate charging orders, 1952-1959, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, p. 99.

to be appointed receiver. He also pointed out that in many cases, after initial enquiries had been made, it was found that ‘no income could be obtained from the land involved so that neither the Maori Trustee nor the local body ... obtained any benefit from the order’. He suggested that if it was found that the Maori Trustee could not avoid the work, then a ‘scale of fees or at least a minimum fee be fixed so as to remunerate the Maori Trustee for the service.’¹⁰⁵⁵

9.17 Charging orders, 1953

In the meantime, on 27 July 1953, the Horowhenua County Council had applied to the Maori Land Court for a significant number of charging orders - 87 in total. These were in respect to unpaid rates for the year 1952-1953 on the Aratangata block (1B, Pt 1B, 2A1, 2A2, 2A3, 2A4, and 2B); the Horowhenua block (A2G, A2H, A2J, A2K, A2L, A3B, A5F2, 3E No 5, 9A2 & 11B41, 9A6A, 9A6B, 9A10A and various 11B36, 11B39, 11B41 blocks); the Manawatu Kukutauaki block (various 3, 4C, 4D1, 4E2, 4F, 4E3 and 7D2D blocks); Muhunua 3A13A No 10A; Ohinekakaao 1C; Oturoa 3A1C & 3A1D; Waiwiri East 2A & 2C; Haruatai 2A; Katihikoi 2B (sp); the Ngakaroro block (1A6C, 3B7B2A, 3B7B2B, 3D1 No 5B2, 3D2B, 5D1); and the Ngarara West block (A3B2, A3C, A3D, A3E, A14B2B2, A21, A22A, A25B2, A32B and A32C). Mr Park, solicitor for the council, said that attached to each application was a declaration by the county clerk in a form ‘usually accepted by the Court’. The declarations were to the effect that all statutory requirements had been complied with. Mr Park said that the attention of the Court would be directed to any case in which a payment had been made. The amounts ranged from £110-11-1 for Aratangata 2B to 19/1 for Manawatu Kukutauaki 4D1 No 2B3B. Of the 87 applications, 74 were made with nine adjourned and four dismissed. It would not appear from the minutes that any owners were present in Court.¹⁰⁵⁶

9.18 Receiverships, 1956 & 1962

¹⁰⁵⁵ Unnamed Head Office official to Mr Blane, Head Office, circa May 1955, ACIH 16036 MA1/764 54/21 Maori Trustee - Receivership rate charging orders, 1952-1959, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, p. 100.

¹⁰⁵⁶ Otaki Minute Book 65, 27 June 1953, pp-88-91.

The correspondence concerning the Maori Trustee's reluctance to accept receivership orders was taken on board as on 1 June 1956, the Council applied for the appointment of Mr Hudson, the county clerk, as receiver for Aratangata 2A3 'and other blocks'. Aratangata 2A3 (which was one of the blocks over which a charging order was made in July 1953) and the 'other blocks' totalled 54 blocks though this is just based on the number of application numbers – the actual names of the block are not listed in the corresponding land court minute book. Mr Park said that he and the Court had held lengthy discussions on procedure (the nature of which were also not noted in the minutes). Mr Hudson, who had been the County Clerk since 1923, told the Court that the rates in respect to the 54 blocks remained unpaid and asked for leave to lease in terms of section 33(3) of the Maori Affairs Act 1953. The Court then appointed Mr Hudson as receiver 'for enforcement of charges set out on applications' with leave to grant leases of the land under section 33(4) of the Act. The Court said that the duties of the receiver were to make a formal lease for each block which would be granted 'ex parte without further advertising' which presumably meant it could be arranged without the consent of the owners. After the lease was granted a copy of the lease was to be forwarded to the Court so that it could be attached to the alienation file of each block. The receiver was to have the power to charge 10 percent commission out of revenues from leasing. Leave was reserved for variation or addition of receivership powers and duties. Solicitors fees allowed were given by the Court as follows (the first number presumably is the amount of the charging order though this was not specified): up to £5 – £1.1.0; between £5 and £20 – £1.11.6; between £20 and £50 – £2.12.6; and over £50 – 3.13.6.¹⁰⁵⁷

On the same day, three applications for receiverships including Horowhenua A2J were dismissed as rates had been paid. In addition, a charging order application for Ohau 3 10B was dismissed for the same reason. Charging orders were, however, made for seven other blocks: Horowhenua A5E, Manawatu Kukutauaki 4E3 1C1, 1D1, 1D2, 7D2D57E, 3A2 4A1C and 3 No 14A. Rates owed ranged from £25.8.4 to £3.8.11. One further application was made by the council that day for a charging order over Ohau 3 No 6C2 but the application was adjourned (no reason was given for this).¹⁰⁵⁸

On 6 June, Mr Park was back in Court regarding the receiverships ordered on 1 June. The Maori Trustee had written to the Court asking for a list of lands in which he had been

¹⁰⁵⁷ Otaki Minute Book 66, 1 June 1956, pp. 234-236.

¹⁰⁵⁸ Ibid.

appointed receiver and said that he would not agree to be appointed receiver unless the circumstances of a block were ‘unusual’ such as if a large amount of rates was involved. He said that in some of the orders made the previous week, he was already receiver but the rate clerk had been appointed for charges for subsequent years. Confusion, he said, would arise unless there was one receiver only.¹⁰⁵⁹

The Court responded that the position appeared as the Trustee represented. The Judge said that in some cases on the list submitted by the rates clerk that the Maori Trustee was already receiver but that new orders had been made (appointing the county clerk as receiver). In other cases, the Maori Trustee did not appear to have ‘even a second, let alone taken steps to lease’ (presumably meaning that there had been no time for the Trustee to have leased the land in the time before the county clerk was appointed). The Court said that it had ‘gone very fully into the position recently’ and it appeared that when a receiver was appointed under section 33 of the Maori Affairs Act 1953, only a Court order could remove or discharge him even though the creditor (the county) had been paid in full. The Court said that it appeared that the county rate clerk could ‘deal with possible leases better than the MT [Maori Trustee] at his distance’. The Court noted that it would be necessary to discharge the Maori Trustee from the various orders and appoint the rates clerk in his place. This did not, however, ‘relieve the Maori Trustee from his liability to account nor from any claim the county council could have in respect of the receivership’.¹⁰⁶⁰

The Court then ordered under section 33 of the Maori Affairs Act 1953 that the Maori Trustee be discharged as receiver in respect to 28 blocks and directed him to pass his final accounts and pay the balance to the county. In addition, a further order was made appointing the rates clerk, Mr Hudson, as Receiver in place of Maori Trustee on the same terms as the orders made on 1 June.¹⁰⁶¹

Given the large number of blocks affected by charging and receivership orders during this period, it has not been possible to examine the title history of all the blocks concerned. Instead, an examination of the Aratangata blocks affected by these orders have been made though this has been restricted by the amount of alienation data available. Leases followed

¹⁰⁵⁹ Otaki Minute Book 66, 6 June 1956, pp. 246-248.

¹⁰⁶⁰ Otaki Minute Book 66, 1 June 1956, pp. 246-248.

¹⁰⁶¹ Ibid.

the receiverships of Aratangata 2A1 and 2A2. In the case of Aratangata 2A2, one acre of the forty-acre block was reserved for the house of one of the owners. Both blocks were leased to the same person – AF Green who also purchased Aratangata 2A3 in 1959 – a block also subject to a receivership order. Aratangata 2A4 which had been subject to charging orders was also sold in 1960 to AF Green. All rates would have been paid from the lease and from sale monies. Of note too was that following the appointment of the receiver in respect to the Aratangata 2B block, it appears that the owners had the land declared European land.¹⁰⁶²

Table 22: Aratangata blocks affected by charging and receivership orders, 1928-1953

Block & area (acres)	Charging orders	Receivership orders	Alienations	Current status (area ha)
Aratangata 1 (33.0.0)	See following partitions		Part leased for 21 years from 1911. Part (possibly 7 acres) sold to Samuel Rolston (no date or details); 23 ½ acres leased from 1929 for 7 ½ years to Feilding Loan & Investment Co	See partitions below
Aratangata 1A (11.3.26)	1940: £2.12.3; satisfied 1951.		Leased for 14 years from 1950 to SV Kilsby, farmer though had been in occupation under arrangement with owner (CO likely to have been satisfied from rental monies). Was in Europeanisation process but does not appear to have been completed	Maori land (4.8208 ha – 7 owners)
Aratangata 1B (13.1.14)	1940: £2.3.10; satisfied Dec 1953 July 1953: £9.2.0; satisfied Nov 1953.		Declared European land on the application of the owners in March 1952. Charging orders satisfied in 1953.	No longer Maori land
Aratangata 1C (7.3.0)	1951: £2.13.1 Paid and discharged 1952 1960s: £8.15.1 + 10/ costs	1951: Ikaroa Maori Land Board appointed receiver (s 42/1931)	Part of Manawatu Development Scheme from 1938 to 1959. Rates paid in 1952 by Registrar who asked that the demands be sent to the occupier (Mrs A Hartley); Noted that used for grazing purposes; Europeanised 1969	No longer Maori land
Aratangata 2A (131.1.20)	Manawatu Oroua River Board, 1928: £3.12.3 See following partitions		See following partitions	See partitions below
Aratangata 2A1 (25.0.10)	1933: £4.4.0 discharged	1951: Ikaroa Maori Land	Leased to Ahiwharau Eparaima (niece of owner) for 10 years from 1947 for	Maori land (10.1424 ha –

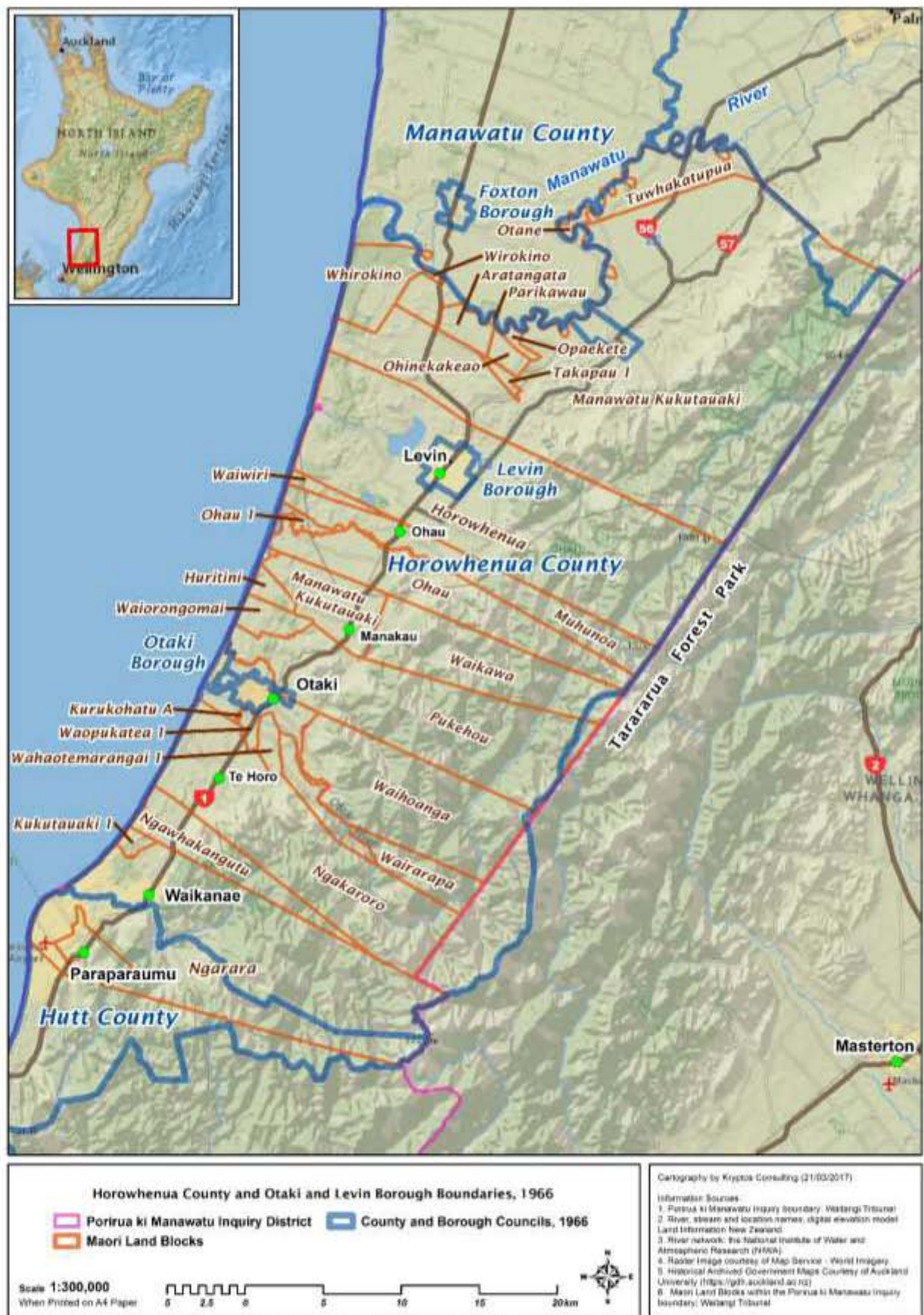
¹⁰⁶² Walghan Partners, Draft, 1 May 2017, volume 2, pp. 51-55; Otaki Minute Book 68, 6 April 1960 & 9 November 1960, p. 108.

	1954 1951:£9.1.8 discharged 1953 1953:£8.6.7 discharged 1954	Board appointed receiver (s 42/1931)	£25 per annum. Board contacted owner through solicitors. Leased for 21 years from 1953 to AF Green, farmer for £50 per annum and rates paid. Leased for 10 years from 1974. No record of current lease in MLOL.	owners)
Aratangata 2A2 (40.0.11)	1933: £8.9.8 1940: £10.13.0 1949: £10.9.6 1951: £16.11.1 (discharged 1955) 1953: £24.14.0 Noted as discharged.	1951: Ikaroa Maori Land Board appointed receiver (s 42/1931) 1967: County Clerk appointed receiver (s33/1953); discharged 1968	At the time of the 1940 CO, land was not leased. Valued at £40 (£15 improvements). Leased for 21 years from 1953 to AF Green, farmer, except for 1 acre incorporating house of Ahiwharau Eparaima. Charging orders released 1968. Leased for 10 years from 1974. No record of current lease in MLOL.	2A2A (.6 ha) & 2A2B (15.615 ha) are Maori land (partitioned 1990)
Aratangata 2A3 (35.3.7)	1933: £7.0.9 1953: £9.6.2	1956: County Clerk appointed receiver (s33/53)	Sold 1959 to AF Green, European farmer of Levin for £1200 – confirmed 9/11/1960	No longer Maori land
Aratangata 2A4 (29.2.18)	1933: £6.1.7 1953: £7.15.5	Unconfirmed.	Sold 1960.	No longer Maori land
Aratangata 2B (222.2.30)	1949: £72.10.7 1951: £65.0.8 satisfied 1955 1953: £110.11.1 satisfied 1955	1949: Ikaroa MLB appointed receiver (s42/1931) 1956: County Clerk appointed receiver (s33/1953)	Awarded to Edward Nicholson when partitioned in 1911. Leased from 1919 to 1940 to Messrs Rolston & Rolston Initial CO application was adjourned sine die as arrangements were being made for payment of rates by instalments: £29.1.3 (1938-1939) and £40.13.6 (1939-1940). Appears to have been declared European land on the application of the owners in March 1952 (not confirmed)	No longer Maori land

Sources: Otaki Minute Books, AAMK W3074 869 Box 396 h 12/1/919 Maori Trustee Appointed Agent – Aratangata 1C, 1951-1953; AAMK 869 W3074/396/I 12/1/920 Maori Trustee Appointed Agent - Aratangata 2A1, 1951-1955, Archives New Zealand, Wellington; Walghan Partners, Draft, 1 May 2017, volume 2, pp. 51-55; Aratangata Maori Land Court Block order files, Porirua ki Manawatu Inquiry District Research Assistance Projects: Whanganui Maori Land Court Records (Block Order Files): Document Bank Project, volume 1.

Note that Aratangata 2B and 2A1, 2, 3 & 4 were all subject to applications for charging orders from Manawatu Oroua River Board for significant amounts but no further information has been located concerning this.

Map 14: Horowhenua County and Otaki and Levin Borough Boundaries, 1966



9.19 Applications Vesting Land in the Maori Trustee for Sale, 1963-1975

From 1963, the Horowhenua County Council began to utilise another section of the Rating Act 1925 – one which had been used sparingly by the Maori Land Court since the Rating Act's inception. This was section 109 which enabled the Court to vest land in the Maori Trustee for the purpose of sale if a charging order remained unpaid for over one year. The order required the consent of the Minister of Maori Affairs. Also utilised by the Horowhenua County Council during this period was section 438 of the Maori Affairs Act 1953 which was a more general provision and not only rates related. It did, however, allow land to be vested in the Maori Trustee for sale and required the consent of the Minister of Maori Affairs. In 1967, this legislation was repealed. Section 155 of the Rating Act 1967 specified that an order vesting land in the Maori Trustee due to the non-payment of a rates charging order was to be made under section 438 of the Maori Affairs Act 1953 'as substituted by section 142 of the Maori Affairs Amendment Act 1967'. Vestings under section 142, while similar in some respects to the previous section 438 of the 1953 Act, did not require the consent of the Minister of Maori Affairs.

9.20 JH Flowers

James Howard Flowers, who has been mentioned earlier in this report in regard to his role with the Maori Affairs Department (he was a Field Supervisor), was by the early 1960s (it is thought to be around July 1962) employed by the Horowhenua County Council as its rates collector. It is not known whether his employment was purely in respect to rates on Maori land or whether he also collected rates on European land though the former appears more likely. The evidence suggests that it was his knowledge of the workings of the Maori Land Court and Maori land that facilitated the prosecution by the Horowhenua County Council of a great many rates related applications which resulted in their sale. He also facilitated the sale of other Maori land in the inquiry district when there was a tenuous connection to the Council. Some of this land was customary land.

The period where Mr Flowers was most active also coincided with a period where Maori Land Court Judges were prepared to make orders under section 109 of the Rating Act 1925 and section 438 of the Maori Affairs Act 1953 to vest land in the Maori Trustee for sale. It

was also the period where the Minister of Maori Affairs was prepared to consent to them whereas in the past there had been reluctance to do so.

One of the difficulties with Mr Flowers was that the evidence he collected formed the basis for the Maori Land Court decision and his evidence was not always correct. On a number of occasions, he told the Court that land was readily saleable when it proved very difficult to sell. He also told the Court certain owners wanted their land vested in the Maori Trustee so it could be sold when they did not. He also did not fully investigate ownership and contact details so that on many occasions his applications on behalf of the Council were made without the knowledge of owners. That said, the Court did not appear to require accurate, up to date ownership information from him and the Minister signed the orders on this basis.

The actions of Mr Flowers are also remembered by claimants almost fifty years on. Mr Flowers was seen as being on a ‘crusade’ to ‘tidy up’ titles which translated into selling them. Te Waari Carkeek and Te Kenehi Teria recall that their father and grandmother respectively were very wary about engaging with him because of this.¹⁰⁶³

9.21 Paremata 15A1, 15A2, 15A3 & 15A9, 1963

In the early 1960s, a number of applications were made to the Court for charging orders by the Horowhenua County Council which escalated into something much more. Some of these related to customary land – that is, land where title had not previously been investigated by the Maori Land Court.

In July 1963, Mr Flowers appeared for the Horowhenua County Council before Judge Prichard regarding an area of eight acres of Maori customary land described as ‘river bed, block VIII Waitohu Survey District’. Mr Flowers said that title to the area had never been investigated but was partially in ‘grass (good pasture) and gorse’ and that some of the area was used as a market garden. He said that the Council had a claim for rates that the Court had said would be dismissed under section 103 of the Rating Act 1925 (under this section, customary land was exempted from rates). Mr Flowers said that he accepted this but considered that ‘something should be done to get ownership’ so that it benefited the two

¹⁰⁶³ Feedback from Te Waari Carkeek and Te Kenehi Teira, Porirua ki Manawatu, Local Authorities Issues Draft Report Hui, Otaki, 2 March 2017.

marae nearby. He also said that ‘they [presumably Maori from the two marae nearby] would not prosecute a claim if left to them – they do not agree’. He, however, thought that the land ‘should somehow be brought into use’. The Court then ordered, on the advice of Mr Flowers but not of Maori from the two near-by marae, that the land be vested in the Maori Trustee under section 438 to lease or sell; to have surveyed; to ‘endeavour to have the ownership determined and to hold the nett proceeds for the owners when ascertained or failing such ascertainment for such objects or institutions beneficial to the Maori people as the Court shall direct’. The order was subject to the consent of the Minister of Maori Affairs.¹⁰⁶⁴

The report from the District Office to Maori Affairs Head Office explaining why the Minister should approve the order said that it was understood that the land was occupied by the Ryder Brothers who also occupied other Maori land in the area ‘under informal tenancy’. It was noted that the valuation of the area for rating purposes was £200 but it was ‘doubtful whether the value of the land would stand the cost of survey and the expenses of administration plus rates owing on the block’. (The reference to rates is spurious given that the land was exempted as it was customary land. This was not, however, explained in this document). The Minister’s consent was recommended and it was noted that if necessary, ‘a further approach could be made to the Court to amend its order’. The Secretary for Maori Affairs then prepared a report for the Minister. This recorded that that the block, called Paremata 15A9, was customary land which meant that title had not been investigated or ownership determined. It also said that the Horowhenua County Council had recently made application for a charging order for unpaid rates on the land and that the Court dismissed the application (but did not say why). The Court had though ‘of its own motion made an order under section 438 ... to lease or sell the land’. The writer said that no objection was seen to the land being vested and it was recommended that the Minister approve the order.¹⁰⁶⁵

The order was approved by the Minister of Maori Affairs, Ralph Hanan, who was Minister between 1960 and 1969. There is no record of any discussion with his officials regarding the matter.¹⁰⁶⁶

¹⁰⁶⁴ Otaki Minute Book 70, 23 July 1963, pp. 164-165.

¹⁰⁶⁵ District Officer, Palmerston North to Head Office, Department of Maori Affairs, 25 October 1963, Secretary for Maori Affairs to Minister of Maori Affairs, 5 November 1963, AAMK 869 W3074/1197/1 54/18/47 Maori Trustee - Paremata 15A9 - Vested under Section 438/1953, 1963-1965, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 102-105.

¹⁰⁶⁶ Head Office, Department of Maori Affairs to District Officer, Palmerston North, 12 November 1963, AAMK 869 W3074/1197/1 54/18/47 Maori Trustee - Paremata 15A9 - Vested under Section 438/1953, 1963-

Section 438 applications concerning three other Paremata blocks - Paremata 15A1 (1 acre 3 roods 20 perches), 15A2 (1 acre 3 roods 20 perches) & 15A3 (1 acre) - were heard by Judge Prichard on the same day as the application for Paremata 15A9. Mr Flowers again gave evidence for the Horowhenua County Council. He said that the Council was 'not concerned with the rates so much as having the land used'. Mr Flowers said that he was sure he could get the aforementioned Mr Ryder to lease the land for £2 per acre. It was also noted that there had been 'no movement in title' since 1891 (meaning that no successors had been appointed since then) and that Mr Flowers could 'suggest nothing except a trustee'. Once money had accumulated, he said, it could be possible to find successors. The Court then made an order under section 438 vesting the three blocks in the Maori Trustee to be leased. The Maori Trustee was to hold any proceeds for the owners as in proportion to shares subject to the consent of the Minister. Charging orders for rates owed between 1956 and 1962 of £1.15.0 (including costs) for each block were made at the same time.¹⁰⁶⁷

As with Paremata 15A9, a report regarding the 15A1-3 blocks was prepared by District Office officials that recommended that the Minister of Maori Affairs sign the order. It said that the land comprised a small area situated at the mouth of the Otaki River. From a plan it appeared to be an island in the river and it was presumed that it was occupied and farmed by the Ryder Brothers who occupied a considerable amount of the surrounding area. It was proposed to approach the Ryder Brothers and offer a lease. It was also noted that another section 438 order had been made in respect to Paremata 15A9 which was customary land consisting of 8 acres. This, it was thought, could be offered at the same time. A paper explaining this was prepared by Head Office officials specifically for the Minister. It was also recorded in this document that it was the Court that had 'of its own motion' made the order following the evidence given by the Council.¹⁰⁶⁸

1965, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, p. 106; G. P. Barton. 'Hanan, Josiah Ralph', from the Dictionary of New Zealand Biography. Te Ara - the Encyclopedia of New Zealand, updated 8-Oct-2013

URL: <http://www.TeAra.govt.nz/en/biographies/5h6/hanan-josiah-ralph>

¹⁰⁶⁷ Otaki Minute Book 70, 23 July 1963, pp. 165-166. The owners in 1891 were Mohi Te Huma, Rawiri Te Ruru and Te Pehara for 15A1, 15A2 and 15A3 respectively.

¹⁰⁶⁸ Assistant District Officer, Palmerston North to Head Office, Maori Affairs Department, 25 October 1963, Secretary for Maori Affairs to Minister of Maori Affairs, 8 November 1963, AAMK 869 W3074/1197/k 54/18/46 Maori Trustee - Paremata 15A1, 15A2 and 15A3 - Vested under Section 438/1953, 1963-1966, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 113-114.

The order was approved by the Minister but in April 1964, another section 438 application was made in respect to the block to vary the existing order. It was heard by Judge MC Smith. The application was from the Maori Trustee. A Mr McKinnon appeared in support and noted that the government valuation of all three blocks was only £85. Little else was recorded in the minutes. The new section 438 order was made, subject to the consent of the Minister 'to confer power of sale on Maori Trustee in such manner and at such price as he shall think fit'.¹⁰⁶⁹

The order was then forwarded for the Minister's consent. The District Officer explained that the three blocks, together with Paremata 15A9 and Pukerarauhe No 1 (which was vested in the Maori Trustee in November 1963 – discussed below) were all in a similar location and all in the occupancy of BM Ryder who was 'under the mistaken impression that it was part of his own holding'. The District Office said that it was intended to deal with all the blocks on the basis of a sale and that it was why it was necessary to alter the order to permit the sale. The order was then signed by the Minister.¹⁰⁷⁰

In October 1965, the District Officer advised Head Office that while the neighbouring farmer still wished to purchase Paremata 15A1-3, they had encountered difficulties as the land had not been surveyed. It was noted that a survey would be a 'fairly costly business in relation to the area and value of the land'. It had been suggested that the titles be amalgamated and that one survey be done of the whole area. This, he said would facilitate dealing with the land and would be welcomed by the purchaser. It did, however, introduce 'another aspect'. He explained that if the lands were sold there would be only one piece of Maori land left in the area which was Paremata 15A5 containing 1 acre 2 roods 24 perches. This land had not, however, been vested in the Maori Trustee but it was considered that it could be and included in the 'general proposition'. He said that the amalgamation of the titles of 15A1, 2, 3 and 9 together with 15A5 meant that 'one new vesting in the Maori Trustee would tidy up the title'. Any proceeds of the sale could be paid to the three marae operating in the Otaki area. RJ Blane, for the Maori Trustee responded that 'bringing in' 15A5 seemed right as was amalgamating the blocks with 15A1-3. The difficulty with 15A9 was that it was customary

¹⁰⁶⁹ Otaki Minute Book 71, 20 April 1964, p. 2.

¹⁰⁷⁰ District Officer, Palmerston North to Head Office, Department of Maori Affairs, 13 May 1964; Secretary, Department of Maori Affairs to District Office, Palmerston North, 20 May 1964, AAMK 869 W3074/1197/k 54/18/46 Maori Trustee - Paremata 15A1, 15A2 and 15A3 - Vested under Section 438/1953, 1963-1966, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 115-117.

land and amalgamation only applied to Maori freehold land. 'Still [he said] if the titles to the other areas were amalgamated, some surveying would be avoided. The alternative would be to get the beneficial owners of Paremata 15A9 determined first and then get the amalgamated title for the whole lot'.¹⁰⁷¹

Paremata 15A1, 15A2, 15A3 and 15A9 were amalgamated to form Paremata 15A11 but 15A5 was excluded (details have not been located as to why). Details about the sale of the block have also not been located apart from that Harper, Atmore & Russell acted for the purchasers of the block, the aforementioned B & O Ryder. A letter about the sale from the solicitors was, however, revealing. The solicitors said that rates were owed on the block (from 1956) and secured by charging orders which they asked to be forwarded to the Maori Land Court for discharge so that registration could be affected. The total amount was \$37.47 and included rates totalling \$14.06 assessed on the 'unsurveyed river bed' from 1964. This would appear to be Paremata 15A9 which had, up until the Horowhenua County Council's application in 1963 been customary land and therefore exempted from rates. While just a small amount of money, this action reflects the attitude of the Horowhenua County Council that they deemed themselves entitled to rates from the very section that they had facilitated the compulsorily sale of and which less than two years previously had been exempted from rates. In the two years since title had been investigated and a vesting order made (all at the instigation of the Council) the Council levied rates on the section. The statement by Mr Flowers that the Council was 'not concerned with the rates so much as having the land used' therefore appears questionable. This action also reduced the amount paid to Maori if indeed the money was paid out to local marae as proposed.¹⁰⁷²

Also of note is that BM Ryder, one of the purchasers of the customary land (who had previously been occupying the land under the 'mistaken' impression that he owned it) was a Horowhenua County Councillor between 1956 and 1977 – the period where these purchases, instigated by the rates-collector of the Horowhenua County Council (but not supported by local Maori) took place.¹⁰⁷³

¹⁰⁷¹ District Officer, Palmerston North to Head Office, Department of Maori Affairs, 14 October 1965; Maori Trustee to District Office, Palmerston North, 18 October 1965, AAMK 869 W3074/1197/k 54/18/46 Maori Trustee - Paremata 15A1, 15A2 and 15A3 - Vested under Section 438/1953, 1963-1966, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 118-120.

¹⁰⁷² Harper, Atmore & Russell to Horowhenua County Council, 4 February 1969, HDC 00098 1 3 Maori Land, Rate Charging Orders, 1962-1968. SW Document Bank, volume 9, p. 22.

¹⁰⁷³ Dreaver, p. 302.

9.22 Pukerarauhe 1, 1963

As noted above, in the interim, on 13 November 1963, an application, also under section 438 was heard in respect to Pukerarauhe No 1 by Judge Jeune. Mr Flowers was in attendance, who it was noted was employed by the Horowhenua County Council for rate collection. He said that rate demands had been made for many years by the Horowhenua County Council ‘on assumption that there was freehold title’ indicating that the Council had never checked title and ownership details until then (1963). He said that the record showed that an investigation of title application was dismissed on 17 April 1876 as the claimant had died. No further claim was ever made to the Court. He said that he had visited the land and it comprised ‘rough riverbed pasture of hemlock, fescur, flax and clover’. He considered that it was also occupied by the Ryder brothers of Otaki as their cattle were on it but it was ‘difficult to locate the boundaries’. Mr Ryder denied occupation but Tamati Hawea (who also farmed in the area) advised that Mr Ryder was using it. When Mr Flowers said that he would apply to the Court he said that Mr Ryder became ‘more interested’. He said that too that the Council was ‘more concerned’ with the land being a ‘seedbed for noxious weeds than for rating purposes’ and that the adjoining land was ‘similarly infested before the Court, some years previously, vested it in the Maori Trustee’. It was now ‘good pasture which was sold by Maori Trustee or taken by Crown’ (details of this have not been located). The Court said that it accepted the position outlined by the applicant as it had heard a similar case in connection with adjoining land. Also, that there were ‘no owners for whom the Court must have regard as to any objection under section 438(3)/1953’. The Court ruled that an order would be made but the exact terms of the trust had to be defined before the order was pronounced. The order was later made which specified that the land would be vested in the Maori Trustee upon trust to sell or lease, to endeavour to have the ownership determined and to hold the nett proceeds for the owners when they were ascertained. If the owners could not be identified, then the Trustee would identify ‘objects or institutions beneficial to the Maori people as the Court shall direct’. Costs of £1 were to be paid to Council from the proceeds. Identifying the owners first and then consulting with them as to what they wanted to do with their land was not given as an option.¹⁰⁷⁴

¹⁰⁷⁴ Otaki Minute Book 70, 13 November 1963, pp. 217-219.

Due to an ‘oversight’ the Minister’s consent to the vesting of Pukerarauhe 1 was not sought until 1966. The Minister was advised that it was customary land comprising eight acres and situated on the south bank of the Otaki River about half a mile from the sea coast. An inspection of the block showed that it was infested with noxious weeds but ‘largely flat except for some shallow depressions and swampy area’. The soil was ‘mainly stoney with some pockets of silt loam’. Access to the land was ‘poor and only through adjoining freehold land, the owners of which have at times used the block for rough grazing’. The application by the Horowhenua County Council was made ‘with a view to having the weed infestation cleaned up and the land brought into use’. On this basis, the Minister consented to the order.¹⁰⁷⁵

A transfer was executed on 8 December 1967 to Tamati Hawea, who farmed adjoining Maori land, for £40 plus the cost of a compiled plan. In March 1970, a submission was before the Court as to the disposal of the proceeds (as it was customary land) but it is unclear as to what finally occurred. Of note is that the land is still Maori land.¹⁰⁷⁶

9.23 Manawatu Kukutauaki 3 section 1B3 & Manawatu Kukutauaki 7D2D28, 1964

In April 1964, Mr Flowers appeared for the Horowhenua County Council in respect to an application to have Manawatu Kukutauaki 3 Section 1B3 (6 acres 2 roods 27 perches) vested in the Maori Trustee. Mr Flowers said he understood that the Maori Trustee had not previously wanted to accept appointments as trustee in respect to small areas such as Manawatu Kukutauaki 3 Sec 1B3 but that he had ‘gathered at the last Court’ when the matter came before Chief Judge Prichard, that as long as the land could be ‘readily sold or leased’ that the policy would not remain. He said that he had contacted, W Calder, described as the current occupier of the land, who said that he would be prepared to purchase the land. The land was described by Mr Flowers as ‘an isolated pocket of land which has to be farmed in conjunction with adjoining land’. The only access was from the railway line. He said that he had asked ‘a lot of local people’ whether they had any knowledge of the Hamene family who

¹⁰⁷⁵ Secretary for Maori Affairs to Minister of Maori Affairs, 9 February 1966, AAMK 869 W3074/1206/j 54/18/313 Maori Trustee - Pukerarauhe No. 1 - Vested under Section 438, 1964-1966, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, p. 125.

¹⁰⁷⁶ District Officer, Palmerston North to Head Office, Department of Maori Affairs, 24 November 1966, AAMK 869 W3074/1206/j 54/18/313 Maori Trustee - Pukerarauhe No. 1 - Vested under Section 438, 1964-1966, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 126-127.

were the owners but no one had heard of them. He said that there had been no change to the title since 1894 (meaning that no successors had been appointed since then) and it was only in the previous two years that rates had been paid (presumably by W Calder). There was still £5.19.10 outstanding and in respect of which a charging order was obtained and the County Clerk appointed receiver. In view of the ‘minute amount of rent’ that individual owners would receive ‘if they could be traced’, it appeared to him ‘altogether more satisfactory that the land should be sold rather than leased by the receiver’. The Court was convinced and an order under section 438 of the Maori Affairs Act 1953 made, subject to the approval of the Minister, that the land be vested in the Maori Trustee ‘upon trust for the benefit of the owners of the land, with power to sell the land at such price and upon such terms as the Maori Trustee may think fit’. As with previous orders, the order was made on the basis that ownership of the land should be determined only after the land was sold.¹⁰⁷⁷

It would seem that the Minister approved the order as the land was sold to Mr and Mrs Calder, the occupiers, in the same year for £210.1.4.¹⁰⁷⁸

A second application was made on the same day by Mr Flowers in respect to Manawatu Kukutauaki 7D2D28 which comprised 2 roods 27 perches. Mr Flowers noted that it was a small area in respect of which there were arrears of rates of £3.4.4 although no charging order had been obtained. The occupier was James Stewart of Poroutawhao though he was not actually in occupation during the period where the rates accrued. Mr Stewart was prepared to pay current rates and if he was able to purchase, would pay the arrears as well. Mr Stewart had, according to Mr Flowers, gone to a ‘great deal of trouble trying to ascertain successors to deceased owners’ but has been unsuccessful. No further details on the extent of Mr Stewart’s investigations have been located and it was not stated whether the Court assisted at all. Mr Stewart was also prepared to pay the same price per acre as he paid for nearby land that he had recently purchased. This was said to be well above government valuation – about £120 per acre. The order was then made by the Court under section 438, subject to the consent of the Minister, that the land be vested in the Maori Trustee ‘upon trust for the benefit of the owners of the land, with power to sell the land at such price and upon such

¹⁰⁷⁷ Otaki Minute Book 70, 8 April 1964, p. 314.

¹⁰⁷⁸ Walghan Partners, Draft, 1 May 2017, volume 2, pp. 277-213.

terms as the Maori Trustee may think fit'. Again, the order was made on the basis that the land should be sold before ownership was determined.¹⁰⁷⁹

Again, the Minister must have approved the order as the land was sold to Mr Stewart in 1965 for £150.¹⁰⁸⁰

9.24 First section 109 application, Lot 9 Block II DP 1314 Hokio Maori Township, July 1964

The first application for land to be vested in the Maori Trustee for the purpose of sale under section 109 of the Rating Act 1925 made by the Horowhenua County Council was in respect to Lot 9 Block II DP 1314 Hokio Maori Township consisting of 1 rood 20 perches. The application was heard on 29 July 1964 before Judge Smith and was the only section 109 order made that day. This was a year after the Otaki Borough Council had first started making applications under section 109. There is no reference in the minutes to this being anything out of the ordinary and there are relatively few details recorded about the circumstances leading to the application. This suggests that the matter had already been discussed amongst Council and Court officials which is what occurred with the Otaki Borough Council when the Court suggested to the Otaki Borough Council that it pursue applications under section 109 and not alternative legislation which promoted leasing and did not allow for a compulsory sale. The Judge (Jeune) who made orders in respect to Otaki Borough Council lands said he did not wish to see endless charging order applications being made in respect to the same blocks. Indeed, Mr Flowers stated that at a Maori Land Court hearing in July 1963, Chief Judge (of the Maori Land Court) Prichard 'expressed the view that it was not helping Maoris to pile up Charging Orders in cases where the land was unoccupied and could be readily sold'. He said too that Judge Smith shared the same view¹⁰⁸¹

The Council also applied for a charging order against the block at the same time. Both orders were made by the Court though the section 109 order was subject to the consent of the

¹⁰⁷⁹ Otaki Minute Book 70, 8 April 1964, pp. 314-315.

¹⁰⁸⁰ Walghan Partners, Draft, 1 May 2017, volume 2, pp. 277-313.

¹⁰⁸¹ There is nothing in the Maori Land Court minutes preceding or immediately after the application about it. Otaki Minute Book 71, 29 July 1964, pp. 43-44; PS McLaren, Town Clerk, Otaki Borough Council to Maori Affairs, Head Office, 1 November 1963, ACIH 16036 MA1/765 54/22/2 Maori Trustee - Pt. Hanganohi 1E Makuratawhiti Subdivisions - Town of Otaki subdivisions etc. - Vested in Maori Trustee (see 109 Rating Act) Sale. 1963-1965, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 14-15.

Minister of Maori Affairs and to the receiver receiving an order of discharge. Mr Flowers told the Court that the land was a small section at Hokio beach and that the owner had died. He explained that the aforementioned receivership order was 'of no practical use' as there was no demand for a lease. The block would, however, 'sell readily' and bring in 'considerably above' the required government valuation of £250. No further details were given.¹⁰⁸²

Particulars of title show that the 1 rood 20 perches block had one owner, Kekeke Taueki. A plan showed that the block was on Muaupoko Street.¹⁰⁸³

The order was submitted to the Minister of Maori Affairs for approval but not until 13 April 1965. The reason for the delay was not given though the District Officer at Palmerston North recommended that the Minister give his approval. It was not, however, immediately forthcoming with Head Office officials requesting more information from the Palmerston North Office. They were asked whether there was any further information regarding the land and why the vesting was sought. Also, whether anything was known of the sole owner and their whereabouts (presumably as no information had been provided regarding this).¹⁰⁸⁴

The District Officer at Palmerston North responded that the grounds on which the section 109 order was sought were as follows:

- (a) Rates covered by a receivership order dated 1.6.56 for £4.1.7 including costs and rate charging order dated 3.4.63 for £6.1.7 including costs remain unpaid.
- (b) Further rates amounting to £7.12.2 are also outstanding
- (c) The section is unoccupied and the sole owner is now deceased.
- (d) The section is situated at Hokio and it is considered that it would be readily saleable on the open market.¹⁰⁸⁵

¹⁰⁸² Otaki Minute Book 70, 23 July 1963, pp. 159-160; Otaki Minute Book 71, 29 July 1964, pp. 43-44.

¹⁰⁸³ Particulars of title, circa 1964, ACIH 16036 MA1/765 54/22/4, Maori Trustee – Hokio Maori Township, Lot 9, D.P. 1314 Block 2 – Vested under section 109, 1966, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 129-130.

¹⁰⁸⁴ District Officer, Palmerston North to Head Office, Department of Maori Affairs, 13 April 1965; Secretary, Head Office to District Office, Palmerston North, 22 April 1965, ACIH 16036 MA1/765 54/22/4, Maori Trustee – Hokio Maori Township, Lot 9, D.P. 1314 Block 2 – Vested under section 109, 1966, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 131 & 138.

¹⁰⁸⁵ District Officer, Palmerston North to Head Office, Department of Maori Affairs, 13 May 1965, ACIH 16036 MA1/765 54/22/4, Maori Trustee – Hokio Maori Township, Lot 9, D.P. 1314 Block 2 – Vested under section 109, 1966, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, p. 132.

It was also confirmed that the capital value of the land was £260 (improvements of £10) which would indicate that there was no dwelling on the land. None of the requested information about the deceased owner (and their successors) was provided.¹⁰⁸⁶

This must have been deemed sufficient as a recommendation to sign the order was submitted by the Deputy Secretary of the Department of Maori Affairs and Maori Trust Office to the Minister of Maori Affairs on 19 May. It was explained again that the land was owned by a person who had died and that the Horowhenua County Council had applied for the land to be vested in the Maori Trustee and sale on the grounds that the section was unoccupied and rates not being paid (a total of £17.15.4). At no time was it suggested that the successors to the deceased owner be determined so that the land did not have to be sold. It was noted too that the section had frontage to both the beach and Muaupoko Street and ‘should sell readily on the open market’. The Minister approved the order.¹⁰⁸⁷

About six months later the District Office was asked if the land had been sold. Head Office was advised that as soon as the County Clerk for the Council had lodged a formal application to have himself discharged as receiver, the land would be advertised for sale by public tender. In addition, it was noted that the Council was prepared to issue a building permit for a residence confirming that there were no buildings on the land and therefore no services had been provided to the land by the Council.¹⁰⁸⁸

In August 1966, the District Office advised that the memorandum of transfer on the block had been executed on 25 July 1966 for £405. The document was being retained pending receipt of the proceeds of the sale. It was not stated who the purchase money would be distributed to given that the sole owner had died and their interests not succeeded to. It is not known

¹⁰⁸⁶ Ibid.

¹⁰⁸⁷ Deputy Secretary, Department of Maori Affairs and Maori Trust Office to Minister of Maori Affairs, 19 May 1965; Secretary, Department of Maori Affairs to District Office, Palmerston North, 27 May 1965, ACIH 16036 MA1/765 54/22/4, Maori Trustee – Hokio Maori Township, Lot 9, D.P. 1314 Block 2 – Vested under section 109, 1966, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 133-134.

¹⁰⁸⁸ Head Office, Department of Maori Affairs to District Office, Palmerston North, 29 November 1965; District Officer, Palmerston North to Head Office, 10 December 1965, ACIH 16036 MA1/765 54/22/4, Maori Trustee – Hokio Maori Township, Lot 9, D.P. 1314 Block 2 – Vested under section 109, 1966, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, p. 136.

whether the Maori Trustee sought out a successor in order to pay out the purchase money or what Maori Trustee policy was in circumstances such as these.¹⁰⁸⁹

9.25 Section 109 applications, 3 August, 1964

Several days after the Horowhenua County Council had made its first application under section 109, the council applied for 18 other orders under section 109. Fourteen of the 18 applications were ordered with three adjourned (Horowhenua X1A4B2, Ngarara West A22A1 and A22A2) and one converted to a section 438 order to be leased (Ohau 3A1A2B). Most were small sections. The applications were heard by Judge Smith.¹⁰⁹⁰ In total the 14 sections comprised 5 acres 2 roods 2.09 perches.

9.26 Horowhenua A5E, A3C, A3D and A3E, 1964

The first of the 18 applications heard on 3 August 1964 was in respect to Horowhenua A5E block (1 acre). A charging order was also applied for (a receivership had also been previously ordered with Mr Hudson, the county clerk already appointed). Mr Flowers told the Court that the land was situated at Kawiu valued at £425, was unoccupied with six owners. He said that he had contacted one of the owners, Kararaina Wiremu, about 12 months previously and she had been served with the rate demands. She owned a house on the adjoining section and had told him that the other owners were in the South Island and that she would contact them to see if arrangements could be made to pay rates. No payment, however, had been made. Mr Flowers said that there was ‘no value for leasing’ but it was ‘suitable as a building site’. He justified the order thus:

A sale is clearly in interests of owners, as a lease would not return sufficient to meet annual rates.¹⁰⁹¹

That the rates might be too high was not considered nor was the option of exempting the land given that it could not provide sufficient income to pay rates. Mr Flower’s statement that selling was in the ‘interests of owners’ was also not challenged and the owners were not

¹⁰⁸⁹ District Officer, Palmerston North to Head Office, Department of Maori Affairs, 22 August 1966, ACIH 16036 MA1/765 54/22/4, Maori Trustee – Hokio Maori Township, Lot 9, D.P. 1314 Block 2 – Vested under section 109, 1966, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, p. 137.

¹⁰⁹⁰ Otaki Minute Book 71, 3 August 1964, pp. 67-78.

¹⁰⁹¹ Otaki Minute Book 71, 3 August 1964, p. 69.

given the opportunity to state what they wanted. The Court made both a charging order and order under section 109 (subject to consent of Minister and subject to receiver first obtaining his discharge).¹⁰⁹²

The next set of section 109 applications ordered by the Court (subject to the consent of the Minister) were in respect to Horowhenua A3C, A3D and A3E (all 1 rood 24 perches in size). Mr Flowers explained that the sections were located on Kawiu Road and had previously been in the Horowhenua County but had been transferred to the Levin Borough. The county was still owed rates. He said that A3C had seven owners and that they also owed the Borough around £20 in rates for the current year. He did not know who the owners were but the section was worth between £750 and £800. With regard to A3D and A3E, which were adjoining, the sections were owned by the Taueki family. The County had received no rates from at least 1950. He said that each section should bring £750 to £800 and that the Maori Trustee already acted for some of the minors. The addresses of the other owners were not, he said, known. This was one of many applications made where owners details had not been located meaning they were not aware that their land was in the process of being sold. The Court, however, was not concerned and on this information the section 109 orders were made over the three sections.¹⁰⁹³

The Deputy Secretary of the Department of Maori Affairs recommended to the Minister of Maori Affairs on 3 May 1965 that he approve the section 109 orders in respect to Horowhenua A5E, A3C, A3D and A3E. The Horowhenua Blocks were described to him as farm land in the Levin area in multiple ownership. The Minister was also advised that in the cases where owners could be located, they were ‘generally in favour of sale as leases would not return sufficient to meet the annual rates’. (This was likely to have meant, however, that owners had only been provided with the two options of leasing and sale with exempting the land instead not given as an option). The Minister was advised too that no difficulty was anticipated with selling the land. The Minister, JR Hanan, signed the order on 4 May 1965.¹⁰⁹⁴

¹⁰⁹² Ibid.

¹⁰⁹³ Ibid, p. 76.

¹⁰⁹⁴ Deputy Secretary, Department of Maori Affairs to Minister of Maori Affairs, 3 May 1965; Order vesting land in the Maori Trustee, 4 May 1965, ACIH 16036 MA1/765 54/22/12 Maori Trustee – Horowhenua A5E – Vested under Section 109, Rating Act 1925, 1961-1968, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 140-142.

Both Horowhenua A3D and A3E were reported as having been sold in February 1966 to LC Baker for £3100 each. It was also at this time that the District Officer reported that owners had objected to the sale of Horowhenua A3C and A5E as they claimed they knew nothing of the application lodged by the Levin Borough Council (actually the Horowhenua County Council) to have the land vested in the Maori Trustee under section 109. The owners said that had first become aware of the order when the Maori Trustee at Palmerston North advertised the land for sale by public tender. As a result, the Maori Trustee had withdrawn the sections from sale pending advice from the owners of ‘firm proposals on how they intend to meet the liability for rates’. They had all been ‘warned’ that if the Maori Trustee did not hear from the owners by 1 March 1966 with an arrangement to pay the rates, the Maori Trustee would have ‘no option but to act on the terms of the order and proceed with the negotiations for sale’. The owners had accordingly been ‘urged to get in touch with the local body as soon as possible’.¹⁰⁹⁵

The District Officer did not report again on any of the sales until August 1967 but this was in respect to Horowhenua A5E (1 acre) only. He stated that as the office had received no response from the beneficial owners of Horowhenua A5E as to a firm arrangement to pay outstanding rates of \$73.02 plus \$4 costs, they had ‘placed the section in the hands of Messrs Rod Weir & Co. Ltd for disposal on behalf of the Maori Trustee’. Several months later he reported that they were negotiating a sale of the section for \$800 which he said, should be completed by January 1968.¹⁰⁹⁶

Although the land had been sold, it was not the end of the matter. The owners of Horowhenua A5E enlisted the assistance of Whetu Tirikatene-Sullivan, MP for Southern Maori. She rang Mr Blane of the Maori Trustee in March 1968 stating that she had two owners of the land with her who were objecting to the sale of the land by the Maori Trustee under section 109 of the Rating Act 1925. She said that the owners thought that arrangements had been made with their lawyer to pay the rates. It had also transpired that the purchaser of the land was a subsidiary company of the estate agent selling the land (Rod Weir & Co) who had then on-

¹⁰⁹⁵ District Officer, Palmerston North to Head Office, Department of Maori Affairs, 21 February 1966, ACIH 16036 MA1/765 54/22/5 Maori Trustee – Ngarara West A3C Subdivisions and other blocks – vested under section 109, 1964-1970, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, p. 52.

¹⁰⁹⁶ District Officer, Palmerston North to Head Office, Department of Maori Affairs, 2 August 1967, ACIH 16036 MA1/765 54/22/12 Maori Trustee – Horowhenua A5E – Vested under Section 109, Rating Act 1925, 1961-1968, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, p. 143.

sold the land for twice as much as the Maori Trustee had been paid. This is discussed in further detail in the Anderson Pickens report.¹⁰⁹⁷

Of note, however, was a letter from the Secretary of the New Zealand Maori Council, JM Booth to the Secretary for the Department of Maori & Islands Affairs in April 1968 concerning the matter. Mr Booth asked that the circumstances surrounding the sale be investigated. The Maori Council had been advised that a sale was negotiated through Rod Weir & Co who had ‘arranged a sale to a firm in which the land agent and his son ... [had] a substantial interest and which firm immediately resold the property at double the price’. If this was correct, he said, then the case was of much concern. Mr Booth also asked if the land was put up for auction or tenders invited as they considered it ‘essential that the Maori Trustee should be diligent in his search for the best offer for the land’. The Maori Council also queried whether the land had been vested under section 387 of the Maori Affairs Act (it had not) which required the Maori Trustee to give preference to suitable offers from Maori and whether they ever discussed the possibility with the owners that they might ‘lease the land and take responsibility for the payment of rates’. It was also suggested that this may have been possible with other members of the family being agreeable to Mrs Murray, who had been liaising with the Department, to have taken a lease at a nominal rental so as to preserve the land in family ownership. Mr Booth also understood that Mrs Murray had asked the Maori Trustee if rents from another block in which the family had shares could be assigned for the payment of rates ‘but although she was willing to make such an assignment for her own share she felt that all the owners should accept some responsibility for the rates’. Mr Booth asked whether this had been discussed by the Maori Trustee with the owners or whether the Trustee did not regard this as part of his responsibilities. Mr Booth also asked whether the Maori Trustee made any effort to obtain payment of rates before taking the final step of selling the land. He said that his reasons for asking was ‘not to put the Maori Trustee on the spot but to obtain as full information about the case as possible’. He said that Mrs Murray had authorised him to take the case to the Ombudsman ‘because she feels that the family has been deprived of a considerable amount of money through the shady dealings of the land agent and also, she feels through the lack of care on the part of the Maori Trustee’. Mr Booth also commented:

¹⁰⁹⁷ Robyn Anderson and Keith Pickens, *Wellington district: Port Nicholson, Hutt Valley, Porirua, Rangitikei, and Manawatu*. Wellington, 1996, pp. 317-318.

With the increasing pressure being exerted by Local Authorities to have Maori land leased or sold for payment of rates the lessons to be learned from this particular case have a wider application. Can you tell us what steps might be taken by the Maori Trustee to prevent a recurrence of such an incident as this. Is there any redress open to the owners or to the Maori Trustee? We ourselves are bearing in mind the possibility of sending a report once we have the full facts, to the Real Estate Institute as we feel that the Estate Agent involved has acted unethically.¹⁰⁹⁸

The response to the New Zealand Maori Council was short and dismissive. The Secretary, JM McEwen, simply replied that the land was vested under section 109 of the Rating Act 1925 on 3 August 1964 and the order approved by the Minister on 4 May 1965. Also, that:

Mrs Murray, who had a solicitor acting for her, is well aware of what the Maori Trustee did before giving final instructions to the agent to sell. If she, or her solicitor, wants any further information, the Maori Trustee will do what he can to supply it.¹⁰⁹⁹

He also added that the Maori Trustee was ‘considering the point whether he has any rights against the agent arising out of the transactions with the land’.¹¹⁰⁰ Although the matter was investigated further, Anderson and Pickens note that it was ultimately concluded by the Maori Trustee that there ‘were no grounds for action against the real estate agent’. The Maori owners also decided to ‘accept the £800 that the Maori Trustee had received for the land’ (though it would appear that they had little other choice). Anderson and Pickens also point out that one of the final acts of the Maori Trustee in regard to the case was to tell the District Office:

Although it is not likely to happen again, would you please ensure that land is not sold to any land agent unless it is first put up for tender.¹¹⁰¹

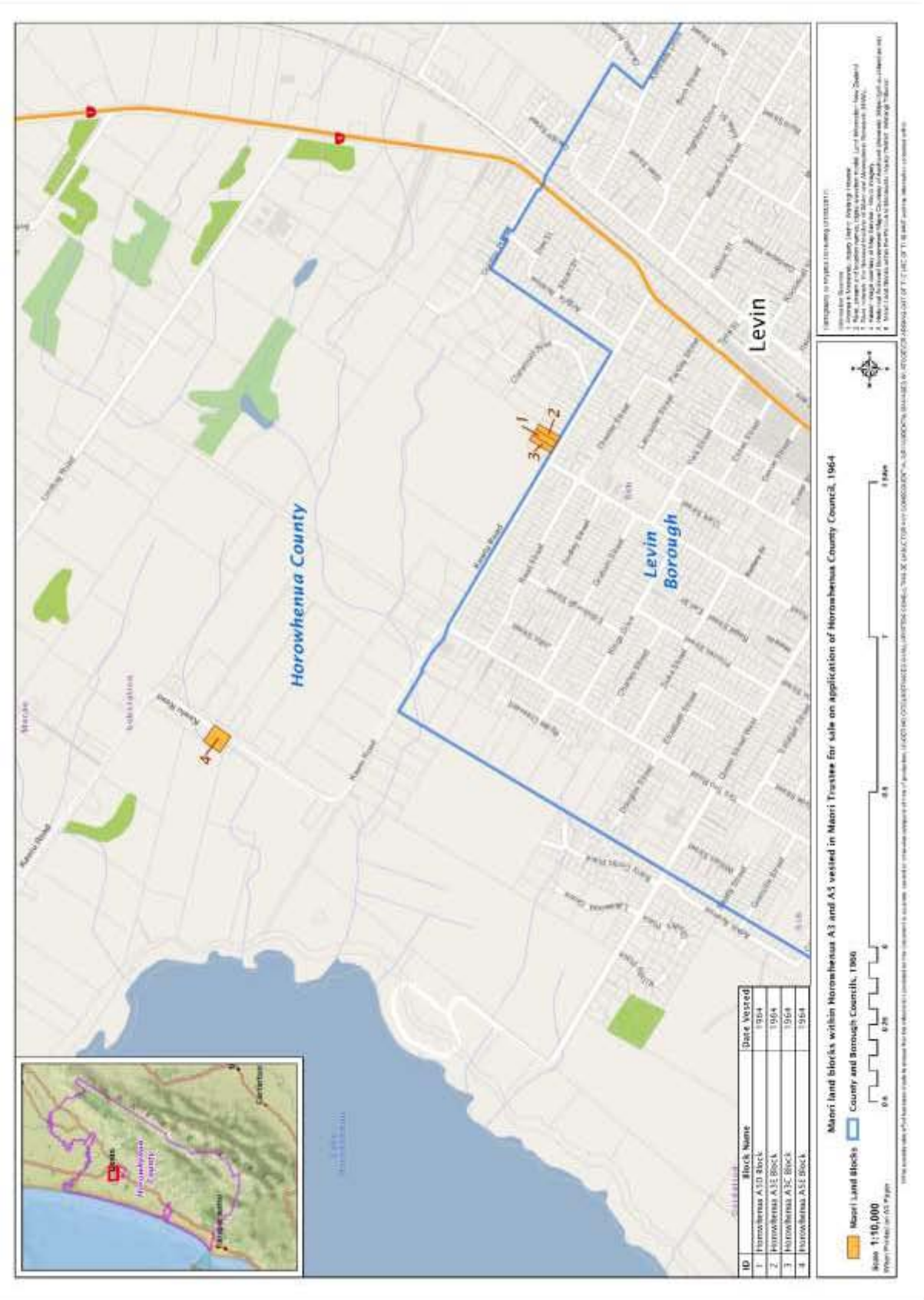
¹⁰⁹⁸ JM Booth, Secretary, New Zealand Maori Council to Secretary, Department of Maori & Islands Affairs, 5 April 1968, ACIH 16036 MA1/765 54/22/12 Maori Trustee – Horowhenua A5E – Vested under Section 109, Rating Act 1925, 1961-1968, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 144-145.

¹⁰⁹⁹ JM McEwen, Maori Trustee to Secretary, New Zealand Maori Council, 24 April 1968, ACIH 16036 MA1/765 54/22/12 Maori Trustee – Horowhenua A5E – Vested under Section 109, Rating Act 1925, 1961-1968, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, p. 146.

¹¹⁰⁰ Ibid.

¹¹⁰¹ Anderson and Pickens, p. 317; Head Office, Department of Maori Affairs to District Officer, Palmerston North, 3 July 1968, ACIH 16036 MA1/765 54/22/12 Maori Trustee – Horowhenua A5E – Vested under Section

Map 15: Maori land blocks within Horowhenua A3 and A5 vested in Maori Trustee for sale on application of Horowhenua County Council, 1964



109, Rating Act 1925, 1961-1968, Te Tumu Paeroa, Wellington quoted in Anderson and Pickens, p. 318. SW Document Bank, volume 8, p. 147.

9.27 Ngarara West A3C Subdivisions, 1964

There was slightly more information recorded at the hearing in August 1964 where orders were made under section 109 in respect to Ngarara West A3C5, A3C6, A3C11, A3C13, A3C14, A3C15 and A3C16. Mr Flowers advised the Court that the sections were on Te Moana Road in Waikanae and were adjoining. He said that they were cut out as housing sites but no rates had been paid since and no buildings were on any of the sections. As far as he knew, none of the owners lived in the Waikanae area. Some, he thought, were in Stewart Island. He also understood that a ‘number of the owners’ wished to sell though he did not state from which owners he had heard this (presumably not the ones in Stewart Island).¹¹⁰²

Following the vesting hearing Mr Flowers explained in a letter to the District Officer of the Department of Maori Affairs at Palmerston North the background to the vestings of the Ngarara West A3C subdivisions. He advised that a partition was made of the blocks ‘some years ago’ to provide a number of housing sites.¹¹⁰³

Indeed, it was in November 1953, that the land was partitioned. The partition had arisen from owners of Ngarara West A3B2, A3C, A3D1 & 2 and A3E making application for a ‘combined partition’ thereby consolidating their land together. The minutes record that the owners agreed on the scheme of partition of the 18 acres 2 perches 13.8 area which provided for 16 houses sites on the northern portion of the blocks. This comprised 4 acres 2 roods 08.8 perches with the balance being available for ‘later consideration’ of which nine acres was said to be ‘wasted area and valueless’. It was noted that there was already a ‘partly formed road’ which Mr Stevens, for the applicants, said they wanted to make use of. He said that he had discussed the matter with the County Engineer and with slight amendment to the proposed road, the engineer approved the whole scheme. The names of the prospective owner or owners of each of the 16 sections was shown on the plan (named Ngarara West A3C1-A3C16). The Court said that the scheme had ‘much in its favour’ and considered it ‘similar to a scheme of consolidation’. The partition included a road line approximately 50 feet wide (about 15 metres) commencing at Moana Road to be laid out as shown on the sketch plan

¹¹⁰² Otaki Minute Book 71, 3 August 1964, p. 77.

¹¹⁰³ JH Flowers to District Officer, Palmerston North, Department of Maori Affairs, 25 August 1964, ACIH 16036 MA1/765 54/22/5 Maori Trustee – Ngarara West A3C Subdivisions and other blocks – vested under section 109, 1964-1970, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 91-92.

which was known as Ngarara West A3C Roadline. The balance of the block was known as Ngarara West A3C Residue comprising 14 acres 5 perches ¹¹⁰⁴

Mr Flowers further explained that 8 acres 2 roods 11 perches of Ngarara West A3C Residue was taken by proclamation by the Manawatu Catchment Board and compensation paid. The balance comprised 5 acres 30.68 perches. Mr Flowers told the District Officer that Ngarara West A3C residue was 'subject to various receiverships and rate charging orders' but all the charges, he said, had been paid out from the compensation money. Rates for 1964/1965 would be charged the following month and would be in the vicinity of £50. Mr Flowers explained that at the last sitting of the Court, orders were made under section 109 in respect to some of the sections. Even at this early stage, Mr Flowers advocated for the subdivision to be completed (the road built) prior to the sale of the block and that while the proceeds should go to the owners the owners themselves should not go ahead with the subdivision themselves. It was his opinion, he said that it was 'desirable a subdivision should be made of the Residue when considering the disposal of the sections subject to 109 orders as in most, if not all cases the owners had shares in the residue'. He said that when the original subdivision was made it was not a requirement that the road line be formed. The present road reserve was, he said approximately 60 feet (18 metres) where it met the residue. The roading of the balance area needed only be 40 feet (12 metres) to meet county requirements. The cost of roading, he said, was approximately £280 per chain (a chain is about 20 metres). As far as the present subdivisions were concerned, the roading cost would be reflected in increased value of the sections and would 'not be a burden'. The County, he said, did not require any reserve but could be levied a 'cash contribution in lieu thereof on approving of a subdivision roughly that is the equivalent of say one section in about 12'. He noted that Ngarara West A3C2 was not a county reserve but vested in trustees under section 438 and was set aside by all the owners and therefore could be sold to 'help with roading costs or transferred to the county as a cash contribution or equivalent for the subdivision as a whole'. It was, he said, a valuable section. Further:

There is a keen demand for sections at Waikanae in the better localities and accordingly rates are high and leave little option for most to consider subdivision, especially where there is a number of Maori owners. ¹¹⁰⁵

¹¹⁰⁴ Otaki Minute Book 65, 9 November 1953, pp. 130-135.

He also said that some of the sections were ‘narrow and in view of increased roading costs and water mains the only solution was to amalgamate such sections so as to provide a more attractive subdivision and more or less halve roading costs’.¹¹⁰⁶

In May 1965, the minutes of the hearing where the section 109 orders were made subject to the Minister’s consent were sent to Maori Affairs Head Office together with a recommendation by the District Officer that the orders be signed by the Minister. No questions were asked of the District Officer by officials at Head Office as to why the partitioning in 1953 had not advanced to a housing subdivision particularly given that the owners had consolidated their land for this very purpose. Officials also did not query whether the rates might be too high (given that any rental would not cover the rates) or consider the possibility of exempting the land from rates for the same reason.

Instead the Deputy Secretary of the Department of Maori Affairs recommended to the Minister of Maori Affairs on 3 May 1965 that he approve the section 109 orders in respect to the nine Ngarara West blocks made on 3 August 1964. The Ngarara West blocks were described to the Minister as being in a housing subdivision at Waikanae largely with single ownership but not occupied (though why there were no houses was not explained). According to the Deputy Secretary the Court was told that in the cases where owners could be located, they were ‘generally in favour of sale as leases would not return sufficient to meet the annual rates’. No difficulty, he said, was anticipated with selling the land. The Minister signed the order on 4 May 1965.¹¹⁰⁷

In February 1966, it was reported that the position in respect to the Ngarara West A3C subdivisions was similar to that of Horowhenua A5E and A3C in that all the beneficial owners ‘for whom addresses ... [were] held’ had been told that if they had not made an arrangement with the appropriate local body for the payment of rates by 1 March 1966, the

¹¹⁰⁵ JH Flowers to District Officer, Palmerston North, Department of Maori Affairs, 25 August 1964, ACIH 16036 MA1/765 54/22/5 Maori Trustee – Ngarara West A3C Subdivisions and other blocks – vested under section 109, 1964-1970, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 91-92.

¹¹⁰⁶ Ibid.

¹¹⁰⁷ Deputy Secretary, Department of Maori Affairs to Minister of Maori Affairs, 3 May 1965; Order vesting land in the Maori Trustee, 4 May 1965, MA 1 765 54/22/12 Maori Trustee – Horowhenua A5E – Vested under Section 109, Rating Act 1925, 1961-1968, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 140-142.

Maori Trustee would have ‘no option but to act on the terms of the order and proceed with the negotiations for sale.’ The District Officer said that they had been ‘urged to get in touch with the local body as soon as possible’. He also advised that only the owners of Ngarara West A3C13 and A3C16 had indicated that they proposed paying the rates and had been told that the Maori Trustee was ‘prepared to withdraw from selling these subdivisions if appropriate applications for cancellation ... [were] made by their solicitors to the Court and ordered by it’. Of note was that in July 1966, the section 109 order was cancelled in respect to A3C13 and A3C (Roadline) as rates had been paid. The application was made by H Goodman and Mr Simpson (solicitor) appeared in support. The Maori Trustee consented and the order to cancel made.¹¹⁰⁸

In November 1966, a valuation consultant, RA Fougere, reported to the District Officer at Palmerston North that he had inspected the Ngarara West A3C partitions (including the residue which had not at that point been vested in the Maori Trustee) and found it to be in a ‘rough overgrown state’ with access ‘only by track from Te Moana Rd’. He presented two options for the area. The first was to subdivide the land into 24 sections. This, he said, would ‘necessitate roading to County standards’ which he estimated would cost £350 per chain (one chain is approximately 20 metres) for over 12 chains (£4200). In addition, three sections would probably be required by the County as ‘reserves contribution’ and there would be survey, engineering and legal charges estimated to cost £7000 making an outlay of around £11,200. He believed that if this amount was available, then the subdivision would ‘result in a substantial profit’ of about £8000. The second option available was to offer for sale the sections and the residue as one lot at a reserve of £7000 and ‘let the buyer carry the trouble and risk’ which he said was ‘always possible in cases such as these’. He concluded that residential land at Waikanae was in ‘short supply and keen demand’ and in his opinion, if the second proposal was adopted the ‘reserve at auction would be substantially exceeded’.¹¹⁰⁹

¹¹⁰⁸ Wellington Minute Book 44, 6 July 1966, pp. 204-205; Assistant District Officer, Palmerston North to Head Office, Department of Maori Affairs, 23 February 1966, ACIH 16036 MA1/765 54/22/5 Maori Trustee – Ngarara West A3C Subdivisions and other blocks – vested under section 109, 1964-1970, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, p. 53.

¹¹⁰⁹ RA Fougere, Valuation Consultant to District Officer, Palmerston North, Department of Maori Affairs, 3 November 1966, ACIH 16036 MA1/765 54/22/5 Maori Trustee – Ngarara West A3C Subdivisions and other blocks – vested under section 109, 1964-1970, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, p. 59.

In January 1967, the District Officer advised Head Office that the usual steps had been taken of ‘notifying all the owners of the Maori Trustee’s intention to arrange sales if the outstanding rates could not be paid or satisfactory arrangements entered into by the owners with the Horowhenua County Council’. It would not appear to be a coincidence that this had resulted in one of the seven sections (A3C13) being sold privately by its owner the previous year. The District Officer had called tenders for the remaining six sections but only one offer had been received which was ‘well below’ government valuation. The District Officer then put the sections ‘in the hands of’ Messrs Harcourt & Company, Land Agents of Waikanae who submitted an offer for five of the sections providing that the purchaser could also buy A3C Residue, which was adjacent to the other blocks. This section was, however, not vested in the Maori Trustee. The District Officer interpreted the offer to mean that the proposed purchaser was ‘interested in obtaining the land for subdivision at a substantial profit to himself’. The District Officer explained that he had asked the owners if they had any objection to the Maori Trustee applying to the Court for the residue to be vested in him. Objections were received and representations made in November 1966 that the area not be vested. The application was then withdrawn.¹¹¹⁰

By January 1967, the District Officer believed it ‘abundantly clear that the prospects of selling the sections individually or as one lot without the residue, ... [was] very remote’ and that the ‘lack of formed access would be the main deterrent’. They believed that the owners had an alternative scheme but they had no details though there was a section 109 application for the residue advertised. As the District Officer saw no prospect of carrying out the trust, he intended to apply to the Court to cancel the section 109 vestings unless Head Office objected. The sum of £50 had already been incurred and if efforts at recovery failed, then this would have to be written off.¹¹¹¹

The Office Solicitor, Mr Forsell, examined the proposal from the District Officer and advised the Deputy Secretary, Mr Soutar, that under the legislation, the Maori Trustee was ‘not trustee of the lands ... [and was] quite entitled to sell them by public auction at “knockdown” or low prices provided, of course, such prices are sufficient to pay his costs, expenses and remuneration and amount of the outstanding charges for rates’. He suggested that the lands be

¹¹¹⁰ District Officer, Palmerston North to Head Office, Department of Maori Affairs, 31 January 1967, ACIH 16036 MA1/765 54/22/5 Maori Trustee – Ngarara West A3C Subdivisions and other blocks – vested under section 109, 1964-1970, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, p. 60.

¹¹¹¹ Ibid.

put up for auction and said that it was ‘of no concern to the Maori Trustee if a person buys the lands “for subdivision at a substantial profit to himself”’. Also, that if the owners of the properties did not want the lands to be sold to a speculator, ‘let them go to the auction sale and bid’. Moreover, he said, it was of ‘no concern to the Maori Trustee that the former owners may “have some alternate scheme for dealing with the land and satisfying the local body”’. The Maori Trustee was under ‘no obligation whatsoever to look beyond the Vesting Orders made under Section 109 aforesaid the provisions of that Section’. He said if the land was vested in him, he would put it up for auction though confessed that his ‘attitude to the matter ... [was] somewhat Draconian’. The whole object of the exercise was, he said:

... in law, to get the rates paid without any concern for the welfare, wishes or interests of the former proprietors of these lands.¹¹¹²

This is a revealing quote that sums up the situation plainly and bluntly. The legislation meant that the Maori Trustee, who stepped in at the end of the process to carry out the order approved by the Minister, did not have to ensure that the interests of Maori were considered at all. The aim instead was to recoup the rates for the local authority.

Mr Forsell asked for Mr Soutar’s views which would then be communicated to the District Office. Mr Soutar forwarded Mr Forsell’s opinion to the District Officer stating that it was Mr Forsell’s opinion that ‘generally speaking, the job of the Maori Trustee under section 109 is to sell the land in question to meet the liability for rates’ and that he, Mr Soutar, had no doubt that this could be done. As, however, there was an application pending under section 109 in respect to the A3C residue block, there was no need to cancel the section 109 orders ‘just yet’ on the grounds that the trust could not be carried out. He said that if no satisfactory solution came out of the Court action then the Maori Trustee ‘should probably put the sections up for auction’. There was no need, he said, for the Maori Trustee to write off the £50 expenses it had already incurred and that if necessary, charges under section 49 of the Maori Trustee Act 1953 should be executed.¹¹¹³

¹¹¹² DM Forsell, Office Solicitor to BE Soutar, Deputy Secretary, Department of Maori Affairs, February 1967, ACIH 16036 MA1/765 54/22/5 Maori Trustee – Ngarara West A3C Subdivisions and other blocks – vested under section 109, 1964-1970, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 61-62.

¹¹¹³ Ibid.

The District Officer responded that as suggested, he would not cancel the vestings and would await the hearing regarding the residue. He also noted that the policy of the District Office was to 'try to keep the owners informed'. This had arisen, he said, from 'troubles' they had had with vestings 'in the past'. In three cases, he said, the owners had only become 'aware of the vestings ... when the sales ... [were] almost completed, leading to caveats being lodged etc.' Two of the cases he was likely to have been referring to were Makuratawhiti 1H (discussed in the Otaki Borough Council chapter) and Ngarara West A78E2 (discussed below) whereby caveats were registered on the land in (unsuccessful) attempts by the owners to stop the compulsory sales of their land. In the case of Ngarara West A3C subdivisions, 'despite the pleas by the owners', the District Office did not think that they had the 'means to do anything about the sections to the residue area' and that with one exception, none of the vested sections had been completely cleared of rates.¹¹¹⁴

In April 1967, the Maori Trustee's own application to have Ngarara West A3C (residue) vested in himself under section 438 was dismissed as the County already had an application before the Court under section 109. The section 109 application was adjourned as owners had paid £45 since the last Court sitting. Mr Flowers said that he would get in touch with Rangitoenga Tamati (aka Rangi Thomas) to see what the owners proposed. The Court adjourned the application. It was adjourned again several months later.¹¹¹⁵

In September, the District Officer wrote to the Council and asked whether the Council had spoken to the owners of Ngarara West A3C residue and what the Council's intentions were in respect to the application. The District Officer said that they 'would have a better chance of disposing of the sections if the Residue area were included'. The County Clerk responded that the owners had held a meeting and decided that the Maori Trustee should handle the sale of Ngarara West A3C Residue. Their application would then be prosecuted at the next sitting of the Court in Levin and evidence produced as to the agreement of the owners.¹¹¹⁶

¹¹¹⁴ District Officer, Palmerston North to Head Office, Department of Maori Affairs, 24 February 1967, ACIH 16036 MA1/765 54/22/5 Maori Trustee – Ngarara West A3C Subdivisions and other blocks – vested under section 109, 1964-1970, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, p. 63.

¹¹¹⁵ Otaki Minute Book 73, 18 April 1967, pp. 129-132; 19 July 1967, p. 252; District Officer, Palmerston North to Head Office, Department of Maori Affairs, 8 May 1967, ACIH 16036 MA1/765 54/22/5 Maori Trustee – Ngarara West A3C Subdivisions and other blocks – vested under section 109, 1964-1970, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, p. 64.

¹¹¹⁶ Assistant District Officer, Department of Maori Affairs to County Clerk, Horowhenua County Council, 22 September 1967, ACIH 16036 MA1/765 54/22/5 Maori Trustee – Ngarara West A3C Subdivisions and other

In November 1967, the section 109 application was heard again but it is clear that the owners were not in agreement with the Court reporting opposition from Rangitoenga Tamati and others though they reportedly withdrew their opposition. Mr Flowers said that he had a letter from Mr Tamati on file in this respect. He also said that the section would ‘sell rapidly’. The section 109 order was then made subject to the consent of the Minister.¹¹¹⁷

It was clear, however, that the owners did not agree with the land being sold with the agent for Harcourt & Co, AGL Cork, describing Rangi Tamati (Thomas) and other owners as ‘objectors’. In January 1968, Mr Cork said that while they had ‘sympathy in principle’ with them, the ‘objectors’ were not being ‘realistic’ about their alternative ‘proposition’ as ‘roading alone would cost them far too much’. He also said that he attended a ‘local body meeting when it was made clear that the Council was not prepared to undertake roading there because it was private land’. The existing road, he said, was ‘nothing but a track on paper’.¹¹¹⁸

It is of note that several years later, in May 1969, the aforementioned owner of the residue, Rangitoenga Tamati wrote to the Maori Trustee stating that he had written before and was writing again regarding a request that all rents owed to he and his sisters be held by the Maori Trustee so that the money could be used for rates on land he described as being beside the Waikanae River (which was likely to have been the Ngarara West A3C Residue). He said that they had never received a reply. He said that the Horowhenua County Council had told them that they owed about \$400 but as they received rents of \$369.50 per year then this would almost cover it. He said that they did not want to sell the land. The Maori Trustee responded that the Trustee did not hold any authority from he or his sisters to pay the money direct to the Horowhenua County Council and if he wanted to give the Maori Trustee this authority then he should stipulate clearly the amount to be paid and to whom it should be paid. It is also of note that this letter was on a file relating to the Ngarara West C18 section 2 block so was

blocks – vested under section 109, 1964-1970, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 65-66.

¹¹¹⁷ Otaki Minute Book 73, 7 November 1967, p. 340.

¹¹¹⁸ AGL Cork, Harcourt & Co to Department of Maori Affairs, Palmerston North, 30 January 1968, ACIH 16036 MA1/765 54/22/5 Maori Trustee – Ngarara West A3C Subdivisions and other blocks – vested under section 109, 1964-1970, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 68-69.

presumably either not brought to the attention of those dealing with the residue or the Maori Trustee's response was deemed sufficient.¹¹¹⁹

The vesting order in respect to the residue, however, had already been made though was not sent to the Minister for consent until the District Officer had investigated further the purchase offer made the previous year.¹¹²⁰

An offer was then received from Mr Gurney through Messrs Harcourt & Co for the purchase of A3C Residue for \$6000 and the six adjacent sections at \$1430 each making a total of \$14,580. On this basis, the District Officer recommended ministerial consent which was given by Minister Hanan on 20 February 1968. The District Officer also asked for confirmation that it was in order to negotiate the purchase of the blocks for this amount. Head Office responded that they thought that the District Officer should accept the offer regardless of whether there was other valuation information which the Wellington Office could not access as it was in Palmerston North (though quite why they could not use the telephone to communicate such information was not apparent). An agreement for sale and purchase was submitted but due to a 'difficulty with the road line' (it had not been dedicated a public road) was not completed.¹¹²¹

As is explained in a subsequent section, concerns were expressed by the District Office to Head Office of the Department of Maori Affairs in early 1968 which were then relayed to Mr Flowers and the Horowhenua County Council about the number of vesting orders they had applied for particularly the number where there had been difficulties with selling the land. Mr Flowers comments with regard to Ngarara West A3C residue and the other A3C blocks are revealing, firstly about the attitude of Maori Affairs and the Maori Trustee to Maori and also what appears to be a difficult relationship between Mr Flowers and some of the officials. Mr

¹¹¹⁹ Tangitaenga Tamati to Maori Trustee, 12 May 1969; Maori Trustee to T Tamatai, 19 June 1969, AAVN W3599 869 Box 76 12/6/66 Ngarara West C18 No 2, 1966-1980, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 129-131.

¹¹²⁰ District Officer, Palmerston North to Head Office, Department of Maori Affairs, 26 January 1968; Section 109 Order in respect of Ngarara West A3C Residue, 20 February 1968; Head Office, Department of Maori Affairs to District Office, Palmerston North, 21 February 1968, ACIH 16036 MA1/765 54/22/5 Maori Trustee – Ngarara West A3C Subdivisions and other blocks – vested under section 109, 1964-1970, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, p. 70, 71 & 93.

¹¹²¹ District Officer, Palmerston North to Head Office, Department of Maori Affairs, 5 February 1968; Section 109 Order in respect of Ngarara West A3C Residue, 20 February 1968, ACIH 16036 MA1/765 54/22/5 Maori Trustee – Ngarara West A3C Subdivisions and other blocks – vested under section 109, 1964-1970, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp 71-73.

Flowers said that he considered the area could be sold although it was 'not considered attractive' to the Department. He said that he had suggested that the Maori Trustee facilitate the sale of the sections by completing the roading as per an order made by the Court for the Maori Trustee 'years ago' and apportion the cost to the sections. He said that he was asked to provide a sketch and estimate of the cost. Also, that Mr Lewin, with whom he discussed the matter 'was transferred and his successor [Mr McKellar] refused to discuss the matter & remarked he was not prepared to spend the Maori Trustee's money clearing up a stupid Maori Partition' (which was a partition ordered by the Court for the purpose of Maori housing). Later, Mr Flowers said, 'Mr McKellar threatened to have the vesting order cancelled & I told him the land was saleable'. Mr Flowers said that he had been told that if he could find a purchaser who would pay a 10 percent deposit then the Maori Trustee would consider the offer. Mr Flowers had then visited Messrs Hollings, Thompson & Fairbain, who were Barristers & Solicitors at Waikanae and asked if they were interested. An offer, he said, was then 'made within a week'.¹¹²²

Mr Flowers suggested that the County Clerk reply to the Maori Trustee that Ngarara West A3C residue and the four sections adjoining were one of several cases where owners had asked him to 'help them by having the lands vested in a Trustee because families could not agree amongst themselves'. He noted (in more diplomatic terms than his previous statement) that Mr McKellar had thought the case 'difficult' and had therefore suggested that the land be re-vested back in the owners. Mr Flowers, however, 'contended that the lands could be sold even though the Maori Trustee had declined his suggestion that the Maori Trustee should complete the roading'. He noted that the sections were valued at \$2700 each in their present condition and that roading would 'greatly add to this valuation'. Mr Flowers also said that when he had discussed the sale with an owner, WJ Edwin, 'to explain the advantages of selling', Mr Edwin expressed annoyance that when he wanted a section for his son he was informed by the Maori Trustee that there were 'no sections for sale despite the fact 4 sections had been vested in him for some years'. Mr Jenkins, also an owner, was advised the same when he wanted a section for his son. According to Mr Edwin he was also not offered the choice of another vested section some distance away on Te Moana Road. Mr Flowers said

¹¹²² JH Flowers to County Clerk, Horowhenua County Council, 3 June 1968; JH Flowers, 'Suggested reply' circa June 1968, HDC 00098 2 17 Department of Maori Affairs Rates Correspondence, 1963-1975, Archives Central, Feilding. SW Document Bank, volume 9, pp. 26-35.

that the County would ‘assist in any way to help effect sale ... [having] already done so in many cases’.¹¹²³

Concern from the District Officer at Palmerston North over the un-saleability of the Ngarara West A3C subdivisions did not stop the Horowhenua County Council from applying for a vesting order for another of its subdivisions – Ngarara West A3C10 – in November 1968. Mr Flowers told the Court that there was one owner of the vacant section, that a demand had been served on him at his Wellington home and that he had been advised that the application would be withdrawn if he would make a ‘reasonable offer’ to pay the rates arrears. This, Mr Flowers said, had not been done. Mr Flowers also said that the section was ‘saleable’. An order was then made under section 438 of the Maori Affairs Act (section 109 of the Rating Act 1925 had been repealed) vesting the land in the Maori Trustee to sell and to apply the net proceeds of the sale after deduction of the charges and expenses of the Maori Trustee to the payment of all rates, mortgages and then to the beneficial owners. A charging order was also made for the year ending 31 March 1968 for \$32.16 plus \$1 costs. The block was Europeanised so is likely to have been re-vested in the owners prior to this.¹¹²⁴

The issue of the sale of the Ngarara West A3C sections was still ongoing in March 1970 when the District Officer again expressed his frustration to the Council stating that the land had been on the market for years but through ‘no fault’ of the Maori Trustee, had been unable to complete a sale. The County was aware that access to the residue area, although legal, was ‘not a County road and that is what has prevented sale in the past’. He said that the Maori Trustee was ‘not prepared to lay out money to bring the road up to County standard and recover from existing occupiers as best he can’. Similarly, despite approaches by owners, the Maori Trustee was unable to undertake a scheme of subdivision as again, it presumed there would be difficulty with the recovery of costs from occupiers and householders (though given the Maori Trustee was often able to get a Court order to ensure his costs were met this comment seems misleading). The District Officer said that the land was now ‘practically unsaleable’ and that if someone came along and offered a realistic price to ‘put the title in

¹¹²³ JH Flowers, ‘Answer to Maori Trustee queries’, circa June 1968, HDC 00098 2 17 Department of Maori Affairs Rates Correspondence, 1963-1975, Archives Central, Feilding. SW Document Bank, volume 9, pp. 26-35.

¹¹²⁴ Otaki Minute Book 74, 5 November 1968, pp. 194, 196; Walghan Partners, Draft, 1 May 2017, volume 2, p. 80.

registrable order' then the Trustee would 'gladly sell'. They considered that this was all they were 'required to do within the terms of the vesting'. Further:

The point I am trying to make is that the Maori Trustee is trying to do the County a service. We have no funds to carry out clearance work and in fact the Maori Trustee is well out of pocket already for valuations, advertising, etc. If the County persist in sending notices and threatening legal proceedings we will decline to accept trusts (now under section 438/1953) in future. It is interesting that we have been able to dispose of all out sec 109 vestings except those in the Horowhenua County and in every such case there is some title, access or location difficulty beyond what we ordinarily encounter.¹¹²⁵

By June 1970, the District Officer reported that there had been no further progress on the matter, having had only two enquiries, one for the whole property and another just for A3C14 but that the office had been unable to action the offers 'due mainly to the extreme pressure on the Trust Section'. Several months later, however, the District Officer, MG McKellar, advised that they had received an offer of \$12,600 for Ngarara West A3C Residue, A3C5, A3C6, A3C11, A3C14 and 13C15 which totalled 6 acres 30.86 perches. The latest valuations they had (from 1961 and 1965) totalled \$10,400 which was based on \$3,900 for the residue and \$1300 each for the other 32 perch sections. The District Officer had not obtained a special valuation as they had not wished to 'incur any further expense on these sections'. He said in view of the difficulty they had disposing of the land they considered it a reasonable offer 'even though it is only \$2200 above the latest valuations available'. The Maori Trustee replied that 'in the circumstances' the offer of \$12,600 for Ngarara West A3C residue and A3C blocks was 'reasonable and should be accepted'. Further, that the sooner the Trustee was 'quit of this particular trust the better'.¹¹²⁶

¹¹²⁵ District Officer, Palmerston North, Department of Maori Affairs to County Clerk, Horowhenua County Council, 13 March 1970, ACIH 16036 MA1/765 54/22/5 Maori Trustee – Ngarara West A3C Subdivisions and other blocks – vested under section 109, 1964-1970, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, p. 74.

¹¹²⁶ District Officer, Palmerston North to Head Office, Department of Maori Affairs, 14 September 1970, Maori Trustee, Head Office to District Office, Palmerston North, 16 September 1970, ACIH 16036 MA1/765 54/22/5 Maori Trustee – Ngarara West A3C Subdivisions and other blocks – vested under section 109, 1964-1970, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 75-76.

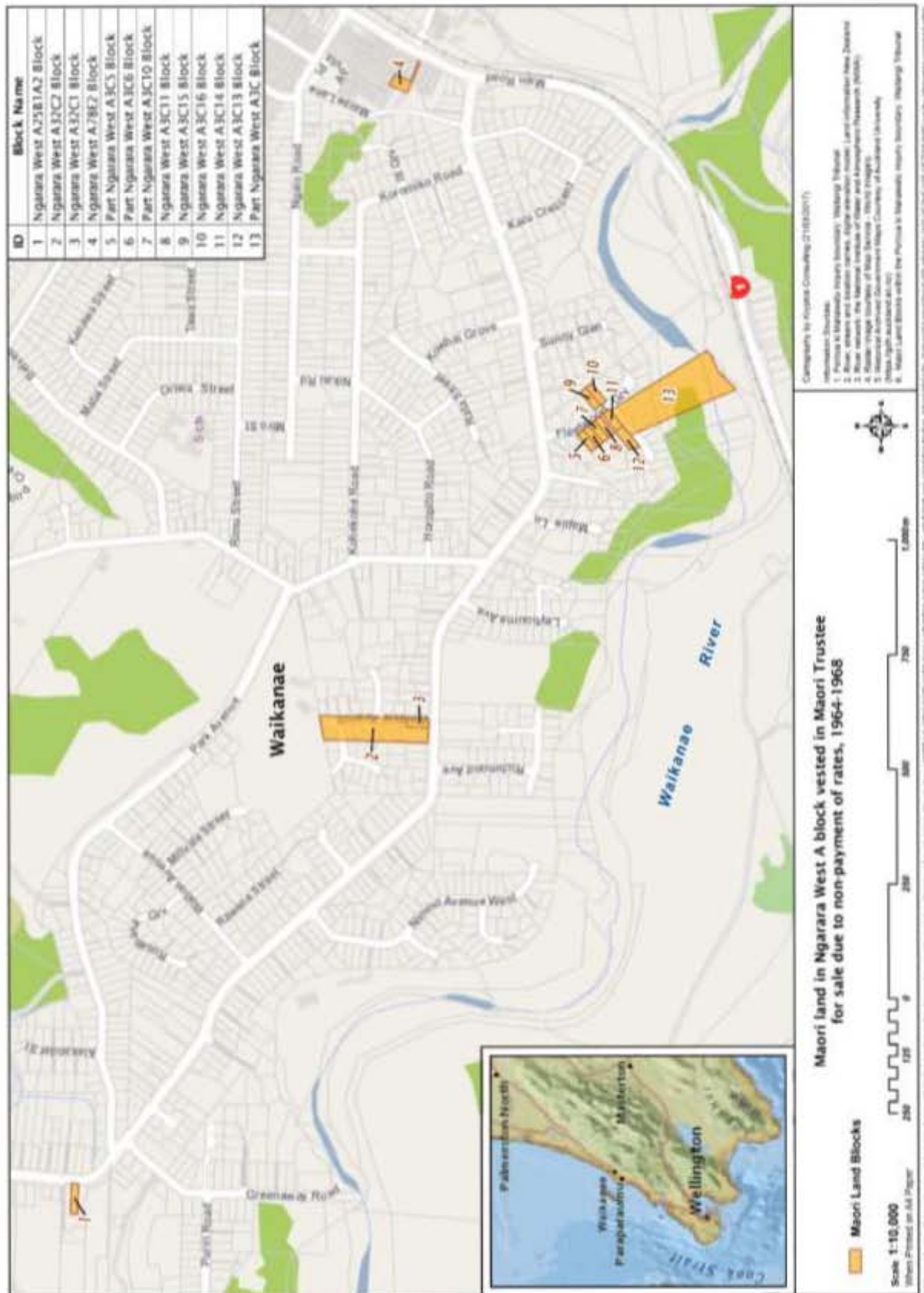
Of note was that Mr Flowers had said in 1968 that the sections were worth \$2700 each which, together with the 1961 valuation of Ngarara West A3C Residue, was a total value of \$17,400 so the \$12,600 received was well below the valuation. It was also below the previous offer made in January 1968 of \$14,580. It seems likely too that the rates on which the charging orders were based would have been assessed based on more current valuations than that of 1961 and 1965 and would have accrued over the six years since the vesting in 1964 and therefore deducted from the purchase money. So not only were owners left with no land but their housing needs had not progressed and they received well below what the land was worth. As well, deductions for rates from the purchase money would have been paid to the Horowhenua County whose service provision to the undeveloped land had been minimal. The Council had also been unwilling to assist with the provision of the road.

9.28 Ngarara West A25B1A2, 1964

The Court also considered an application under section 109 for Ngarara West A25B1A2 in August 1964. Mr Flowers said it was another section on Te Moana Road in Waikanae and claimed that it would ‘sell readily’. Notices had been sent to owners, both of whom were living away from the district, but they were returned unclaimed. This suggests that again Mr Flowers was unable to provide contact details that would ensure owners were advised of proceedings and that the Council too would also not have had the correct contact information in order to levy the rates correctly. It was also not a block that sold ‘readily’ as it was not until late 1967, that the Assistant District Officer at the Department of Maori Affairs advised the Land Purchase Officer at the Ministry of Works that they had a Maori client who wished to build on the section and asked that the Ministry purchase the block. The purchase price asked for was said to be approximately \$1436. No further alienation details have been located but the block is no longer Maori land.¹¹²⁷

¹¹²⁷ Otaki Minute Book 71, 3 August 1964, p. 77; Assistant District Officer to Land Purchase Officer, Ministry of Works, 16 October 1967, ACIH 16036 MA1/765 54/22/5 Maori Trustee – Ngarara West A3C Subdivisions and other blocks – vested under section 109, 1964-1970, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, p. 67.

Map 16: Maori land in Ngarara West A blocks vested in Maori Trustee for sale due to non-payment of rates, 1964-1968



9.29 Ngarara West A78E2, 1964

Ngarara West A78E2 (1 rood 8.98 perches) was another block vested in the Maori Trustee for the purposes of sale under section 109 in August 1964. It was located in the now business area of central Waikanae. At the vesting hearing Mr Flowers said that he had made enquiries for the owner through the Department of Maori Affairs and ‘elsewhere’ but had been unable to trace them. As noted in discussions of previous vestings (and the discussion following), his failure to obtain ownership and contact details and advise owners of proceedings was not unusual. It was also not seen by the Court as a reason why the application should not proceed and evidently the Minister did not see it as a reason not to approve the vesting order either. Mr Flowers also told the Court that the section was unoccupied and would ‘sell readily’. Particulars of title record that there were rates charging orders totalling £37.2.0.¹¹²⁸

Particulars of title also record that the block had one owner, Raumoia Matenga Baker. The County Clerk, however, admitted in December 1965, that the valuation roll on which the rates demands were based showed the property to be owned and occupied by Mrs Haua Matenga Baker of Mill Road, Otaki (the mother of Raumoia) and it was she who had been sent the rates demands at that address. Demands had also been sent to ‘Porirua Pa, Porirua’. According to the County Clerk, the demand had not been replied to. This puts in question the validity of the rates demand not to mention the accuracy of the valuation roll.¹¹²⁹

This block is also the subject of the statement of claim submitted by Matiu Baker, André Baker and Lois McNaught of Ngati Raukawa, Ngati Toa and Te Ati Awa (Wai 1628) and descendants of Matenga and Haua Baker. The claim states that ‘Tohuroa Wi Parata (first cousin of Haua Baker) gifted a parcel of his family land’ (part of Ngarara block) to the Baker whanau so that their whanua could ‘continue to have a home’. The land, in the name of their son Te Raumoia Baker, was ‘forcibly acquired for the non-payment of rates’. This they state,

¹¹²⁸ Otaki Minute Book 71, 3 August 1964, p. 78; Walghan Partners, Draft, 1 May 2017, volume 3, pp. 36-82; particulars of title of Ngarara West A78E2; order vesting land in Maori Trustee, 4 May 1965, ACIH 16036 MA1/765 54/22/5 Maori Trustee – Ngarara West A3C Subdivisions and other blocks – vested under section 109, 1964-1970, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 39-50.

¹¹²⁹ Otaki Minute Book 71, 3 August 1964, p. 78; particulars of title of Ngarara West A78E2, ACIH 16036 MA1/765 54/22/5 Maori Trustee – Ngarara West A3C Subdivisions and other blocks – vested under section 109, 1964-1970, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 39-50; County Clerk, Horowhenua County Council to Messrs Park, Cullinane & Turnbull, Barristers & Solicitors, Levin, 13 December 1965, Horowhenua County Council 26/21/1H CF 490 – 6 Apr 1965-11 Aug 1966, Waikanae Commercial Area Redevelopment Scheme, Purchase of land from Maori Trustee, Ngarara West A78E2, Kapiti Coast District Council, Paraparaumu. SW Document Bank, volume 4, pp. 68-69.

‘deprive[d] the Baker whanau of Turangawaewae and the ability to continue to live on their own whanau lands as members of their tribal community’.¹¹³⁰

In April 1965, the Maori Trustee was approached by the Horowhenua County Council who wished to purchase the land for ‘municipal purposes’. This was because the land had been designated ‘Reserve for Civic purposes’ with the intention that the land be used as part of the Waikanae commercial centre. Arrangements were being made at the same time as Ngarara West A78E2 was vested in the Maori Trustee for other land in close proximity to the block, including Maori land, to be taken under the Public Works Act for this purpose. A government valuation was obtained for Ngarara West A78E2 which gave the value as £850. The valuation also showed that the land was zoned for ‘civic purposes’ and was made ‘having regard to the benefits that this (the Waikanae District) Scheme would be to A78E2’. It was felt by the District Officer, that ‘in view of the zoning, there was no point in putting the property on the market’.¹¹³¹

Instructions were then given to District Office officials by the District Officer to trace the address of the owner but this was reportedly ‘without success’. According to the Assistant District Officer an ‘agreement was entered into on 5 November [1965] to sell the land to the Council for £935, being the SCG [special government valuation] plus 10%’. The ‘agreement’ of 5 November, however, was simply a letter from the District Officer of the Department of Maori Affairs to the County Clerk confirming a telephone conversation of that day ‘to the effect that the Maori Trustee offers the ... section to the Horowhenua County Council at the price of £935’. On 8 November, the County Clerk wrote to the District Officer confirming that it accepted the offer (and also said that it was understood that rates due to the Council would be deducted from the purchase price). Documents were then sent to the Maori Trustee by the Council solicitors to sign on 15 November.¹¹³²

¹¹³⁰ Matiu Baker, André Baker and Lois McNaught of Ngati Raukawa, Ngati Toa and Te Ati Awa and descendants of Matenga and Haua Baker Statement of claim, Wai 1628 # 1.001.

¹¹³¹ District Officer, Palmerston North to Head Office, Department of Maori Affairs, 15 April 1966, ACIH 16036 MA1/765 54/22/5 Maori Trustee – Ngarara West A3C Subdivisions and other blocks – vested under section 109, 1964-1970, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 54-55.

¹¹³² Ibid; District Officer, Department of Maori Affairs and Maori Trust Office to County Clerk, Horowhenua County Council, 5 November 1965; County Clerk, Horowhenua County Council to District Officer, Department of Maori Affairs, 8 November 1965; Park, Cullinane & Turnbull to County Clerk, Horowhenua County Council, 15 November 1965, Horowhenua County Council 26/21/1H CF 490 – 6 Apr 1965-11 Aug 1966, Waikanae Commercial Area Redevelopment Scheme, Purchase of land from Maori Trustee, Ngarara West A78E2, Kapiti Coast District Council, Paraparaumu. SW Document Bank, volume 4, pp. 62-65.

It was 'shortly after' the 5 November 'agreement' that Mr Baker's address (in Blenheim) was discovered and a letter was sent to him advising him of the sale though this was one week later on 12 November. The District Officer said that the transfer was submitted for execution the day before the letter was sent to Mr Baker (on 11 November) though the settlement was not 'executed' until 22 November and then 'effected' (but not registered) on 20 December 1965.¹¹³³

The District Officer, when reporting on the matter to Head Office, also admitted that Mr Baker had phoned the District Officer on 19 November and said that he would pay the rates. Mr Baker was told, however, that it was 'too late as a contract had been entered into and the Maori Trustee could not then withdraw'. Mr Baker also enlisted the help of JH Moffatt the secretary for the Otaki Maori Committee who wrote to the Council on his behalf and received by the Council on 1 December. Mr Moffatt noted that Raumoa was the son of Mrs Haua Baker and sought clarification as to what legislation had been used to take the land (he asked if it was the Public Works Act). Mr Moffatt also said that Mr Baker had 'doubts that the rate demands had been received and intimated ... that he would be prepared to pay back rates to retain the title'. A letter was also sent by Mr Baker's solicitors, Gascoigne, Wicks, Walton & Rout to the Council on 6 December which stated that Mr Baker was 'disturbed' to have found that the order was made by the Council to sell his land. He said that the first that he had heard of the matter was when he received a letter from the Maori Affairs Department who had advised that the order had been obtained from the Council. The solicitors said that Mr Baker could not understand why the order had been made and asked for full details as to what had happened. As the County Clerk did not wish to reply to these letters himself (he said that he did not wish to 'inadvertently say more that is necessary and prejudice the conclusion of the sale') he asked his solicitors to respond for him. This was not until 13 December. It was in this letter that he admitted that the valuation rolls showed the property to be owned and occupied by Mrs Haua Matenga Baker though he did not acknowledge that this was incorrect. He also said that Mr Flowers had made 'exhaustive enquires to try and locate the owner'. The solicitors for the Council, Park, Cullinane & Turnbull replied to Mr Moffatt and Mr Baker's solicitors on 16 December. The solicitors explained about the charging orders, vesting order and re-zoning of the land and also noted that the period for objections had closed. The

¹¹³³ District Officer, Palmerston North to Head Office, Department of Maori Affairs, 15 April 1966, ACIH 16036 MA1/765 54/22/5 Maori Trustee – Ngarara West A3C Subdivisions and other blocks – vested under section 109, 1964-1970, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 54-55.

solicitors also said that the valuation roll showed that the property was owned and occupied by Mrs Haua Matenga Baker of Mill Road Otaki. Also, that the rates demands sent out ‘in accordance with the valuation roll [had] been ignored and exhaustive enquiries by the Council office and by the Maori Trustee ... [had] been unavailing’. Nowhere was it acknowledged that the valuation roll was wrong and rates had been levied on the wrong person. The solicitors advised the County Clerk of their correspondence noting that they did not ‘think it desirable to give any reasons beyond those stated in our reply’ and had asked the Maori Trustee to proceed immediately.¹¹³⁴

A legal opinion is required as to whether the offer of 5 November or the acceptance of 8 November or the settlement being executed on 22 November or ‘effected’ on 20 December constituted a legally binding agreement or whether it was when the sale was actually registered on the title which was not until June the following year. This is discussed further below. What is clear, however, is that there was no urgency about advising the owner that his land was being compulsorily sold or any desire by the Council to stop the sale and allow him to retain his land.

There were also difficulties with the legality of the transfer particularly that concerning the registration of the vesting order on the title. The District Officer said that as they had failed to find the certificate of title for the land the vesting order was sent to Head Office on 20 December 1965 for registration under section 114 of the Rating Act 1925. In the meantime, solicitors for the Council, Messrs Park, Cullinane & Turnbull, had ‘lodged a caveat to protect the Council’s interest as purchaser’. The District Solicitor was then advised by Mr Davies of Head Office on 22 December that the District Land Registrar had refused to register the vesting order because of the caveat and because the order was a copy and not an original. Mr Davies was then advised to draw the attention of the District Land Registrar to section 34 (12) of the Maori Affairs Act 1953 which provided that ‘a certified copy order’ was sufficient. The District Solicitor then phoned the solicitors for the Council and advised then

¹¹³⁴ Ibid; Gascoigne, Wicks, Walton & Rout to Horowhenua County Council, 6 December 1965; JH Moffatt, Otaki Marae Committee to Horowhenua County Council, received 1 December 1965; County Clerk, Horowhenua County Council to Messrs Park, Cullinane & Turnbull, Barristers & Solicitors, Levin, 13 December 1965; Park, Cullinane & Turnbull to Messrs Gascoigne Wicks Walton & Rout, 16 December 1965; Park, Cullinane & Turnbull to Secretary, Otaki Maori Committee, 16 December 1965; Park, Cullinane & Turnbull to County Clerk, Horowhenua County Council, 16 December 1965, Horowhenua County Council 26/21/1H CF 490 – 6 Apr 1965-11 Aug 1966, Waikanae Commercial Area Redevelopment Scheme, Purchase of land from Maori Trustee, Ngarara West A78E2, Kapiti Coast District Council, Paraparaumu. SW Document Bank, volume 4, pp. 66-72.

to get in touch with their Wellington Agents so that they could get in touch with Mr Davies 'to consent on behalf of the caveators to the registration of the vesting order'. This was not possible before the Christmas break and because Mr Davies then retired and a replacement not appointed, the District Solicitor arranged that the vesting order be returned to the District Office (which was done on 20 January 1966). The vesting order was then sent to the Council solicitors with a suggestion that to avoid delay they should arrange for the registration of the order with the transfer. The District Officer said that they did not know if this was done but on 21 February, Mr Park advised that the solicitors acting for Mr Baker (Gascoigne, Wicks, Walton & Rout of Blenheim) had also 'lodged a caveat'.¹¹³⁵

Mr Park was then advised by the District Office to 'lodge his Transfer for registration with a request to DLR [District Land Registrar] to issue notice to the caveator under sec. 145 of the Land Transfer Act' which was done on 31 March 1966. Mr Baker's solicitors then 'lodged notice that a motion had been filed in the Supreme Court to extend the time of lapsing of the Caveat'. The District Office noted that neither the Council solicitors or the District Office had received a copy of the motion or any notice from Mr Baker's solicitors. He noted too that arrangements would not doubt be made for the Maori Trustee to be 'represented at the hearing on the motion'.¹¹³⁶

In the meantime, the balance of the purchase money (after deductions including £59.11.11 rates arrears) was credited to the 'beneficiary'. The Maori Trustee said that he intended to pay the money 'shortly' and 'see if he [Mr Baker] will accept the money'. Solicitors for Mr Baker then advised the Maori Trustee that Mr Baker had received advice that the sum of £860.17.5 had been deposited to his credit at the Blenheim Post Office. The Maori Trustee was also advised that the solicitors for Mr Baker had registered a caveat against the title of the land and proceedings were presently before the Court seeking an extension of the caveat. Until the application had been disposed of, they asked that the money be held by the Maori Trustee in trust for Mr Baker.¹¹³⁷

¹¹³⁵ District Officer, Palmerston North to Head Office, Department of Maori Affairs, 15 April 1966, ACIH 16036 MA1/765 54/22/5 Maori Trustee – Ngarara West A3C Subdivisions and other blocks – vested under section 109, 1964-1970, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 54-55.

¹¹³⁶ Ibid.

¹¹³⁷ District Officer, Palmerston North to Head Office, Department of Maori Affairs, 15 April 1966; Gascoigne, Wicks & Co, Barristers & Solicitors, Blenheim to District Officer, Palmerston North, Department of Maori Affairs, 19 April 1966, ACIH 16036 MA1/765 54/22/5 Maori Trustee – Ngarara West A3C Subdivisions and

As Mr Baker had not uplifted the money by 6 May, there was some discussion amongst officials as to where the money should go. It was agreed that Mr Baker's solicitors would be advised that the money would be held on the 'usual terms' on which money was held by the Maori Trustee 'reserving his [the solicitors] right under sec[tion] 44 of the Maori Trustee Act 1953 to apply the money or as much of it as may be necessary, to meet any legal costs payable by their client'.¹¹³⁸

Solicitors for Mr Baker advised on 26 May that his application to the Supreme Court to have his caveat extended had been refused and that they had received further instructions from Mr Baker to terminate the proceedings and accept in full settlement the cheque of £860.17.5 and asked that it be forwarded.¹¹³⁹

By 30 May 1966, solicitors for the Maori Trustee, Watts & Patterson, reported that the matter had 'come to an end' and that this was 'another case in which a caveat was lodged against a certificate of title in an attempt to prevent a sale by the Maori Trustee of the land which had been vested in him pursuant to section 109 of the Rating Act 1925' (indicating that this was not the first time an attempt had been made to stop such a sale by the Maori Trustee).¹¹⁴⁰

Watts & Patterson reported to the Maori Trustee that they had 'kept a fairly close eye on the papers ... filed in the Supreme Court', that the first papers filed was a 'motion seeking to have the duration of the caveat extended and an affidavit in support by Mr Baker' and that when the papers came before the Chief Justice, he 'found the affidavit difficult to follow'. He then asked for further information to which counsel for Mr Baker 'filed a long memorandum in reply'. The Chief Justice responded that it was difficult to see how the Court had jurisdiction to make the order. Watts & Patterson had then contacted counsel for Mr Baker to

other blocks – vested under section 109, 1964-1970, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp 54-55, 93.

¹¹³⁸ District Officer, Palmerston North to Head Office, Department of Maori Affairs, 6 May 1966, ACIH 16036 MA1/765 54/22/5 Maori Trustee – Ngarara West A3C Subdivisions and other blocks – vested under section 109, 1964-1970, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, p. 78.

¹¹³⁹ Anthony Willy, Gascoigne, Wicks & Co to District Officer, Palmerston North, Department of Maori Affairs, 26 May 1966, ACIH 16036 MA1/765 54/22/5 Maori Trustee – Ngarara West A3C Subdivisions and other blocks – vested under section 109, 1964-1970, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, p. 79.

¹¹⁴⁰ Watts & Patterson, Barristers & Solicitors to Head Office, Department of Maori Affairs, 30 May 1966, ACIH 16036 MA1/765 54/22/5 Maori Trustee – Ngarara West A3C Subdivisions and other blocks – vested under section 109, 1964-1970, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 80-81.

ask if he proposed doing anything further about the matter. He ‘conceded first that his application had not really stood any chance of success, and secondly that now the time limit had expired it would be futile to attempt to do anything further’. He also mentioned that Mr Baker was ‘still dissatisfied and may approach the Minister of Maori Affairs about the matter’.¹¹⁴¹

The solicitors advised that they had told the agents for the solicitors for the Horowhenua County Council what had happened and that there was ‘now no reason why they should not present the transfer for registration to the District Land Registrar’. He said that as the caveat had ‘lapsed, the Registrar must accept the transfer’. The solicitors further commented that it ‘might be as well to make Mr Baker’s share of the proceeds of sale available to him as soon as possible’ as if he received and accepted the money without ‘too much delay, then he may well decide to drop the matter altogether’.¹¹⁴²

The matter was not completely resolved in respect to the Maori Trustee’s involvement as the District Office was advised that Mr Baker’s mother might make a claim for the proceeds. This was thought to be difficult for her to do but the solicitors for Haua Matenga Baker were advised that she had 14 days in which to prohibit the Maori Trustee from paying over the money. There is nothing further about the matter on the Head Office file.¹¹⁴³

9.30 Horowhenua 3E1 sub 3B2, Horowhenua 3E1 sub 4B & Horowhenua X1B36 3H2B2A, 1966

Two more section 109 orders were made by the Maori Land Court at the instigation of the Horowhenua County Council on 19 July 1966 in respect to the Horowhenua 3E1 blocks (so near Levin). The first was Horowhenua 3E1 sub 3B2 (1 acre 3 roods 22 perches) which was located near the Levin sale yards and adjoined a section owned by Farmers Co-op & Dalgety. (It was also adjacent to State Highway 1 and the Wellington to Foxton railway). Mr Flowers thought that a meeting of owners held some years before had considered the sale of the block

¹¹⁴¹ Ibid.

¹¹⁴² Ibid.

¹¹⁴³ Head Office, Department of Maori Affairs to District Officer, Palmerston North, 31 May 1966; Maori Trustee to Mrs OE Smuts-Kennedy, Barrister & Solicitor, 3 June 1966, ACIH 16036 MA1/765 54/22/5 Maori Trustee – Ngarara West A3C Subdivisions and other blocks – vested under section 109, 1964-1970, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 95-96.

but no sale had eventuated. He said that the valuation had dropped from £700 to £560, that there was an old shed valued at £5 on the section and that the land should ‘sell readily’. No rates had been paid, he said, ‘for at least ten to twelve years’. There were charging orders totalling £34.8.11 on the block. There appears to have been difficulties with the sale of this block, however, with it later being vested in Mr Flowers in May 1972 to sell. Mr Flowers arranged the sale of the block to RL Glastonury for \$2000 in 1974. The land had 40 owners.¹¹⁴⁴

The second section to be vested in the Maori Trustee in July 1966 was Horowhenua 3E1 sub 4B (3 roods 14 perches) which was an unoccupied section also near the Levin sale yards. No rates had been paid, according to Mr Flowers, for many years. Charging orders totalled £20.11.3. The government valuation was £370 though the particulars of title gave the value at £315 (with £15 improvements). Mr Flowers said that he had never heard of the main owner Kerei Te Panau (there were seven owners). Of note, is that Kerei Te Panau had died in 1908 and was a well-known Rangitane rangatira (it was estimated that over 1000 people attended his tangi). That he was still on the roll is further evidence of how out of date the ownership records were which had been used to levy the rates. That Mr Flowers had not heard of him also indicates that his knowledge of Maori in the area was not quite as comprehensive as he thought. It also meant that the Court and government officials was receiving and accepting flawed information.¹¹⁴⁵

Mr Flowers also said that the receiver was unable to lease ‘to advantage’ which meant that there would have been insufficient rental to cover rates. That it was not rentable (and as subsequently found, barely saleable) were not sufficient reasons for the block to even be considered for exemption from rates.¹¹⁴⁶

The District Officer, MG McKellar, reported in November 1970, that Horowhenua 3E1 sub 4B was ‘another of the sections in the Horowhenua County ... [that they had] found difficulty in disposing of’. A special valuation of 1967 gave the value as \$840 including improvements of \$40. The valuer also said that while the section was suitable for gardening, on account of

¹¹⁴⁴ Otaki Minute Book 72, 19 July 1966, p. 313; Particulars of title, ACIH 16036 MA1/765 54/22/5 Maori Trustee – Ngarara West A3C Subdivisions and other blocks – vested under section 109, 1964-1970, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 82-90. Young, p. 111.

¹¹⁴⁵ Otaki Minute Book 72, 19 July 1966, p. 313; *Manawatu Times*, 23 November 1908, p. 5.

¹¹⁴⁶ Otaki Minute Book 72, 19 July 1966, p. 313.

its 'access and locality' it would only have 'limited appeal'. Mr McKellar said the owners had been written to in March 1967 advising that if rates were not cleared then they would call tenders to sell the block. No replies were received (presumably because the owner, Kerei Te Panau had died fifty years earlier) so tenders were called and advertisements placed in two newspapers in the area. There was, however, no interest in the block. Local agents called in to assist were also unable to sell the block. An offer was received from Mr Whiteman of \$600 in 1970 but as it was \$240 below the valuation the District Office tried to get the offer increased. Mr Whiteman would not agree to an increase in the offer as he was only going to be using the land to graze stock. The District Officer asked for permission to sell the land for \$600 on the basis that the office had 'tried every means possible to sell this land at a reasonable price for the owners'. Permission was given and the block was sold in 1971 for \$600. This was \$240 below its valuation which was the amount on which the rates would have been levied and then deducted from the purchase price.¹¹⁴⁷

The third section 109 order made in July 1966 was for Horowhenua X1B36 3H2B2A. Mr Flowers explained to the Court that the two owners had houses elsewhere. He said that he had seen Areta Nahona (one of the owners) several times about the section 109 application and asked her to do something about it. She told Mr Flowers that her brother had proposed selling the land but according to Mr Flowers, had done 'nothing about it'. No rates had been paid since at least 1957 and there were charging orders totalling £16.2.0. He said it was an unoccupied section about two miles from Levin, 'should sell readily' and 'make a good section for Maori housing'. The valuation was given at £200 (no improvements). It did not, however, 'sell readily' with a five-year delay before it was sold in 1971 to M Jenkins for \$690.¹¹⁴⁸

The information submitted by the District Office to officials at Head Office in support of the order being approved by the Minister comprised just particulars of title, a sketch of each

¹¹⁴⁷ Otaki Minute Book 72, 19 July 1966, p. 313; Walghan Partners, Porirua ki Manawatu Inquiry District Research Programme: Draft Memorial Schedule Alienations spreadsheet, commissioned by the Crown Forestry Rental Trust', 19 August 2016; Particulars of title, District Officer, Palmerston North to Head Office, Department of Maori Affairs, 20 November 1970, ACIH 16036 MA1/765 54/22/5 Maori Trustee – Ngarara West A3C Subdivisions and other blocks – vested under section 109, 1964-1970, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 82-90.

¹¹⁴⁸ Otaki Minute Book 72, 19 July 1966, p. 313; Walghan Partners, Draft Alienations Spreadsheet, 19 August 2016; Particulars of title, ACIH 16036 MA1/765 54/22/5 Maori Trustee – Ngarara West A3C Subdivisions and other blocks – vested under section 109, 1964-1970, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 82-90.

block, the Court minutes and the order itself. The District Officer explained that the ‘reasons for and circumstances leading up to the making of the order’ were set out in the Court minutes. The only additional information supplied to the Minister was that the area involved in respect to the three blocks was 1 acre 36.5 perches with two of the sections being near the Levin sale-yards and the third about two miles south of Levin. All were said to be in multiple ownership, unoccupied with unpaid rates totalling to £78.11.1. The Minister was also advised that no difficulty was seen in selling the sections and that accordingly it was recommended that he approve the order which he duly did. As recorded above there were subsequently difficulties selling all three sections.¹¹⁴⁹

Two section 109 applications were adjourned at the hearing of 19 July. The blocks were Manawatu Kukutauaki 4D1 section 5B2 and 4D1 section 5B3. Mr Flowers said that he was making further enquiries into their ‘saleability’ and asked for an adjournment for the next sitting. This was ordered by the Court.¹¹⁵⁰

9.31 Manawatu Kukutauaki 7D2D2, 4D1 5B2, 4D1 5B3, 7D2D57D2B1B & 4D1 2B3B, 1964-1971

A section 109 application was made in respect to Manawatu Kukutauaki 7D2D2 in 1964. Just a cursory record of proceedings was taken by the Court minute taker and the only information recorded was that there were 16 owners and the adjoining owner was interested in buying. It was later reported by the District Officer in Palmerston North that the block was sold in 1965 to JO Stewart for £150.¹¹⁵¹

In November 1966, a section 109 application was made in respect to Manawatu Kukutauaki 4D1 5B2 comprising 1 rood. It had two charging orders from 1963 and 1965 registered against the block for £5.13.2 and £6.7.0 (including costs). At the hearing, Mr Flowers

¹¹⁴⁹ Assistant District Officer, Palmerston North to Head Office, Department of Maori Affairs, 13 December 1966; JM McEwen, Secretary, Department of Maori Affairs and Maori Trust Office to Minister of Maori Affairs, 19 December 1966; Signed vesting orders, 6 January 1967; ACIH 16036 MA1/765 54/22/5 Maori Trustee – Ngarara West A3C Subdivisions and other blocks – vested under section 109, 1964-1970, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 56-58.

¹¹⁵⁰ Otaki Minute Book 72, 19 July 1966, p. 313.

¹¹⁵¹ Otaki Minute Book 71, 3 August 1964, p. 76; District Officer, Palmerston North to Head Office, Department of Maori Affairs, 21 February 1966, ACIH 16036 MA1/765 54/22/5 Maori Trustee – Ngarara West A3C Subdivisions and other blocks – vested under section 109, 1964-1970, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, p. 52.

explained that he had written to Takana Reihana (one of three owners) and that the letter was not returned (which he interpreted to mean that it was received). He said that the family lived in Tauranga but ‘took no interest in land here’ [in Horowhenua]. He said it was a ‘good, flat section suitable ... for Maori housing’. He said that there some other ‘good houses’ in the locality. The land was valued at £250 (no improvements).¹¹⁵²

Difficulties were also experienced with selling the land. This was despite the Council stating that it would issue a permit for a building and the sinking of a septic tank. The section 109 order was cancelled on 12 November 1970. At the same time a charging order was made against the land in respect of costs incurred by the Maori Trustee when attempting to sell the land (\$40). The block was later vested in Mr Flowers in May 1973 under section 438. At the hearing, Mr Flowers reiterated that the family of Takana Reihana family were living in the Bay of Plenty, that the block was a ‘very desirable Maori housing site’ with homes nearby. He acknowledged that it had been vested in the Maori Trustee who could not find a buyer. He thought though that he could attempt to find a buyer. As well as the vesting order which specified that the Trustees costs and expenses and outstanding charges would be deducted before payment was made to the Maori Trustee for distribution, the land was charged with arrears of rates of \$9.37 for the year ending 31 March 1973 plus costs of \$1.¹¹⁵³

Mr Flowers arranged the sale of the land to R Gray in 1974 for \$700 (£350). It can be assumed that the rates secured by charging orders made since 1963 were deducted from the purchase money as the well as the Maori Trustee’s costs of \$40 incurred while trying to selling the land and Mr Flower’s expenses.¹¹⁵⁴

On 18 April 1967, the Horowhenua County Council applied for a vesting order under section 109 in respect to Manawatu Kukutauaki 4D1 5B3. Mr Flowers told the Court that Manawatu Kukutauaki 4D1 5B3 was a section just north of Manukau and that the owner was Mrs Mako. He said that he had contacted her the year before and explained that ‘rates could be paid from

¹¹⁵² Otaki Minute Book 73, 8 November 1966, p. 24; Particulars of title, 1967, AAVN 869 W3599/246 54/22/8 part 1 Manawatu Kukutauaki 4D1 Section 5B2, 1967-1971, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 137-138.

¹¹⁵³ Otaki Minute Book 77, 10 May 1973, pp. 238-9; Otaki Minute Book 75, 12 November 1970, p. 255; Country Clerk, Horowhenua County Council to Maori Trustee, 12 May 1967; AAVN 869 W3599/246 54/22/8 part 1 Manawatu Kukutauaki 4D1 Section 5B2, 1967-1971, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 139.

¹¹⁵⁴ Walghan Partners, Draft, 1 May 2017, volume 2, pp. 250-256.

rent received from another block if she would give her solicitor authority'. He said that he prepared a form for her to sign and sent it to her but she did not complete and return it. He stated that she appeared 'completely disinterested in the section', that she had a house in Wellington and 'had no use for this section' though he did not clarify whether this was what he had been told by her or what he was surmising. He had also contacted her lawyer who told him that he had 'no instructions in the matter'. The Court enquired as to whether the owner named as Marekaruru Taha was in Court but there was no response and the order was made.¹¹⁵⁵

The block was sold in 1975 but no other alienation details have been located.¹¹⁵⁶

Later that year, in November 1967, Mr Flowers applied for another vesting order under section 109 in respect to Manawatu Kukutauaki 7D2D57D2B1B located near Poroutawhao. Mr Flowers said that both owners were deceased and that he had been trying to get the successors to formalise the succession arrangements but that the person concerned had 'done nothing'. He thought that no rates had ever been previously paid. He considered that the land would sell readily. It is not clear what happened in the interim apart from that the rates were paid and the Horowhenua County Council advised that it no longer required the sale of the land. The vesting order was cancelled in 1969. The block is no longer Maori land (alienation details have not been located).¹¹⁵⁷

A further vesting was made in respect to Manawatu Kukutauaki 4D1 2B3B in November 1971, this time under section 439 of the Maori Affairs Act 1953. The land was owned by 24 owners and there was no formed access to the block. No details on the alienation of this land has been located but it is no longer Maori land.¹¹⁵⁸

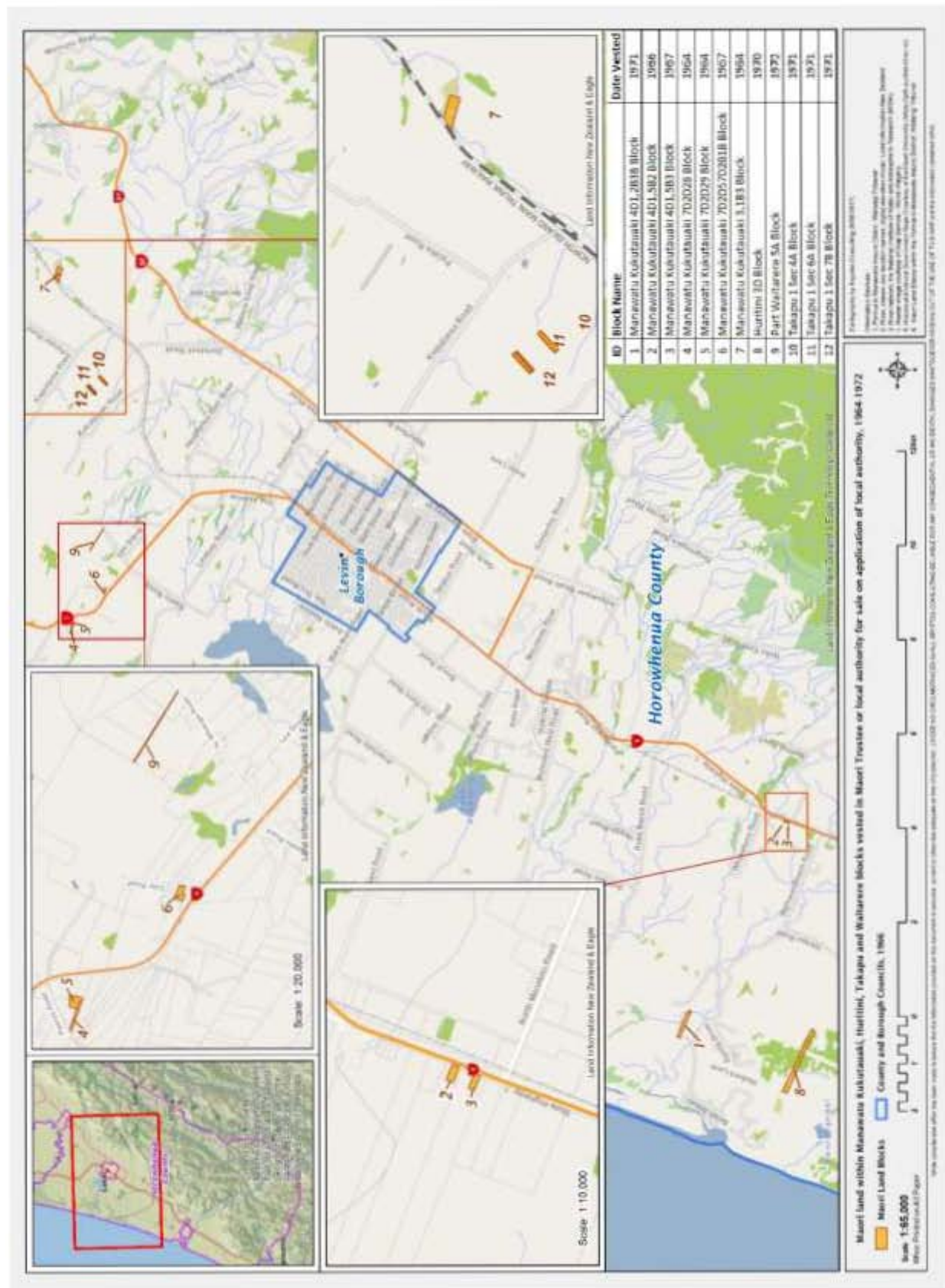
¹¹⁵⁵ Otaki Minute Book 73, 18 April 1967, pp. 129-132.

¹¹⁵⁶ Walghan Partners, Draft, 1 May 2017, volume 2, p. 268.

¹¹⁵⁷ Otaki Minute Book 73, 7 November 1967, p. 339; Otaki Minute Book 74, 10 February 1969, p. 257.

¹¹⁵⁸ Otaki Minute Book 76, 10 November 1971, pp. 161 & 201.

Map 17: Maori land within Manawatu Kukutauaki, Huritini, Takapu and Waitarere blocks vested in Maori Trustee or local authority for sale on application of local authority, 1964-1972



9.32 Ngakaroro 3D3B

On 18 April 1967, the Horowhenua County Council applied for a vesting order under section 109 in respect to Ngakaroro 3D3B (2 acres 3 roods 3 perches). Mr Flowers told the Court that it was located just south of Otaki bridge. He said that it was owned solely by Pokare Hawea who was married to Tamati Hawea who farmed land some distance away. Mr Flowers said that she did not use this land. He said that it was 'readily saleable and would probably fetch 50% above Govt valn'. Also, that it was a 'stone-free area'. He said that he had discussed with Pokare Hawea some time ago 'the desirability of selling this area and using monies to acquire uneconomic interests in other blocks farmed by her husband'. She had 'no objection to the section being sold' and would 'use the money to consolidate her interests'. He said that the land had been 'lying idle' for years. The Court enquired as to whether Pokare Hawea was present in Court but she was not and the Court made the section 109 order vesting the land in the Maori Trustee for sale.¹¹⁵⁹

Particulars of title confirmed that there was a rate charging order of \$83.06 plus \$3 costs on the land and that it was valued at £540 (\$1080) with improvements of £100 (\$200)). The minutes and particulars of title were forwarded to Head Office where it was noted that the reasons for the order were outlined in the minutes. Head Office was told that it could be 'perceive[d] from the minutes that the sole owner has no objection to the section being sold'. The land, according to the District Officer, was 'ideal for, say, market gardening' as it was 'stone-free'. It had also been surveyed meaning, according to the District Officer there was no difficulty in obtaining clear title. There were also indications that the block was 'readily saleable'. The District Officer therefore intended to offer the land for sale by public tender. The reserve price would be 'based on a special government valuation plus, say 10-15%'. The District Office recommended ministerial consent to the order. The Minister was then then advised to sign the order being told that the land had been 'lying idle for many years', that the owner had agreed to the vesting and the land was readily saleable. The Minister duly signed the order.¹¹⁶⁰

¹¹⁵⁹ Otaki Minute Book 73, 18 April 1967, pp. 129-132.

¹¹⁶⁰ District Officer, Palmerston North to Head Office, Department of Maori Affairs, 29 November 1967; Deputy Secretary to Minister of Maori Affairs, 5 December 1967, ACIH 16036 MA1/765 54/22/9 Ngakaroro 3D3B - Vesting under Rating Act, 109, 1964-1970, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 149-150.

By May 1968, the District Officer reported that tenders had been called but no satisfactory offer received. Also, that the sole owner and her husband had undertaken to clear the arrears of rates and charges (including Maori Trustee costs) with half of the rates having been paid. The District Officer said he was waiting to hear from the County as to the payment of the remainder of the rates and if this was 'satisfactorily concluded' then an application would be made for cancellation of the order. Later that year, the District Officer advised that all rates had been paid, charging orders released and the application for the cancellation of the section 109 order was about to be made. The land was later sold in 1975 for \$14,250 (£7125).¹¹⁶¹

That the owners cleared the rates would indicate that the owner had either changed her mind about the land or had in fact not been agreeable to the vesting in the first place putting Mr Flowers advice in question again.

9.33 Ohau 3A1A2B, Ohau 3 No 12B2, Ohau 3 No 12C & Ohau 1 Section 6 1963-1968

One of the section 109 applications considered on 3 August 1964 was in respect to Ohau 3A1A2B (26 acres 27 perches) so larger than most of the other blocks. It was described as a strip of land 3 chains (60 metres) wide and a little over one mile long near the mouth of Ohau River. Mr Flowers said that it was valued at 'only' £170 and had 16 owners many of which, he thought, were 'probably ... dead' so again he had failed to identify current ownership and contact details. He asked that the Court refer to the 'facts' in the application (which were not recorded). The Court did not, however, make an application under section 109 of the Rating Act but under section 438 of the Maori Affairs Act. Subject to the consent of the Minister the land was to be vested in the Maori Trustee to be leased to NW Candy, the lessee of Ohau 3A1A3, for a term expiring on 10 April 1981. On 5 December 1964, the application for this block was considered by the Court again (before Judge MC Smith). The Court stated that the section 438 order made by the Court on 3 August was a 'nullity' as the consent of the Minister was 'not forthcoming'. The Court then made an order under section 109 of the Rating Act vesting the land in the Maori Trustee for sale subject to the consent of the Minister. This must have been given as the land was sold to Mr Candy in 1965 for £275.¹¹⁶²

¹¹⁶¹ District Officer, Palmerston North to Head Office, Department of Maori Affairs, 14 May 1968 and 24 September 1968, ACIH 16036 MA1/765 54/22/9 Ngakaroro 3D3B - Vesting under Rating Act, 109, 1964-1970, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 151-152.

¹¹⁶² Otaki Minute Book 71, 3 August 1964, p. 78; 5 December 1964, p. 259.

A further section 109 application in respect to the Ohau block was made in April 1967. At the hearing, the applications concerning Ohau 3 No 12B2 (2 acres 2 roods 39 perches), and Ohau 3 No 12C (3 acres 39 perches) were adjourned. Mr Flowers advised that the ownership was the same for both sections and that the owner, Ruihi Wehipeihana was deceased. He was married to Ngatikura Wehipeihana to whom, Mr Flowers said, he had given a title search and succession application form to (for her to sign). Mr Flowers said that she had ‘done nothing about it’ and that the other executor, Robert, was living in the South Island and ‘does not appear to take any interest either’. The Court, however, was ‘reluctant to make orders as sought at this stage’. The Court stated that it appeared in respect to Ohau 3 No 12C that the present trustees of the will of the owner had ‘fallen down on their job and that [an] appropriate application might be one to replace them’. The application was heard again in November 1967 and this time the Court ordered that both blocks be vested in the Maori Trustee for sale under section 109. This was despite Mr Flowers advising the Court that Mrs Ngatikura Wehipeihana had died several weeks before and no successions being yet appointed. He also said no rates had been paid for many years, that the blocks were unoccupied and ‘untidy’ and that the solicitor for the estate, Mr Todd, had been ‘unable to assist’. Mr Flowers said too that the land was ‘a bit stoney [and] hardly suitable for market gardening – but would be in demand by town milk supply farmers’. Charging order applications were heard in November 1968 but adjourned as it was stated that Mr Todd had money to pay the rates. In April 1969, charging order applications for both blocks were dismissed as rates had been paid in full and in May 1969 the section 109 orders in respect to both blocks were cancelled.¹¹⁶³

Ohau 3 No 12B2 was later sold in 1973 to J & W Chambers but alienation details of 12C are not known though the block is no longer Maori land.¹¹⁶⁴

An application was also made in respect to Ohau 1 section 6 (4 acres 2 roods 11 perches) in November 1968. This was one of the first applications made under section 438 of the Maori Affairs Act as opposed to section 109. Mr Flowers told the Court that the block was in the name of Hoani Wiripini who had died (he was last known to be alive in 1889). Mr Flowers said that his successors were unknown. The block had no access, and the bulk of it

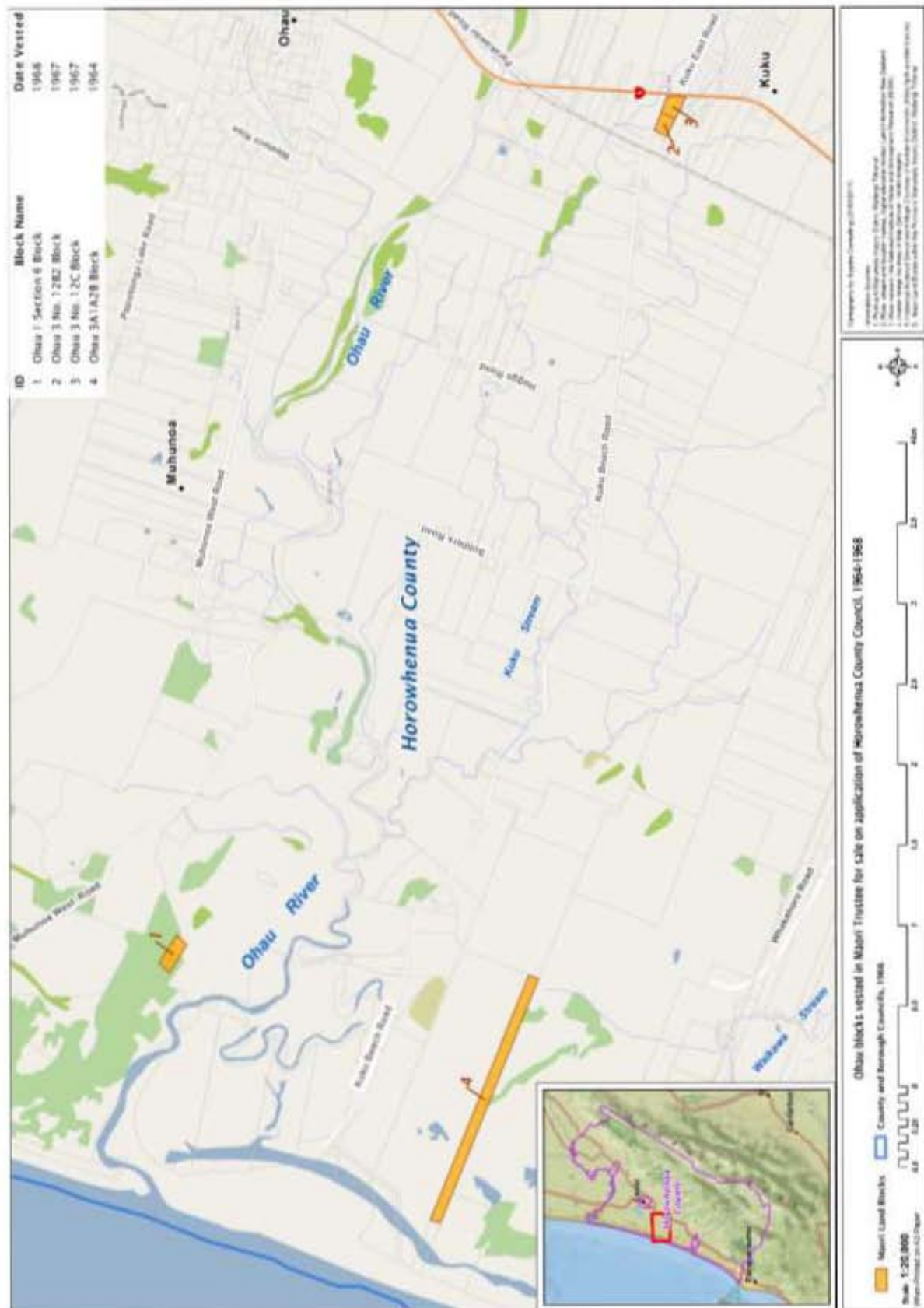
¹¹⁶³ Otaki Minute Book 73, 18 April 1967, pp. 129-132; Otaki Minute Book 73, 7 November 1967, p. 341; Otaki Minute Book 74, 5 November 1968, p. 195; Otaki Minute Book 74, 22 April 1969, p. 274; 12 May 1969, p. 325.

¹¹⁶⁴ Walghan Partners, Draft, 1 May 2017, volume 3, pp. 95-128.

was sandhills which were of 'little value'. He said that a neighbour, SP Easton, was prepared to purchase the land and pay all outstanding rates. The Court then made the order under section 438 vesting the land in the Maori Trustee to sell the land to SP Easton at a price of \$20 per acre with the purchaser clearing all outstanding rates. After deduction of the Maori Trustee's expenses and commission, the residue was to be paid to the beneficial owner or owners. The block was indeed sold to SP Easton for \$90 in 1969. It is not known whether the Maori Trustee was able to locate the successors to the original owner to disburse the purchase money to them or, if they were located, what their views on the sale were.¹¹⁶⁵

¹¹⁶⁵ Ibid; Otaki Minute Book 74, 5 November 1968, p. 192.

Map 18: Ohau blocks vested in the Maori Trustee on application of Horowhenua County Council, 1964-1968



9.34 Horowhenua X1B42A3B & Horowhenua X1B42A4B, 1967

Three further applications were ordered under section 109 in November 1967. These were the last orders made under this legislation. One of the applications concerned Ngarara West A3C residue which is discussed in the above section concerning the A3C subdivisions. The other two blocks were in respect to Horowhenua X1B42A3B (2 acres 3 roods 13 perches) and Horowhenua X1B42A4B (3 roods 34 perches), both located at Hokio Beach.

In November 1967, the Horowhenua County Council applied to the Maori Land Court to have the land vested in the Maori Trustee under section 109 of the Rating Act 1925 due to the non-payment of rates. The first, Horowhenua X1B42A3B, consisted of 2 acres 3 roods 13 perches and had 40 owners. Rates charging orders against the block totalled \$107.35 plus \$2 costs. Survey charges of \$6.29 plus interest were also due. The land had been valued in 1965 at \$2400. There were no improvements on the land. The second section, Horowhenua X1B42A4B, consisted of 3 roods 34 perches and had 6 owners. Rates charging orders totalled \$60.89 plus \$2 costs and there were survey charges of \$8.68 also outstanding. The block was valued in 1965 at \$1150 with no improvements.¹¹⁶⁶

At the hearing where the application was considered, Mr Flowers advised the Court that Horowhenua X1B42A3B was situated at Hokio where there had been ‘quite a demand for land ... of late’. He was also ‘sure the section [which was flat] would sell readily’. He said that no rates had ever been paid and the owners were not known to him. With respect to Horowhenua X1B42A4B, Mr Flowers stated that the section was also ‘flat ... which would sell readily’ and had frontage to two streets. He said that he had been in touch with one of the owners, JH Potaka, but that Mr Potaka was ‘not interested in paying’. No rates, he said, had ever been paid. The Court made an order for both sections under section 109 of the Rating Act 1925 which vested the land in the Maori Trustee for sale, subject to consent of the Minister.¹¹⁶⁷

The orders were then sent to the Minister’s office for his consent. The District Officer gave the following information on which the Minister made his decision:

¹¹⁶⁶ Particulars of title for Horowhenua X1B42A3B and X1B42A4B, 20 December 1967, AAVN 869 W3599/246 54/22/13 Horowhenua X1 B42 A3B 1926-1971, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 141-144.

¹¹⁶⁷ Otaki Minute Book 73, 7 November 1967, p. 339.

Both blocks are situate at Hokio Beach. The extracts from Minute Book explain the circumstances under which the Orders were made. The possibility of sale does not look so hopeful to us, mainly because of difficulties as to legal access and the likelihood of the issue of building permits being consequently held up. However, Mr Flowers of the Horowhenua County Council staff, a Registered Valuer, considers that the blocks are saleable particularly if sold together and that he might buy in his own right. In both cases most of the owners have been found and contacted but no individual or group has been prepared to move in the matter.¹¹⁶⁸

No comment was made from officials about Mr Flowers' potential conflict of interest if he was to purchase the land and the Minister did not query it either.

The Minister was advised to sign orders there being 'no reason ... [according to the Secretary for Maori Affairs] why the vesting should not be consented to'. He was also told:

While chances of selling do not look particularly good to the Maori Trustee, there is some demand for sections in the area and Horowhenua county considers that both sections should sell readily. Both the Council and the Maori Trustee have been in touch with the owners about the situation, but they are not prepared to do anything about paying the rates.¹¹⁶⁹

The reference to owners is curious as Mr Flowers had stated that the owners of Horowhenua X1B42A3B were unknown to him. The orders were signed by the Minister of Maori Affairs JR Hanan on 30 May 1968.¹¹⁷⁰

Initially land agents were instructed to try and sell the two sections but they were unable to do so. In July and August 1969, the District Officer at Palmerston North called tenders but

¹¹⁶⁸ District Officer, Palmerston North to Head Office, Maori Trustee, 14 May 1968, AAVN 869 W3599/246 54/22/13 Horowhenua X1 B42 A3B 1926-1971, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 165.

¹¹⁶⁹ Secretary for Maori Affairs to Minister for Maori Affairs, 24 May 1968, AAVN 869 W3599/246 54/22/13 Horowhenua X1 B42 A3B 1926-1971, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 146.

¹¹⁷⁰ Orders of Maori Land Court in respect to Horowhenua X1B42A3B and X1B42A4B, 30 May 1968, AAVN 869 W3599/246 54/22/13 Horowhenua X1 B42 A3B 1926-1971, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 147.

none were received. As a result, the District Officer advised the Valuation Department of the situation and asked whether the values of \$2500 and \$1150 for 3B and 4B respectively were 'over-stated'. This was on the basis, the District Officer said, that there was 'no access to a legal formed road' and that the County was 'not prepared to issue building permits'. The Valuation Department's response was that they would prepare new valuations based on this information.¹¹⁷¹

By March 1971, new valuations had been prepared. These were \$2450 for 3B and \$1200 for 4B which was a \$50 difference for each section - \$50 less for 3B and \$50 more for 4B. The District Officer reported that land agents had been advised that the trustee was prepared to sell the sections at valuation and if necessary, terms could be agreed whereby a 20 percent deposit was paid with the balance paid over five years at 7 percent interest in half yearly instalments. If no interest was shown in the land within three months, the District Officer would apply to the Court to have the blocks re-vested in the beneficial owners. An application would also be made to have a charge on the land to recover the trustee's costs.¹¹⁷²

In July 1971, the District Officer reported that no interest had been shown in the land and as a 'last resort' they had written to the Horowhenua County Council to see if they could suggest how the blocks could be disposed of under the section 109 orders. If they had no suggestions, then the application would be made to have the land re-vested in the owners. The Horowhenua County Council had then consulted Messrs Rod Weir & Company, the same real estate agency who in 1967, bought Horowhenua A5E and on sold it for twice what the company had paid (discussed above). This raises the question as to why they were being used again. The District Officer did not mention this, however, instead stating that it was hoped that with summer approaching their prospect of a sale would improve. They were therefore allowing the land agents previously consulted as well as Rod Weir & Company a further three months to find a purchaser. Although nothing further about the matter is on the Head Office file, both blocks were sold shortly after. Horowhenua X1B42A3B was sold in March

¹¹⁷¹ Assistant District Officer, Palmerston North to Head Office, Department of Maori Affairs, 16 January 1970, AAVN 869 W3599/246 54/22/13 Horowhenua X1 B42 A3B 1926-1971, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 148.

¹¹⁷² District Officer, Palmerston North to Head Office, Department of Maori Affairs, 22 March 1971, AAVN 869 W3599/246 54/22/13 Horowhenua X1 B42 A3B 1926-1971, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 149.

1972 to AJ Bull for \$2450 and Horowhenua X1B42A4B sold in 1973 to G Simpson for \$1200 – both at exactly the 1971 government valuation.¹¹⁷³

9.35 Ngarara West A32C1 & A32C2 and District Office Concerns, 1967-1970

In April 1967, the Maori Land Court, presided over by Judge Smith, heard applications by the Horowhenua County Council to vest Ngarara West A32C1 (1 rood) and A32C2 (2 acres 3 roods 20.2 perches) in the Maori Trustee under section 109 of the Rating Act 1925. Both sections were located off Te Moana Road. Mr Flowers stated that A32C1 was owned by ten people - three of whom had died. Arrears had been recently reduced as a result of compensation received by the owners for road widening (the entire compensation of £59.17.4 was forwarded to the Council by the Maori Trustee in part payment of the £231.9.11 plus 10/- costs owed). He had seen several of the owners who were ‘anxious that something be done to solve their housing problems’. There was a house on the block but it was ‘old and badly in need of repair’. One of the owners, who Mr Flowers named as Robert Ropata, was ‘anxious’ that the land be vested in the Maori Trustee so that there was someone with authority who could deal with the land. Mr Flowers advice was again incorrect as later correspondence indicates that Mr Ropata wanted someone to assist with his housing needs - not someone who would sell the land. The Court enquired as to whether another of the owners, Mihiterina Ropata (also known as Mrs S Cole) was in Court but there was no response. The Court then ordered that the land be vested in the Maori Trustee for sale under section 109 subject to the consent of the Minister.¹¹⁷⁴

With regard to the application for the vesting of Ngarara West A32C2 in the Maori Trustee, the minutes simply refer to the application for A32C1 though it was noted that over £350 (\$700) was owed in rates for A32C2 and that no members of the Ropata family were present in Court. As with A32C1, an order was made by the Court vesting the land in the Maori Trustee for sale under section 109 subject to the consent of the Minister.¹¹⁷⁵

¹¹⁷³ District Officer, Palmerston North to Head Office, Department of Maori Affairs, 20 July 1971 and 23 August 1971, AAVN 869 W3599/246 54/22/13 Horowhenua X1 B42 A3B 1926-1971, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 150-151.

¹¹⁷⁴ Otaki Minute Book 73, 18 April 1967, p. 130; Maori Trustee to County Clerk, Horowhenua County Council, 2 December 1966, HDC 00098 1 3 Maori Land, Rate Charging Orders, 1962-1968, Archives Central, Feilding. SW Document Bank, volume 9, p. 20.

¹¹⁷⁵ Otaki Minute Book 73, 18 April 1967, p. 130.

The orders were not, however, immediately sent to the Minister of Maori Affairs for approval. Indeed, it was a year before the District Officer, K Morrill, at Palmerston North corresponded with Head Office about the matter. In the same letter Mr Morrill expressed concern at the number of orders being made under section 109 on the application of the Horowhenua County Council (by this time around 26 such orders had been made). Mr Morrill complained to Head Office that the Horowhenua County Council appeared to be 'over doing it with its section 109 vestings'. Mr Morrill said that quite a few had accumulated during the previous few years and explained that:

Normally we co-operate as far as we can, realising that we are mere servants of the Court to recover arrears of rates for the County. However, there are other aspects. For one thing, the vestings throw a lot of additional work on the office and in many cases they are bound to lead us into a conflict with the owners. Our position is not as clear cut as in the case with a receiver. The owners we are dealing with may well be clients of the Department in other fields and in any case the Department is generally considered to stand in a fiduciary capacity to Maoris in general.

Our image becomes somewhat tarnished when we carry out sales at the instance of the local body. As has already been pointed out by Head Office our legal position is clear and we are quite entitled to act as we do. However, I am more concerned with the moral aspect. To many people the sales appear as something very like confiscation.

The fact is that in many cases it is not perfectly clear that the County has taken all reasonable steps to recover the rates before calling on the Maori Trustee. Then again they have mis-represented the sale potential of the land. It seems to me that where the land has a substantial value or where there is not a multiplicity of owners, the County has remedies which it could exercise itself. No doubt the provisions of the new Rating Act will improve the position.

I mention all this in passing, as we have struck trouble from time to time with these vestings.

It has been, and still is, normal practice for the office to notify those owners for whom we have addresses, in an effort to get them to pay the rates so that there will be no need to sell. Where no interest is shown, we go ahead and arrange a sale.¹¹⁷⁶

He then went on to explain why the vesting of Ngarara West A32C2 was causing concern. He said that the land, which was situated at Waikanae, had ‘a certain potential for subdivision into building sites, particularly if used in conjunction with an adjoining block owned by the same family’ (presumably A32C1). The one owner who he had have been able to contact was against the Maori Trustee selling and would instead prefer to see the land subdivided with some sites reserved for the owners. The owner, however, had no money to carry out the project himself. Mr Morrill said that the rest of the family were ‘not particularly interested’ (though quite how they could be ‘interested’ when they had not been contacted was not explained). Mr Morrill said too that the Maori Trustee was ‘not keen on undertaking further subdivisions’. He noted that A32C2 was valued in 1965 at \$4750 (£2375) and that the outstanding rates totalled around \$850 (£425). He continued:

Our dilemma is this – if we sell the land as is, the rates would be cleared but the mooted subdivision scheme would be ruined. This could mean an unjustifiable loss to the owners both financially and through the loss of house sites. On the other hand, the section is eating its head off in rates and there is little or no prospect of the owners clearing them and meeting future rates.

Regretfully, it appears we will have to sell as is, as we have no real grounds for going back to the Court for cancellation of the Order. The only other alternative is to ask for cancellation and a substituted vesting in the Maori Trustee for subdivision. Although not being too keen on the idea, it is a thought and it can at least be said that Waikanae is as good a place as any to undertake a subdivision project.¹¹⁷⁷

Before responding to Mr Morrill, officials at Head Office, discussed the matter. They were unsympathetic to the District Officers (and the Maori owners) position or the assertion of the District Officer that the Department was ‘generally considered to stand in a fiduciary capacity

¹¹⁷⁶ K Morrill, District Officer, Palmerston North to Head Office, Department of Maori Affairs, 4 April 1968, AAVN 869 W3599/246 54/22/14 Ngarara West A32C2 and 32C1, 1968-1970, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 153-155.

¹¹⁷⁷ Ibid.

to Maoris in general' and that the vestings were 'very like confiscation'. The Deputy Maori Trustee, RJ Blane told a colleague, Mr Williams on 8 April 1968 that:

Finance is now pretty difficult to come by and the M.T. should avoid investing too much in trusts for sub-division and sale. There are already several existing subdivisions at Waikanae and a further subdivision could depress the market which is at present difficult.

It is recommended that PN again write to the interested owner of the land and tell him that if he and his co-owners do not pay the rates within say 6 weeks or come to some arrangement satisfactory to the local body the MT will be forced to [can't read] on the s 109 order.¹¹⁷⁸

Mr William's responded:

I think in general DO is being over scrupulous. Local body has right to ask for orders & if Court grants them, MT, if he follows rules, is merely [can't read] of it. Position could be worse under new legislation. In particular case I think sale should go ahead.¹¹⁷⁹

Mr Blane then advised the District Officer that it was going 'too far to suggest that, because some undesirable results may be thought to flow by reason of the Maori Trustee acting on the section 109 order, [that] the Maori Trustee is under some obligation to consider financing a scheme of subdivision'. Mr Blane stated that in this case:

... we would not see much point in doing a subdivision reserving certain sections for the owners. If they won't bestir themselves in an effort to get rid of the rating liability on the whole, they are not likely to trouble about the rates on the reserved sections.¹¹⁸⁰

¹¹⁷⁸ Notes between officials, 8 April 1968 on District Office, Palmerston North, to Head Office, Department of Maori Affairs, 4 April 1968, AAVN 869 W3599/246 54/22/14 Ngarara West A3262 32C1, 1968-1970, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 153-155.

¹¹⁷⁹ Ibid.

¹¹⁸⁰ Head Office, Department of Maori Affairs to District Office, Palmerston North, 24 April 1968, AAVN 869 W3599/246 54/22/14 Ngarara West A3262 32C1, 1968-1970, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 156.

Mr Blane suggested that the District Officer write to the other owners that the office had not yet been in touch with (it was rightly assumed that just one of the owners had been contacted) and if the office was able to locate addresses, explain that unless they pay the rates within a 'reasonable time' then the Maori Trustee would have to proceed with the order. He also asked whether the order had been approved by the Minister.¹¹⁸¹

The District Officer replied that the order had not been submitted to the Minister as the office had not yet been able to make a recommendation. He advised too that the District Office would get in touch with the owners of the block and give them two months to make a 'satisfactory' arrangement to clear the arrears and if no such arrangement was made, then the order would be submitted for the Minister's approval.¹¹⁸²

In November, the District Office submitted the orders to Head Office for the Minister's consent. The District Office noted that although all the owners (nine in C2 and one in C1) apart from one who had died had been advised by letter of the vesting order and the Maori Trustee's allowance of two months to come to some arrangement with the Horowhenua County Council to pay the rates arrears had passed, no rates had been paid and no arrangements had been made to pay them. At this time, rates arrears were around \$921 for C2 and \$111 for C1. The District Officer noted too that the valuation was \$5500 for C2 and \$1750 for C1 and that the two blocks, along with those adjoining, had 'good potential for subdivision'. The area, he said, had been zoned residential and the county had plans for future subdivision and roading in the area. Although the blocks were not yet on the market, they had received two offers through land agents for \$1600 per acre in one case and \$9600 for the two blocks in the other case.¹¹⁸³

The Secretary for Maori Affairs then recommended to the Minister of Maori Affairs that the vestings in the Maori Trustee be approved. The Minister was also told that as there was 'a

¹¹⁸¹ Ibid.

¹¹⁸² District Office, Palmerston North to Head Office, Department of Maori Affairs, 6 May 1968, AAVN 869 W3599/246 54/22/14 Ngarara West A3262 32C1, 1968-1970, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 157.

¹¹⁸³ District Office, Palmerston North to Head Office, Department of Maori Affairs, 4 November 1968, AAVN 869 W3599/246 54/22/14 Ngarara West A3262 32C1, 1968-1970, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 158.

steady demand for land in the Waikanae area there should be no difficulty in disposing of these blocks'. Minister (Hanan) gave his approval on 14 November 1968.¹¹⁸⁴

A month later, one of the owners of Ngarara West A32C2, Miriama Newton (formerly Miriama Ropata), who lived in Hastings, asked Whetu Tirikatene-Sullivan, MP for Southern Maori, to extend the time available before the block was sold by the Maori Trustee. In response, Mrs Tirikatene-Sullivan wrote to the Minister of Maori Affairs, JR Hanan, noting that while members of Mrs Newton's family had not met rates arrears on the land, Mrs Newton was endeavouring to raise the money to keep the property in the ownership of her family. Mrs Tirikatene-Sullivan also asked Mr Hanan whether rental monies from the Hemi Matenga Estate owed to Mrs Newton's late father could be directed to meet the arrears indicating that payment of such a large amount was indeed an issue.¹¹⁸⁵

The reply to Mrs Tirikatene-Sullivan from Mr Hanan, which was also sent to Mrs Newton, said that as the Maori Trustee had been appointed by the Court, the Trustee had 'no discretion but to try to carry out the terms of the order so long as the rates remain unpaid'. He continued:

Generally speaking, if there is some prospect of owners meeting the rates arrears and entering into some firm arrangement with the County Council for the payment of future rates, the Maori Trustee, with the Court's approval, would be quite prepared to put off selling for a time to allow them time to do so. Ngarara West A32C2 itself has not yet been put on the market and he has agreed to let matters stand until 1 April 1969.¹¹⁸⁶

Mr Hanan also explained that the rates owed totalled \$994.33 which he thought was 'quite a hurdle for the owners to overcome'. He also commented that the Maori Trustee had at one

¹¹⁸⁴ Secretary, Department of Maori Affairs to Minister of Maori Affairs, 11 November 1968 and Order vesting Ngarara West A32C2 and A32C1 in Maori Trustee, 14 November 1968, AAVN 869 W3599/246 54/22/14 Ngarara West A3262 32C1, 1968-1970, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 159-160.

¹¹⁸⁵ Whetu Tirikatene-Sullivan to JR Hanan, Minister of Maori Affairs, 10 December 1968, AAVN 869 W3599/246 54/22/14 Ngarara West A3262 32C1, 1968-1970, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 161.

¹¹⁸⁶ JR Hanan, Minister of Maori & Island Affairs to Mrs Tirikatene-Sullivan, 23 December 1968, AAVN 869 W3599/246 54/22/14 Ngarara West A3262 32C1, 1968-1970, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 162-163.

stage asked the Horowhenua County Council to reach a compromise on the amount owing but because 'rates totalling \$286.66 had already been written off, the county would not entertain the idea'. He further noted that as the Hemi Matenga Estate was not administered by the Maori Trustee he was unable to say whether the income from it could reduce the rates. It was suggested that if Mrs Newton was a beneficiary of the trust that she take the matter up with the trustees for the estate. He stated too that as the land had a value of \$9,500 it was 'well worth saving if the owners could manage it'.¹¹⁸⁷ Therefore no practical advice was forthcoming from the Minister.

In April 1969, the District Officer in Palmerston North reported that tenders had not yet been called because the Horowhenua County Council wanted to purchase about one acre of the vested sections for a fire station. As the acre of land the Council wished to purchase comprised the whole of the frontage of the sections, the Council proposed forming a road to give access to the back part of A32C2. The Horowhenua County Council had offered \$8000 which, the District Officer thought compared favourably to the \$12,000 valuation of the two sections combined. The District Officer also noted that if the Horowhenua County Council was unable to buy they intended to instead take the land under the Public Works Act.¹¹⁸⁸

The District Officer said too that should the sale to the county go ahead the rates arrears would be cleared and the remaining area could be re-vested in the owners free of all charges with the 'added advantage ... of legal access'. This was 'probably ... preferable' to the owners to all the land being sold. An official at Head Office responded that they could see nothing against the proposal of the council paying two-thirds of the roll value for one-third of the area.¹¹⁸⁹

Six months later, however, the District Officer advised that the offer had been withdrawn because of other negotiations that had been entered into. This included the private sale of

¹¹⁸⁷ Ibid.

¹¹⁸⁸ District Officer, Palmerston North to Head Office, Department of Maori Affairs, 29 April 1969, AAVN 869 W3599/246 54/22/14 Ngarara West A3262 32C1, 1968-1970, Archives New Zealand, Wellington. SW Document Bank, volume 6, p.164.

¹¹⁸⁹ District Officer, Palmerston North to Head Office, Department of Maori Affairs, 29 April 1969; Handwritten note from Head Office official on District Officer, Palmerston North to Maori Trustee, Head Office, 29 April 1969; and Maori Trustee, Head Office to District Officer, Palmerston North, 5 May 1969, AAVN 869 W3599/246 54/22/14 Ngarara West A3262 32C1, 1968-1970, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 164 & 171.

A32C1 (further details have not been located). This had followed the cancellation of the section 109 order and re-vesting in the sole owner after the rates had been cleared.¹¹⁹⁰

With regard to section A32C2, the District Officer reported that an offer had been received for \$9500 which was the amount of the special valuation and that this was being considered. It was also noted that there was an old dwelling on the property which was still being occupied by one of the owners. It was intended to visit that person about a 'possible housing application'. All owners, the District Officer claimed, had been notified of the vesting and the possibility of the sale but none had paid or offered to pay any of the arrears most likely because they could not afford to do so.¹¹⁹¹

In March 1970, however, the person who made the offer was told that they needed to increase it by a further 15 percent (\$11,500). This was, according to the District Officer at Palmerston North, because the Maori Trustee was 'in a position of trust' and could not dispose of the land at less than it was worth. Section 227A of the Maori Affairs Act, 1953 was quoted which stated that as a general guide adequate consideration was considered to be the amount of a special valuation plus an additional 15 percent.¹¹⁹²

Also at this time, owner Mrs Newton again complained to the new Minister of Maori Affairs Duncan MacIntyre about the matter. He forwarded a brief note to the Secretary of Maori Affairs which simply stated that there was 'some talk of the property being sold to pay for back rates'.¹¹⁹³ The Minister later responded to Mrs Newton, outlining the history of the block following the land being vested in the Maori Trustee and asserting that opportunities had been given to the owners to make arrangements with the council for payment, including after the approach made by Whetu Tirikatene Sullivan on behalf of Mrs Newton to the then Minister, Mr Hanan. He said that as nothing had been done it was 'now too late' and that the

¹¹⁹⁰ Otaki Minute Book 74, 30 July 1969, p. 377; District Officer, Palmerston North to Head Office, Department of Maori Affairs, 30 September 1969, AAVN 869 W3599/246 54/22/14 Ngarara West A3262 32C1, 1968-1970, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 165.

¹¹⁹¹ District Officer, Palmerston North to Head Office, Department of Maori Affairs, 30 September 1969, AAVN 869 W3599/246 54/22/14 Ngarara West A3262 32C1, 1968-1970, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 165.

¹¹⁹² District Officer, Palmerston North to B Mansell, Paraparaumu, 4 March 1970, AAVN 869 W3599/246 54/22/14 Ngarara West A3262 32C1, 1968-1970, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 166.

¹¹⁹³ Office of the Minister of Forests to Secretary, Maori Affairs, undated [circa February/March 1970], AAVN 869 W3599/246 54/22/14 Ngarara West A3262 32C1, 1968-1970, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 167.

Maori Trustee could not 'delay any longer the discharge of the duties imposed on him by the Court'.¹¹⁹⁴

When forwarding a draft reply for the Minister on which the above letter was based, the District Officer at Palmerston North commented that the owners had had more than two years to 'do something about the rates' but had done nothing. He said that in the experience of the Palmerston North office, when owners were 'scattered [and] ... settled elsewhere', it was 'next to impossible to get complete agreement on the question of meeting rate arrears' This was particularly the case where the amount was as 'substantial' as that owed on A32C2. He said that those who lived away from the land tended to hold those who were occupying or using that land, responsible for the rates. He also said that the land in question was not much good for the nine owners and their families unless it was subdivided for their own use but that they did not have the money to undertake this. In the meantime, the rates were 'accruing at the rate of \$160 per year'. The District Officer also commented that negotiations were still proceeding with the person who had made the initial offer of \$9500 and that they were trying to get the offer increased. This was on the basis that the land would, according to the valuer, have considerably greater value if sold for subdivision with adjoining properties or if sold to an adjoining owner. The person who made the offer was in this position so they suspected he would be prepared to offer more.¹¹⁹⁵

Indeed, in September 1970, it was reported by the District Officer that the land had been sold privately to the person who had made the initial offer, for the increased price of \$11,000. Rates would have been deducted and paid to the Council as well as expenses incurred by the Maori Trustee. In 1968, the rates owed were \$921. A further two years of rates (\$160 per year) increased the total to \$1241. This represented over 11 percent of the purchase price - an amount levied against three acres of land that was acknowledged as being undeveloped, having limited access and that the owners could not afford to subdivide.¹¹⁹⁶

¹¹⁹⁴ Duncan MacIntyre, Minister of Maori Affairs, to M Newton, Hastings, 12 March 1970, AAVN 869 W3599/246 54/22/14 Ngarara West A3262 32C1, 1968-1970, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 169.

¹¹⁹⁵ District Officer, Palmerston North to B Mansell, Paraparaumu, 4 March 1970, AAVN 869 W3599/246 54/22/14 Ngarara West A3262 32C1, 1968-1970, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 168.

¹¹⁹⁶ Ibid.

District Officer, Palmerston North to B Mansell, Paraparaumu, 22 September 1970, AAVN 869 W3599/246 54/22/14 Ngarara West A3262 32C1, 1968-1970, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 170.

Maori Land Online indicates that there are currently no Ngarara West A32 sections that are still Maori land.¹¹⁹⁷

9.36 Hokio A, 1968

The first application of 5 November 1968, concerned Hokio A which was the largest of all the blocks that Mr Flowers had yet applied for a vesting order. Hokio A had formerly comprised four separate areas: Horowhenua XIB42C and Horowhenua XIB42A14 (which comprised 626 acres 2 roods 31.9 perches) and Horowhenua XIB42B and Pt Horowhenua XIB42C together comprising 278 acres. This was a total of over 904 acres (366 ha). As well as unpaid rates, which were significant, there was an issue with noxious weeds. While leasing and a sale were discussed between the Maori Trustee and the Forestry Department, in 1971, 29 acres 3 roods 234 perches of the block was taken under the Public Works Act under the Child Welfare Act 1925 leaving 354.1717 hectares which is still Maori land today. A further charging order was made on 16 April 1975 for \$194.27 which was one of the last charging orders made in the County. The remaining land was re-vested in the owners following the payment of \$955 for rates to the Horowhenua County Council presumably from compensation monies.¹¹⁹⁸

As noted, Hokio A is Maori land today. The land potential report for the block indicates that it would have been difficult for the land to produce enough revenue to pay rates. The report states that 88 percent of the block is ‘non arable’ and ‘marginal for pastoral and forestry’, 9% has ‘extreme limitations’ which make it ‘unsuitable for crops, pasture and forestry’ leaving just 2 percent of the block (7.66 ha) suitable for cultivated crops, pasture or forestry’. There was, however, never any suggestion at this time that the land be exempted from rates.¹¹⁹⁹

9.37 Horowhenua 3C4A, Horowhenua 3C4C & Horowhenua X1A4B1B2

¹¹⁹⁷ Maori Land Online: <http://www.maorilandonline.govt.nz/> accessed 2016.

¹¹⁹⁸ Otaki Minute Book 74, 5 November 1968, p. 191; Otaki Minute Book 79, 16 April 1975, p. 71; County Clerk, Horowhenua County Council to Maori Land Court, 29 May 1972, HDC 00098 2 17 Department of Maori Affairs Rates Correspondence, 1963-1975, Archives Central, Feilding. SW Document Bank, volume 9, p. 36; Maori Land Online: <http://www.maorilandonline.govt.nz/> accessed April 2017.

¹¹⁹⁹ Maori Land Online: <http://www.maorilandonline.govt.nz/> accessed April 2017.

Section 438 vesting orders were made by the Maori Land Court in April 1969 in respect to adjoining blocks, Horowhenua 3C4A (14 acres 3 roods 34 perches) and Horowhenua 3C4C (11 acres 2 roods 22 perches) which were located to the east of Levin and were said to be only suitable for forestry. Horowhenua 3C4A and Horowhenua 3C4C were sold in 1971 to RT Poulton for a total of \$75.¹²⁰⁰

On 4 November 1969, Mr Flowers applied for a number of charging orders including that for Horowhenua X1A4B1B2 (1 acre 18.7 perches). He also applied under section 438 to the land to be vested in the Maori Trustee. Mr Flowers told the Court that the demand had been served on the land and that he had discussed the matter with JH Paki who Mr Flowers thought to be the 'most active owner'. There were homes on the land but Mr Paki would not tell Mr Flowers who they belonged to. The minutes are difficult to read but it appears that Mr Paki thought the amount levied was incorrect and would not pay the rates. Mr Flowers thought the valuation was too high. The Court made the charging order for \$16.54 for the year ending 31 March 1969 and the section 438 order vesting the land in the Maori Trustee subject to his acceptance. The section 438 trust stated that the Maori Trustee was to sell the land at such a price as the trustee saw fit and to forward proceeds of sale, after deduction of the Maori Trustee's commission, rates and cost of survey and any other necessary expenses to perfect the title to the beneficial owners.¹²⁰¹

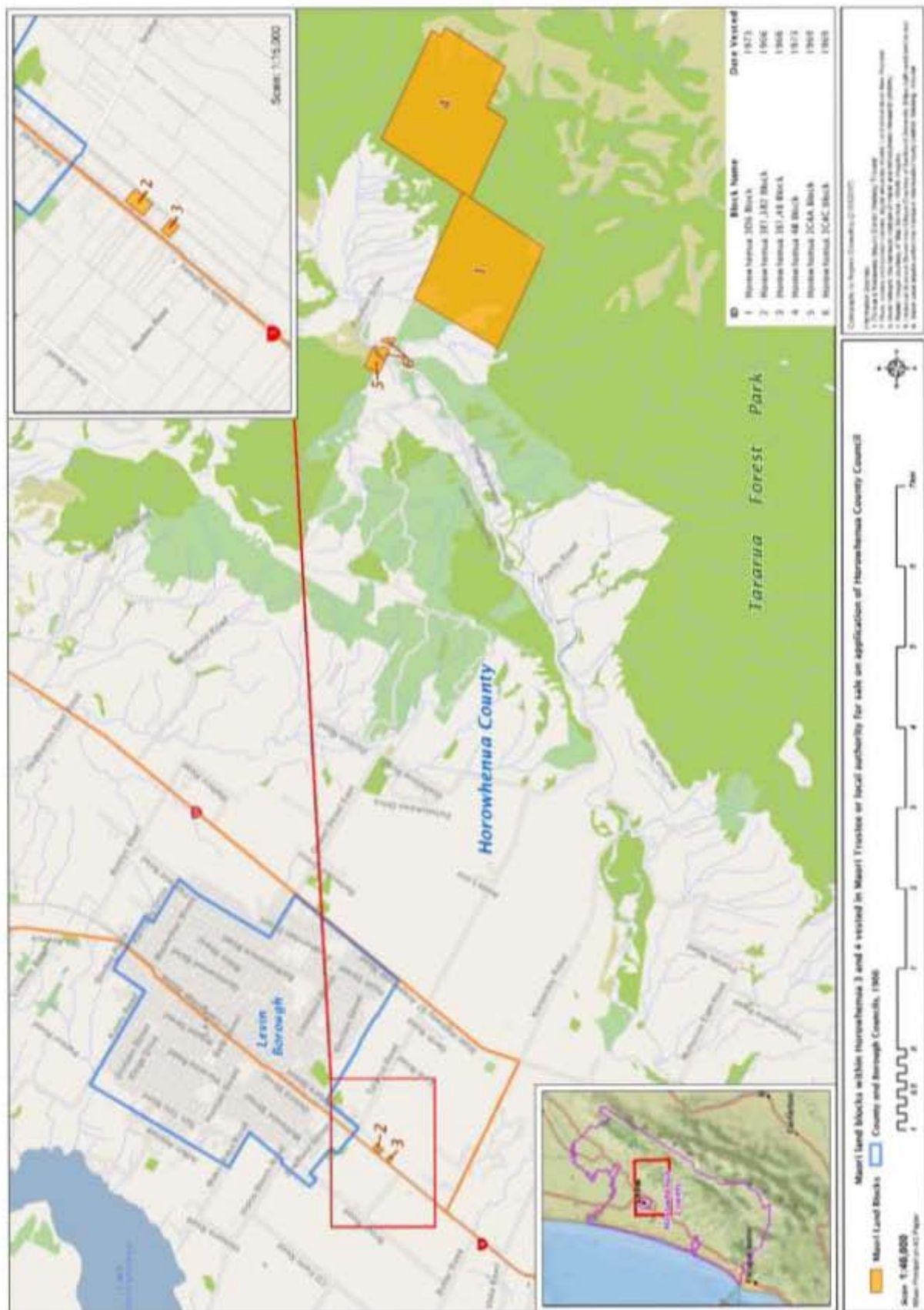
In 1974, Mr Flowers told the Court that an owner had undertaken to pay rates. Young records that the block was not declared general land until 1989 so it is apparent that at some stage the rates were paid and the vesting order cancelled.¹²⁰²

¹²⁰⁰ Otaki Minute Book 74, 22 April 1969, p. 278-279; Walghan Partners, Draft Alienations Spreadsheet, 19 August 2016; Maori Land Online: <http://www.maorilandonline.govt.nz/> accessed December 2016; Grant Young, 'Muaupoko Land Alienation Report', pp. 100-101.

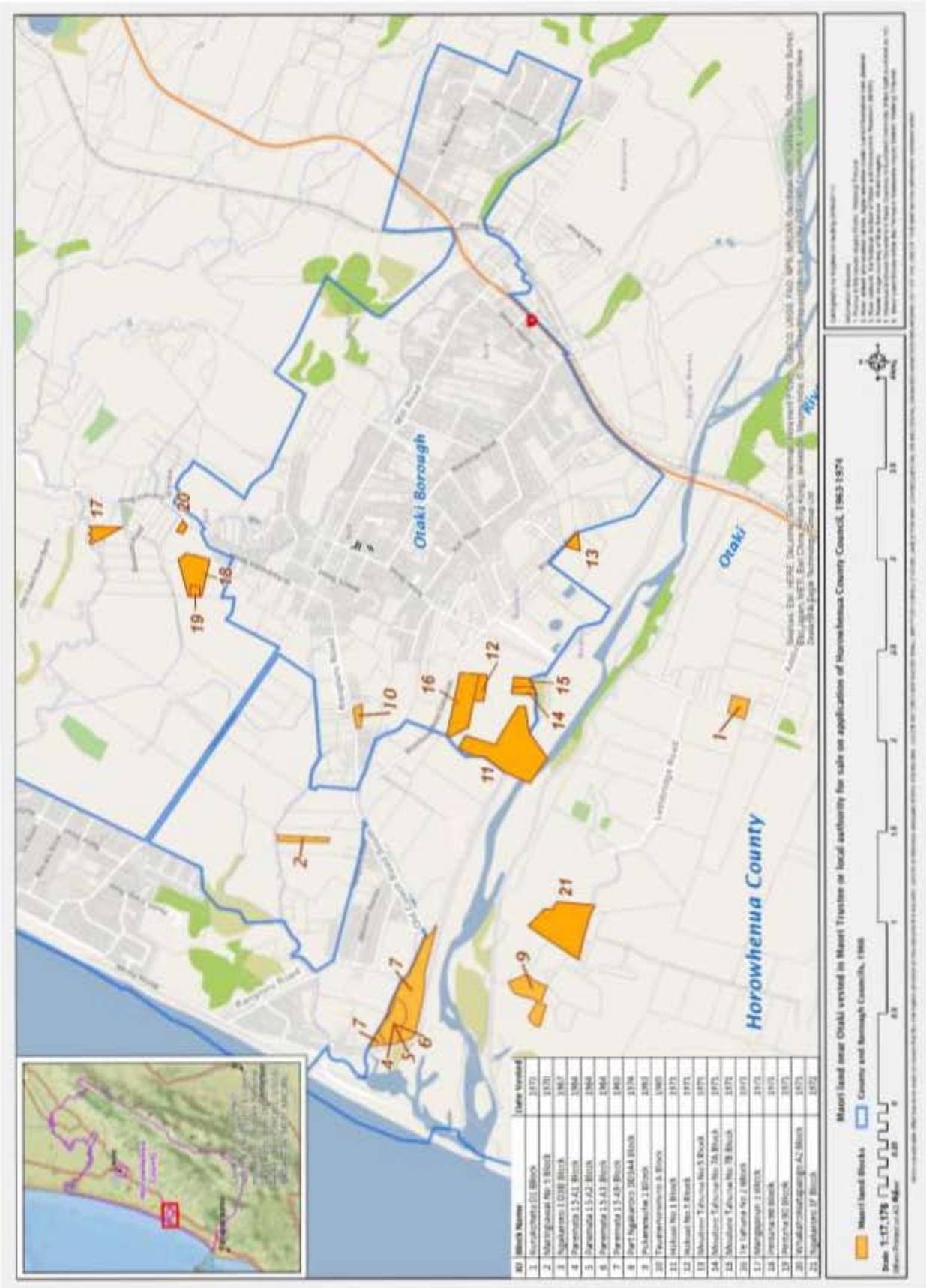
¹²⁰¹ Otaki Minute Book 75, 4 November 1969, pp. 15-16; Grant Young, 'Muaupoko Land Alienation Report', pp. 138-139.

¹²⁰² Grant Young, 'Muaupoko Land Alienation Report', pp. 138-139; Otaki Minute Book 78, April 1974, p. 166.

Map 19: Maori Land blocks within Horowhenua 3 and 4 vested in Maori Trustee or local authority for sale on application of Horowhenua County Council, 1966-1973



Map 20: Maori land near Otaki vested in Maori Trustee or local authority for sale on application of Horowhenua County Council, 1963-1974



9.38 Huritini 3D, 1970

In April 1970, Mr Flowers for the Horowhenua County Council applied to the Court for a vesting order in respect to Huritini 3D (30 acres 6 perches) which was larger than most other blocks for which Mr Flowers usually made applications. Mr Flowers said that the land had no access, was owned by five members of the Whareakaka family whose whereabouts was 'unknown to the local people at Manakau where their ancestors lived'. He thought it possible that most of the owners had died as the youngest was 20 in 1924. Once again, therefore, Mr Flowers had failed to ascertain who the current owners were or to contact and consult with them.¹²⁰³

Mr Flowers also told the Court that the area comprised a narrow strip of about 75 chains long (1500 metres) with an average width of 4 chains (80 metres). The bulk of the area comprised 'sandhills with a small area of swamp & gorse is spreading'. He said that the area was 'uneconomic but would be of advantage to Maunga Roiri' who farmed an adjoining area. It would also facilitate the drainage of his and other Maori land. Mr Flowers said that Mr Roiri was 'one of the original settlers under the Manawatu Development Scheme & proved a successful unit'. Rates had been paid in the past of a Dr McKay who had declined to pay rates in the future 'no doubt [Mr Flowers said] because the approx. cost of clearing gorse would amount to approx. \$300 over the next ten years'. He said that the latest government valuation of the land was \$560. He said that in view of the small area, the cost of fencing and the clearing of noxious weeds, a lease would 'not be acceptable' and in view of the 'special circumstances' he asked that the Court consider a vesting order for sale under section 438. He thought the owners 'were not likely to be found' and that consideration be given to the proceeds of the sale going to the Manakau Marae'. Also, that:

As far as I can ascertain the owners have never occupied the land or taken any interest in their holding & I submit the time has arrived for a secure tenure to be provided to ensure better utilisation of the land.¹²⁰⁴

'Secure tenure' and 'better utilisation' therefore, meant the compulsory sale of Maori land.

¹²⁰³ Otaki Minute Book 75, 22 April 1970, p. 97.

¹²⁰⁴ Ibid.

Mr Flowers also told the Court that the demand for rates had been ‘served by affixing to land’ which at the very least, challenges the concept of adequate notification.¹²⁰⁵

On this evidence, the Court made two charging orders in respect to rates for the year ending 31 March 1969 for \$3.83 and \$4.14 for year ending 31 March 1970 plus costs of \$1, and then made a section 438 order vesting the land in Maori Trustee subject to his acceptance (consent was no longer required from the Minister of Maori Affairs). The terms of the trust were to sell the land for \$560 to Maunga Roiri and that after payment of all rates arrears, other charges for which the land was liable, Maori Trustee’s expenses and commission, to forward proceeds of sale for the beneficial owners. The land was not, however, sold to Maunga Roiri but to J McKay and J McKissack in December 1972 for \$400 which was well below the lands capital value of \$650. Rates arrears totalled \$41.20 at this stage. This suggests that the terms of the trust with regard to the purchaser and the price were altered.¹²⁰⁶

9.39 Tauatemiromiro A, Maringiawai No 9, Hakuai (Hakuwai), Moutere Tahuna, Te Tahuna and Takapu blocks, 1969-1971

Mr Flowers, as rates collector for the Horowhenua County Council, made another series of section 438 applications between 1969 and 1971 in respect to land in both the County and in the Otaki Borough where there was either a tenuous connection to the payment of rates or none at all. The applications reflect what appears to be the desire of Mr Flowers, on behalf of the Horowhenua County Council, to ‘better’ utilise and ‘tidy up’ titles of unoccupied or customary Maori land using the legislation available. This land was different to much of the other land vested under section 109 as it was already occupied and utilised by neighbouring European farmers. Much of this land could therefore have been leased but there is no evidence that this was considered. The legislation concerned, section 438 of the Maori Affairs Act as substituted by section 142 of the Maori Affairs Amendment Act 1967, specified that before the Court could make a vesting order, it had to be ‘satisfied that the owners of the land have, as far as practicable, been given reasonable opportunity to express their opinion as to the person or persons to be appointed a trustee or trustees’. The difficulty

¹²⁰⁵ Ibid.

¹²⁰⁶ Ibid; Acting District Officer, Palmerston North to Head Office, Maori and Island Affairs, 23 March 1974 with schedule, AAVN 869 W3599/106 20/1/1 part 10 Rating of Maori land – General Correspondence 1972-1980, Archives New Zealand, Wellington. SW Document Bank, volume 1, pp. 47-49.

with the following vestings was that some of the land was customary so ownership had not been determined and with respect to the non-customary land, Mr Flowers told the Court that he was unable to locate any of the owners. This meant there was no input at all from owners. In addition, the investigation by Mr Flowers into the ownership of these blocks was never challenged by the Court and was taken as fact. This is despite previous applications where Mr Flowers had failed to find owners only for them to turn up later to find their land was in the process of being sold. With respect to customary land, that the Court could determine ownership so that the could land stay Maori owned also does not appear to have ever been considered as an alternative to compulsory sale.

One of these section 438 applications was heard in November 1969 in respect to Tauatemiromiro A (1 acre 21 perches). It was customary land (which automatically exempted the land from rates). Mr Flowers had earlier applied to have the land vested in the Maori Trustee in November 1967 but the Court had adjourned the application so that the Maori Trustee could consider whether he was prepared to accept the trust. In 1969, the involvement was not as great for Mr Flowers and the Horowhenua County Council as their section 438 application in respect to the block was dismissed whereas the application made by the Maori Trustee to have the block vested in himself was what the Court ordered on. A Mr Lewin for the Maori Affairs Department District Office said that the trust proposed varied slightly to what had been suggested earlier by the Court. The section 438 trust order made by the Court specified that the Maori Trustee was to take necessary steps to obtain a land transfer title, and if successful to sell the land as the Maori Trustee may decide. Also, the Maori Trustee was to hold the proceeds of any alienation for the Raukawa Marae Committee or ‘for such other purposes as the Court might decide’. Alienation details have not been located and the block is not on Maori Land Online. Of note is that the block was within the Otaki Borough and not the Horowhenua County though no details have been located as to why Mr Flowers was also involved with Otaki Borough lands. No mention of rates was made in any of the papers located about the block.¹²⁰⁷

Another such application where there was no rates issue concerned Marangiawai No 9 (two acres). Mr Flowers said that according to Maori Land Court records the area was customary Maori land (and therefore not rateable). He also said that Maori Land Court minutes from

¹²⁰⁷ Otaki Minute Book 73, 7 November 1967, p. 341; Otaki Minute Book 75, 13 November 1969, p. 49.

1894 disclosed that the Maringiawai block was ‘Maori land occupied from very early times & was site of a Pa before Rangiora was established’. Mr Flowers said a claim for the block was made in 1894 by Te Hapupu (who had no children) but this was disputed and the Court ultimately did not make a decision on the matter. Mr Flowers said the presence of the land was brought to his attention by Hema Whata Hakaraia, described as a member of the Ngati Raukawa Marae Committee (and also at this time a Otaki Borough Councillor). A search of Lands and Survey records had also disclosed that a survey had been asked for by the Court in 1894. Mr Flowers said that it was later found that the land was occupied by WW Bennett ‘who was anxious to acquire the land as he owned all the surrounding land’. He had died but his estate was interested in purchasing it. Mr Flowers thought the area would not attract any other purchasers as it has no access and that ‘it would be a waste of money advertising the land for sale etc as cost of providing access etc would be considerable’. The latest government valuation, he said, was \$1800 (including improvements of \$230). Mr Flowers considered that under the ‘special circumstances it would be satisfactory if a price equal to the Govt[ernment] Valuation could be negotiated’. He claimed that it had been ‘well known to the elders at Otaki for the past 70 years’ that it was Maori land, but ‘none have been able to establish a claim’. It was for this reason, he said, that he ‘asked to have the land vested for sale & that the nett proceeds be made available to the Ngati Raukawa Marae Committee to help them provide facilities for the teaching of the Maori Language & other Maori Arts & crafts’. A representative of the Raukawa Marae Committee was not present at the hearing so their views are not known. The Court ordered that the land be vested in the Maori Trustee subject to the Maori Trustee’s acceptance to sell the land to the Estate of WW Bennett for \$1800’. Also, that after deduction of the costs of the sale and obtaining land transfer title, Maori Trustee commission and \$20 to James Howard Flowers for his expenses, the nett proceeds of the sale were to be paid to the Ngati Raukawa Marae Committee.¹²⁰⁸

In April 1971, the Maori Land Court heard a further six section 438 applications from Mr Flowers where there was no obvious rates connection. The blocks concerned were: Hakuai (or Hakuwai) No 1 Sec 1 (10 acres, 1 rood 8 perches), Hakuai No 5 (1 acre 2 roods 37 perches), Moutere Tahuna No 5 (1 acre 32 perches), Moutere Tuhuna No 7A (1 acre, 1 rood), Moutere Tahuna 7B (1 acre 39 perches), and Te Tahuna No 2 (7 acres 2 roods 35 perches). All these blocks were located near the Otaki River. Mr Flowers told the Court that with the

¹²⁰⁸ Otaki Minute Book 75, 22 April 1970, p. 94.

exception of Moutere Tahuna No 5, none of the blocks had road access and had been ‘surrounded by land owned and occupied by Messrs Ryer Bros for over 45 years’. Mr Flowers also told the Court that the owners, ‘except a few in Hakuwai 1 section 1 who own[ed] approximately a quarter of an acre between them’ were unknown to the occupiers. He said that the bulk of the land was owned by the original owners who were adults when the titles were investigated ‘some 100 years ago’. He said that many of the names were ‘unknown to some of the Maori elders in Otaki from whom ... [he] had made enquiries’. His view was the successors were ‘not likely to be found in many cases’. His view was also that:

If the lands can be sold the revenue could be used for useful Maori purposes and at the same time clear up many complicated Titles.¹²⁰⁹

Mr Flowers had already arranged with the Maori Trustee that the Trustee would facilitate the sales if the Court was prepared to make the section 438 vesting orders and if these orders specified to whom the land was to be sold and for what price. The Maori Trustee also specified that the land was to remain in its present condition and that he was ‘not prepared to carry out Surveys or completing any complicated Titles’. Mr Flowers produced the letter from the Maori Trustee stating this and a letter from Messrs Ryder saying they were willing to purchase the land in its present condition. Messrs Ryder also specified what price they were willing to pay. Mr Flowers concluded:

In view of the fact that in most cases, if not all, the cost of providing access would exceed the value of the land I consider the offers very reasonable.¹²¹⁰

Mr Flowers produced details of the latest government valuation. While these were not recorded in the minutes, details discovered from another source confirm that he had arranged the sale for less than the total capital value. He appeared to justify this with the statement that the lands were ‘useless to anybody else but Ryder Bros’ and that all improvements had been effected by them. The Court accepted this and the land was vested in the Maori Trustee under section 438. The Court also declared the trust which was to sell the land to B & O Ryder for the following prices (capital value included):

¹²⁰⁹ Otaki Minute Book 76, 28 April 1971, pp. 21-23.

¹²¹⁰ Ibid.

- Hakuwai No 1 Sec 1 - \$1750 (capital value \$2150)
- Hakuwai No 5 - \$500 (capital value \$530)
- Mouere Tahuna No 5 - \$240 (capital value \$250)
- Mouere Tahuna No 7A - \$180 (no value)
- Mouere Tahuna No 7B - \$180 (no value)
- Te Tahuna No 2 - \$1750 (\$1950)¹²¹¹

Total: \$4800 (capital value \$4880)

All were sold to B & O Ryder. They also purchased the Paremata blocks in 1963 (discussed above). As noted previously, one of the Ryder brothers, B Ryder, was a Horowhenua county councillor between 1956 and 1977 – the period where these purchases, instigated by the rates-collector of the Horowhenua County Council took place.

On the same day, Mr Flowers made three more applications under section 438 in respect to the Takapu 1 section 4A (3 acres), Takapu 1 section 6A (1 acre 1 rood 09 perches) and Takapu 1 section 7B (2 acres) blocks. These blocks were located near the Manawatu Kukutauaki 7D No 3 block north of Levin. Mr Flowers told the Court that the blocks had been occupied by Europeans since 1895 or earlier and as far as he was aware none of the owners had ever received any revenue from their lands. The owner's names were also not familiar to the occupier who had acquired the surrounding land 30 years previously. Mr Flowers said that he had asked some of the 'older' Maori in the district if the owners were known to them but they 'could not recollect meeting any of them'. As, according to Mr Flowers, 'the chance of finding successors to the owners ... [was] slim, it ... [was] thought [presumably by Mr Flowers] if the lands were sold it would clear up old Titles and the revenue could be used for some useful Maori purposes'. Mr Flowers said that the Maori Trustee had agreed to accept the vesting order if the sales were organised for him. Mr Flowers appeared to have taken on this role as he produced a written offer from the 'surrounding' owner, Mr FK Moody. Mr Flowers considered that the land was unsaleable to any other person 'on account of access & the fact that areas are unfenced'. On this information (and without any rates information or charging orders made), the Court vested the three blocks in the Maori Trustee under section 438 to be sold to PW Moody (the son of

¹²¹¹ Ibid; Acting District Officer, Palmerston North to Head Office, Maori and Island Affairs, 23 March 1974 with schedule, AAVN 869 W3599/106 20/1/1 part 10 Rating of Maori land – General Correspondence 1972-1980, Archives New Zealand, Wellington. SW Document Bank, volume 1, pp. 47-49.

FK Moody). The price offered by Mr Moody (and accepted by the Court and Maori Trustee) was \$760 for Takapu 1 section 4A, \$340 for Takapu 1 section 6A and \$520 for Takapu 1 section 7B. This was despite the capital values being much higher: \$1050 for Takapu 1 section 4A, \$400 for Takapu 1 section 6A and \$650 for Takapu 1 section 7B so a total of \$1620 instead of \$2100.¹²¹²

On a schedule of rates related section 438 applications produced in 1974 for the MP for Southern Maori and Minister for Tourism, Mrs Tirikatene-Sullivan (discussed in the legislative chapter) are however, rates arrears for the three blocks. These are for the tiny amounts of \$3.87, \$1.29 and \$2.58. It is not clear why this information was not produced at hearing. The schedule confirms that the blocks were sold for the amounts specified at the hearing.¹²¹³

Other section 438 applications were made by Mr Flowers in November 1971. One of these was in respect to Mangapouri 3 (1 acre 3 roods 38 perches). This had been occupied by the Ahearn family for 80 years but they had not had legal tenure despite it being known it was Maori land. Mr Flowers said that as the owners had died many years previously and that title was 'somewhat obscure' it was 'extremely unlikely that any steps will be taken to clear up the title'. Mr Flowers asked that the proceeds of the sale to the Ahearn family be paid to the Tainui Marae Committee. The order was made accordingly. Other applications were made by Mr Flowers the same day in respect to Piritaha 9B (6 acres 22 perches), Piritaha 9D (2 roods 10 perches) and Whakahokiatapango 4A2 (3 roods 7 perches). The blocks were in close proximity to each other near Rauparaha Street to the north of Mill Road. They had been occupied by Europeans for many years and according to Mr Flowers, the youngest owner would, in 1971, have been 85. He said that he had ascertained in 1963 that the land was occupied by the neighbouring farmer, Mr Wilson, who agreed to pay rates. Mr Wilson had died and his land sold to AF & C Young who were now occupying the three blocks. They told Mr Flowers that they could not finance a sale immediately. The order was made so

¹²¹² Otaki Minute Book 76, 28 April 1971, pp. 25-26..

¹²¹³ Acting District Officer, Palmerston North to Head Office, Maori and Island Affairs, 23 March 1974 with schedule; Secretary for Maori Affairs to Minister of Tourism, circa March 1974 with schedule, AAVN 869 W3599/106 20/1/1 part 10 Rating of Maori land – General Correspondence 1972-1980, Archives New Zealand, Wellington. SW Document Bank, volume 1, pp. 47-49.

arrangements could be made for AF & C Young to lease the land before the land was purchased in 1979.¹²¹⁴

Indeed Mangapouri 3 was sold to JH Lambie in 1975 for \$1700. Whakahokiatapango 4A2 was leased for AF & C Young for five years from 1972. The block was then sold together with Piritaha 9B and 9D to the Young brothers in 1979.¹²¹⁵

Mr Flowers was also involved with an application that day in respect to Mangapouri Market Reserve which was located in the Otaki Borough but instead of being vested in the Maori Trustee for sale, new trustees were appointed. Mr Flowers said he had been asked to assist in the matter by the Raukawa Marae Committee. Further research is required as to Mr Flower's involvement.¹²¹⁶

Another section 438 order was made at the instigation of Mr Flowers and the Horowhenua County Council in February 1972 that was also not rates related. This was in respect to Ngakaroro 3F (16 acres). The block (which had previously been 3F1, 3F2 and 3F3) had been discussed the previous November where Mr Flowers told the Court that the land was located in the Otaki River bed and that the adjoining farmer had cleared the weeds and wished to purchase. The block was vested in the Maori Trustee to be sold to IJ Robertson (the adjoining farmer) for \$750. Indeed, the block was sold for \$750 (though the capital value was \$950.) A similar application was made in respect to Kurukohatu D1 (discussed below).¹²¹⁷

The aforementioned schedule of section 438 vestings is also significant in that it differentiates between what was considered rates related and what the District Officer explained were applications made to 'tidy up the title and covered land that previously had no proper title or was Maori customary land'. The District Officer justified them stating that the orders 'were not necessarily made because of outstanding rates, but they enabled the local body to levy rates in the future'. This statement assumed therefore that it was perfectly legitimate for a local authority to instigate the sale of Maori customary land, or to sell Maori

¹²¹⁴ Otaki Minute Book 76, 10 November 1971, pp. 147-148; 5 April 1972, pp. 202-203.

¹²¹⁵ Walghan Partners, Draft, 1 May 2016, volume 2, p. 322; volume 3, pp. 167 & 407.

¹²¹⁶ Otaki Minute Book 76, 10 November 1971, pp. 146-149.

¹²¹⁷ Otaki Minute Book 76, 16 February 1972, p. 198.

freehold land where the local authority claimed the owners were unknown, so they could levy rates. Certainly, the legislation did not preclude this from happening.¹²¹⁸

Another aspect of most of these applications was that they assisted the European owners of the surrounding or adjoining land to consolidate their holdings. They were also often able to obtain the land for less than the capital value. Therefore, it was they who received the benefit of Mr Flowers' title 'improvements'.

9.40 Horowhenua X1B42A6A, Horowhenua XIB42A6C, part Waitarere 5A 1971-1973

Both Horowhenua X1B42A6A (1 acre 2 roods 18 perches) and Horowhenua XIB42A6C (3 roods 18 perches) were discussed at a hearing in November 1970 when charging orders were made over both blocks. It was noted by Mr Flowers that Horowhenua X1B42A6A was already vested in the Maori Trustee but that sales were 'a bit slow'. With regard to Horowhenua XIB42A6C, the demand had been 'served by affixing to land' (which, as noted previously, tests the concept of adequate notification) as the owners were not known to Mr Flowers. He said that he did not wish to apply for a section 438 vesting order at this stage but if he could find a prospective purchaser he would.¹²¹⁹

That position changed in April 1972, when both blocks were vested in Mr Flowers. These were the first blocks vested in him. Horowhenua X1B42A6A was sold to PGC Simpson for \$1000 in July 1975 and Horowhenua XIB42A6C sold to J Okeroa Broughton for \$250 in March 1974. In December 1974, Mr Flowers applied to the Court for remuneration for his services as trustee in respect to Horowhenua X1B42A6C and Horowhenua 3E1 sub 3B2 (discussed above). It was noted that the trust order provided for a deduction from the purchase money of 'remuneration as the Court may on application allow'. The Court recorded that Mr Flowers had carried out his 'main duty under his trust, namely sales of both blocks'. He had paid the purchase money in each case to the Maori Trustee after deducting 'appropriate amounts for registration fees and clearing of outstanding charges'. Orders were

¹²¹⁸ Acting District Officer, Palmerston North to Head Office, Maori and Island Affairs, 23 March 1974 with schedule; Secretary for Maori Affairs to Minister of Tourism, circa March 1974 with schedule, AAVN 869 W3599/106 20/1/1 part 10 Rating of Maori land – General Correspondence 1972-1980, Archives New Zealand, Wellington. SW Document Bank, volume 1, pp. 47-52.

¹²¹⁹ Otaki Minute Book 75, 22 April 1970, pp. 96-97.

then made by the Court for payment to Mr Flowers of \$10 for Horowhenua X1B42A6C and \$20 for Horowhenua 3E1 sub 3B2.¹²²⁰

Pt Waitarere 5A comprising 2 roods 20.6 perches was also vested in Mr Flowers at this time. The land had been discussed at a hearing during the previous April when Mr Flowers applied for a charging order. He told the Court that the land was in the name of Te Metera Te Aomarere and that he considered the land to be Maori land. Also, that a Mr Webb who owned land on either side of the block was prepared to buy it. Mr Flowers produced a certificate of title but the Court said that this did not establish the status of the land so the matter was adjourned. In the June, the Court heard the application again and said it was satisfied that the land was Maori freehold land. (The confusion may have stemmed from the bulk of 5A (35 acres 14 perches) which had been awarded to Hakaria Te Wera being sold in 1902). The Court made an order under section 153 of the Rating Act 1967 charging the land with rates totalling \$7.50 plus costs of \$1 for the year ending 31 March 1968 to the year ending 31 March 1972 (five years of rates). The Court also ordered that the land be vested in JH Flowers under section 438 and declared the trust in identical terms to those of Horowhenua X1B42A6A. In April 1973, another charging order application was heard by the Court in respect to the block. The Court recorded that Mr Flowers had sold the land for \$100 (to the aforementioned Mr Webb). Also, that he had chosen to account for the full purchase monies to the Maori Trustee, which the Court said was ‘not quite what was contemplated in the s.438 order’. Mr Flower’s asked for reimbursement for the registration of the vesting order (\$5), the arrears of rates and release of charging order (\$8.50) ‘plus a small fee for his time and trouble’. The Court said that the correct method of concluding the matter would be for the Court to make an order under section 32. The Court then ordered under section 32 payment to Mr Flowers by the Maori Trustee from Part Waitarere 5A block account of above amounts and a fee of \$15 (presumably for Mr Flowers). This totalled \$28.50. Therefore owners, if they were located, received just 71.5 percent of the purchase price.¹²²¹

9.41 Horowhenua X1B42A5 & Horowhenua X1B42A6B, 1973

¹²²⁰ Otaki Minute Book 76, 26 April 1972, pp. 222-223; Otaki Minute Book 77, 13 December 1974, p. 43; Walghan Partners, Draft Alienations Spreadsheet, 19 August 2016.

¹²²¹ Otaki Minute Book 76, 26 April 1970, p. 226; Otaki Minute Book 77, 6 June 1972, p. 7 & 4 April 1973, p. 186; Walghan Partners, Draft, 1 May 2017, volume 3, pp. 379-385; Certificate of Title WN 119/108, Land Information New Zealand.

Horowhenua X1B42A5 (2.8808 ha) and X1B42A6B (1.2697) were both small sections situated at Hokio beach. Both were located on Kingi Street with the larger section being next to the Hokio Stream. Horowhenua X1B42A5 had been discussed at a hearing in November 1972 where a charging order had been made against the land. At this hearing Mr Flowers told the Court that the land had no formed access, was owned by over 40 people who could 'do nothing with it' and had no buildings on it. He said that he did not know Ngahuia (sp?) Heta (presumably one of the owners) but named an owner who appeared, he said, to take an interest in the land (the handwriting makes the name too difficult to decipher). The charging order was made and the Court asked that the council apply under section 150(2) for the appointment of a Court nominee upon who future rate demands could be sent (a full list of owners was to be sent to Mr Flowers). The block was also discussed at Court in May 1973 where another charging order for \$11.24 for year ending 31 March 1973 plus costs of \$1 was made. Mr Flowers said that the Forestry Department was interested in purchasing the land if it took over Hokio A (which was close by). The Court also queried whether the Maori Trustee would accept a section 438 order 'upon trust to sell'. In October 1973, it was confirmed that the Maori Trustee had given his consent.¹²²²

Horowhenua X1B42A6B was also discussed at Court in April 1970. The Court made a charging order on the land for \$23.68 for the year ending 31 March 1969 and \$25.66 for year ending 31 March 1970 plus costs. Also at the hearing, Mr Flowers told the Court that H Warena was shown on the roll as occupier but that Mr Flowers thought he might have died. Mr Flowers said that he would not recommend a section 438 vesting at this stage but if he could find a prospective purchaser he would apply for one. This indicates again, that it did not concern the Council or the Court that the owner may have died and that no one had contacted the current owners or occupiers. The concern was whether a purchaser could be secured.¹²²³

The block was also discussed in May 1973 hearing where another charging order for \$26.26 for year ending 31 March 1973 was made. Mr Flowers confirmed to the Court that the owner, Heremia Warena had died. He said that the land was 'handy to Hokio A' which had already been vested in the Maori Trustee, and that he had again attached the rates demand to the land

¹²²² Otaki Minute Book 77, 9 November 1972, pp. 119-120; Otaki Minute Book 77, 10 May 1973, p. 237; Otaki Minute Book 78, 22 October 1973, p. 56.

¹²²³ Otaki Minute Book 77, 10 May 1973, p. 238.

(indicating that he had not sent it to anyone specifically). He said that there ‘could be demand for this land if Hokio A developing’. The Judge asked the Court official to check whether the Maori Trustee would accept a section 438 vesting. The Trustee’s acceptance was confirmed at Court in October 1973 when the vesting was officially ordered.¹²²⁴

What is significant about these two sections is that they are both still Maori land. In August 1974, the Court ordered the termination of the section 438 trust in respect to both blocks as the owners had paid all outstanding rates on the non-revenue producing, unoccupied, undeveloped land. They also asked that the sales of both blocks not be proceeded with. Therefore, as soon as the owners were aware of what was happening, rates payment was organised and the vesting cancelled. Maori Land Online images of 2016 reveal that both sections are not built on, farmed or grazed. Horowhenua X1B42A5 has 190 owners and X1B42A6B has 61.¹²²⁵

9.42 Horowhenua 3D6 & Horowhenua 4B, 1973

On 22 October 1973, the Maori Land Court considered two other section 438 applications in respect to Horowhenua 3D6 and 4B. The Court was presided over by Judge MC Smith but it is not recorded who the council representative was. A Mr Moses, presumably representing the Court or Maori Trustee said that the Maori Trustee’s consent to the section 438 vestings was ‘on file’. On this advice, the Court ordered that the two blocks be vested in the Maori Trustee for sale and that rates owed be deducted from the purchase price. Nothing further was noted about the land or whether charging orders were also made.¹²²⁶

The two blocks, Horowhenua 3D6 (417 acres) and 4B (471 acres), are notable for being much larger blocks than those the Council had previously applied to be vested for sale. They are also remarkable for still being Maori land. They are located beside Tararua Forest Park and are under similar bush cover. The land analysis provided on Maori Land Online (in 2016) indicates that both blocks have limitations in terms of what they can be utilised for with forestry as the only option to make the land revenue producing. For Horowhenua 3D6 this was only in terms of 48 percent of the block while just 3 percent of Horowhenua 4B is

¹²²⁴ Ibid; Otaki Minute Book 78, 22 October 1973, p. 56.

¹²²⁵ Maori Land Online: <http://www.maorilandonline.govt.nz/> accessed December 2016; Otaki Minute Book 78, 13 August 1974, pp. 282-283 (note this is difficult to decipher).

¹²²⁶ Otaki Minute Book 78, 22 October 1973, p. 56.

considered suitable for this purpose. Neither block appears to be accessible by road. Exemption from rates was not, however, considered by the Council or the Court at this time.¹²²⁷

Horowhenua 3D6 and 4B had also been discussed at Court in May 1973. With regard to Horowhenua 3D6, a rate charging order for \$14.59 was ordered for the year ending 31 March 1972 and \$15.94 for the year ending 31 March 1973 plus costs of \$1. Mr Flowers told the Court that 3D6 was situated in the 'Tararuas 2500' [feet] up'. The Maori Land Board had leased the land in 1916 but 'nothing [had been done] since'. He said that it had been 'unoccupied for 50 years', that less than 100 acres was useable and that the government valuation was less than \$2 per acre. Also, that it adjoined a forest reserve and that the occupier of other adjoining land wished to serve a fencing notice and was also interested in buying it. The 'principal owners' were, he said Virginia Waho and the Taueki family who, he claimed, wanted to sell. He explained that the rate demand had not been served on any of the 37 owners but that he had discussed the matter with Virginia Waho but did not state how he came to the conclusion about the Taueki families position. He noted too that there had been earlier charging orders. The Court requested that the Maori Trustee be asked to advise whether he would accept a section 438 order and if the Forestry Department would be interested in the land.¹²²⁸

A similar discussion was held in respect to Horowhenua 4B though it was recorded that the block was '3000' [feet] up in Tararuas' and the valuation \$1 per acre. Mr Flowers said that it was 'only suitable for a reserve' and of 'no use for any purpose'. He said that a Mr Roulton (probably the adjoining farmer) could purchase the land to 'save pruning' and that 'nobody else [was] interested. He said that the property was too high for forestry though the Forestry Department had bought 40 acres of the block in 1911. He noted too that there were earlier charging orders. His description of the block did not stop the Maori Land Court from charging the land under section 153 of the Rating Act 1967, with arrears of rates of \$7.70 for year ending 31 March 1972 and \$8.43 for year ending 31 March 1973. The Maori Trustee was also to advise if it would accept a vesting order to sell the land as 'apparently' the Forestry Department or an adjoining farmer was interested.¹²²⁹

¹²²⁷ Maori Land Online: <http://www.maorilandonline.govt.nz/> accessed December 2016.

¹²²⁸ Otaki Minute Book 77, 10 May 1973, p. 234.

¹²²⁹ Otaki Minute Book 77, 10 May 1973, pp. 234-235.

No owners were recorded as being in attendance so again a recommendation to sell was made without reference to owners. John Hanita Paki, was however in Court in respect to another application. He told the Court that he wanted to be heard regarding the two blocks though he was unsure if he was an owner of either of them. He said that as far as he knew, the Forestry Department had taken over the whole area from the aforementioned Mr Roulton (or Poulton). Charging orders were again made against both blocks in April 1974 with Mr Flowers confirming with respect to Horowhenua 3D6 that there was 'no access' to the land, that the occupier had made an offer, and that he had written to some of the owners who appeared to be 'willing to sell'.¹²³⁰

Mr Flowers appears to have got the position wrong once again, as in October 1974, the Court ordered that the section 438 trust in respect to both Horowhenua 3D6 and 4B be terminated and the land re-vested in those beneficially entitled as all outstanding rates on the block had been paid and the owners had asked that the sales not be proceeded with.¹²³¹

9.43 Kurukohatu D1, 1973

On 8 November 1973, Mr Flowers applied for a vesting order under section 438 in respect to Kurukohatu D1 consisting of 2 acres 2 roods 13 perches. The block was located just south of the Otaki River. This was another application made by Mr Flowers where there was no actual rating issue. Mr Flowers explained at the hearing that the land was occupied by Messrs Pritchard & Pritchard who farmed the surrounding land which they acquired in October 1970 and used for dairy farming. He said that rates had been paid by European occupiers 'for many years'. The existence of the block 'came to light' when he had tried to locate Kurukohatu C1A which had been Europeanised in error. Mr Pritchard then advised him that his family had also occupied two other small areas - the owners of which were not known to them or the previous occupiers. Mr Flowers said that he searched the titles and located owners to two of the sections who were unaware that their ancestors owned the land. He had, however, not been able to trace any of the owners of Kurukohatu D1 and their names were 'unfamiliar to any of the senior members of the Otaki community'. He said that the area had been 'well

¹²³⁰ Otaki Minute Book 77, 10 May 1973, pp. 234-235; Otaki Minute Book 78, April 1974, pp. 142-143 (page numbers may be incorrect as difficult to decipher).

¹²³¹ Otaki Minute Book 78, 1 October 1974, pp. 288-289 (page numbers may be incorrect as difficult to decipher).

farmed' and was in 'good pasture'. The area was 'too small [and too stony] to appeal for market gardening purposes' and was 'best suited for sheep or dairy farming'. He said that Messrs Pritchard and Pritchard would like to acquire the land and the Maori Trustee was prepared to accept a section 438 order if made by the Court and which gave the purchaser and the price to be paid for the land in its present condition. The Pritchard's, he said, had offered \$550 per acre. It was noted that the Pritchard's had purchased the adjoining land comprising 223 acres in October 1970 for \$118,000 (or 'some \$500 per acre'). This price included three houses, sheds, a hay barn and a 'superior cow shed'. Improvements on the section (D1) were limited to grassing and about 3 chains of fencing. For this reason, Mr Flowers considered that the offer of \$550 per acre was 'reasonable'. The latest government valuation of the 223-acre portion was \$92,000 (capital value), \$26,000 UV and improvements of \$66,000.¹²³²

A letter from the Maori Trustee was tabled in Court. It said that the Trustee would only accept the vesting if the Court nominated a purchaser and a price but would not 'accept responsibility to clear title'. Mr Flowers said he would accept the vesting himself if the Court preferred. The Court noted that the Maori Trustee was only prepared to act as a 'rubber stamp and not to assume any duties normally associated with a trustee conscientiously applying himself to his task'. The Court said that it would not, 'in such circumstances', appoint the Maori Trustee. The Court then made a section 438 order vesting the land in James Howard Flowers of Wellington described as 'Retired Field Supervisor' (as noted above he had formerly worked for the Department of Maori Affairs) which would suggest that this was not in his capacity as rates collector for the Horowhenua County Council. It therefore begs the question as to why he was again involved in arranging for the sale of Maori land when there were no rates arrears.¹²³³

The order declared the trust as follows:

- (1) To sell the land in such manner and at such price as the trustee may in his sole discretion determine;
- (2) To pay from the proceeds of sale all expenses necessary to perfect the title and all legal and other expenses reasonably incurred in effecting such sale and such trustee's remuneration as the Court may upon application approve.

¹²³² Otaki Minute Book 78, 8 November 1973, pp. 88-89.

¹²³³ Ibid.

- (3) To pay less nett balance of proceeds of alienation to the Maori Trustee for the beneficial owners in [cannot read] shares.¹²³⁴

Nothing else was mentioned about locating the owners or who the Maori Trustee would distribute the proceeds to following a sale (or whether locating the owners prior to a sale might be an alternative way to proceed given that contacting the owners of other land such as Horowhenua 3D6 and 4B had resulted in the payment of rates).

A partition order on the Maori Land Court block order file records that Kurukohatu D was partitioned into several parts including Kurukohatu D1 in September 1908. The owners then were Metera te Karaka, Henare Hamene, Rakapa Whamaro, Hani Manahi and Iharaia Kopi.¹²³⁵ The memorial schedule for the block, records that it was sold to (the neighbouring farming and occupier) SE Pritchard of Otaki, Farmer on 20 December 1974 for \$1500.¹²³⁶

9.44 Ngakaroro 3D3A4 & Horowhenua X1B42 (part), 1974

Two more vestings under section 438 were made by the Maori Land Court on the application of the Horowhenua County Council in November 1974. The first was Ngakaroro 3D3A4, located near Te Horo, which Mr Flowers said was unoccupied with five original owners (though the number is difficult to decipher). He said that it was proposed at one stage that Rick Ropata would take over the land but according to Mr Flowers he does not wish to take it though his son Richard Ropata did. The latter had affected improvements on it. No rates, however, had ever been paid and nobody was occupying at present. An order was made under section 153 of the 1967 Act charging the land with arrears of rates of \$13.13 for the year ending 31 March 1973 and \$13.52 for the year ending 31 March 1974. The block was also vested under section 438 not in the Maori Trustee but in Mr Flowers. The trust was also different to previous trusts as it specified that the trustee was not to sell to any person other than an existing owner or the child of an existing owner. The trustee had to sell the land at a price not less than the capital value according to latest government value. All outstanding rates and other outgoings on which the vendors were liable as well as the ‘trustees reasonable

¹²³⁴ Ibid.

¹²³⁵ Partition order, 21 September 1908, Crown Forestry Rental Trust, Porirua ki Manawatu Maori Land Court Document Bank, Oti 13, volume 10, pp. 605-606.

¹²³⁶ Memorial Schedule, Crown Forestry Rental Trust, Porirua ki Manawatu Maori Land Court Document Bank, Oti 137, vol 10, p 604.

expenses' were to be paid from the purchase money. The proceeds were then to be paid to the Maori Trustee for distribution.¹²³⁷

Ngakaroro 3D3A4 was sold to R Ropata for \$1020 in April 1975. The block did not, however, remain Maori land.¹²³⁸

A similar vesting order was also made for Horowhenua X1B42 (part) comprising 20 perches. The block was unusual too as it was described as European land owned by Maori. There were 29 owners, many of whom had died. The valuation was \$450 and Mr Flowers reported that Virginia Waho wanted to buy the land. He also said that most of the owners were 'not interested' (which often meant that they had not been contacted), that there were arrears of rates and that the Council had to remove weeds from the block. As with Ngakaroro 3D3A4, the land was then vested in Mr Flowers with the same terms of trust as that block. No details have been located regarding the blocks sale but it did not revert to Maori land.¹²³⁹

9.45 Horowhenua XIB42A2B, 1975

The final vesting located was that of Horowhenua XIB42A2B (3 acres 1 rood 28 perches) which according to Mr Flowers was vested in him to sell to one of the owners or to a Maori person on 16 April 1975. This followed charging orders made in 1971, 1972 and 1973. The block was located on the corner of Otereo and Muaupoko Street at Hokio. Mr Flowers sold the land to DH Murray of Ohau for \$14,100 on 11 June 1976. The rates were reportedly discharged on 4 June 1976. Prior to selling the land, Mr Flowers arranged for the preparation of a subdivision of the block that he had had prepared for the approval of the Horowhenua County Council in April 1976. The Surveyor who prepared the subdivision, which comprised 15 sections, said that the area comprised flat sand country with a native growth of grass, toi toi, lupin and blackberry'. Also, that 'water to serve the sections would be by roof rain-water tanks, supplemented by deep bores and electric pumps. Sewerage disposal would be by septic tanks'. In June 1976, the County Engineer for the Horowhenua County Council advised the surveyors for Mr Flowers that the Council had approved the scheme plan for the subdivision of the block. There were a number of conditions including a payment of \$3370 towards

¹²³⁷ Otaki Minute Book 78, November 1974, pp. 327-328.

¹²³⁸ Maori Land Online: <http://www.maorilandonline.govt.nz/> accessed December 2016.

¹²³⁹ Otaki Minute Book 78, November 1974, pp. 327-328.

upgrading the streets adjoining the land and ‘payment to the Council of \$7500 reserve contribution in lieu of land for reserve’. Mr Murray went ahead with the subdivision and in March 1979 submitted the plan to the District Land Registrar for registration. The block became known as Hokio section No 9. Information as to whether Mr Murray was one of the owners or Maori has not been located. It is also not known what profit he made from subdividing the previously undeveloped block of Maori land.¹²⁴⁰

No further vestings have been located though Mr Flowers for the Horowhenua County Council continued to apply for charging orders until April 1976. The penultimate application located was in respect to Horowhenua X1B42A11 (4 acres 5 perches) located at Hokio and was made by Mr Flowers in January 1976. The application was dismissed as the Court said it was unable to make a further charging order for an amount that was less than \$6 as per section 153(2) of Rating Act 1967. Mr Flowers was also told that before applying for a further charging order it should apply for the appointment of a Court nominee pursuant to section 150(2) of the 1967 Act. Mr Flowers was also given a copy of the list of owners which would indicate that despite charging orders being made previously, he had not, until then, sought out all the ownership information available. The block is still Maori land with 157 owners. The land potential report of the neighbouring block (a report was not available for the block itself) stated that 95% of the block is ‘marginal for pastoral and forestry’ (non-arable land with severe limitations to use under perennial vegetation such as pasture or forest’) and 5% has ‘extreme limitations’. It also has no road access – all factors that would suggest that it should not have been rated at all.¹²⁴¹

The final application located was in respect to Pt Horowhenua X1B41 South 1 Sec 1 but as it was European land of little value the application was dismissed so again title information had not been investigated correctly. On the same day Mr Flowers made an application in respect to Mangapouri Market Reserve located in the Otaki Borough to vest in the Ngati Raukawa

¹²⁴⁰ Memorial Schedule, Hokio Block order file, Porirua ki Manawatu Inquiry District Research Assistance Projects: Whanganui Maori Land Court Records (Block Order Files): Document Bank Project; Foster Ritchie & Co, Registered Surveyors & Land Development, 12 April 1976 and attached plan, Philip & Cooper, Barristers & Solicitors, 14 April 1976; Country Engineer, Horowhenua County Council to Messrs Philip & Cooper, 17 July 1978, Plan Deposit registration, 22 March 1979; HDC 00001 : 33 : HOK 9 Subdivision DP 46592: Otereo Rd, J H Flowers, Subdivide 15 residential Subdivision of Horowhenua XiB42A2B, Horowhenua County Council, 1976 – 1979, Archives Central, Feilding. SW Document Bank, volume 9, pp. 38-42.

¹²⁴¹ Otaki Minute Book 79, 30 January 1976, p. 304. This was the last charging order application made by the Horowhenua County Council located. Otaki Minute Books were searched until mid 1980 (Otaki Minute Books, 79, 80, 81, 82 and 83); Maori Land Online: <http://www.maorilandonline.govt.nz/>.

Marae (which was adjourned). What he was doing with regard to this is not known but there was no mention of rates. No further applications made by him have been located. In July 1977, JH Hudson, the County Clerk, applied for himself to be discharged as receiver in respect to Muhunua 3A1E1 No 6 which was granted. No further applications to the Court by the Council have been located.¹²⁴²

¹²⁴² Otaki Minute Book 79, 27 April 1976, p. 322; Otaki Minute Book, 80, 7 July 1977, p. 263.

Map 21: Maori land within Horowhenua X1 and Hokio blocks vested in Maori Trustee or local authority for sale on application of Horowhenua County Council, 1964-1975

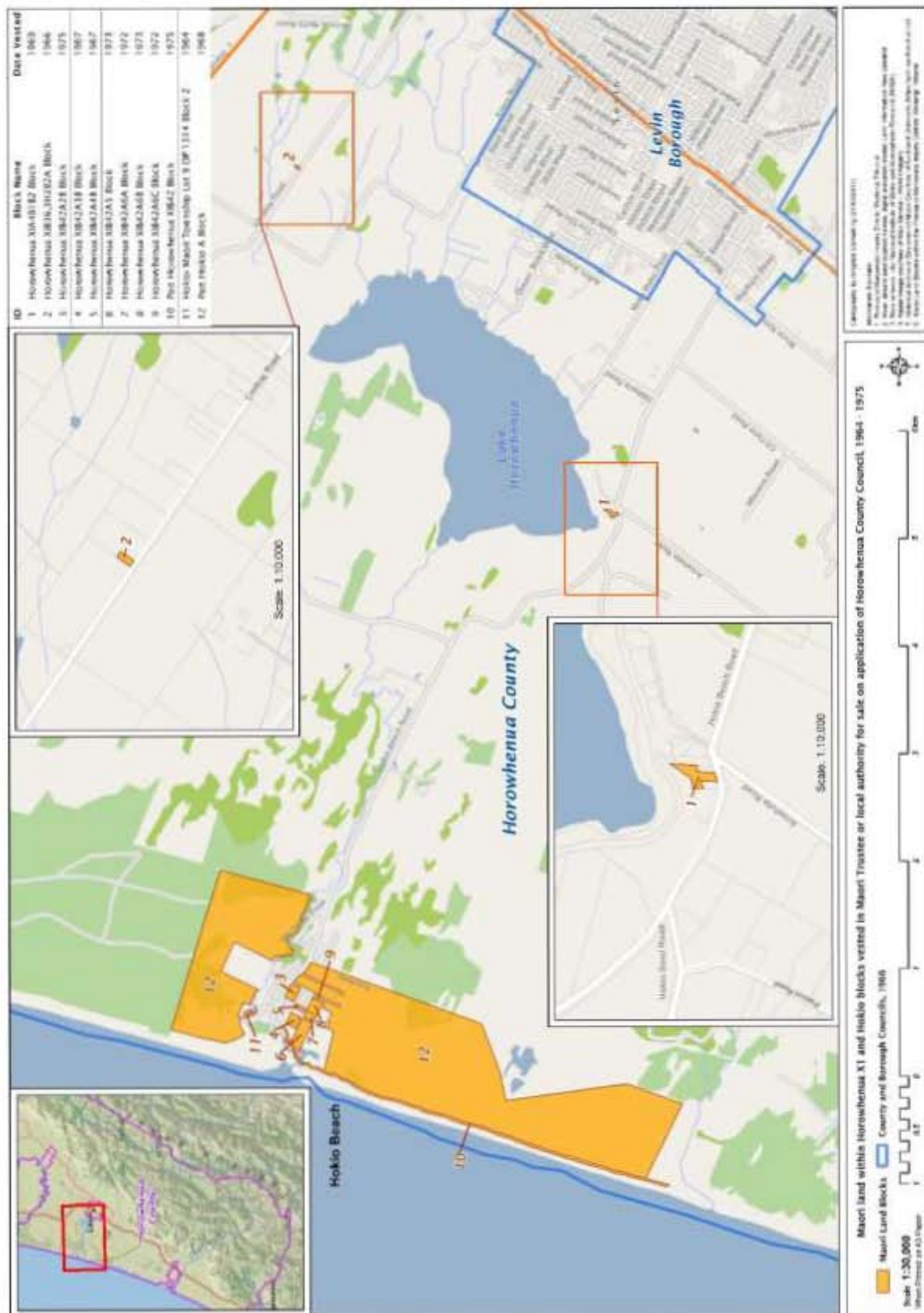


Table 23: Blocks within Horowhenua County vested in the Maori Trustee or local authority for sale, on application of Horowhenua County Council under section 109 of the Rating Act 1925 and section 438 of the Maori Affairs Act 1953 between 1963 and 1975 (72 blocks)

Block name and area	Date of order and legislation	Ownership, Rates & Outcome
Paremata 15A1 (1 acre 3 roods 20 perches)	23-Jul-1963 (for lease); 18-May 1964 (for sale), section 438	No successors appointed since 1891 Consolidated with 15A2, 15A3 & 15A9 to form 15A11. \$37.47 secured by charging orders. Sold to B & O Ryder, circa 1969.
Paremata 15A2 (1 acre 3 roods 20 perches)	23-Jul-1963 (for lease); 18-May-1964 (for sale), section 438	No successors appointed since 1891 Consolidated with 15A2, 15A3 & 15A9 to form 15A11. \$37.47 secured by charging orders. Sold to B & O Ryder, circa 1969.
Paremata 15A3 (1 acre)	23-Jul-1963 (for lease); 18-May-1964 (for sale), section 438	No successors appointed since 1891 Consolidated with 15A2, 15A3 & 15A9 to form 15A11. \$37.47 secured by charging orders. Sold to B & O Ryder, circa 1969.
Paremata 15A9 (8 acres)	23-July-1963 (for lease or sale), section 438	Customary land ; title investigated 1963 Consolidated with 15A2, 15A3 & 15A9 to form 15A11. \$37.47 secured by charging orders. Sold to B & O Ryder, circa 1969.
Pukerarauhe No 1 (8 acres aprox)	13-Nov-1963, section 438	Customary land . Sold to Tamati Hawea, farmer of adjoining Maori land in 1967. Remains Maori land.
Manawatu Kukutauaki 3 Section 1B3 (6 acres 2 roods 27 perches)	8 April 1964, section 438	Isolated piece of land with limited access. Owners were Hamene whanau not known to Horowhenua County Council and no successors appointed since 1894. Leased to adjoining farmer. Rates unpaid until two years prior to charging orders (paid by occupier) - £5.19.10 owed. Vesting for sale justified in view of 'minute amount of rent' that would be received by owners 'if they could be traced'. Sold to occupier in 1964 for £210.1.4.
Manawatu Kukutauaki 7D2D28 (2 roods 27 perches)	8 April 1964, section 438	Rates arrears of £3.4.4 Council said they were unable to locate successors to owners. Sold 25 November 1965 to occupier, JO Stewart for £150.
Hokio Maori Township lot 9 DP 1314 Block 2 (1 rood 20 perches)	29-Jul-1964, section 109	Unoccupied section at Hokio on beach front (no improvements); sole owner (Kekeke Taueki) had died. Council did not find successors. Total of £17.15.4 owed. Sold 25 July 1966 for £405.
Horowhenua A5E (1 acre)	3-Aug-1964, section 109	JH Hudson previously appointed receiver but lease insufficient to pay rates. Valued at £425; six owners – one was said to have been served rates demands. Reported by MT that sale negotiated for \$800 and completed by January 1968.
Horowhenua A3C (1 rood 24 perches)	3-Aug-1964, section 109	Seven owners (Taueki and Lilo whanau).). CO of £23.15.1 April & November 1963. JH Hudson also appointed receiver CV £560 (no improvements) Sold 1967.
Horowhenua A3D (1 rood 24 perches)	3-Aug-1964, section 109	Eight owners (Taueki whanau). CO of £23.17.8 April & November 1963) JH Hudson also appointed receiver CV £565 (no improvements) Sold to LC Baker for £3100 in 1966
Horowhenua A3E (1 rood 24 perches)	3-Aug-1964, section 109	8 owners (Taueki whanau). CO of £24.10.9 1963 & 1964. JH Hudson also appointed receiver. CV £575 (£5 improvements) Sold to LC Baker for £3100 in 1966
Manawatū Kukutauaki	3-Aug-1964, section 109	18 owners; CO of £2.19.2 for 1963. CV £100 (£40 improvements)

7D2D29 (1 acre 34 perches)		Sold November 1965 to JO Stewart for £150.
Ngarara West A3C5 (32 perches)	3-Aug-1964, section 109	Sold to Waikanae Property Enterprises Ltd with A3C6, A3C11, A3C14, A3C15 and A3C Residue in 1971 for a total of \$12,600.
Ngarara West A3C6 (32 perches)	3-Aug-1964, section 109	One owner. CO of £4.5.10 (Manawatu Catchment Board) and £52.18.5 (HCC) for April 1963, November 1963 and 1964. Sold to Waikanae Property Enterprises Ltd with A3C5, A3C11, A3C14, A3C15 and A3C Residue in 1971 for a total of \$12,600
Ngarara West A3C11 (32 perches)	3-Aug-1964, section 109	One owner. CO of £44.13.1 (HCC) for 1963 and 1964. Sold to Waikanae Property Enterprises Ltd with A3C5, A3C6, A3C14, A3C15 and A3C Residue in 1971 for a total of \$12,600
Ngarara West A3C13 (1 rood 10.73 perches)	3-Aug-1964, section 109	One owner. CO of £41.12.4 for 1963 and 1964. Vesting order cancelled. Later sold with A3C roadline in 1966 to Mr and Mrs Stitt.
Ngarara West A3C14 (36 perches)	3-Aug-1964, section 109	One owner. CO of £4.5.10 (Manawatu Catchment Board) and £44.13.1 (HCC) for 1963 and 1964. Sold to Waikanae Property Enterprises Ltd with A3C5, A3C6, A3C11, A3C15 and A3C Residue in 1971 for a total of \$12,600
Ngarara West A3C15 (32 perches)	3-Aug-1964, section 109	Three owners. CO of £3.5.7 (Manawatu Catchment Board) and £44.13.1 (HCC) for 1963 and 1964. Sold to Waikanae Property Enterprises Ltd with A3C5, A3C6, A3C11, A3C14 and A3C Residue in 1971 for a total of \$12,600
Ngarara West A3C16 (32 perches)	3-Aug-1964, section 109	Four owners. CO of £4.5.10 (Manawatu Catchment Board) and £44.13.1 (HCC) for 1963 and 1964. Vesting order cancelled and sold in 1972 to Oiana Taylor (unsure if owner or whanau of owner). No longer Maori land.
Ngarara West A25B1A2 (1 rood 2 perches)	3-Aug-1964, section 109	Two owners, CO of £39.15.9 for 1963 and 1964 CV £465 (improvements of £15) Early indications that land to be sold for Maori housing. No alienation data; No longer Maori land.
Ngarara West A78E2 (1 rood 8 perches)	3-Aug-1964, section 109	Unoccupied section in central Waikanae owned by one person who was not notified of sale until sale to Horowhenua County Council for £935 was underway. Unable to stop sale through placing caveat on title. Horowhenua County Council purchased adjoining A78E1 at same time. Land since used for Waikanae commercial area.
Ohau 3A1A2B (26 acres 27 perches)	3-Aug-1964 section 438 (Minister would not consent); 5- Dec-1964 (section 109)	Strip of land near mouth of Otaki River. Owners not located by HCC. Initially vested to be leased – later changed to sale to adjoining owner. Sold in 1965 to NW Candy for £275.
Horowhenua 3E1 sub 3B2 (1 acre 3 roods 22 perches)	19-Jul-1966, (vested in MT section 109); 3-May-1972 (vested in JH Flowers of HCC section 438)	Forty owners; located adjacent to State Highway 1 and Wellington to Foxton Railway; rates unpaid for 10-12 years. CO's totalling £34.8.11; Unoccupied with no dwelling. Valued at £560. Sold in 1974 to RL Glastonrury for \$2000.
Horowhenua 3E1 sub 4B (3 roods 14 perches)	19-Jul-1966, section 109	Seven owners; Panau, Heremaia and Nahona whanau; located adjacent to NIMT Railway and Paekakariki to Levin Highway; CO's totalling £20.11.3. CV £315 (improvements of £15) Rates unpaid 'for years', unoccupied, JH Hudson appointed receiver but unable to lease 'to advantage'. Sold in 1971 for \$600.
Horowhenua X1B36 3H2B2A	19-Jul-1966, section 109	Two owners (Nahona whanau); located on Lindsay Road; Rates unpaid since 1957, CO's totalling £16.2.0;

(1 rood)		CV £200 (no improvements); unoccupied. Sold in 1971 to M Jenkins for \$690.
Manawatū Kukutauaki 4D1 5B2 (1 rood)	8-Nov-1966, (vested in MT section 109); 10-May-1973 (in JH Flowers of HCC	CO's from 1963. Owners not living in area. MT had difficulties selling land so vested in Mr Flowers. Rates arrears of \$73.19 in 1974. Sold 17 December 1974 to R Gray for \$700 (capital value \$500).
Manawatū Kukutauaki 4D1 5B3 (1 rood)	18-Apr-1967, section 109	Located near Manakau. Owned by Mrs Mako. Sold 1975, no other alienation data.
Ngakaroro 3D3B (2 acres 3 roods 3 perches)	18-Apr-1967, section 109	Mr Flowers told Court that sole owner wished to sell. Rates then paid by sole owner and vesting order cancelled in 1968. Sold 23 December 1975 to M Muir for \$14,250.
Ngarara West A32C1 (1 rood)	18-Apr-1967, section 109	Owners paid rates and vesting order cancelled in July 1969. Sold privately and then Europeanised. No longer Maori land.
Ngarara West A32C2 (2.3.20.2)	18-Apr-1967, section 109	Owners wished to subdivide. Sold September 1970 for \$11,000.
Horowhenua X1B42A3B (Hokio Beach) (2.3.13)	7-Nov-1967, section 109	Four charging orders dated 1963, 1964, 1965 and 1967 totalling \$108.35 unpaid. Block considered by HCC to be 'readily saleable'. Government valuation in 1967 was \$2400 (no improvements). No other information regarding ownership. Further charging orders in 1969 when reported that no tenders for the land had been received. Sold in March 1972 to AJ Bull for \$2450.
Horowhenua X1B42A4B (Hokio Beach) (3 roods 34 perches)	7-Nov-1967, section 109	Charging orders. MT had difficulties selling the land. Sold in 1973 to G Simpson for \$1200.
Manawatu Kukutauaki 7D2D57D2B1B (1 acre)	7 Nov-1967, Section 109	Located near Porotawhao. Both owners deceased. HCC thought that rates had never previously been paid. Considered that it would sell readily. Vesting order cancelled in 1969 as rates paid by successors. No longer Maori land – no alienation details located.
Ngarara West A3C residue (5 acres 30.68 perches)	7-Nov-1967 section 109	36 owners; \$230.24 owed in rates to Manawatu Catchment Board and Horowhenua County Council. Sold to Waikanae Property Enterprises Ltd with A3C5, A3C6, A3C11, A3C14 and A3C15 in 1971 for a total of \$12,600.
Ohau 3 No 12B2 (2 acres 2 roods 39 perches)	7-Nov-1967 section 109	Unoccupied and 'untidy'. Owners had died, no rates paid for 'many years'. Vesting cancelled May 1969 as rates paid by successors. Sold in 1972 for \$1750
Ohau 3 No 12C (3 acres 39 perches)	7-Nov-1967 section 109	Unoccupied and 'untidy'. Owners had died, no rates paid for 'many years'. Vesting cancelled May 1969 as rates paid by successors. No longer Maori land – no alienation details located.
Hokio A (part) formerly Horowhenua X1B42A14 (part), B & C (parts) (626 acres 2 roods 31.9 perches and 278 acres) Total of 904 acres	5-Nov-1968, section 438	Non-arable, undeveloped land. \$955 paid in rates when land re-vested in owners circa 1975. Possibility that this was deducted from compensation monies for land taken under Public Works Act (not confirmed) 354.1717 ha remains Maori land.
Ohau 1 section 6	5-Nov-1968, section	Owners unknown to HCC (successors not appointed from

(4 acres 2 roods 11 perches)	438	owner alive in 1889). Mostly sandhills. Vested so it could be purchased by adjoining land owner. Land sold 1969 to adjoining land owner SP Easton for \$90 who also paid outstanding rates though other sources state that there were no rates arrears.
Ngarara West A3C10 (32 perches)	5 Nov-1968, section 438	One owner. Europeanised. Likely to have been re-vested in owner prior to this (not confirmed)
Horowhenua 3C4C (14 acres 3 roods 34 perches)	22 Apr-1969, section 438	No rates arrears. Sold 19 October 1971 to RT Poulton for \$50 (CV \$20)
Horowhenua 3C4A (11 acres 2 roods 22 perches)	22 Apr-1969, section 438	No rates arrears. Sold 19 October 1971 to RT Pouton for \$25 (CV \$10).
Horowhenua X1A4B1B2 (1 acre 18.7 perches)	4-Nov-1969, section 438	In April 1974 owners reported willing to pay rates. Declared general land in 1989 so likely to have been re-vested prior to this.
Tauatemiromiro A (1 acre 21 perches)	13-Nov-1969, section 438	Customary land. No rates arrears. Initial application to vest in Maori Trustee made by Horowhenua County Council in November 1967 but adjourned. Court acted on application made by Maori Trustee and that made by Horowhenua County Council dismissed. Terms of trust was for proceeds to be given to Raukawa Marae Committee. No details of alienation in Memorial Schedule but survey lien discharged in 1970 and declared European land by January 1971.
Maringiawai No 9 (2 acres)	22-Apr-1970 section 438	Customary land. No rates arrears. Sold for capital value of \$1800 pre-1974.
Huritini 3D (30 acres 6 perches)	22-Apr-1970, section 438	Owners not located by HCC. Rates arrears of \$41.20. Capital value \$650. Sold in 1972 to J McKay & J McKissock for \$450 (so significantly less than capital value).
Hakuai No 1 Sec 1 (10 acres 1 rood 8 perches)	29 April 1971, section 438	Owners not located by HCC. No rates arrears mentioned. Sold to adjoining farmer's B & O Ryder whose land surrounded the block for \$1750 which was less than capital value (\$2150)
Hakuai No 5 (1 acre 2 roods 37 perches)	29 April 1971, section 438	Owners not located by HCC. No rates arrears mentioned. Sold to adjoining farmer's B & O Ryder whose land surrounded the block for \$500 which was less than capital value (\$530)
Moutere Tahuna No 5 (1 acre 32 perches)	29 April 1971, section 438	Owners not located by HCC. No rates arrears mentioned. Sold to adjoining farmer's B & O Ryder whose land surrounded the block for \$240 which was less than capital value (\$250)
Moutere Tahuna No 7A (1 acre 1 rood)	29 April 1971, section 438	Owners not located by HCC. No rates arrears mentioned. Sold to adjoining farmer's B & O Ryder whose land surrounded the block for \$180 – nil capital value.
Moutere Tahuna No 7B (1 acre 39 perches)	29 April 1971, section 438	Owners not located by HCC. No rates arrears mentioned. Sold to adjoining farmer's B & O Ryder whose land surrounded the block for \$180 – nil capital value.
Te Tahuna No 2 (7 acres 2 roods 35 perches)	29 April 1971, section 438	Owners not located by HCC. No rates arrears mentioned. Sold to adjoining farmer's B & O Ryder whose land surrounded the block for \$1750 which was less than capital value (\$1950).
Takapu 1 sec 4A (3 acres)	29 April 1971, section 438	Owners not located by HCC. Rates arrears of \$3.87. Sold to adjoining owner for \$760 which was less than capital value (\$1050).
Takapu 1 sec 6A (1 acre 1 rood 09 perches)	29 April 1971, section 438	Owners not located by HCC. Rates arrears of \$1.29. Sold to adjoining owner for \$340 which was less than capital value (\$400).

Takapu 1 sec 7B (2 acres)	29 April 1971, section 438	Owners not located by HCC. Rates arrears of \$2.58. Sold to adjoining owner for \$520 which was less than capital value (\$650).
Mangapouri 3 (1 acre 3 roods 38 perches)	10 November 1971, section 438	Not rates related. No successors appointed and owners not known to Mr Flowers. Occupied by adjoining farmer. Sold in 1975 to JH Lambie (adjoining farmer) for \$1700
Piritaha 9B (6 acres 22 perches)	10 November 1971, section 438	No access. Occupied by adjoining farmer who had paid rates since 1963. He had died and his land had been sold to Young Brothers who had taken over occupation of land at time of vesting. Block sold to Young brothers in 1979.
Piritaha 9D (2 roods 10 perches)	10 November 1971, section 438	No access. Occupied by adjoining farmer who had paid rates since 1963. He had died and his land had been sold to Young Brothers who had taken over occupation of land at time of vesting. Block sold to Young brothers in 1979.
Whakahokiatapango 4A2 (3 roods 7 perches)	10 November 1971, section 438	No access. Occupied by adjoining farmer who had paid rates since 1963. He had died and his land had been sold to Young Brothers who had taken over occupation of land at time of vesting. Block sold to Young brothers in 1979.
Manawatū Kukutauaki 4D1 2B3B (8 acres 2 roods 37 perches)	10 November 1971, section 438	24 owners; no access. Rates arrears of \$8.57. Sold at capital value of \$600 pre-1974.
Ngakaroro 3F (16 acres)	February 1972, section 438	No rates arrears. Sold for \$750 which was less than capital value of \$950.
Horowhenua XIB42A6A (1 acre 2 roods 18 perches)	26-Apr-1972 (vested in JH Flowers), section 438	Rates arrears of \$66.31. Owners unknown to HCC. Sold to PGC Simpson for \$1000 in July 1975.
Horowhenua XIB42A6C (3 roods 18 perches)	26-Apr-1972 (vested in JH Flowers), section 438	Owners unknown to HCC (who affixed rates demand to land). Sold to J Okeroa Broughton for \$250 in March 1974.
Waitarere 5A part (2 roods 20.6 perches)	6 June 1972 (vested in JH Flowers), section 438	Owner not located by HCC. Sold to neighbouring farmer for \$100 circa 1972-1973.
Horowhenua 3D6 (169.0473 ha; 417.7 acres))	22-Oct-1973, section 438	Rates arrears of \$114.90. Rates paid and vesting order cancelled. 2016: Maori Land ; 145 owners, located near Tararua Forest Park, east of Levin; 13% with extreme limitations; 39% marginal for pastoral and forestry; 29% good for pasture and forestry; 19% suitable for occasional cropping, pasture or forestry
Horowhenua 4B (190.6448 ha; 471 acres)	22-Oct-1973, section 438	Rates arrears of \$70.18. Rates paid and vesting order cancelled. 2016: Maori Land ; 190 owners; located near Tararua Forest Park, east of Levin; 36% with extreme limitations; 62% marginal for pastoral and forestry; 3% good for pastoral and forestry.
Horowhenua X1B42A5 (2.8808 ha; 7.1 acres)	22-Oct-1973, section 438	Rates arrears of \$45.62. Rates paid and vesting order cancelled. 2016: Maori Land ; 190 owners; no buildings; located at end of Kingi Street by Hokio Stream
Horowhenua X1B42A6B (1.2697 ha; 4.2 acres)	22-Oct-1973, section 438	Rates arrears of \$27. Rates paid and vesting order cancelled. 2016: Maori Land ; 61 owners; no buildings; located on Kingi Street
Kurukohatu D1	8-Nov-1973 (vested	Not rates related but application made by JH Flowers in

(2 acres 2 roods 13 perches)	in JH Flowers), section 438	whom it was then vested. Owners, he said, could not be located. Sold to neighbouring farmer SE Pritchard of Otaki, Farmer, 20 Dec 1974 for \$1500 who had been paying rates and occupying land.
Ngakaroro 3D3A4 (1 acre 1 rood 36 perches)	7-Nov-1974 (vested in JH Flowers of HCC), section 438	Five owners, two years of charging orders; vested in Mr Flowers to be sold to an owner or child of an owner. Sold to R Ropata (son of an owner) for \$1020 in 1975. No longer Maori land.
Horowhenua X1B42 (part) (20 perches)	7-Nov-1974 (vested in JH Flowers of HCC), section 438	European land owned by Maori. Vested in Mr Flowers to be sold to an owner or child of an owner. Alienation details not located. No longer Maori land.
Horowhenua 11B42A2B (3 acres 1 rood 28 perches)	16-Apr-1975, section 438	Flowers stated that it was vested in himself to sell to one of the owners or to a Maori Recorded as sold to DH Murray of Ohau on 11 June 1976 for \$14,100. This followed the preparation of a plan for subdivision. Unable to confirm whether Mr Murray was an owner or Maori. No longer Maori land.
Total area sold: 217 acres 1 rood 27.48 perches		

Sources: Otaki Minute Books 70-78, 1963-1975; Walghan Partners, Draft, 1 May 2017, volumes 2 & 3; Walghan Partners, Draft Alienations Spreadsheet, 19 August 2016; Maori Land Online: <http://www.maorilandonline.govt.nz/> accessed December 2016; Grant Young, Muaupoko Land Alienation Report, A report prepared for the Muaupoko Tribal Authority to assist in treaty settlement negotiations with the Crown and commissioned by the Crown Forestry Rental Trust, August 2015; Acting District Officer, Palmerston North to Head Office, Maori and Island Affairs, 23 March 1974 with schedule, AAVN 869 W3599/106 20/1/1 part 10 Rating of Maori land – General Correspondence 1972-1980, Archives New Zealand, Wellington. SW Document Bank, volume 1, pp. 47-49.

9.46 Horowhenua District Council Rates Remission on Maori Freehold Land Policy

As noted in the legislative section, under the Local Government Rating Act 2002, all local authorities are required to have a policy on rates remission and postponement of rates on Maori freehold land. The policy aims of the Horowhenua District Council has a remission of rates on Maori freehold land are:

1. Ensure the fair and equitable collection of rates from all sectors of the community recognising that certain Maori owned lands have particular conditions, features, ownership structures, or other circumstances that make it appropriate to provide relief from rates.
2. Implement a policy for providing rate relief on Maori land pursuant to Section 122XC of the Local Government Act 1974 (Section 11 of the Local Government Bill 2001).¹²⁴³

The objects of the policy are as set out in the schedule of the 2002 Act:

- a) supporting the use of the land by the owners for traditional purposes;
- b) recognising and supporting the relationship of Maori and their culture and traditions with their ancestral lands;
- c) avoiding further alienation of Maori Freehold Land;
- d) facilitating any wish of the owners to develop the land for economic use;
- e) recognising and taking account of the presence of waahi tapu that may affect the use of the land for other purposes;
- f) recognising and taking account of the importance of the land in providing economic and infrastructure support for marae and associated papakainga housing (whether on the land or elsewhere);
- g) recognising and taking account of the importance of the land for community goals relating to: the preservation of the natural character of the coastal environment, the

¹²⁴³ Horowhenua District Council Remission of rates on Maori Freehold Land Policy, accessed April 2017: http://www.horowhenua.govt.nz/Documents/Bylaws%20and%20Policies/HDC%20LTP%202015_2025_Remission%20of%20Rates%20on%20Maori%20Freehold%20Land%20Policy.pdf

protection of outstanding natural features, and the protection of significant indigenous vegetation and significant habitats of indigenous fauna;

h) recognising the level of community services provided to the land and its occupiers; and

i) recognising matters relating to the physical accessibility of the land.¹²⁴⁴

The principles used in establishing this Policy are set out in Schedule 11 of the Local Government Act 2002. These are:

a) that, as defined in section 91 of the Local Government (Rating) Act 2002, Maori freehold land is liable for rates in the same manner as if it were general land;

b) that Council is required to consider whether it should have a policy on rates relief on Maori freehold land;

c) that Council and the community benefit through the efficient collection of rates that are properly payable and the removal of rating debt that is considered non collectible;

d) that applications for relief meet the criteria set by Council; and

e) that the policy does not provide for the permanent remission or postponement of rates on the property concerned.¹²⁴⁵

As part of the policy, the Council is to maintain a ‘Maori Freehold Land Rates Relief Register’ for the purpose of recording properties where it has been agreed to remit rates under the policy. The Register is to comprise two category lists, these being:

i) The ‘Maori Land General Remissions List’, used to achieve objectives (a), (b), (c), (e) and (g); and

ii) The ‘Maori Land Economic Adjustment Remissions List’, used to achieve objective (d) and (f).¹²⁴⁶

Applications for land to be added to the register should be made on a ‘prescribed form prior to commencement of the rating year’. Applications made after the commencement

¹²⁴⁴ Ibid.

¹²⁴⁵ Ibid.

¹²⁴⁶ Ibid.

of the rating year can only be accepted at the discretion of the Council. Owners or trustees making an application should include the following information in their applications:

- a) details of the property;
- b) the objectives that will be achieved by providing a remission; and
- c) documentation that proves the land that is the subject of the application is Maori freehold land.¹²⁴⁷

It is at the Council's own discretion to add properties to the register. As well, rating relief, and the extent of it, is 'at the sole discretion of Council and may be cancelled and reduced at any time'. The Council is to also 'review the Register annually and may: a) add properties that comply, and b) remove properties where the circumstances have changed and they no longer comply'.¹²⁴⁸

With respect to the Maori Land General Remissions List, the Council has undertaken to consider the remission for property that comes within the following criteria:

- a) the land is unoccupied and no income is derived from the use or occupation of that land; or b) the land is better set aside for non-use (whenua rahui) because of its natural features, or is unoccupied, and no income is derived from the use or occupation of that land; or
- c) the land is inaccessible and is unoccupied; or
- d) only a portion of the land is occupied.¹²⁴⁹

The remission for land recorded in the Maori Land General Remissions List is to be '100% of any rates except targeted rates made for water supply, sewage disposal or refuse collection'.¹²⁵⁰

The Council has also undertaken to consider a remission of rates for property that 'carries a best potential use value that is significantly in excess of the economic value arising from its

¹²⁴⁷ Ibid.

¹²⁴⁸ Ibid.

¹²⁴⁹ Ibid.

¹²⁵⁰ Ibid.

actual use’. This remission for land recorded in the Maori Land Economic Adjustment Remissions List will be the ‘difference between the rates as assessed and the rates that would be assessed based on the actual use of the land. No remission will be granted on targeted rates for water supply, sewage disposal, or refuse collection’.

While it has not been possible in the timeframe given to write this report to investigate the effectiveness of the policy and the extent to which it is used, it is of note that concerns have been expressed by claimants with the way the Council continues to rate Maori land. Te Kenehi Teira, one of the owners and trustees of Manawatu Kukutauaki 3 2E5 (18.8836 ha) notes that the block has been subject to a covenant between the trustees of the block and the Minister of Conservation under section 77 of the Reserves Act 1977 since 1999. This was so that the land could be retired and the wetlands restored. It also means that the land is exempted from rates. Despite being exempted from rates since 1999, rates demands are still sent to the trustees by the Horowhenua District Council, meaning the Council’s records are not reflecting the exemption status of the land. This is frustrating for the owners.¹²⁵¹

9.47 Rating Summary

Records of early meetings of the Horowhenua County Council do not record any consultation or even a discussion with Maori about rating. They record instead complaints by the Council about non-payment by Maori and suggestions for how payment should be enforced. There is no record of engagement with Maori on the matter.

The rating of Maori land in the Horowhenua County began, as with other counties, by ‘notification’ in the form of the publication of a gazette notice under the Crown and Native Lands Rating Act 1882 claiming rates from owners of Maori land as recorded in the valuation rolls of that county. There is no evidence that any rates were paid by Maori as a result of the publication of the gazette notices but the Council did receive at least £650 from the Crown – a significant amount of money at that time. There is no indication in the records as to whether this money was spent on the provision of services for Maori but the intention of the Act was that the sum be recovered when the rated land was alienated.

¹²⁵¹ Conversation with Te Kenehi Teira and Suzanne Woodley, March 2017; Maori Land Online: <http://www.maorilandonline.govt.nz>

The attitude of the Council in the late nineteenth century was that the provisions of the 1882 Act whereby the Crown paid rates on Maori land should continue. When these provisions were revoked in 1888 and it was clear that these payments would not continue, the Council changed its position. It argued that Maori land should be rated the same as European land. There is evidence of parts of the Horowhenua block being rated towards the end of the nineteenth century with some Maori complaining of the imposition of rates on land that they could not lease and as a consequence offered to sell to the Crown. Messrs Buller and Stuckey also had to put pressure on the Council to utilise rates from Maori land for Maori though details on the extent to which this was done in respect to the roading of the Horowhenua block at this time is not known. In 1933, the County Solicitor said that the question of rating on the Horowhenua block (specifically 11B41 – which he described as ‘community lands’) had, ‘been practically solved’ with titles individualised since 1908 and the land ‘all in the occupation of Europeans’. This view that the non-payment of rates on Maori land was ‘solved’ by selling it was one that perpetuated particularly in the 1960s.¹²⁵²

The view that Maori land should be rated the same as European land also continued with the Council concentrating in the early twentieth century on those Maori that the Council could take to the Magistrates’ Court. This affected Hira Parata in particular who was trying to develop Ngarara A78. He was taken to Court and fined. This was later ‘enforced’ and he paid the Council £143.16.9. Smaller amounts of less than ten pounds were pursued in the 1920s probably reflecting the smaller holdings of the owners.

From March 1927, the Horowhenua County Council pursued rates on Maori land with charging orders issued by the Maori Land Court. Hundreds of charging orders were issued with as many as 87 considered at one hearing (in 1953). Seventy-four charging orders were issued at this time with no input from owners recorded at the hearing and nothing apart from the amount of rates owed recorded about the land. That there were so many with such cursory information, suggests that there was no attempt to differentiate between types of land and ability to pay. There is no record of the Council talking with Maori about the issue or even taking steps to identify the correct owners and occupiers of the blocks concerned. There is also little indication that Maori were present at most of the hearings where charging orders

¹²⁵² Horowhenua County Council evidence to Native Land Rates Committee, 23 June 1933, ACIH 16093 MA 86 1/2 Native Land Rates Committee, Minutes of Evidence, 9 June – 29 September 1933, Archives New Zealand, Wellington. SW Document Bank, volume 1, pp. 2-22.

were made. In one instance where an owner was present, he was able to correct the Council's assumptions that the land was not leased and was also able to advise that there was a cemetery on the land. The Court adjourned the application so arrangements could be made by the owners to pay the rates from the rental and to reserve the burial ground which should have been exempt from rates. The presence of owners at hearings was, however, uncommon.

In 1930, the Court, aware that the Raumatangi block was leased, adjourned a charging order application against the block so that the Council could levy the rates correctly on the lessee, Rere Nikitini, (indicating again that they had not previously done so due to the inaccuracies of their records). The rates were paid. This also happened in respect to receiverships and vesting orders. That is, when up to date details of owners were found, rates were often paid and the orders revoked.

Initially the Council had difficulties with some of its applications as the Maori Land Court could not reconcile the Council's title details with its own resulting in the dismissal of applications in the 1930s and 1940s and a gap of several years between applications. This variable title information would likely to have been present in the preceding years so would have also impacted on how rates were levied and judgements made at the Magistrates' Court where there were no such checks.

Rates charging orders stayed on the land until they were paid so that there are examples of land where the charging order was discharged thirty years after it was ordered. This was regardless of whether the land had been revenue producing at the time the charging order or orders were made. Charging orders also had to be paid if any change to the title was made. If land was leased or sold, outstanding charging orders for rates were paid from the rental or purchase money so that title could be cleared. The last charging order application from the Council located was in 1976 in respect to land that was undeveloped and marginal for forestry and farming. Even though the Court was unable to make the order (the legislation precluded charging orders of less than \$6) the fact that the Council applied for the charging order indicates that the Council was still intent on pursuing rates on land that was never going to produce enough revenue to cover them.

The suggestion of the Native Rates Committee in 1933 that all local authorities should consider the exemption provisions of the Rating Act for land that was difficult to develop or

should be conserved was never taken up by the Horowhenua County Council. This was despite the Council Solicitor, Mr Park, telling the committee that the Council was rating land 'away up in the ranges in standing bush' and 'blocks on hill still in bush' where no income could be derived. Mr Hudson, the County Clerk, responded to the suggestion that he was aware of the provisions but that he was wary, if such land was exempted, of giving publicity to it believing that it would make it more difficult to collect rates from Maori who paid. Indeed, there were no formal exemptions ordered under the Rating Act 1925 by the Council in respect to non-revenue producing land and the Crown did not ensure that the Council ever did so.

It was also problematic exempting land used for a cemetery. Rere Nikitini attempted to exempt three acres of the Raumatangi block from rates in 1930 as the area comprised a cemetery. Mr Nikitini was told that the cost of the survey would not make it worthwhile as the land was not valued high enough to make a saving. The entry on the valuation roll of 1937 indicates that this was when the block was partitioned out and this was also when the three acres was recorded as 'exempt' in the valuation roll (which was seven years since the matter was discussed with the Native Minister).

Data on the collection of rates on Maori land was often presented in such a way as to reflect badly on Maori. The data presented by the County Clerk to the Native Rates Committee in 1933 on the collection of rates on Maori land is an example of this. The County Clerk reported to the committee that the amount of £509 had been levied on Maori land occupied by Maori and just £33 paid (6.5 percent). The data supplied, however, did not include the amount that had been paid in respect to Maori land leased to Europeans. Rates were more likely to have been paid on this land. This of course made the proportion of rates paid on Maori land appear much less than had this been included. It also made it easier to criticise Maori for not paying and made Maori a much easier target by using the data in this way. The £509 levied on Maori land occupied by Maori also represented less than three percent of the total amount levied by the Council (or less than three percent of the total capital value of the County). Maori land occupied by Europeans made up about seven percent of the total amount levied. It was also not emphasised that European land made up 90 percent of the capital value of the County meaning that the balance in terms of ownership and improvements to land being was favoured towards Europeans.

On the advice of their solicitors, the Council pursued receivership orders from 1941. It had been noted by the Council's solicitor the year before that the Court had previously been reluctant to pursue receivership orders but the position had changed. The solicitors also told the Council that receiverships would make a great impression on Maori 'when they learn that valuable lands will be taken away from them for non- payment of rates'. The solicitors made no mention of exemption provisions.¹²⁵³

The Council pursued receivership orders in the same manner as they did charging orders - in bulk with no obvious examination of the land and in the absence of owners. This is demonstrated in the first receivership application made which was cancelled within two years. While ownership details were said to have been viewed at the Maori Land Court, the Council said that they did not know where the owners were or who occupied the land. On the appointment of the Ikaroa Maori Land Board as receiver, it was soon found that the owners were occupying the land and that they objected to having the land leased. They were told that they had to pay the rates or vacate the land. The rates were paid and the receivership cancelled.

In the 1950s, after 54 receivership orders were made at one hearing, Mr Flowers, who was then working at the Department of Maori Affairs, complained that if any reasonable enquiry had been made by the Council, it would have found those who occupied the lands, and collected the rates which would have saved the time of the Court and officers of the department. He had also found that many of the occupiers had not received their rates demands. Officials also thought that receiverships were being sought for 'comparatively trivial amounts'. Indeed, in many instances the amount owed was less than £5. In addition, officials said that after initial enquiries had been made it was found that 'no income could be obtained from the land involved so that ... [no one] obtained any benefit from the order'. Officials suggested to the Court that it should curtail the number ordered but this was not done. It was not suggested, however, that the land be exempted. The policy at this time therefore was that receiverships were made when rates were not paid even in respect to land

¹²⁵³ Park & Bertram, Barristers & Solicitors to County Clerk, Horowhenua County Council, 7 April 1941, HDC 00098 1 2 Maori Land, Rate Charging Orders, 1932-1953, Archives Central Feilding. SW Document Bank, volume 9, pp. 12-17.

where rental monies from a lease would not cover the rates or where the land just simply could not be leased.¹²⁵⁴

Receiverships continued to be ordered throughout the 1950s and from 1953, the Maori Trustee was appointed receiver. The Council appeared to have picked up on the Maori Trustee's frustrations with the number of orders and from June 1956, the Council applied for the appointment of the County Clerk, Mr Hudson, as receiver. There was, however, confusion, as the Maori Trustee had already been appointed receiver in respect to some of the lands that Mr Hudson had been appointed. This was eventually resolved by the discharge of the Maori Trustee in respect to some of receivership orders. Under the receivership orders, Mr Hudson was able to lease land without requiring the consent of the owners. The Council was also entitled to receive 10 percent of the leases it organised as commission.

Receivership orders examined from the early 1950s in respect to the Aratangata block reveal that leases followed the receiverships in respect to two of the blocks: Aratangata 2A1 and 2A2. An owner of Aratangata 2A2 had to vacate the 40-acre block with the exception of one acre which was reserved for their house. Aratangata 2A3, which was also subject to a receivership order, was sold to the same person who was leasing the other blocks. Aratangata 2A4 was subject to charging orders and the block was also sold around the same time. All rates would have been paid from the rental and sale monies.

As stated, receivership orders were also made in respect to land that was unable to be leased or where the amount of the rental was not sufficient to cover the rates. In the 1960s, this policy changed so that receiverships for such land were no longer ordered. Instead, from 1963, the County applied for vesting orders under section 109 of the Rating Act 1925 and section 438 of the Maori Affairs Act 1953 (from 1968 this was substituted by section 142 of the Maori Affairs Amendment Act 1967) so that the land could be compulsorily sold. Section 109 orders and section 438 orders up until 1967 were made by the Court and confirmed by the Minister of Maori Affairs. From 1968, such orders no longer required the consent of the Minister of Maori Affairs.

¹²⁵⁴ Unnamed Head Office official to Mr Blane, Head Office, circa May 1955, ACIH 16036 MA1/764 54/21 Maori Trustee - Receivership rate charging orders, 1952-1959, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, p. 100.

These orders were pursued in bulk by the Horowhenua County Council between 1963 and 1975. Seventy-two known orders of this nature were instigated by Mr Flowers, rates collector for the Horowhenua County Council. Orders vesting the land in either the Maori Trustee or Mr Flowers for the purpose of sale were issued in each case. Thirty orders were made under section 109 of which six were revoked and the land re-vested in owners. The other 24 blocks were sold. Seven orders were made under section 438 of the Maori Affairs Act 1953 in 1963 and 1964. All of these blocks were sold though one was sold to an adjoining Maori owner and remains Maori land. Thirty-five orders were made under section 438/1953 (as substituted by section 142/1967) Seven of these were revoked and the land re-vested in the owners. Five of the seven re-vested blocks are still Maori land with one Europeanised and the other declared general land in 1989. The remaining 24 blocks were sold. In total 217 acres, 1 rood 27.68 perches of Maori land was compulsorily sold under this legislation.

The Horowhenua County Council began their compulsory sale policy with seven section 438 applications where two of the blocks were customary land (which were automatically exempted from rates) and the other five where successors had not been appointed since the 1890s or the owners simply not known to the Council. No attempt was made to have successors appointed. The Council also pursued one of the vestings of customary land despite Maori from nearby marae not wanting it to. Mr Flowers, however, thought that ‘something should be done to get ownership’ and the land ‘somehow be brought into use’. The Court agreed and the land (Paremata 15A9) was sold to the European occupier, a Horowhenua county councillor who ‘mistakenly’ thought the land was his. The vesting orders for adjacent blocks (Paremata 15A1, 2 and 3) where minimal amounts of rates were owed were changed from leases to sales so that they too could be sold to the same European farmer who had been occupying the land ‘informally’. Of note was the statement of Mr Flowers that the Council was ‘not concerned with the rates so much as having the land used’. This did not stop the Council from ensuring that it had received from the purchase money rates it had levied on Paremata 15A1, 2 and 3 since 1956 and rates it had levied on the previously exempted customary land (Paremata 15A9) from 1963 (when the Council’s vesting application was heard by the Maori Land Court). This could be viewed as opportunistic particularly as in theory, the occupier of the land should have been liable.

That the land could not be leased or the rental was insufficient to cover the rates was given as the reason for thirty blocks to be vested in the Maori Trustee for sale under section 109 between 1964 and 1967. The argument of government and council officials at this time was that it was in the interests of Maori not to own land that could not generate enough income to pay rates. That is, where rates were unpaid on unoccupied Maori land that could not be leased the policy was that it should be sold.

Applications under section 109 had no protective measures for the owners. There was no requirement to let all or any of the current owners know of the vestings or to even ensure that rates had been correctly levied on the current owner at the correct address. Nor was there any requirement to ensure that the owners received a fair price for their land at the current valuation. There was also no provision once the vesting order was made for sales to be halted if owners were located and had undertaken to pay the rates arrears. It was acknowledged by the Department of Maori Affairs that the whole object of the exercise was:

... in law, to get the rates paid without any concern for the welfare, wishes or interests of the former proprietors of these lands.¹²⁵⁵

The aim instead was to recoup the rates for the local authority.

Much of the land affected by the section 109 applications was small, undeveloped sections with multiple owners. As already noted, in many cases the Council did not have up to date owner and occupier information. Some owners who were located did not have the means to pay the rates or develop the land. Very few of the sections had a dwelling or any sort of building on the land. Many had limited access or were landlocked such as several blocks at Hokio Beach with no access to a legal formed road. As well, the county would not issue building permits for these blocks. The provision of services by the Council would therefore have been limited. Because the rating policy of the Horowhenua County Council was a blanket rating policy (which was allowed under the legislation) these factors or circumstances did not exclude such land from being rated and compulsorily sold.

¹²⁵⁵ DM Forsell, Office Solicitor, February 1967 to BE Soutar, Deputy Secretary, Department of Maori Affairs, ACIH 16036 MA1/765 54/22/5 Maori Trustee – Ngarara West A3C Subdivisions and other blocks – vested under section 109, 1964-1970, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 61-62.

As with the early section 438 vestings, a number of the subsequent section 109 vestings were in respect to land where succession orders had not been made since the 1890s and early 1900s. Again, no attempt was made to appoint successors and correctly identify current owners prior to the land being vested for compulsory sale. In respect to Horowhenua 3E1 sub 4B, Mr Flowers said that he had never heard of Kerei Te Panau who he described as the 'main owner'. Kerei Te Panau, however, had died in 1908 and was a well-known rangatira. That he was still on the roll demonstrates just how out of date many of the ownership records were. These out of date records, however, were what was used to levy rates and when they were not paid – to vest the land for sale.

In the case of Hokio Maori Township lot 9 it was simply stated that the owner had died. The rates owing were minimal but the land was still vested and sold to adjoining farmers who were already occupying the land. Of note regarding this Hokio section was that this was first vesting order under section 109 for which the Horowhenua County Council had applied. The information given to the Court and to the Minister was just that there were rates owing (about £17), the section was unoccupied, the owner had died and that it would be readily saleable. This 'investigation' was deemed a sufficient basis to have the land vested and its compulsory sale approved by the Minister. Mr Flowers made the assumption in another case that in view of the small amount of rent that individual owners would collect 'if they could be traced' it was 'more satisfactory' for the land to be sold rather than leased. The Court made the order and the Minister agreed.

Other vestings were made in respect to land where succession orders were more recent but Mr Flowers claimed he could not locate the owners. In the late 1960s, the Maori Trustee admitted that there had been three instances where the owners had only found out about the vestings when the sales were almost completed. As a result, he said, the policy of the District Office was to 'try to keep the owners informed'. This policy was too late for Te Raumoa Baker whose land was vested in August 1964 and whose address, Mr Flowers said at the vesting hearing, could not be located. The District Officer (when explaining the matter to officials at Head Office) claimed that Mr Baker's address in Blenheim was found in November 1965, 'shortly after' an agreement to purchase had been entered into with the Horowhenua County Council (5 November). This 'agreement to purchase', however, was actually just a letter from the District Officer to the County Clerk offering the section to the Horowhenua County Council for a particular price. Mr Baker was notified of the vesting by

letter on 12 November. The day before, however, the transfer had been submitted for execution (though it was not registered until the following year). Whether or not the sale could legally have been halted prior to execution or registration is a matter requiring legal expertise. It is apparent that the Council did not want to halt the sale as it lodged a caveat in December to protect its interests. Mr Baker's solicitor also lodged a caveat to halt the sale after Mr Baker's undertaking to pay the rates (for which he said he had not received the demands) and request to the Council to stop the sale were ignored. The extension of Mr Baker's caveat was refused by the Supreme Court and the sale went ahead though it was not finalised until the following March. This vesting demonstrates how section 109 of the Rating Act 1925 allowed the Council to apply for land to be sold without notifying the owner, to levy rates without up to date ownership information, to refuse to re-consider when the owner was finally notified and had undertaken to pay the rates, and then to purchase the very land in question for itself.

It was also too late for the owners of Horowhenua A5E who thought that arrangements had been made with their lawyer to pay the rates. It also transpired that the purchaser of the land was a subsidiary company of the estate agent selling the land (Rod Weir & Co) who had then on-sold the land for twice as much as the Maori Trustee had been paid. The Maori Trustee undertook an inquiry but ultimately did nothing to rectify this and the owners were left without their land and half of what they should have received. This also did not stop the Maori Trustee from using Rod Weir & Co for other sales.

The District Officer became concerned at the number of section 109 applications in April 1968. Concerns were expressed that while legally they were able to sell the land when vested, 'morally' their actions were problematic. He pointed out that to many people, the sales appeared to be 'something very like confiscation'. The District Officer was also concerned that the Council had not taken 'all reasonable steps' to recover the rates and then had 'misrepresented the sale potential of the land'. Head Office officials were, however unsympathetic, accusing the District Officer of being 'over scrupulous' with the local authority having the right to ask for orders which, if the Court granted them, had to proceed with a sale. That section 109 offered no protection to the owners was indeed a correct reading of the legislation.

The case that the District Officer was particularly concerned with was Ngarara West A32C1 (one rood) and C2 (almost three acres). These two sections were located at Waikanae and one had an old house on it. An owner of the larger section, C2, said he did not want to sell but instead subdivide the land and reserve some of the sections for housing for owners. The owners, however, did not have the funds to do so and the Maori Trustee at Head Office was unwilling to assist stating that the Trustee's obligations were only to sell the land as per section 109. Rates owing were also significant with \$111 owed on C1 and \$921 owed on C2. Some rates had been paid on C2 from all the compensation awarded for land taken for a road. Rates on C1 were eventually paid by the owners and the vesting order cancelled. Despite the assistance of MP, Mrs Tirikatene-Sullivan, the acknowledgement by the Minister of Maori Affairs that the amount owing was 'quite a hurdle ... to overcome' and that one of the owners was living on the land, Ngarara West A32C2 was sold in 1970. Rates representing 11 percent of the purchase price were deducted from the payment received by the owners.

There were other vestings in Waikanae where the land was suitable for subdivision. In 1953, owners of various Ngarara West A blocks joined a number of undeveloped adjoining blocks together and partitioned it into 16 sections. The intention was for the subdivided land to be used for their housing needs. The owners, however, were unable to afford the cost of setting up the subdivision which included providing a road through the block to give access to each section. From the time the blocks were partitioned in 1953 they accumulated rates. Of the 16 sections (Ngarara West A3C1-A3C16) seven were vested in the Maori Trustee in 1964 and another section in 1968. The 'residue' (Ngarara West A3C residue) comprising just over 5 acres was vested in 1967. Prior to that almost nine acres of the residue had been taken under the Public Works Act and all of the money used to pay rates arrears. Therefore, all of the money that could have been used for the development of the land was paid to the Council who had provided few services to the land. Mr Flowers claimed that the owners wanted the residue vested in the Maori Trustee but it was clear that owners such as Rangi Tamati and others did not want to see the land sold. Indeed, owners from three of the blocks were later able to find the funds to pay the rates and the sections were re-vested back in the owners. Mr Flowers advocated for the land to be subdivided properly before it was sold so that the land could be sold more easily (but not so the owners could utilise the land themselves and use it for their own housing). Many of the owners maintained the view that they wanted to subdivide the land so it could be used for their housing needs. The Maori Trustee was adamant that subdividing the land was not his role. The Maori Trustee's view prevailed but it

meant that the blocks were difficult to sell as there was no legal road. Indeed, it took seven years for the blocks to be sold with the consequence that the Maori Trustee was content to receive a purchase price well below the government valuation. Rates accumulated since 1953 would most certainly have been deducted leaving even less for the owners from the reduced purchase price. The owners were also left without their land and without their housing needs being met.

While the Rating Act 1925 was repealed and replaced by the Rating Act 1967, provisions relating to the vesting of land for sale due to non-payment of rates continued. Section 155 of the 1967 Act specified that vesting orders could be made under section 438 of the Maori Affairs Act 1953 (as substituted by section 142 of the Maori Affairs Amendment Act 1967) due to the non-payment of rates. It was essentially utilised in the same way as section 109 though the land could also be vested in other trustees to sell (such as Mr Flowers of the Horowhenua County Council). The Court could also vary the trust so it specified, for instance, that the land had to be sold to Maori. Another difference was that the vestings no longer required the consent of the Minister of Maori Affairs. As well, applications could be made by such people as the rates collector for the Horowhenua County Council where there was no rating issue and in respect to land that was not in the County.

At least 17 of the applications made by the Horowhenua County Council rates collector under this legislation (section 438/section 142) had no or tenuous connections to the payment of rates. Fourteen of the blocks had no rates arrears and three had rates arrears of between \$1.29 and \$3.87. Orders were made by the Court for all 17. Two of the blocks were customary land and according to the Council, owners were not known or successors not appointed for the other blocks. There was no attempt for ownership to be determined in respect to the customary land, for the appointment of successors prior to the sale or for there to be any other investigation into ownership other than what Mr Flowers had undertaken. According to the District Officer, the applications were made to 'tidy up the title and covered land that previously had no proper title or was Maori customary land'. The District Officer further justified the orders explaining that they 'were not necessarily made because of outstanding rates, but they enabled the local body to levy rates in the future'. This statement assumed therefore that it was perfectly legitimate for a local authority to instigate the sale of Maori customary land, or to sell Maori freehold land where the local authority claimed the owners were unknown, so they could levy rates. Certainly, the legislation did not appear to preclude

this from happening. Another aspect to most of these applications was that they assisted the European owners of the surrounding or adjoining land to consolidate their holdings with most of the land sold to the neighbouring farmers. The farmers were also often able to obtain the land for less than the capital value. Therefore, it was they who received the benefit of the Councils' title 'improvements'.¹²⁵⁶

The Huritini 3D block was also vested for sale as it had rates arrears of \$41.20 though quite who had received the rates notice was not stated given that the owners were not located by the Council. The block was without access and mostly sand hills and swamp. Despite this exemption from rates was never considered. The cost of clearing the gorse on Huritini 3D was also thought to be about \$300 which was a significant amount of the purchase price of \$400 received for the land. This was also well below the government valuation of \$650.

Other blocks were vested in Mr Flowers who after he had sold them, claimed some of the purchase money for expenses. The rates notice of one such block, Horowhenua X1B42A6C, was attached to the land by Mr Flowers (or as he described it 'served by affixing to land') because he could not locate the owners. This was not atypical and at the very least, challenges the concept of adequate notification.¹²⁵⁷

Horowhenua 3D6 and 4B were also vested in the Maori Trustee in 1973. These were both large blocks (417 and 471 acres respectively) located in the Tararua Ranges. Both blocks had very limited (if any) development potential apart from a small proportion that could perhaps be afforested. The actions of the Horowhenua County Council in pursuing rates on land such as Horowhenua 3D6 and 4B that had such limited revenue producing potential is further confirmation of the blanket rating policy under which the Horowhenua County Council operated at this time. Exemption of these blocks from rates under other provisions of the Act was not ever considered. There was also no consideration that Maori may wish to conserve the land as is, without having to make it revenue producing. The emphasis on locating potential purchasers also suggests that the Council considered it preferable for such land not be in the ownership of many Maori but in the hands of the Crown or the adjoining Pakeha

¹²⁵⁶ Acting District Officer, Palmerston North to Head Office, Maori and Island Affairs, 23 March with schedule; Secretary for Maori Affairs to Minister of Tourism, circa March 1974 with schedule, AAVN 869 W3599/106 20/1/1 part 10 Rating of Maori land – General Correspondence 1972-1980, Archives New Zealand, Wellington. SW Document Bank, volume 1, pp. 47-49.

¹²⁵⁷ Otaki Minute Book 75, 22 April 1970, p. 97.

owner. The owners, however, once aware of the vestings (they were not at the hearing) were able to arrange for the payment of rates and the vesting order was cancelled.

By 1976, the policy of vesting Maori land in the Maori Trustee or local authority on the application of the Horowhenua County Council for compulsory sale appeared to have come to an end. The 12-year policy had seen 72 blocks vested and 59 sold. Apart from one charging order application in 1976, no further charging, receivership or vesting order applications from the Horowhenua County Council have been located. Subsequent rating by the Council from this time until 1989 has not been examined.

The Horowhenua County Council was dis-established in 1989 and replaced by the Horowhenua District Council. The District Council has a remission of rates policy for Maori freehold land which acknowledges and supports the 'relationship of Maori and their culture and traditions with their ancestral lands' and that also aims to avoid the alienation of any further Maori land. While it has not been possible in the timeframe given to write this report to investigate the effectiveness of the policy and the extent to which it is used, it is of note that concerns have been expressed by claimants with the way the Council continues to rate Maori land. Te Kenehi Teira, one of the owners and trustees of Manawatu Kukutauaki 3 2E5 (18.8836 ha) notes that the block has been subject to a covenant between the trustees of the block and the Minister of Conservation under section 77 of the Reserves Act 1977 since 1999. This was so that the land could be retired and the wetlands restored. It also means that the land is exempted from rates. Despite being exempted from rates since 1999, rates demands are still sent to the trustees by the Horowhenua District Council.¹²⁵⁸

9.48 Town and Country Planning and its impact on Maori land in the Horowhenua County

As noted in the legislative section, the Town and Country Planning Act 1953 introduced the concept of zoning. Counties were required to prepare a district plan which specified which zone applied to each area within its boundaries. Under the Maori Affairs Act 1953, the Maori Land Court was obliged to take account or have regard to the district plan when making partition orders but did not have to have the express permission of the County. The Maori

¹²⁵⁸ Conversation with Te Kenehi Teira and Suzanne Woodley, March 2017; Maori Land Online: <http://www.maorilandonline.govt.nz>

Affairs Amendment Act 1967, however, made it compulsory for Counties to approve a scheme plan before partition orders by the Maori Land Court could be confirmed. It was not until the introduction of the Town and Country Planning Act 1977, that ‘local authorities [were obliged] to take account of Maori values in developing district plans’.¹²⁵⁹

Horowhenua County Council records have provided some information on this issue from the late 1950s though it is quite likely not comprehensive. The files that have been located are applications for the approval of subdivisions for housing purposes on rural Maori land that were initially at least, in the late 1950s and early 1960s consented to though this changed in the late 1960s and 1970s. This is discussed below. With respect to other records, a perusal of Lands and Survey Department and Ministry of Works files containing applications for specified departure from the district planning scheme under the Town and Country Planning Act have revealed little further information. It is possible that more details would be more forthcoming from specific Maori Land Court correspondence files though it has not been possible in the time frame to view these.

One of the earliest applications to the Horowhenua County Council for a subdivision located was in April 1958 in respect to the proposed subdivision of section 1 of Horowhenua X1A4A1, 2 & 3 blocks. The registered surveyors, Foster & Foster, advised the County Engineer that the Maori Land Court had no objection to it but asked for the comments of the Engineer before making an order. Foster & Foster noted that they had discussed it with the Engineer previously who said that he would not comment negatively on the subdivision as it was ‘bringing order into what might otherwise develop into an uncontrolled settlement’. The County Engineer responded that while the subdivision was ‘not strictly in accord with the requirements of the rural zone in which it ... [was] situated, it would be permitted as it would be of ‘considerable benefit in improving the housing conditions in this area’.¹²⁶⁰

In June 1959, Foster & Foster, Registered Surveyors, asked for comments on the proposal to partition a Maori housing site of 1 rood located off Paiaka Road, Koputaroa (from

¹²⁵⁹ Grant Young et al, Draft Ngati Raukawa: Rangatiratanga and Kawanatanga, Land Management and Land Loss from the 1890s to 2000, A Ngati Raukawa Historical Issues Research Report prepared for the Porirua ki Manawatu Inquiry and commissioned by the Crown Forestry Trust, February 2017, pp. 255-260

¹²⁶⁰ Foster & Foster, Registered Surveyors to Engineer, Horowhenua County Council, 23 April 1958, County Engineer, Horowhenua County Council to Messrs Foster & Foster, Registered Surveyors, 5 August 1958, HCC: 5002016396 Subdivision files, 1947-1959, Archives Central, Feilding. SW Document Bank, volume 9, pp. 44-46.

Ohinekakeao No 1C3 which comprised 1 acre 3 roods 39.4 perches). The purpose of the subdivision was to 'enable the Maori owner to obtain a housing loan from the Maori Affairs Department and building a new house and hence better his living conditions'. Foster & Foster said that the Maori Land Court had asked for the Council's views on the matter.¹²⁶¹ The County Clerk responded that the Council viewed 'with concern' the proposal to create a further Maori housing site off Paiaka Road, Koputaroa. It was explained to the surveyors that the locality was zoned 'rural' in the District Planning Scheme and that the minimum area for subdivision allotments in the 'rural' zone was two acres. The County Clerk also stated:

It is one of the objects of the Council's scheme to discourage and prevent so far as is possible sporadic development throughout the County.¹²⁶²

The matter was then referred by the surveyors to solicitors, Francis Hamilton Jones of Levin. They stated that they were acting for Jack McGregor who wished to acquire the section concerned from his mother, Lydia McGregor, for the purpose of building a house on the site. They asked for the application to be reviewed. The solicitors said they realised that the Council had 'placed a blanket of rural zoning over most of the County [but] nevertheless it, ... [was] felt that small pockets of housing in Koputaroa and other parts of the County ... [were] bound to crop up from time to time and of course it ... [was] known that they ... [were] in existence in many parts'. Also, that it was understood that the aim of the government and the Maori Land Court was to 'create better housing conditions' for Maori. If Mr McGregor was allowed to acquire the housing site, he would probably be able to build a 'suitable dwelling house for he and his family'. If it was not granted, then it would be 'impossible for him to purchase a section or dwelling house in Levin' and he would remain 'without a house'. The solicitors asked that the letter be placed before the Council with a view to amending the decision. They added that they could not help but feel that there was a 'wider question ... involved affecting the whole County and the Maori housing in it'.¹²⁶³

¹²⁶¹ Foster & Foster, Registered Surveyors to Engineer, Horowhenua County Council, 8 June 1959, HCC: 5002016396 Subdivision files, 1947-1959, Archives Central, Feilding. SW Document Bank, volume 9, pp. 47-48.

¹²⁶² County Clerk, Horowhenua County Council to Messrs Foster & Foster, Registered Surveyors, 20 July 1959, HCC: 5002016396 Subdivision files, 1947-1959, Archives Central, Feilding. SW Document Bank, volume 9, pp. 49-50.

¹²⁶³ Harper Thomson & Hamilton Jones, Barristers & Solicitors, Levin to Clerk, Horowhenua County Council, 28 July 1959, HCC: 5002016396 Subdivision files, 1947-1959, Archives Central, Feilding. SW Document Bank, volume 9, pp. 51-52.

The arguments of the solicitors were persuasive as the County Clerk advised the solicitors that from the evidence submitted in the application of Mr McGregor it appeared to be an 'example where improved housing conditions would result from the Council's approval of the subdivision ... and dispensation from the planning requirements'. The County Clerk noted that while the Council was still concerned that 'sporadic residential development should take place in the "Rural Zone" of the County thus conflicting with the Council's planning scheme it ... [was] realised that in certain instances it may be desirable to approve cases which would improve Maori housing conditions'. The County Clerk cautioned, however, that any further subdivisions would need to be 'carefully considered upon their merits as the Council, after hearing the objections to the Rural Section of the District Scheme, ... [had] resolved to increase the minimum area for subdivision to 5 acres'.¹²⁶⁴

Similar arguments were made by Park & Cullinane for the owners of Manawatu Kukutauaki 7D2D section 59B1A. It was explained that application had been made to the Maori Land Court for an order vesting a house site in Morphy Graham by the owner of the 3 roods, his uncle, Jack Graham. Mr Graham had already built his house on the front of the section and if the application was granted, two additional house sites would be made available at the rear. The land was situated on what was a Maori road line known as Clay Road running off the main Levin-Foxton highway on the side of the Poroutawhao Church. The two sections at the rear would have access by right-of-way along the north-eastern boundary. The Court adjourned the application so as to ascertain whether the Council had any objections. It was noted that the Council was concerned, and 'rightly so', about the 'springing up of isolated housing areas in rural land, and the problems which flow from those pockets of Maori housing coming into existence'. In this instance, however, it was considered that the approval of the scheme of subdivision would 'not create traffic hazards on a busy thoroughfare'. The question also arose, the solicitor said, as to where these 'otherwise indigent Maoris can obtain a house site if they are denied the opportunity of building on their own Maori land or on a section made available by a relative out of a block of Maori land'. The solicitors suggested to the Council that this was 'one of those cases' where there was an 'opportunity to improve

¹²⁶⁴ County Clerk, Horowhenua County Council to Messrs Harper, Thomson & Hamilton-Jones, 3 August 1959, HCC: 5002016396 Subdivision files, 1947-1959, Archives Central, Feilding. SW Document Bank, volume 9, p. 53.

Maori housing conditions without creating any great evil in the way of congestion or unplanned development’.¹²⁶⁵

The Council replied along similar lines to the previous request stating that this was a case whereby it was ‘desirable to approve deserving cases which would result in an improvement of Maori housing conditions’. The Council did remind the solicitors, however, that the Council appreciated that ‘some degree of control must be in the interests of planning’ and that it considered any future similar applications would have been dealt with ‘on their merits’.¹²⁶⁶

Of note, was that it was apparent from surveys completed in the 1940s that some Maori housing in Horowhenua County was in a poor state (in 1941, a Maori Housing Survey showed that of 188 houses occupied by Maori in the Horowhenua County, 90 were considered ‘fit for demolition’ (48 percent)¹²⁶⁷). It is significant therefore that the Council recognised at this time that their agreement to such subdivisions was one way they could facilitate the improvement in housing in the County.

Similarly, four applications were made in 1960 for the approval of partitions of Maori land and the three that remained Maori land were granted. In August, the County Engineer advised Messrs Foster & Foster that the Council would have no objection to the partition of Ohau No 3 section 11A 2B No 1 ‘provided that a building line restriction ... was] granted over that portion of the Block 25 links [about five metres] from the State Highway’.¹²⁶⁸

Park & Cullinane, Barristers & Solicitors, asked the Council in September 1960 for approval of an order vesting 32 perches on Ohau 3 section 4B1 (comprising 27 acres 3 roods 06 perches) for a house site. The block was located adjacent to SH1. In October 1960, the

¹²⁶⁵ Park & Cullinane, Barristers & Solicitors to County Clerk, Horowhenua County Council, 4 August 1959, HCC: 5002016396 Subdivision files, 1947-1959, Archives Central, Feilding. SW Document Bank, volume 9, pp. 54-56.

¹²⁶⁶ County Clerk, Horowhenua County Council to Messrs Park & Cullinane, Barristers & Solicitors, 13 August 1959, HCC: 5002016396 Subdivision files, 1947-1959, Archives Central, Feilding. SW Document Bank, volume 9, p. 57.

¹²⁶⁷ Maori Housing Survey, Rangitikei, Oroua and Kiwitea Counties, 1941, ABQU W4452 632 Box 1240 194-3 Maori Health – Maori Housing, 1942-1982, Archives New Zealand Wellington. SW Document Bank, volume 6, pp. 173-175.

¹²⁶⁸ FW Duckworth, County Engineer to Messrs Foster & Foster, 1 August 1960, HCC: 5002016396 Subdivision files, 1947-1959, Archives Central, Feilding. SW Document Bank, volume 9, p. 58.

County Engineer advised Messrs Park & Cullinane that the Council had considered the proposed partition of Ohau 3 section 4B1 and, as the proposal ‘in no way conflicts with planning proposals in the area, gives its consent to the proposed partition’.¹²⁶⁹

Park & Cullinane also advised in September 1960 that there were making application to the Maori Land Court for a partition of Horowhenua A5F2 to provide an area of 1 acre and asked if the Council had any objection to it. The County Engineer responded that as the proposal in no way conflicted with planning proposals in the area, it would consent to the partition.¹²⁷⁰

Later that year, the registered surveyors acting for Lae Royal and others, owners of land in Muhunua West Road, Ohau, asked for an exemption of the provisions of section 3 (1) of the Counties Act 1946 (though a 1946 Act does not exist and there is no applicable section 3(1) in the Counties Act of 1956). The surveyor said that Lot 1 of Muhunua 3A1E1 sub 9 comprising 1 acre 1 rood 20 perches represented the share of Lae Royal, one of the Maori owners of the block. The balance of the area (4 acres 2 roods 11 perches) was to be transferred to any adjoining owners. It was noted too that there was an existing house on Lot 1 and was ‘undulating grass land with good natural drainage’. There is nothing further in the file concerning this application and there is no record that the block was ever partitioned. It does appear, however, that the block was sold early in 1961.¹²⁷¹

The situation, however, changed in 1962 which may well have stemmed from the district scheme becoming operative from 1 January 1962 pursuant to a resolution passed by the Council on 13 December 1961. It appears from this time that the Council became stricter on enforcing the size of the block (which was five acres) where a partition for housing was being applied for in a rural zone.

¹²⁶⁹ Park & Cullinane, Barristers & Solicitors, to Clerk, Horowhenua County Council, 19 September 1960; FW Duckworth, County Engineer to Messrs Park & Cullinane, 21 October 1960; Plan, HCC: 5002016396 Subdivision files, 1947-1959, Archives Central, Feilding. SW Document Bank, volume 9, pp. 59-61.

¹²⁷⁰ Park & Cullinane, Barristers & Solicitors, to Clerk, Horowhenua County Council, 14 September 1960, County Engineer, Horowhenua County Council to Messrs Park & Cullinane, Barristers & Solicitors, 21 October 1960, HCC: 5002016396 Subdivision files, 1947-1959, Archives Central, Feilding. SW Document Bank, volume 9, pp. 62-64.

¹²⁷¹ Foster & Foster, Registered Surveyors to Chief Surveyor, Wellington, 16 December 1960, HCC: 5002016396 Subdivision files, 1947-1959, Archives Central, Feilding. SW Document Bank, volume 9, pp. 65-66; Walghan Partners, Draft, 1 May 2017, volume 2, pp. 349-361.

In 1963, the Maori Land Court confirmed the partition of Ohau 3 section 13A so that a quarter of an acre (1 rood) could be vested in Joseph and Te Mateapiti Ransfield as tenants in common. The block was to be called 13A1 and it was noted at the hearing that the Council had approved the partition. The Council, however, wrote to the Maori Land Court in 1964, that after investigating the proposed partition of Ohau 3 section 13A that it was unable to recommend the partition ‘on the grounds that it did not confirm to recognised principles of Town & County Planning’. The Council had discovered that a section that ‘conform[ed] to the original application’ had already been fenced. It asked the Court whether it had approved the partition and to send the minutes of the Court to the Engineer at the Council. This was duly done with the Maori Land Court noting that it had been the solicitor for the applicant who had advised that the Council had approved the subdivision. The matter was then referred to the Planning Committee of the Council. There is nothing further about this on the council file though it does appear from Maori Land Court records that the partition was confirmed though not until 1970 (minutes of the Maori Land Court hearing do not provide any further information).¹²⁷²

In the same year, a request was made to have Tahamata 1A3B partitioned out though it was not specified for what purpose. Park & Cullinane said the applicants, Whareao Tima and Tiratu Tima, wished to partition 7 acres 3 roods 30 perches from the Tahamata 1A3B which would comprise, after the partitioning, 38 acres 2 perches. The block lay to the south of Ohau West Road. The Council responded that that Council had no objection to the partition as it complied with ‘that laid down in the Code of Ordinances relating to the Rural section of the County District Scheme’. This was likely due to the size of the partition being over five acres.¹²⁷³

In 1964, two applications were made by a registered surveyor on behalf of the Maori owners of Ohau 3 section 12A (two acres) for the subdivision of the land for two housing sites of about a quarter of an acre each. The minute prepared for the Planning Committee of the

¹²⁷² Otaki Minute Book 70, 9 April 1963, pp. 90-91; County Engineer, Horowhenua County Council to Registrar, Maori Land Court, Palmerston North, 19 March 1964; JJ Nicholls, Registrar, Ikaroa Maori Land Court to County Engineer, Horowhenua County Council, 31 March 1964, HDC 00018: 90: 19/22 Regional Planning: Subdivision General - Maori Partitions Horowhenua County Council, 1964 – 1975, Archives Central, Feilding. SW Document Bank, volume 9, 68-69; Walghan Partners, Draft, 1 May 2017, volume 3, pp. 95-128.

¹²⁷³ Park & Cullinane, Barristers & Solicitors to County Clerk, Horowhenua County Council, 3 June 1964; County Clerk, Horowhenua County Council to Park & Cullinane, 13 July 1964, HDC 00018: 90: 19/22 Regional Planning: Subdivision General - Maori Partitions Horowhenua County Council, 1964 – 1975, Archives Central, Feilding. SW Document Bank, volume 9, p. 78.

Horowhenua County Council records that the ‘code of ordinances for the rural section in which the land ... [was] situated provid[ed] that the Court as a conditional use may permit one residential lot for a member of the family’. It was noted that as the block was already ‘substandard’ (probably meaning that it was less than five acres) it was recommended that both applications be declined. Indeed, the surveyor for the owners was advised in April 1964 that the Council was unable to approve the proposed partitions for housing purposes ‘on the grounds that they are contrary to the provisions of the operative district planning scheme’.¹²⁷⁴

Park & Cullinane then asked the Council on behalf of the owners to reconsider its decision not to approve the applications. They also asked if the Council would approve a third site for a house. The Council responded that it was ‘extremely perturbed at the prospect of a housing settlement being erected in this locality of the rural zone of the county and the loss of rural land to housing which ... [was] not in harmony with the concepts of town planning’. At the same time, however, the Council was ‘conscious of the need to encourage better housing conditions for the Maori people’. The Council suggested that the Council’s planning committee meet with the Maori Land Court Judge to discuss the ‘problem of reconciling the requirements of town planning with housing partitions that are so frequently being sought, in an effort to reach some mutually acceptable basis of compromise’. Maori Land Court Judge Smith responded, however, that it would not be ‘proper’ for him in his official capacity to meet with the committee as in order to act judicially he had to be ‘free to deal with any application [that came] before him on its merits’. He noted that there were statutory provisions that expressly gave a County Council the right to object to any proposed partition and the Court was required to consider the objection. In the past, he had found that Council objected via a letter to the Court but thought it would be ‘much more satisfactory if a Council desiring to object would formally appear and bring evidence in support of its objection.’¹²⁷⁵ No record has been located as to whether the Planning Committee instead sought out meetings with Maori groups, such as tribal committees, to discuss the matter.

¹²⁷⁴ Foster & Foster, Registered Surveyors to Engineer, Horowhenua County Council, 26 March 1964; Plan of Ohau 3 section 12 A, Minute for Planning Committee meeting of 2 April 1964, County Engineer to Foster & Foster, 10 April 1964, HDC 00018: 90: 19/22 Regional Planning: Subdivision General - Maori Partitions Horowhenua County Council, 1964 – 1975, Archives Central, Feilding. SW Document Bank, volume 9, pp. 70-73.

¹²⁷⁵ Park & Cullinane to County Clerk, Horowhenua County Council, 27 April 1964 & 6 May 1964; County Clerk, Horowhenua County Council to Park & Cullinane, 14 May 1964; Judge MC Smith, Maori Land Court to County Clerk, Horowhenua County Council, 28 May 1964, HDC 00018: 90: 19/22 Regional Planning: Subdivision General - Maori Partitions Horowhenua County Council, 1964 – 1975, Archives Central, Feilding. SW Document Bank, volume 9, pp. 74-77.

Park and Cullinane also noted to the Council that it was doubtful that the Judge would discuss the matter with the Planning Committee but that if an application for the partition was filed with the Court, arrangements could be made to put the Council's views to the Court. It was also noted that section 173 (5) of the Maori Affairs Act 1953 required the Court to have regard to the requirements of any district scheme approved in accordance with the Town and Country Planning Act, 1953 and operative in the district in which the land to be partitioned was situated. They then asked the Council whether they had a district scheme approved under the Town and Country Planning Act, 1953 that was operative in the locality of Ohau 3 section 12A. The Council responded that the block was situated in the rural section of the Council's district scheme which was operative from 1 January 1962 pursuant to a resolution passed by the Council on 13 December 1961. The following month the County Clerk advised the solicitors that the Council had resolved to oppose the partition of Ohau 3 section 12A into several housing sites 'on the grounds that such a proposal conflicts with its District Planning Scheme, and desires to send an officer to the Court and express the Council's concern when a fixture has been arranged'. Of note is that 12A is still Maori land, has never been partitioned further, and from Maori Land Online images appears to have just one dwelling located on the block.¹²⁷⁶

A meeting between a Mr Patuaka and a Council official regarding the Ohau block in 1972 showed that Maori were frustrated with the Council's policy. The Council official was told by Mr Patuaka that Ohau Maori were concerned at not being allowed to build houses on their land in the Ohau area, that is, to subdivide or partition building sites. They did not want to live in towns and could not afford the \$1000 plus for the cost of a section in a town. Mr Patuaka wanted someone from the county to 'attend & explain why they cannot build as & where they like'. He said that 'Truth' and other newspapers were likely to be invited to the meeting. He envisaged about 50 house sites but was aware of zoning provisions. He also mentioned the cost of proper roading and services which would 'likely make sections as dear as in existing townships'. He said that owners would work in, for example, Levin, and increase the traffic on the highway. Mr Patuaka said he knew 'the story' (the rules regarding

¹²⁷⁶ Park & Cullinane to County Clerk, Horowhenua County Council, 19 May 1964; County Clerk, Horowhenua County Council to Park & Cullinane, 20 May 1964 & 10 July 1964, HDC 00018: 90: 19/22 Regional Planning: Subdivision General - Maori Partitions Horowhenua County Council, 1964 – 1975, Archives Central, Feilding. SW Document Bank, volume 9, pp. 74, 79; Walghan Partners, Draft, 1 May 2017, volume 3, pp. 95-128; Maori Land Online: <http://www.maorilandonline.govt.nz/> accessed December 2016.

zoning) but wanted a meeting so that the situation could be explained to others which would, he hoped ‘stop the present rows among the owners’. He would write to require a Council representative to attend the meeting. Although nothing further has been located about the matter it is apparent from this note that land owners had a desire to subdivide land at Ohau for housing sites but knew that this was not allowed by the Council. Indeed, there are no further partitions of Ohau 3 lands after 1962 apart from the aforementioned partition of Ohau 3 Section 13A which was finalised in 1970 (discussed above). This contrasted with the period between 1952 and 1962 where there had been 16 partitions of Ohau 3 blocks where small areas (less than two acres) were subdivided from the main block.¹²⁷⁷

Other Maori land blocks where partitioning petered out from the early to mid-1960s were Manawatu Kukutauaki 2 (none after 1965), Manawatu Kukutauaki 3 (none after 1953), Manawtu Kukutauaki 4 (none after 1963), Manawatu Kukutauaki 7 (none after 1959) and Ngakaroro (none after 1964 until there were two in 1979).¹²⁷⁸

Partition applications continued to be declined despite the introduction of the 1977 Act which obliged local authorities to take account of Maori values when developing district plans. In September 1978, the Chief Engineer explained to a Maori land owner, Mrs Tauru, whose land had been Europeanised, why the Council was unable to approve the subdivision of the half acre (2656 m²) Horowhenua XI4A1B block. He said that when the Maori Affairs Act of 1953 was amended in 1967, all partitions made since 1967 had to comply with the provisions of the Counties Amendment Act 1961 and in turn ‘the Horowhenua County District Scheme prepared in accordance with the provisions of the Town and Country Planning Act 1977 (previously the 1953 Act)’. In other words, he said, any subdivision had to ‘comply with the subdivisions standards in the District Scheme’. He explained too how the county was divided into different areas called zones and that the district scheme, ‘depending on the main use of land in each zone and different rules and Ordinances apply to the uses and subdivisions that ... [were] allowed in each zone’. He said that the block was situated in a rural zone and that rural zone ordinances permitted only one dwelling to be built on each

¹²⁷⁷ Walghan Partners, Draft, 1 May 2017, volume 3, pp. 106-111; Horowhenua County Council file note, 1 May 1972, HDC 00018: 90: 19/17 Regional Planning: Changes to Reviewed District Scheme Horowhenua County Council, 1967 – 1975, Archives Central, Feilding. SW Document Bank volume 9, p. 85.

¹²⁷⁸ Walghan Partners, Draft, 1 May 2017, volume 2, pp. 212-313; volume 3, pp. 20-26.

small allotment and did not ‘permit the allotment to be further subdivided into two separate house sites’.¹²⁷⁹

In 1978, an application to partition a block south of Otaki for housing purposes was also declined. PT Ropata of Waiouru explained to the Council that his father had built a new house on Ngakaroro 3D3A3 containing 1 rood 5.6 perches and that it was required that the title was ‘surrendered to the State Housing Corporation as Mortgage Guarantee’. He said that his father would like to give him part of the block to build a home on and the State Housing Corporation were prepared to accept such a scheme provided that it came within County By-Laws. He asked if the County would allow the subdivision of the land for housing purposes or, alternatively, whether the County would allow the building of another house on the land without the land being partitioned. The County Engineer responded that as Ngakaroro 3D3A3 was situated in a rural zone as per the Horowhenua County Operative District Scheme and had an area of only 5200 square metres, it could not be further divided and a second dwelling could not be built on the block. It was noted elsewhere in the file that the area of the property needed to be ten acres or more, would also require planning consent and that the Ministry of Works would be ‘very likely to object to be consistent with their objection to the review’.¹²⁸⁰

By 1988, however, an application for consent to subdivide Manawatu Kukutauaki 4D1 3C1B3 (which appears to have been Europeansed) into a 6000m² (half acre) ‘steppingstone lot’ was agreed to by the Council. This was despite the Council’s concerns that the subdivision would ‘increase the existing grouping of small lots in the vicinity’. The Council said that it considered this to be ‘not as important consideration as the Maori cultural aspect of the proposal’.¹²⁸¹

¹²⁷⁹ County Engineer, Horowhenua County Council to LC Tauru, 15 September 1978, HDC 00018: 90: 19/22 Regional Planning: Maori Partitions and Roadways Horowhenua County Council, 1977 – 1985, Archives Central, Feilding. SW Document Bank, volume 9, p. 80.

¹²⁸⁰ PT Ropata, Waiouru to County Engineer, Horowhenua County Council, 27 August 1978; File note concerning Ngakaroro 3D3A3, 31 August 1978; County Engineer, Horowhenua County Council to PT Ropata, Waiouru, 15 September 1978, HDC 00018: 90: 19/22 Regional Planning: Maori Partitions and Roadways Horowhenua County Council, 1977 – 1985, Archives Central, Feilding. SW Document Bank, volume 9, pp. 81-83.

¹²⁸¹ Walghan Partners, Draft, 1 May 2017, volume 3, p. 273; Decision by Horowhenua County Council, 24 August 1988; County Planner, Horowhenua County Council to Messrs Foster & CO, 16 September 1988, HDC 00001 : 26 : RS 1033 Subdivision LT 67131: State Highway 1, Manakau, Maori Owners, Subdivide 2 rural Subdivision of Manawatu-Kukutauaki 41 3C1B3. Horowhenua County Council 1988 - 1989, Archives Central, Feilding. SW Document Bank, volume 9, pp. 87-88.

It can be inferred therefore that the Council had in the 1980s begun to consider as a factor in its decision making, the different circumstances of Maori. What can also be concluded from an examination of all these applications was that Maori were essentially at the mercy of Council's district scheme and Ministry of Works policies and how they chose to develop and enforce them. Initially, in the late 1950s and early 1960s, there was some consideration of the need to facilitate with the provision of better Maori housing. The decision to assist with allowing for the provision of housing sites in rural areas at this time was despite Council concerns that the proposed subdivisions for housing were contrary to the district scheme. Coinciding with the introduction of the 1967 Act which made it compulsory for a scheme plan to be approved before a partition by the Maori Land Court could be made, many of the applications from the late 1960s and 1970s were declined mainly due to the blocks being less than five (and later ten) acres. In the 1980s, however, the Council began to factor in to its decision making, what it called the 'Maori cultural aspect' which from the aforementioned example, had a positive outcome for Maori. Further research is required as to whether other partition requests were given the same consideration.

9.49 Te Karewarewa Urupa, Ngarara West A14B1

9.49.1 Statements of claim

Several claimant groups contend in their statements of claim that the sale in 1969 of Ngarara West A14B1 by the Maori Trustee to developers; the change in the designation of the land from cemetery reserve to residential by the Horowhenua County Council in 1970; and what they describe as the ‘desecration’ of the Karewarewa Urupa on Ngarara West A14B1 are contrary to the Treaty of Waitangi.

Apihaka Tamati Mullen-Mack on behalf of Ngati Awa ki Kapiti (Wai 1018) states that the Crown facilitated the changing of the status of the land in which the ‘ancient burial ground’ was situated so as to be ‘zoned residential for the profit of others’. These actions, she states, are contrary to the Treaty of Waitangi. Ms Mack is also concerned with the action of the Kapiti Coast District Council in naming the area ‘Tamati Place’. She states that the Council did not ask her whanau, from where the name Tamati originates, for permission to do this.¹²⁸²

The statement of claim of Paul Tuhari Ropata on behalf of Kaunihera Kaumatua, Te Ati Awa ki Waikanae and Te Ati Awa (Wai 1945) also states that they have been prejudicially affected by the actions of the Crown that led to this ‘desecration’.¹²⁸³

Mahina-a-rangi Baker, an Environmental Consultant, has written a cultural impact assessment regarding the urupa which was completed in November 2015. She concluded that the sale of Te Kārewarewa urupā by the Māori Trustee ‘breached ... [Ngati Awa and Te Ati Awa] tino rangatiratanga to one of their most culturally significant and sacred sites, and ultimately led to its desecration’.¹²⁸⁴

This section of the report examines the investigation of title to Ngarara West A14B1 by the Native Land Court, the sale of the block, the decision by the Horowhenua County Council to change the zoning designation of the land so that it could be used for housing and the Court case brought by the Historic Place Trust (now Heritage New Zealand) against Payne Sewell

¹²⁸² Statement of claim of Ngati Awa ki Kapiti, Wai 1018, #1.001; Hui with Apihaka Mack, Ngati Awa ki Kapiti, Paraparaumu, 11 May 2016.

¹²⁸³ Statement of claim of Te Ati Awa ki Waikanae and Te Ati Awa, Wai 1945, # 1.001.

¹²⁸⁴ Mahina-a-rangi Baker, Cultural Impact Assessment: Te Kārewarewa Urupā, Te Ātiawa ki Whakarongotai Charitable Trust, 9 November 2015, pp. 18-19.

Limited and Higgins Contractors Limited with respect to the urupa. Ms Baker's report has been utilised as well as records of the Horowhenua County Council, Aotea Maori Land Court, Heritage New Zealand and those held at Archives New Zealand including Maori Land Court minutes. Of note is that the Maori Trustee file regarding the block has not been located by Te Tumu Paeroa in Wellington nor is it held at Archives New Zealand.

9.49.2 Origins of the urupa

Baker has provided details relating to the origins of the urupa in the nineteenth century and who is buried there. She states that the first burials were of those who died fighting in the battle of Te Kuititanga between Te Atiawa and Ngati Raukawa in October 1839. Apihaka Mack of Ngati Awa ki Kapiti states that Kuititanga was the Pa of her great, great, great grandfather, Pukerangiora which was attacked in 1839. Oliver and Sparks record that the battle was 'on a large scale, with nearly 80 killed and many others wounded'. Baker states too that there were also 'a number of burials' from the mid to the late nineteenth century including the mothers of Wi Parata and Eruini Te Marau. Apihaka Mack states that Eruini Te Marau performed the first Christian burial at the urupa.¹²⁸⁵

In addition, WW Carkeek, in his 1966 publication, 'The Kapiti Coast: Maori History and Place Names of the Paekakariki-Otaki District' provided an entry regarding the Karewarewa urupa which appears to be largely based on the evidence of Wi Parata and evidence given in the Maori Land Court. It is also of note as it was later used as evidence by the Waikanae Land Company that the whereabouts of the urupa was not known. The entry states:

Wi Parata referred to this place as a village which belonged to his ancestors, Rawiri Toko and Te Pono. Parata also claimed that this was one of two places where Te Haukaione resided shortly after the gift of land in the Waikanae district by Te Pehi and Rangihiroa. The exact location of Karewarewa is not known but according to Mere Pomare it was on the northern side of the Waikanae River. She explained at the 1890 Land Court hearing that she had at one time worked part of Karewarewa. She also described the place as a burial ground, and mentioned that Ihaia Paihia, his son

¹²⁸⁵ Baker, p. 5; Teremoana Sparks and WH Oliver, 'Waitohi', from the Dictionary of New Zealand Biography. Te Ara – the Encyclopedia of New Zealand, <http://TeAra.govt.nz/en/biographies/1w3/waitohi> (accessed March 2017); correspondence between Apihaka Mack and Suzanne Woodley, March 2017. Eruini Te Marau is the great great grandfather of Apihaka Mack.

and his wife were buried there as well as Mere's own mother, the famous chieftainess Te Rauoterangi, and a man named Rangihaeata (not the Ngati Toa chief who was buried at Paeroa Hill, Poroutawhao in 1855). Some of Wi Parata's ancestors were buried at Karewarewa and the Rev Octavius Hadfield was said to have had a stable close to this place. Mere Pomare emphasises that the place was very tapu and that therefore there were restrictions on the taking of flax or other plants from the area.¹²⁸⁶

Baker has provided further details of the location of the urupa. She records that Kārewarewa Urupā is situated:

... within an old dune belt at the confluence of the Waikanae River and the old course of the Waimeha Stream (or Waimea depending on dialect), north of the Waikanae River and estuary, and east of the Waimeha Stream, in the coastal settlement of current day Waikanae Beach.¹²⁸⁷

The block on which the urupa is located is Ngārara West A14B1.

9.49.3 Investigation of title and partition by Native Land Court

Title to the Ngarara West block was investigated by the Native Land Court in May 1887. Judge Puckey awarded the block to 55 people named on a certificate of title issued in 1873. Title to the block was re-investigated in 1890. Interim orders made by the Court on 24 July 1890, 12 March 1891 and 23 March 1891 were made final in June 1891 when Ngarara West A14 was awarded to Tutere Te Maatau and 12 others. The area comprised 260 acres.¹²⁸⁸

In November 1896, the Native Land Court heard an application from Raniera Erihana and others for a partition in respect to Ngarara West A14. The minutes record that the object of the partition was to 'set apart a portion of it for a cemetery'. It was to include the part to the west of Ngarara West A section 15 between that boundary and the Waimea River and was to

¹²⁸⁶ WW Carkeek, *The Kapiti Coast: Maori History and Place Names of the Paekakariki-Otaki District*, 1966, republished 2004, p 161.

¹²⁸⁷ Mahina-a-rangi Baker, Cultural Impact Assessment: Te Kārewarewa Urupā, Te Ātiawa ki Whakarongotai Charitable Trust, 9 November 2015, pp. 5, 13-14; Otaki Minute Book 12, 2 June 1891, pp. 231-232.

¹²⁸⁸ Otaki Minute Book 12, 23 July 1890, pp. 3-4; Otaki Minute Book 12, 2 June 1891, pp. 231-232.

comprise around 10 acres. The area was to be deducted, proportionately, from the area allotted to each owner.¹²⁸⁹

The Court ordered that the section be divided into two parcels called Ngarara West A14 and A14A and that A14A would contain the ten acres. Ngarara West A14A would be vested in all the owners (there were 13 named) of the original section as would the residue. The Court also stated that the part intended for a cemetery was to be made ‘absolutely inalienable’. This partition, however, was not finalised at this time due to the absence of a survey. Of note was that the appellations or names of the blocks subsequently changed.¹²⁹⁰

Also in 1896, one of the owners, Patiana Tuterangi, sold their interests in Ngarara West A14 to CB Morrison. It was noted that all the purchase money had been paid and the receipt attached to the deed. The minutes said that the vendor gave evidence on a previous occasion and in addition to the lands then held it was found that he possessed land at Manukorihi. It was said that the land disposed of in section 14 was ‘very inferior land, very sandy, and not likely ever to be used by the vendor’. The Court ordered that the deed be confirmed.¹²⁹¹

In 1905, Raniera Erihana made a further application for the partition of Ngarara West A14. He said that the owners, on whose behalf he made the application, wanted ‘a partition to cut off a certain “urupa”’. The Court explained that Judge Mackay made a partition ‘cutting out the “urupa”’ and referred to the hearing of 1896. The Court said that a survey was required to enable the orders to be completed. Further, that the application being made was not required and would therefore be dismissed.¹²⁹² Of note is that the wording from the minutes of this hearing was ‘to cut off a certain “urupa”’ and ‘cutting out the “urupa”’ suggesting that the purpose of the partition was to ‘cut off’ or partition out an existing urupa (burial ground).

Just over a year later, an application was made to the Native Land Court by Messrs Mason and Richmond to cut off a portion of section 14 (and section 76) in satisfaction of survey liens. Mr Field represented the applicants noting that £21.10.6 was owed on section 14 and

¹²⁸⁹ Otaki Minute Book 31, 10 November 1896, pp. 147-148.

¹²⁹⁰ Otaki Minute Book 31, 10 November 1896, pp. 147-148. The owners named were Tutere Matau, Tamihana Te Karu, Pare Tauwhare, Patiana Tuterangi, Huia Maehe, Hone Ngapaki, Uinga Ngapaki, Ropata Ngapaki, Wi Kititona, Rakapa Te Puke, Takarangi Te Puke, Mata Te Hawe and Umaiki Parata [possible spelling errors].

¹²⁹¹ Otaki Minute Book 31, 10 December 1896, p. 237.

¹²⁹² Wellington Minute Book 13, 6 February 1905, pp. 285-286.

£5.9.6 owed on section 76. Together with five years interest at five percent this made a total of £26.10.6 owed on section 14 and £6.14.6 on section 76. Mr Feild also noted that the government valuation of both blocks was 5/- per acre the land being 'almost all sand and shingle drift'. He asked for 75 acres to be cut out of section 14 and 17 ½ acres out of section 76. The Court recorded that there were no objectors (no owners were recorded as being in Court) and made the orders in respect of the two blocks. The 75 acres, which was to be cut off at the northern end of section 14, was to be called section 14C.¹²⁹³

Another application to partition Ngarara West A14 was heard on 10 August 1915. This was on the application of ED and H Barber who wanted an area of 13 ½ acres cut off at the northern end. It was noted at the hearing that 75 acres of the block had been taken to satisfy a survey lien and a certificate of title issued for it. This left 185 acres. The piece to be cut off was in the interest of CB Morrison (13 ½ acres) (who had purchased this from Patiana Tuterangi in 1896). Mr Morrison had sold this portion to Mr Vallance who sold it to the Barber brother who in turn sold it to the Weggery brothers. The Court ordered the partition of the block into 14A (13 ½ acres), which was to be located in the northern end of the block, to be awarded to Mr Morrison. Section 14B (171 ½ acres) which was the residue, was awarded to the remaining owners. It was then realised that a clerical error had been made in the calculation and that Mr Morrison was entitled to 13 ½ acres within the 260-acre block but as 75 acres had already been taken for survey charges he was only entitled to 9 acres 2 roods 18 perches. This area was Ngarara West A14A. The remainder, 175 acres 1 rood 22 perches, to be called Ngarara West A14B was awarded to the remaining owners. No owners appeared to be at the hearing (or are not recorded as such).¹²⁹⁴

On 18 June 1919, the partition of Ngarara West A14B was heard by the Native Land Court. This was the only Native Land Court hearing referred to by Maori Land Court officials and was used as evidence by the Waikanae Land Company and the Horowhenua County Council to justify the argument that the partition was made for the purpose of a cemetery to be used in the future – not to protect an existing one. The minutes of the hearing state that 'it was explained that this partition was being made for the purpose of cutting out a grave yard & that each block would be vested in all the owners'. Hira Parata gave evidence and asked for a portion of the block to be 'cut out for cemetery partition'. It was said that this had been

¹²⁹³ Otaki Minute Book 15, 19 May 1906, p. 127.

¹²⁹⁴ Wellington Minute Book 20, 10 August 1915, pp. 149-150.

agreed to by ‘all the people’. It was noted that the area had been ‘set aside by Judge MacKay but not carried out a survey’ (which referred to the hearing of 1896). The Court ordered that the partition be called Ngarara West A section 14B1 and that its boundaries follow ‘in the most convenient way’ and ‘be pointed out by Hira Parata’. Reference was also made to the previous order of 10 August 1915. With regard to Ngarara West A section 14B2 the Court ordered that it comprise the balance of block containing about 158 acres 20 perches and be awarded to all the present owners (which then numbered 34). The plan of the partition (No 3495) was recorded as ‘approved’ and it was noted that the requisition of the survey was issued by the Court on 19 June 1915. (Plan No 3495 has been produced in Baker’s report).

¹²⁹⁵

According to the District Officer of the Department of Maori Affairs, no other orders were made in respect to Ngarara West A section 14B1 by the Maori Land Court until the 1960s. Indeed, he emphasised this in later correspondence stating that the land was never formally set aside as a Maori reservation (for the purpose of an urupa or cemetery).¹²⁹⁶

Baker, however, notes that in 1968, there was other ‘recognition of Te Kārewarewa being a burial ground’ with the District Planning Map clearly marking the area of the land block Ngārara West A 14B1 as a ‘Māori cemetery’. This plan is also re-produced in her report.¹²⁹⁷

As well, Horowhenua County Council valuation rolls from 1939 and the early 1950s, describe Ngarara West A14B1 as a cemetery (in 1939) and as an urupa (in the 1950s). The extract of the valuation roll of 1939 located in the Maori Land Court block order file for Ngarara West A valued the 20 acres at £100 (no improvements) and recorded that the owner and occupier were: ‘Natives (cemetery)’. The valuation roll entry for Ngarara West A14B1 in the 1950s also recorded the block as ‘non-rateable’ under section 2(c) of the Rating Act 1925. Section 2 (c) stated that land occupied by a cemetery was not rateable. In addition, there is a copy of the extract from the valuation roll for Ngarara West A14B1 on the Maori Land Court alienation file dated 29 November 1968 which also describes the block as an urupa. The

¹²⁹⁵ Wellington Minute Book 21, 18 June 1919, p. 386; Baker, p. 16.

¹²⁹⁶ Registrar, Ikaroa Maori Land Court to Messrs Row & O’Sullivan, Barristers & Solicitors, Palmerston North, 11 September 1969; District Officer, Department of Maori Affairs, Palmerston North to Maori Affairs Head Office, 9 March 1970 in Statement of claim of Te Ati Awa ki Waikanae and Te Ati Awa, Wai 1945, # 1.001, (Maori Affairs Department documents). SW Document Bank, volume 8, pp. 180-181.

¹²⁹⁷ Baker, pp. 17-18.

name of the occupier was given as Akuhata Eruini and others, and the address is the Department of Maori Affairs, Palmerston North.¹²⁹⁸

8.42.4 Meeting of owners and sale of land, 1968-1969

On 12 November 1968, the Maori Land Court heard an application by the Waikanae Land Company Ltd to summon a meeting of assembled owners to consider the sale of Ngarara West A14B1 to the Waikanae Land Company for \$20,000. Baker records that the Waikanae Land Company was ‘established to develop land at Waikanae Beach’ and proposed building a ‘marina and residential subdivision in the area within which Te Kārewarewa was located’. The company had already acquired the nearby Ngarara A14B2B3 block which comprised almost 96 acres in 1967.¹²⁹⁹

At the application hearing, M Rowe, a Barrister and Solicitor of Palmerston North (of Rowe & O’Sullivan Barristers & Solicitors) appeared for the company. He said that he had arranged to obtain ‘a few’ addresses and would advise the Registrar (of the Maori Land Court) of them. The Court ordered that a meeting was to be summoned at a time and place to be arranged by the Registrar. The quorum was ‘fixed at six owners personally present’. This, the Court recorded, was as per section 309 (of the Maori Affairs Act 1953) which set out the procedure for meetings of assembled owners. Of note is that section 309(1) stated that no meeting of owners was properly constituted unless there were three owners present so the Court order was for more than the minimum set by the legislation. Securing a ‘special government valuation’ was deferred at the hearing but the applicant was instructed to file a copy of the existing roll valuation before the meeting was summoned. The Judge also noted that there were a ‘number of well known Taranaki names on the list of owners’. The Registrar was instructed to ask the Beneficiary Section of the Whanganui Maori Land Court to supply addresses of those marked as ‘unknown’. The file copy of the minutes is annotated

¹²⁹⁸ Te Horo Valuation Roll, AFHQ 19340 V-WROLLS/177 3/26 part 2 Valuation rolls Wellington - Horowhenua County - Te Horo Riding - Roll numbers 651-1236, 1951-1954, Archives New Zealand, Wellington. SW Document Bank, volume 5, pp. 123-124; Extract from Valuation Roll, Ngarara West A14B1, 1939, Ngarara West A, Block Order File, 3/38, Aotea Maori Land Court, Whanganui; Extract from Valuation Roll, Ngarara West A14B1, 29 November 1968, Ngarara West A14B1 Alienation file, 3/10112, Aotea Maori Land Court, Whanganui. SW Document Bank, volume 8, pp. 155-157, 160.

¹²⁹⁹ Baker, p. 17; Memorial schedule, Ngarara West A14B block order file, 3/38 Aotea Maori Land Court, Whanganui; Messrs Rowe, O’Sullivan & Co, Solicitors, Palmerston North, Application to Maori Land Court, 2 August 1968, Ngarara West A14B1 Alienation file, 3/10112, Aotea Maori Land Court, Whanganui. Note that Ngarara West A14B2B3 had been subject to a rates charging order in April 1963. SW Document Bank, volume 8, pp. 158, 161-162.

by the Registrar with the statement: ‘Mr Rowe assures me that he has already sent a complete list to W[h]anganui with little success. He has also sent the list to ChCh [Christchurch] for same reason’.¹³⁰⁰

The list of owners in the Maori Land Court alienation file records 77 names many of whom were deceased and addresses unknown. There is also a letter from Mr Rowe which provided further addresses for a number of owners. He also noted where he had been advised that owners were deceased and for some of the deceased owners, he provided details of possible successors and their addresses. It is unlikely, however, that there would have been sufficient time between the time that the meeting was advertised and the time the meeting was held (just three weeks) for any of these succession orders to have been made. It is also not clear whether in the words of Mr Rowe, ‘persons believed entitled to succeed’ or relatives of the deceased were advised of the meeting of owners though he did supply addresses for four or the owners who attended or were represented by proxy.¹³⁰¹

On 26 November 1968, the Registrar of the Maori Land Court advised Messrs Rowe & Sullivan that a meeting of owners had been arranged for 18 December 1968 at the Memorial Hall in Waikanae. A form letter advising of the meeting to consider the sale to the company for \$20,000 was dated 27 November 1968 which meant owners had less than three weeks notice. The letter also noted that the government roll valuation at November 1965 was \$760 (£380) but that the valuation did not ‘reflect the value of the land for future housing subdivision’. The letter said that it was open to the owners at the meeting to vary the resolution and if the resolution was rejected the owners could pass a resolution that the Maori Trustee be appointed as agent for the owners to sell or lease the land or for any other purpose. In addition, they were advised that any owner who was not able to attend the meeting could appoint a proxy who could vote for or against the resolution. Recorded on the form letter was a statement that notices had been sent to the various Maori Land Court offices, to Messrs

¹³⁰⁰ Otaki Minute Book 74, 12 November 1968, p. 230; Annotated copy of Otaki Minute Book 74, 12 November 1968, p. 230, Ngarara West A14B1 Alienation file, 3/10112, Aotea Maori Land Court, Whanganui. SW Document Bank, volume 8, p. 163.

¹³⁰¹ Ngarara West A14B1 List of owners, Messrs Rowe, O’Sullivan & Co, Solicitors, Palmerston North to Registrar, Maori Land Court, 21 November 1968, Ngarara West A14B1 Alienation file, 3/10112, Aotea Maori Land Court, Whanganui. SW Document Bank, volume 8, pp. 164-168.

Rowe & O'Sullivan and to 39 of the 77 listed owners (just over 50 percent of the total listed).¹³⁰²

Four forms were received by the Court from owners appointing proxies to attend the meeting in their place. Accompanying one of the forms was a letter which reflected the difficulties of being an owner who did not live locally. Te Aupiki Gould, who lived in Greymouth, told the Court that as he was not in contact with his people he did not know who would be able to attend the meeting of owners and therefore he did not know who to appoint as his proxy. He asked if there was someone from the Court who could act for him. He continued: 'As we are scattered all over N.Z. & Australia, I cannot see how we can hold a meeting to decide anything. Under the circumstances I will vote for the sale of the land'.¹³⁰³

At the meeting, held 18 December 1968, ten owners were physically present representing 533.658 out of 3200.0000 total shares which was 17 percent of the total shares in the block. Three owners were represented by proxy (Te Aupiki Gould was not recorded as being represented). The three owners represented by proxy held shares totalling 117.247 shares (almost four percent of the shares). Therefore, the total amount of shares represented at the meeting was 650.905 which was just over 20 percent (of the total shares in the block). Of the thirteen owners, two lived in Waikanae, one in Paraparaumu and the rest lived elsewhere. Also present at the hearing was Messrs Rowe, Clark, Lawrence, Andrews and Simpson.¹³⁰⁴

Mr Rowe spoke to the meeting on behalf of the applicant, the Waikanae Land Company Ltd. He said that in the previous year, the company had purchased the larger block (Ngarara West A14B2B3) for subdivision purposes and that it wished to acquire Ngarara West A14B1 for 'further development'. He said that the price offered (\$20,000) had 'been arrived at after closely looking at the area for subdivision purposes'. The company had paid \$1400 per acre for land with sea frontage which was 'considered to be more valuable from a resale view than the block under discussion'. He also said that almost all of Ngarara West A14B1 was sub-

¹³⁰² Registrar, Aotea Maori Land Court to Messrs Rowe & O'Sullivan, 26 November 1968; Annotated form letter from Registrar to owners of Ngarara West A14B1, 27 November 1968, Maori Land Court Ngarara West A14B1 Alienation file, 3/10112, Aotea Maori Land Court, Whanganui. SW Document Bank, volume 8, pp. 169-170.

¹³⁰³ T Gould, Greymouth to Maori Land Court, Palmerston North, 13 December 1968, Ngarara West A14B1 Alienation file, 3/10112, Aotea Maori Land Court, Whanganui. SW Document Bank, volume 8, pp. 171-172.

¹³⁰⁴ Statement of Proceedings of Meeting of Assembled Owners, Ngarara West A14B1, 18 December 1968, Ngarara West A14B1 Alienation file, 3/10112, Aotea Maori Land Court, Whanganui. SW Document Bank, volume 8, pp. 173-175.

dividable but that as part was a creek it was ‘not so suitable’. Mr Clark, who also spoke on behalf of the company, said that a ‘very reputable firm of valuers had valued the Ngarara West A14B2B3 block (the block already purchased by the company) at \$48,000 and that the owners had been paid \$50,000. The higher price offered was, he said, due to the sea-front sections being considered to be a higher value.’¹³⁰⁵

Mr Clark then suggested that he and Mr Rowe leave the meeting so that the owners could discuss the proposition privately. Mr Whitu Eruini, one of the owners, said that there was no reason for this as the owners had come to consider the resolution as printed on the notice. Mr Simpson, a solicitor of Morison, Taylor and Co, Wellington, who was attending the meeting as proxy holder for Hunia Rangikauhoe Ngapaki, considered that the owners should retire so that they could ‘express themselves more freely’ than if the applicants were in the room. He said that it was ‘the custom’ for the applicants to retire and that they should do so. The Chair, RW Wilson, explained to Mr Simpson that ‘it was the custom for applicant and solicitor to retire, but it was up to the meeting to decide if they wished them to remain’. The matter was then voted on and it was decided unanimously that the applicants should ‘retire’ (leave the meeting).¹³⁰⁶

Mr Simpson remained at the meeting as he was proxy for an owner. He told the meeting that it was very important to the Waikanae Land Company that they purchase the land as it would ‘assist greatly in the subdivision of the area already bought’. He said that the valuation quoted ‘meant nothing’ and that the land was ‘worth \$30,000’. He also made the only reference recorded in the minutes of the meeting to the possibility that the land might be an urupa. Mr Simpson said that ‘at first it was thought that the cemetery was in this block but he had since learnt that it was not’. It is also clear from Mr Simpson’s following statement that that there was another company interested in purchasing the block. Mr Simpson said that Weggery and Co ‘would not pay \$20,000 cash but would pay \$30,000 on the same basis as last time’. Mr Eruini responded that there was ‘no point offering \$30,000 for the land and then paying it back in land’ and that they had been offered \$20,000 in cash and not over a period of years like Weggery and Co’. Mr Simpson then noted that the land was not ‘vital to Weggery and Co., but it was vital to the others’.¹³⁰⁷

¹³⁰⁵ Ibid.

¹³⁰⁶ Ibid.

¹³⁰⁷ Ibid.

Following this discussion, the Chair suggested that the meeting should ‘get down to discussing [the] resolution as published’. Mr Simpson said that he considered it was a ‘matter of whether the owners wanted more than \$20,000 but from his point of view the price was not good enough and should be \$30,000’. Any statements that may or may have not been made by other owners or representatives of owners are not recorded but when the applicants returned, they were advised that the owners were dissatisfied with the amount offered. Mr Clark responded that the company had looked into ‘all aspects of the block and had decided that \$20,000 was the limit to which they could go, and would have to leave it at that, and any valuer would support their view on that’.¹³⁰⁸

After the applicant left the meeting again, the Chair asked the owners if they were ready to vote on the resolution without further discussion. This was agreed to and the resolution put to the meeting. It was rejected by 88.215 shares (almost three percent of the shares) with owners representing 281.345 shares (about nine percent) supporting the resolution and owners representing 369.560 of the shares (11.5 percent) against the resolution. It was then proposed by Mr Simpson that the Maori Trustee be ‘appointed as agent on behalf of the owners to sell the land by public tender to the highest bidder’. This was seconded by Rawatea Eruini. The Chair advised the meeting that this could be done but that the resolution was conditional on the Maori Trustee’s acceptance of this. The resolution to have the land vested in the Maori Trustee was then put to the meeting and passed by a majority of 88.215 shares (almost three percent of the shares) with owners representing 369.560 of the shares (11.5 percent) agreeing to the resolution and 281.345 shares (almost nine percent) against the resolution. The owners who agreed with the first resolution were the same owners who disagreed with the second and the owners who disagreed with the first resolution were the same owners who agreed with the second resolution so that all thirteen owners represented at the meeting agreed to either sell directly to the Waikanae Land Company or appoint the Maori Trustee to sell the land to the highest bidder. Indeed, there were no memorials of dissent.¹³⁰⁹

¹³⁰⁸ Ibid.
¹³⁰⁹ Ibid.

Therefore, the resolution was passed appointing the Maori Trustee as ‘agent for the owners to sell the land by public tender to the highest bidder’ by owners representing 11.5 percent of the total shares.¹³¹⁰

The confirmation of the resolution appointing the Maori Trustee agent to sell Ngarara West A14B1 by public tender was confirmed by the Maori Land Court on 5 February 1969. Mr Simpson was again in attendance. He stated that the order arose from the application of the Waikanae Land Company Ltd. He said that the Company was not prepared to pay the ‘owners price’ but it was believed that ‘Weggery etc [a local landowner] would go higher’ (pay a higher price). Therefore, it had been ‘decided to put up for tender as competition likely’. He also said that the Maori Trustee had accepted the Maori Land Court order to sell the land on behalf of the owners.¹³¹¹

Following the meeting of owners, the issue of whether there was an existing cemetery on the land was raised by the solicitor for the Waikanae Land Company. Messrs Rowe and O’Sullivan sought out information regarding the block from the Registrar of the Maori Land Court. In response, the Registrar enclosed a copy of the Court minutes from 1919 ‘where it is said the partition was for the purpose of cutting out a graveyard’. There had, he said, been ‘no subsequent action to have the land set apart as a Maori reservation for the purposes of a cemetery, nor ... [had] trustees been appointed at any time’. It remained, he said, ‘ordinary Maori freehold land’ and the ownership vested in the beneficial owners. He also advised of the statement made at the meeting of owners by Mr Simpson that at first it was thought that the cemetery was in the block but that he had ‘since learnt that it was not’. The Registrar suggested that Mr Simpson be contacted and apologised to Mr Rowe for being unable to provide any further information. He concluded that the Court records did ‘not disclose anything further about the actual use of this block as a Maori burial grounds’. He did not refer to any of the earlier minutes or suggest speaking to local Maori about the matter though given that Maori were subsequently ignored when they did speak about the urupa, it may well have

¹³¹⁰ Resolution of Assembled Owners, 18 December 1968, Ngarara West A14B1 Alienation file, 3/10112, Aotea Maori Land Court, Whanganui. SW Document Bank, volume 8, p. 176.

¹³¹¹ Wellington Minute Book 45, 5 February 1969, pp. 143-144.

been a pointless exercise. There was also no record of any attempt to check valuation rolls or district planning maps which as noted above, recorded that the block was a cemetery.¹³¹²

The Deputy Registrar also responded to the same query from Messrs Rowe et al (a handwritten note on the bottom of the page indicates that this 'further letter' was 'written at Mr Rowe's request'). The Deputy Registrar simply said that 'when the block was partitioned out in 1919 it was said in the Minutes that the partition was for the purposes of cutting out a graveyard'. He said that there had subsequently been no action to 'have the land set apart as a Maori reservation for the purpose of a cemetery nor have trustees been appointed at any time'. It remained 'ordinary Maori freehold land' in Maori Land Court records and the ownership was 'vested in the beneficial owners'. No mention was made of contacting Mr Simpson nor an apology made for not being able to provide further information. This was the letter subsequently used by the Waikanae Land Company to argue that the Maori Land Court had stated that there was no existing urupa on the block.¹³¹³

In April 1969, the Maori Land Court received a letter from an owner who lived in Australia who said that he was away from home when the letter arrived so was unable to send the proxy form back in time. He also asked what had happened at the meeting which would indicate that none of the other owners had been advised of the outcome. The Registrar advised of the resolution to sell and that the Maori Trustee was preparing 'conditions of tender'. The Registrar also noted that after the sale was finalised the accounts branch would forward any money due.¹³¹⁴

The Maori Trustee sold the land to the Waikanae Land Company for \$31,555 on 15 October 1969 after tenders had been called.¹³¹⁵

¹³¹² Registrar, Ikaroa Maori Land Court to Messrs Row & O'Sullivan, Barristers & Solicitors, Palmerston North, 11 September 1969, Statement of claim of Te Ati Awa ki Waikanae and Te Ati Awa, Wai 1945, # 1.001 (Maori Land Court documents). SW Document Bank, volume 8, p. 181.

¹³¹³ Deputy Registrar, Ikaroa Maori Land Court to Messrs Row & O'Sullivan, Barristers & Solicitors, Palmerston North, 23 September 1969, Statement of claim of Te Ati Awa ki Waikanae and Te Ati Awa, Wai 1945, # 1.001 (Maori Land Court documents). SW Document Bank, volume 8, p. 182.

¹³¹⁴ AS Thompson to Maori Land Court, received 21 April 1969; Registrar, Maori Land Court to AS Thomson, Australia, 22 April 1969, Ngarara West A14B1 Alienation file, 3/10112, Aotea Maori Land Court, Whanganui. SW Document Bank, volume 8, pp. 177-179.

¹³¹⁵ Registrar, Ikaroa Maori Land Court to Messrs Row & O'Sullivan, Barristers & Solicitors, Palmerston North, 11 September 1969; District Officer, Department of Maori Affairs, Palmerston North to Maori Affairs Head Office, 9 March 1970, Statement of claim of Te Ati Awa ki Waikanae and Te Ati Awa, Wai 1945, # 1.001 (Maori Land Court documents). SW Document Bank, volume 8, pp. 180-181.

9.49.5 Designation change

Several days after the purchase the Waikanae Land Company applied to the Horowhenua County Council to have the cemetery designation over the land removed and the ‘underlying residential zoning to remain’. (No details have been located as to when the cemetery designation was first placed on the land by the Horowhenua County Council.) The application was first considered by the Waikanae County Town Committee (who considered and advised the Horowhenua County Council on Waikanae matters) at its meeting on 17 October 1969. At the meeting, it was recorded that Mrs Te Aputa Kauri and Mrs SR Tamati had sent written objections to the proposal to remove the designation of ‘Maori Cemetery’ on Ngarara West A14B1 from the district scheme. (Of note is that Mrs Kauri later became a member of the Waikanae County Borough Council (which replaced the Waikanae County Town Committee) in October 1971, and between 1980 and 1983 was a Horowhenua county councillor.) Mrs Kauri and Mrs Tamati stated that several of their ancestors were buried at Ngarara West A14B1 and that they would object if the proposal to change the designation was to proceed. The County Clerk of the Horowhenua County Council explained to the meeting that the Waikanae Land Company had asked for the change and had ‘supplied the Council with evidence from the Maori Land Court that the land ... [had] not been set apart as a Maori Burial Ground’. He said that on the ‘strength of this advice’ the Horowhenua County Council had agreed to ‘promulgate a Change to the District Scheme to lift the designation to enable the land to be subdivided’. He said that when the proposal was advertised, objections could be lodged and evidence produced to the council at a hearing. It was then resolved that the letter be received and Mesdames Kauri and Tamati notified of their right to lodge an objection when the proposed Change ... [was] publicly notified’.¹³¹⁶

The County Town Committee then recommended that the Horowhenua County Council ‘promulgate a change of the District Scheme providing for the removal of the designation “Maori Cemetery” from Ngarara West A14B1 block’. On 11 February 1970, the Horowhenua County Council ‘adopted the recommendation’ that the Horowhenua County District Scheme be changed as per the request of the Waikanae Land Company. Shortly after, the County Clerk of the Horowhenua County Council gave notice to the Registrar of the Ikaroa Maori Land Court as per the requirements of the Town and Country Planning Act 1953 of the

¹³¹⁶ Minutes of the Waikanae County Town Committee, 17 October 1969, Horowhenua County Council Series 1 - Waikanae County Town – Minutes 1/7 May 1968-19 Sep 1969, Kapiti Coast District Council, Paraparaumu; Maclean, pp. 81, 83.

proposed change (No 3) to the Horowhenua District Scheme. It was noted that the change was first publicly notified in the *Evening Post* on Saturday 14 February and would again be notified on Saturday 21 February 1970.¹³¹⁷

The County Clerk also advised the District Commissioner of Works of the proposed change to the district scheme and the notification details. In response, an official from the Ministry of Works rang the Department of Maori Affairs to confirm that the Department was 'agreeable' to the re-zoning. The Ministry of Works official noted that he had been advised that a meeting of owners had agreed to the sale to the Waikanae Land Company the previous year and that the Maori Trustee had acted as agent 'only to get best price'. This must have been deemed sufficient as there is nothing further about the matter on the Ministry of Works file.¹³¹⁸

Excavation of the land may well have begun at this time as in early March 1970, the District Officer at the Department of Maori Affairs in Palmerston North responded to a query from Maori Affairs Head Office in Wellington that they had in turn received from the Department of Internal Affairs about 'excavating near the Waikanae River which may be encroaching on a Maori burial ground'. The District Officer explained that he had discussed the matter with Head Office on 6 March 1970 by telephone after Head Office had received an enquiry about the matter from the Internal Affairs Department. The District Officer said that it appeared that the land in question was Ngarara West A14B1 and that he had forwarded the notice advising of the proposed designation change to the Horowhenua County District Scheme which would affect the block to Head Office. He noted that the land was designated by the County as a Maori cemetery but that they proposed to remove the designation. The last day for filing an objection was 6 April 1970. The District Officer also explained that the land was Maori land but had been sold to the Waikanae Land Company of Paraparaumu for \$31,555 by transfer executed by the Maori Trustee on 15 October 1969 after tenders had been called. This had

¹³¹⁷ County Clerk, Horowhenua County Council to Registrar, Ikaroa Maori Land Court, Palmerston North, 17 February 1970, Statement of claim of Te Ati Awa ki Waikanae and Te Ati Awa, Wai 1945, # 1.001 (Maori Land Court documents); Report of County Engineer in Record of Horowhenua County Council Hearing of Objections to Proposed Change No 3, Monday 25 May 1970, HCC 22/349 Change No 3 Hearing, File 7566, Unprocessed accession A/2012/3, Archives Central, Feilding. SW Document Bank, volume 8, p. 184; volume 9, pp. 91-92.

¹³¹⁸ County Clerk, Horowhenua County Council to District Commissioner of Works, Ministry of Works, 17 February 1970; Notes on back of aforementioned letter, undated, circa February 1970, AAOD W3233 Box 4 17/338/7 part 10 Miscellaneous Series Town and Country Planning, Horowhenua County Council, 1969-1970, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 177-178.

followed a resolution passed at a meeting of owners on 18 December 1968 appointing the Maori Trustee as ‘agent for the owners to sell the land by public tender to the highest bidder’. The District Officer also enclosed the letter sent to Messrs Rowe & O’Sullivan, solicitors for the purchasers, on the status of the land. It was noted that the land was never set aside as a Maori reservation and that Mr Simpson had told the meeting of owners that the cemetery was not situated on the block.¹³¹⁹ He concluded:

The land is now European land and the former Maori owners have, by virtue of their own meeting of owners, given up their rights to use the land.¹³²⁰

One objection to the change in designation was received by the Horowhenua County Council prior to the closing of objections on Monday 6 April 1970. This was from Te Aputa Wairua Kauri of Waikanae who had previously made an objection to the Waikanae County Town Committee. Objections were also lodged by J Thomas, JC Simmons and S Tamati. The forms on which the objections were made were all marked ‘invalid’ as they were received three days after the deadline (the date of receipt stamped on them was 9 April). As they were not filed within the stipulated time the objectors were instead ‘advised of their rights to support the objection lodged by Mrs A Kauri’.¹³²¹

The ‘invalid’ objection of Sylvia Rangiauaahi Tamati Thomas said that she lodged her objection on behalf of ‘the Marae Trustees’. She said that Ngarara West A14B1 was ‘the burial ground of ... [her] tribal ancestors of “Te Atiawa”, Taranaki’. She said that A14B1 had no trustees and was not registered in the Maori Land Court as a reserve but that this was a similar situation to other Maori burial grounds in Ngarara West such as Takamore Cemetery. She said that trustees had only just been appointed and registered in 1969 for Takamore

¹³¹⁹ District Officer, Department of Maori Affairs, Palmerston North to Maori Affairs Head Office, 9 March 1970, Ngarara West A14B1 Alienation file, 3/10112, Aotea Maori Land Court, Whanganui. SW Document Bank, volume 8, p. 180. (Also in supporting documents to Statement of claim of Te Ati Awa ki Waikanae and Te Ati Awa, Wai 1945, # 1.001).

¹³²⁰ Ibid. (Also in supporting documents to Statement of claim of Te Ati Awa ki Waikanae and Te Ati Awa, Wai 1945, # 1.001).

¹³²¹ Report of Hearing, Horowhenua County District Scheme Change No 3, 7 July 1970; Objection of Sylvia R Tamati, Waikanae, 2 April 1970 (received 9 April 1970); Objection of JC Simmons, Waikanae, 2 April 1970 (received 9 April 1970); Objection of Johnson Thomas, 3 April 1970, (received 9 April 1970), Horowhenua County Council Hearing of Objections to Proposed Change No 3, Monday 25 May 1970, HCC 22/349 Change No 3 Hearing, File 7566, Unprocessed accession A/2012/3, Archives Central, Feilding; Maori Land Online: <http://www.maorilandonline.govt.nz/> accessed November 2016. SW Document Bank, volume 9, pp. 93-99; 106-113.

Cemetery. (Indeed, the trustee order vesting the Takamore urupa in trustees was made in November 1969.) She objected too on behalf of her mother Ngawati Morehu and others who had relatives buried in the cemetery. She asked that a suitable site be ‘set aside for the internment of human remains unearthed on the block [and for the] remains to be placed in a casket’. In the section of the form regarding how an ‘objection would be met’ (that is, how the situation objected to could be resolved) she said that it would be met by ‘your [the council] intentions as [the] purchase money ... [had] already been sent out and received by beneficiaries’.¹³²²

The second ‘invalid’ objection was from Jillian Simmons who said that her family regarded the ‘cemetery block as sacred ground’ and that she had ancestors and relatives buried in this cemetery. She said that it was ‘tapu land’ and the resting place of many persons connected with the early history of Waikanae. She said that her objection ‘would be met’ by ‘leaving the burial ground as is’.¹³²³

The third ‘invalid’ objection was received from Johnson Te Puni Tamati Thomas who stated that his ancestors fought, died and were buried in the cemetery which was ‘tapu ground’. He said that although the block was never registered as a cemetery reserve ‘it was connected with the early history of Waikanae and [was] the resting place of ... [his] ancestors. He said that some of the ancestors were of well-known men and woman such as Sir Maui Pomare, Sir Peter Buck and Te Rauoterangi Maramara Teihonga. He said that his objection would be met by the internment of remains and being notified of a date to make arrangements with ministers for a special service. The reference to Maui Pomare ancestors may well refer to his grandmother Kahe Te Rau-o-te-Rangi who was a signatory to the Treaty of Waitangi at both Port Nicholson and Kapiti and as noted by Carkeek, believed to be buried at Karewarewa’.¹³²⁴

¹³²² Objection of Sylvia R Tamati, Waikanae, 2 April 1970 (received 9 April 1970); Horowhenua County Council Hearing of Objections to Proposed Change No 3, Monday 25 May 1970, HCC 22/349 Change No 3 Hearing, File 7566, Unprocessed accession A/2012/3, Archives Central, Feilding; Maori Land Online: <http://www.maorilandonline.govt.nz/> accessed November 2016. SW Document Bank, volume 9, pp. 95-96.

¹³²³ Objection of JC Simmons, Waikanae, 2 April 1970 (received 9 April 1970), Horowhenua County Council Hearing of Objections to Proposed Change No 3, Monday 25 May 1970, HCC 22/349 Change No 3 Hearing, File 7566, Unprocessed accession A/2012/3, Archives Central, Feilding. SW Document Bank, volume 9, p. 94.

¹³²⁴ Objection of Johnson Thomas, 3 April 1970, (received 9 April 1970), Record of Horowhenua County Council Hearing of Objections to Proposed Change No 3, Monday 25 May 1970, HCC 22/349 Change No 3 Hearing, File 7566, Unprocessed accession A/2012/3, Archives Central, Feilding. SW Document Bank, volume 9, p. 94; WW Carkeek, *The Kapiti Coast: Maori History and Place Names of the Paekakariki-Otaki District*, 1966, republished 2004, p 161; Eleanor Spragg, ‘Te Rau-o-te-rangi, Kahe’, from the Dictionary of New Zealand Biography. Te Ara – the Encyclopedia of New Zealand, updated 30-Oct-2012. URL: <http://www.TeAra.govt.nz/en/biographies/1t73/te-rau-o-te-rangi-kahe>

The written objection of Mrs Kauri, received by the 6th of April and therefore deemed valid, stated that there was a cemetery on the block and that she had ancestors buried there. It was, she said, ‘the resting place of many persons connected with the early history of Waikanae’. She said that her family regarded the cemetery block as ‘sacred ground’ and ‘tapu land’ and that her objection ‘would be met’ by the land remaining as a Maori cemetery.¹³²⁵

In addition, two ‘opposition to objection’ submissions were received – the first from Mrs SR Tamati and the other from the Waikanae Land Company.¹³²⁶ As noted above Mrs Tamati had already sent an objection to the change of designation though this was deemed invalid because it was received three days after the cut-off date. On the ‘opposition to the objection’ form, she stated that the particular part of Mrs Kauri’s objection that she opposed was for Ngarara West A14B1 to remain as a Maori cemetery. She said that her interest in the area was not just personal and that she believed in ‘progress’ so that ‘the whole of Waikanae’ would ‘benefit’. She sincerely hoped that ‘every assistance’ be given to the new owners of the block. She said that the block was ‘over-grown with gorse and other noxious weeds’, and that ‘action, funds and co-operation of beneficiaries’ were ‘nil’. She said that Ngarara West A24C Takamore Cemetery was ‘in a similar state’.¹³²⁷

The Waikanae Land Company also submitted an ‘opposition to objection’ form. It said:

(1) That the land known as Ngarara West A14B1 cannot be shown to be a burial place of any of the ancestors of the objector or of Maoris connected with the early history of Waikanae; and/or (2) that the said land cannot be said to be a traditional Maori burial ground; and/or (3) that it is in the public interest and the interests of a good town planning that the designation be removed.¹³²⁸

¹³²⁵ Objection of Mrs A Kauri, 2 April 1970 (received 6 April 1970), Record of Horowhenua County Council Hearing of Objections to Proposed Change No 3, Monday 25 May 1970, HCC 22/349 Change No 3 Hearing, File 7566, Unprocessed accession A/2012/3, Archives Central, Feilding. SW Document Bank, volume 6, p. 99.

¹³²⁶ Report of County Engineer, Horowhenua County Council Hearing of Objections to Proposed Change No 3, Monday 25 May 1970, HCC 22/349 Change No 3 Hearing, File 7566, Unprocessed accession A/2012/3, Archives Central, Feilding. SW Document Bank, volume 9, pp. 91-92.

¹³²⁷ Opposition to Objection of Sylvia R Tamati, 12 May 1970, in Record of Horowhenua County Council Hearing of Objections to Proposed Change No 3, Monday 25 May 1970, HCC 22/349 Change No 3 Hearing, File 7566, Unprocessed accession A/2012/3, Archives Central, Feilding. SW Document Bank, volume 9, pp. 100-101.

¹³²⁸ Opposition to Objection of Waikanae Land Company Limited, 1 May 1970, in Record of Horowhenua County Council Hearing of Objections to Proposed Change No 3, Monday 25 May 1970, HCC 22/349 Change

A 'special committee' was then appointed by the Horowhenua County Council to hear the objection of Mrs Kauri on 25 May 1970. The committee comprised Councillors Ryder, Blenkhorn, August and Webling. At the hearing the County Engineer gave evidence. He stated that the land affected comprised an area of 20 acres located 'approximately mid-way between the Waimeha Lagoon and the Waikanae River and some 13 chains from the sea front'. He said that Messrs Rowe, O'Sullivan and Co advised in a letter of 26 August 1969 that the Waikanae Land Company was negotiating for the purchase of the block 'and as enquiries made indicated that the land had never been used as a burial ground, they asked Council to take the necessary step to remove the designation and allow the land to be developed for residential purposes'. He said that the letter from the Deputy Registrar of the Maori Land Court of 23 September 1969 had been considered by both the Waikanae County Town Committee and the Horowhenua County Council. The letter, the engineer stated, said that the block was partitioned in 1919 for the purpose of cutting out a grave-yard and that no subsequent action had been taken to have the land set apart as a Maori reservation for the purposes of a cemetery. Also, that trustees had never been appointed and Maori Land Court records showed the block to be 'ordinary Maori Freehold Land with ownership vested in beneficial owners'. He also said that the company had submitted a report and scheme plan for 'ultimate residential development' of the block together with adjoining land owned by the company. The total area of the scheme was about 70 acres and it was 'anticipated that 200 to 250 residential lots' would be developed.¹³²⁹

Mrs Kauri also gave evidence in person to the special committee. She said that she lodged an objection to the proposal to change the designation 'by the deep feelings of emotion and sentiment' which she had concerning her Maori heritage – 'feelings of respect and veneration' instilled in her by her parents. She quoted what she described as 'an adage in Maoridom' which was: 'Learn the wisdom of your Elders, apply it to yourselves – and pass it on'. Such a person, she said, was her great grandfather Wi Parata Te Kakakura born in 1835. At that time, she said, the Waikanae coastline (or Kenakena) was 'densely populated'. Four years later, in 1839, Octavius Hadfield came to the District and 'all the tribes embraced

No 3 Hearing, File 7566, Unprocessed accession A/2012/3, Archives Central, Feilding. SW Document Bank, volume 9, p. 102.

¹³²⁹ Report of County Engineer, in Record of Horowhenua County Council Hearing of Objections to Proposed Change No 3, Monday 25 May 1970, HCC 22/349 Change No 3 Hearing, File 7566, Unprocessed accession A/2012/3, Archives Central, Feilding. SW Document Bank, volume 9, pp. 90-92.

Christianity – and a church was built in 1843’. She said that Maori ‘became a race of people ready to adapt ourselves to a way of European life, civilisation and education’. She said that she came before the Council aware that she was standing alone on the matter and that ‘sentiment for the past’ would not ‘stop progress towards the future’. She said that if her objection was ‘disallowed’ then at the ‘very least’ arrangements should be made for the Waikanae Land Company or the Council ‘to see that any human remains that are uncovered in the course of excavation or development of Ngarara West A14B1, be interred in a common grave on an adjacent piece of reserve land and for a plaque to be erected and inscribed’ with: ‘Christianity began with the Te Atiawa and all other tribes at KenaKena, Waikanae, in 1839’. In support of her evidence she submitted the same Maori Land Court minutes of 18 June 1919 that had been used to deny the existence of the cemetery (where the Court ordered that a portion of Ngarara West was to be ‘cut out for cemetery partition’).¹³³⁰

Mrs Tamati did not appear before the committee but the Director of the Waikanae Land Company, William A Lawrence, did. He argued that the land had never been used as an urupa. Mr Lawrence, who did not give his qualifications, said he had been over all parts of Ngarara West A14B1 and that ‘the only [visible] evidence of any burials whatsoever’ were two headstones. One was in memory of William Brown and he could not decipher the inscription of the other headstone (He did not fully explain, however, just why the presence of headstones was discounted as evidence of an existing urupa). He said that he had made enquiries with the Maori Land Court at Palmerston North and been advised that there was ‘no Court record nor any knowledge on the part of the Court which would indicate that this block was a traditional Maori burial ground’. He had also inspected ‘the Maori Land Court records relating to the original partition’ making reference to the same minutes (of 18 June 1919) that Mrs Kauri had referred to. He did not refer to any of the previous minutes. He claimed that the Court records ‘explained that the partition was being made for the purpose of cutting out a grave-yard’ (not an existing one). He had also been advised by the Deputy Registrar of the Maori Land Court on 23 September 1969 that ‘this was so’ and that there had been ‘no subsequent action to have the land set apart as a Maori reservation for the purposes of a cemetery’ not had trustees been appointed. Therefore, the land ‘remained Maori freehold land in the Court records’. He noted that the objection to the change in designation was made

¹³³⁰ Te Aputa Wairau Kauri to Chairman and Gentlemen of the Horowhenua County Council, in Record of Horowhenua County Council Hearing of Objections to Proposed Change No 3, Monday 25 May 1970, HCC 22/349 Change No 3 Hearing, File 7566, Unprocessed accession A/2012/3, Archives Central, Feilding. SW Document Bank, volume 9, pp. 103-104; Wellington Minute Book 21, 18 June 1919, p. 386.

because ‘the objector’ believed the block to be the ‘traditional burial ground known as Karewarewa’ and that her ancestors were ‘interred there as well as other Maori personages’. He had, however, carried out some research into the matter. This included the book of WC Carkeek which, he said, made clear that the exact location of Karewarewa was unknown ‘but according to Mere Pomare it ... [was] on the northern side of the Waikanae River’.¹³³¹

He also explained that the block was acquired by the Waikanae Land Company from the Maori Trustee as the result of a tender submitted on 4 August 1969. He said the land was at that time, ‘beneficially owned by some eighty Maori owners including members of the Parata and Carkeek families’. Also, that the Company had instigated a meeting of owners for the purpose of negotiating a purchase of the land for ‘subdivision development’ and at that meeting it was ‘unanimously resolved that the Maori Trustee be appointed as trustee for the owners to arrange for the disposition of the land’. He did not explain that many of the owners had died and that successors had not been appointed which meant their interests were not represented at the meeting. Nor did he explain that the 39 owners who had been advised by letter about the meeting (if indeed their addresses were correct) were given less than three weeks notice of the meeting or that only 13 owners representing 20 percent of the shares attended or were represented by proxy at the meeting. He did, however, conclude:

The land comprises sandhills, scrub, tussock, stream and tidal flat and apart from the two headstones mentioned before there is nothing of historic significance about the land which is visually evident and which would warrant leasing the land in its present state.¹³³²

The solicitor for the company, Mr Rowe, also gave evidence at the hearing. He stated that the company had sympathy for the views expressed by Mrs Kauri but that the company had made enquiries and ‘carried out searches into the Maori Land court records’ and believed that it could not be shown that the land was the Maori Burial Ground referred to as Karewarewa ‘where such personages as Wi Parata’ were believed to be buried’. (Of note is that Mr Rowe

¹³³¹ Statement by WA Lawrence, Director of Waikanae Land Company, in Record of Horowhenua County Council Hearing of Objections to Proposed Change No 3, Monday 25 May 1970, HCC 22/349 Change No 3 Hearing, File 7566, Unprocessed accession A/2012/3, Archives Central, Feilding. SW Document Bank, volume 9, p. 105.

¹³³² Ibid.

was mistaken in his statement that Wi Parata was buried at Te Karewarewa – he was buried at Ruakohatu.¹³³³)

The minutes of the hearing also record that Mr Rowe made the following ‘assurance’:

If development by the Company is permitted to proceed the Company gave an assurance that it would honour and respect any remains which may be uncovered and arrange for them to be dealt with in the matter suggested by Mrs Kauri. If the Council saw fit to make such an arrangement a condition it would be quite acceptable to the Company.¹³³⁴

Mr Rowe submitted that the view that the land was a ‘traditional Maori burial ground’ and that it could then ‘only be Karewarewa’ was not based on the advice received by the Maori Land Court there being no record in its files to indicate that the land was the ‘historical Maori Burial Ground’. In addition, the 1919 Court order indicated, he said, that a burial ground was ‘being set apart for the future’ and that following this, the block came to be known as the cemetery block. There was no evidence, he said, of the block having been used for this purpose following the order. He also quoted from WC Carkeek’s book which referred to Karewarewa. He said that it ‘seemed apparent from this [book] that the author was unable to identify the land in question as being Karewarewa – and the Company felt that the opinion that it may be Karewarewa probably stems from the 1919 Court Order setting apart a burial ground for the future – which may merely amount to co-incidence’.¹³³⁵

Mr Rowe, who attended the meeting of owners, said that when the land was acquired by the Company there were ‘some 80 Maori owners’ with interests ‘many no doubt were deceased and many no doubt had not been succeeded to’. As well, ‘many prominent Maoris were mentioned in the list’. No question, he said, was raised at that time ‘and there appeared to be unanimous agreement to the sale of the land to the Company for development purposes’. He

¹³³³ Hohepa Solomon, ‘Parata, Wiremu Te Kakakura’, from the Dictionary of New Zealand Biography. Te Ara – the Encyclopedia of New Zealand, updated 30 October 2012. URL: <http://www.TeAra.govt.nz/en/biographies/2p5/parata-wiremu-te-kakakura>

¹³³⁴ Report of Hearing, Horowhenua County District Scheme Change No 3, 7 July 1970, Horowhenua County Council Hearing of Objections to Proposed Change No 3, Monday 25 May 1970, HCC 22/349 Change No 3 Hearing, File 7566, Unprocessed accession A/2012/3, Archives Central, Feilding. SW Document Bank, volume 9, pp. 106-113.

¹³³⁵ Ibid.

too failed to state, however, that while there was ‘some 80 owners’ just 13 attended the meeting or were represented by proxy at the meeting of owners representing just 20 percent of the shares in the block.¹³³⁶

Mr Rowe stated that the land was covered in scrub and that there was ‘nothing visible (apart from 2 headstones) to indicate any historical significance’ (so he too discounted this as evidence of a cemetery). The land, he said, was ‘no different in this respect from other areas coming under development’ and warranted ‘a more enhanced type of development to the rather mediocre development that ... [had] taken place elsewhere in ... [the] locality’. He argued too that the land was ‘essential to allow the Company’s plans for developing adjacent lands to proceed’ and submitted that the ‘type of development proposed by the Company ... [was] in the public interest and in the interest of good town planning’. He said too that the company’s submission did not rely on whether or not the area was a ‘traditional Maori Burial ground’ although this position was not supported by ‘records’. He said that even if it could be established that there was an existing cemetery the company claimed that leaving the block in its ‘present state’ was ‘not an appropriate way of dealing with the land’. Further:

If human remains are in fact uncovered as development proceeds, then Mrs Kauri’s suggestion of dealing with them in a certain manner appears reasonable – and the Company contends therefore that the designation should be lifted.¹³³⁷

The special committee then recommended that the designation be lifted on the basis that the land had been sold by the Maori owners to the developers ‘and there being no certain evidence that it is an historical Maori Burial Ground, or that internments have taken place since it was set apart for a future Maori Cemetery in 1919’. The committee added:

Nevertheless as there is the possibility that human remains may be uncovered as development of the land proceeds, the Waikanae County Town Committee’s attention be drawn to this possibility, so that in recommending the approval of any scheme of subdivision of the land, the Committee may recommend as a condition of such approval that the Company shall arrange for the re-internment of any such remains, on a site to be determined by the Waikanae County Town Committee, and if the

¹³³⁶ Ibid.

¹³³⁷ Ibid.

Committee sees fit, the erection on that site by the Company of a commemorative plaque with a suitable inscription thereon.¹³³⁸

In August 1970, the county clerk advised Mrs Kauri that the hearing of objections to ‘Change No 3’ had been completed and that the decision of the Council relating to her objection was that it be ‘disallowed’. This was, she was told, because the Council was of the opinion that the designation ‘Maori Cemetery’ should be lifted, ‘the land having been sold by the Maori Owners to a Development Company, and there being no certain evidence that it is an historical Maori Burial Ground, or that internments have taken place since it was set apart for a future Maori Cemetery in 1919’. The county clerk also re-iterated the committee’s recommendation noted above that if human remains were found, then the Company would arrange for the re-interment of them.¹³³⁹

It is of note that the legislation at the time did not provide for a role for tangata whenua in respect to the decision-making process concerning the change of designation. There was also no requirement at the time for local authorities to recognise, when preparing their district plans, ‘the relationship of the Maori people and their culture and traditions with their ancestral land’. This was not introduced until 1977 as per section 3 of the Town and Country Planning Act.

The land is still zoned residential (in 2017).¹³⁴⁰

9.49.6 The Development of Ngarara West A14B1

The development of the block went ahead. Baker records that in the early 1970s when the block was ‘initially dredged’ a headstone was ‘recovered ... and relocated to the urupa currently used by Te Atiawa ki Whakarongotai, Te Ruakohatu’. Two other headstones were also referred to in a report by archaeologist Mary O’Keefe in 2012 which were subsequently moved and partially restored.¹³⁴¹

¹³³⁸ Ibid.

¹³³⁹ County Clerk, Horowhenua County Council to Mrs Te Aputa Wairau Kauri, Waikanae, August 1970, Horowhenua County Council Hearing of Objections to Proposed Change No 3, Monday 25 May 1970, HCC 22/349 Change No 3 Hearing, File 7566, Unprocessed accession A/2012/3, Archives Central, Feilding. SW Document Bank, volume 9, p. 115.

¹³⁴⁰ Kapiti Coast District Council, District wide and Urban Plan Zones and Features Map 9, <http://www.kapiticoast.govt.nz/Your-Council/Planning/District-Plan1/District-Plan-Maps/>, accessed 2017.

¹³⁴¹ Baker, pp. 9 & 11.

Baker has also recorded the statement by Chris and Joan Maclean in their history of Waikanae that in the early 1970s the Waikanae Land Company removed ‘350,000 cubic yards of sand’. She states that this included koiwi and was from the Waimeha swamp and lagoon area’. The sandhill area was filled, she says, to ‘create a flat landscape’.¹³⁴²

In addition, Baker records that another report was prepared entitled Te Kārewarewa Urupā Waahi Tapu. The (unnamed) author:

... interviewed various members of Te Ātiawa in his research, who also gave accounts of bulldozers and dredges finding koiwi at this time. They describe this work as ‘abhorrent’ and having great effect on certain people. Kaumatua Tony Thomas explained that whilst he seldom speaks of the events, it is something that needs to be remembered by the community. These local accounts recalled that many koiwi remained buried, and others were moved within the slurry by trucks to other areas where fill was needed. It is not possible to ascertain specifically which parts of the urupa were affected by the changes as the natural dune system was modified during the initial dredging period. The block was modified again in 1990 and 1999, by re-contouring the ground surface of the subdivision. Much of Te Kārewarewa urupa has now had residential properties built on it. This is a substantive grievance for Te Ātiawa.¹³⁴³

9.49.7 Historic Places Trust Prosecution and Appeal, 2000-2002

Baker also records that in 2000 the Waikanae Land Company:

... dug trenches for services along the centrelines of the proposed roads of Tamati Place and Wi Kingi Place. Kōiwi of at least nine individuals were exposed.¹³⁴⁴

As a result of these earthworks, which were undertaken in July 2000 by Payne Sewell Limited and Higgins Contractors Limited for the Waikanae Land Company, a Court case was

¹³⁴² Baker, p. 20; Maclean, Chris and Joan, *Waikanae Past and Present*, Whitcombe Press, 1988, p. 194.

¹³⁴³ Baker, p. 20.

¹³⁴⁴ Ibid.

brought against Payne Sewell and Higgins Contractors by the New Zealand Historic Places Trust (now Heritage New Zealand). This was heard in September 2001.

In the interim, on 19 July 2001, Te Ati Awa ki Whakarongotai Inc were advised by the Historic Places Trust that its application for an ‘authority to modify part of an archaeological site at Tamati Place, Waikanae’ under section 14(10) of the Historic Places Act 1993, had been granted. The application had been made to ‘enable the re-interment of the burials that were disturbed during earthworks’ at the subdivision. The following conditions were attached to the authority:

1. That prior to the re-interment, the location of the area to be re-excavated is accurately determined by survey so as to ensure no further disturbances to the remaining burials occurs.
2. That any excavations are monitored by an approved archaeologist so as to ensure that any further disturbance to the site is kept to a minimum.¹³⁴⁵

The authority was valid for two years.

In September 2001, Judge C Henwood heard the charge made by the Historic Places Trust against Payne Sewell Limited, the consulting engineer and Higgins Contractors in the Porirua District Court. The charge was that:

... on or around the 20th of July 2000 at Tamati Place, Waikanae [they] ... commit[ed] an offence against the Historic Places Act 1993 section 99(1)(b) in that they knew or had reasonable cause to suspect that a site was an archaeological site within the meaning of the Act; and that it caused that archaeological site to be damaged or modified without the authority of the New Zealand Historic Places Trust or any person authorised to consent on behalf of the New Zealand Historic Places Trust’.¹³⁴⁶

¹³⁴⁵ Te Kenehi Teira, Kaihau Maori to Kaumatua Council, Te Ati Awa ki Whakarongotai Inc, 19 July 2001, Heritage New Zealand, Wellington. SW Document Bank, volume 4, pp. 76-78.

¹³⁴⁶ Judgement of Judge C Henwood in the matter of the Historic Places Act 1993 and in the matter of a charge under section 99 of that Act between New Zealand Historic Places Trust, informant, and Higgins Contractors Limited and Payne Sewell Limited, defendant, 13 September 2001. SW Document Bank, volume 4, pp. 79-94.

In her judgement, Judge Henwood summarised the allegations made by the Historic Places Trust. She stated that on Wednesday 5 July 2000 there was an ‘accidental discovery of some human remains at a subdivision site in Waikanae’ which had been subject to ‘invasive earthworks by Payne Sewell Limited and Higgins Contractors Limited’. Further:

Following the discovery of those remains, the Historic Places Trust advised that the Tangata whenua could recover the bones and that those bones would not be treated as an archaeological site. But the defendants were advised that they would need to seek an authority from the Historic Places Trust and any further earthworks would need to be monitored. Following the discovery of those bones, Archaeologist, Susan Patricia Forbes, visited the site and noted extensive areas of both intact and modified midden/oven material. Shells and hangi stones and other intact deposits. The allegation is that employees of Payne Sewell were shown these areas, pointed out that they were materials from archaeological deposits and that these remains from a wider pre-historic occupation area and that the whole site had potential and likely heritage values. They were asked not to walk on the middens and to refrain from any earthworks near them. They were explained that the Historic Places Trust required monitoring of further earthworks. The explanation included the advice that knowingly modifying or damaging archaeological sites was liable to prosecution under the Historic Places Act, 1993.

That on the evening of the 19th of July, information was received from one of the workers of Higgins Contractors Limited, stating that more human remains had been found in the same area as the bones earlier located on 5th July 2000. That worker explained that pipe testing had showed leaks and that when they were investigating the pipes another skull turned up and he also confirmed that they had been working on the site for 2 or 3 days. They had no authority from the Historic Places Trust to continue working on the site. They had been warned by Archaeologist, Susan Forbes of the need for monitoring and they had continued to work notwithstanding that advice.

There were a number of visible remains and burial sites exposed and it was clear from the recovery of those exposed bones that there were many more burials in the area. Mixed with the burials was material from earlier shell middens, indicating that the

burials had been carried out after the occupation phase associated with the middens.¹³⁴⁷

She then considered whether it was proven that the site at Tamati Place was:

- (1) Associated with human activity that occurred before 1900? And
- (2) Is or may be able through investigation by archaeological methods to provide evidence relating to the history of New Zealand.¹³⁴⁸

After hearing the historical and archaeological evidence of Karen Greig and Susan Forbes, Judge Henwood found that the evidence showed ‘beyond doubt that Tamati Place and the land the subject of ... [the] prosecution ... [was] an archaeological site within the meaning of the Act’.¹³⁴⁹

She then considered whether it had been shown that the defendants ‘knew or had reasonable cause to suspect that the site they were undertaking operations on in Tamati Place, contained such an archaeological site’. Further evidence was received from Susan Forbes who was ‘adamant that she gave advice on a number of occasions to Mr Hutchinson [of Payne Sewell] about the legislation and consequences of non-compliance’. He was also told that the developer would need to ‘seek an authority from the Trust and that any further earthworks would need to be monitored’. She also gave similar advice to other members of the Payne Sewell team and said that Higgins workers would have been aware of their discussions and it was they who found the koiwi on 5 July.¹³⁵⁰

The Court ruled that there was ‘no doubt’ that Payne Sewell Limited ‘knew the site was an archaeological site’ and that Higgins Contractors Limited ‘at the very least had good cause to suspect because they found the first group of old bones and were right there when Ms Forbes was on the site explaining the archaeological issues’. The Court was therefore:

... satisfied that the prosecution has reached the legal threshold in showing knowledge by Payne Sewell and good cause to suspect by Higgins Contractors as to the land

¹³⁴⁷ Ibid, pp. 8-9.

¹³⁴⁸ Ibid, p. 9.

¹³⁴⁹ Ibid, p. 13.

¹³⁵⁰ Ibid, p. 14.

being an archaeological site. Section 106 confirms that the offence is a strict liability and s106(1) provides that in any prosecution for an offence against s99 or s 100 or s103 of this Act it is not necessary to prove that the defendant intended to commit the offence.¹³⁵¹

The Court, after considering whether the defendants caused the archaeological site to be damaged or modified, found that there was ‘no doubt about this’:

The photographs in evidence of Ms Forbes again illustrate the modification done to the archaeological site by the heavy machinery and the damage to the bones cannot be disputed. The photographs show, amongst other things, a human burial exposed by excavation for storm water pipes, a skull found in a spoil heap from trench excavations, modified and intact midden sites and midden material, as described in more detail in the specific evidence before the Court’.¹³⁵²

Judge Henwood also stated that the question of whether the defendants had the authority from the Historic Places Trust or any person or body authorised by the Trust for the damage or modification of the site was ‘not a matter in dispute’. The Court found that the prosecution had ‘proved the ingredients of the charge beyond reasonable doubt’.¹³⁵³

During the hearing both defendants ‘submitted that the informations before the Court lack[ed] sufficient particulars and were bad for duplicity’. The Court agreed to hear submissions on the matter which was that the ‘informations’ disclosed four separate offences which was contrary to section 16(1) of the Summary Proceedings Act 1957. It was also argued that ‘apart from describing the location of the offence at “Tamati Place, Waikanae”’ together with the wording of section 99(1)(b) of the Historic Places Act 1993, ‘no particulars on matters such as whether the offence relates to the whole site or only part of the site, what the particular action undertaken on this day was that caused the damage or modification and what was damaged or modified; was it bones, middens or something else?’ The Court, however, on

¹³⁵¹ Ibid, p. 15.

¹³⁵² Ibid, p. 15.

¹³⁵³ Ibid, p. 16.

this occasion, did not agree. The Judge said that the Court had ‘no doubt that the information as laid gives the defendants sufficient information’.¹³⁵⁴

At the hearing, the defence elected not to call evidence and submitted instead that that had ‘no case to answer’. Both defendants pleaded not guilty.¹³⁵⁵

The Court found in favour of the Trust. The convictions were for damaging an archaeological site and made under section 99(1)(b) of the Historic Places Act 1993. Higgins Contractors Ltd was fined \$15,000 and Payne Sewell Ltd fined \$20,000.¹³⁵⁶

Higgins Contractors Limited and Payne Sewell Limited appealed the decision of the District Court. The appeal was heard before Judge Wild in the High Court on 19 March 2002. Higgins’ appeal against conviction was based on six grounds:

- (a) Duplicity and lack of specificity in the information.
- (b) Judge’s failure to address the location of the offence.
- (c) Judge’s failure to address the location of the offence.
- (d) Judge’s failure to address the date of the offence.
- (e) The Judge’s error in finding that the requirement for damage had been established.
- (f) The Judge’s error in respect of authority for the work done on 20 July.

Sewell Payne’s appeal was also in respect to (b), (c) and (e) and was also ‘based on the further ground that the decision was erroneous because the Judge did not find that Payne had caused the damage alleged in the charge’.¹³⁵⁷

As Judge Henwood did in her judgement, Judge Wild summarised what he saw as the background to the case contending that Judge Henwood had overlooked ‘important evidence’. He recorded that the cemetery designation had been uplifted in 1970 and that ‘no notation of the District Plan indicating that the site had any archaeological significance’ and that there were ‘no archaeological conditions or restrictions were attached to the resource

¹³⁵⁴ Ibid, pp. 5-6.

¹³⁵⁵ Ibid, pp. 1, 7.

¹³⁵⁶ Judgement of Wild J, in the High Court between Higgins Contractors Limited and New Zealand Historic Places Trust and between Payne Sewell Limited and the New Zealand Historic Places Trust, 19 March 2002, p. 1. SW Document Bank, volume 5, pp. 95-109.

¹³⁵⁷ Ibid, p. 2.

consent which had been granted to the developer for the subdivision'. The Judge said that the human bones were found on 5 July 'about halfway along Wi Kingi Place in the subdivision'. This he defined as the 'burial area'. (To clarify, Wi Kingi Place was (and still is) an unformed road which came off the un-formed Tamati Place of which only a small portion is formed today). On the same day, Ms Forbes discussed with Payne staff, 'in particular Mr Hutchison the earthworks which remained to be done on stage 6 of the subdivision'. The Judge said that Ms Forbes 'accepted in evidence that she was told these involved finishing off trenching work ... in Tamati Place'. It was also agreed that Ms Forbes should monitor that work, and she visited the site again with Mr Hutchison the following day, 6 July for that purpose. Ms Forbes was not on site again until 20 July'.¹³⁵⁸

The Judge recorded that as per the evidence of Manu Pouwhare (Nick) Tupara, the Historic Places Trusts Head of Maori Heritage Unit, Mr Tupara had understood from Ms Forbes that the work to be done after 5 July would be in an area away from where the bodies were found but that he did not, when discussing the matter with Ms Forbes 'identify with any particularity exactly which area work was to be done, and which area wasn't to be done'. The Judge recorded that on the evening of 19 July (a Wednesday), an excavator driver phoned Ms Forbes to advise her that more human remains had been found. He told her that pipe testing had shown leaks and that when the leaks were being investigated, the remains were found. He said they had been working on the site since the previous Monday morning. When Ms Forbes arrived on site on 20 July 'Higgins were trenching with an excavator ... across Tamati Place, roughly opposite the end of Wi Kingi Place', which the Judge said was 'at least 10 metres along from the 'burial area'. After the work had stopped 'the Higgins workers engaged in it, including Mr Paul [the excavator driver] began assisting Ms Forbes sifting through spoil heaped beside the storm water pipe which had been exposed in the burial area'. The Judge reported that Ms Forbes had 'said in evidence that she understood this work in the burial area had been carried out by Higgins on 18 and 19 July in the course of trying to locate and repair a leaking storm water pipe'. Further:

Over the course of 20 July, she supervised the uncovering and removal of a total of 11 skeletons ... from the burial area. No work was undertaken by Higgins' workers on

¹³⁵⁸ Ibid, pp. 2-3; Waikanae Land Company Ltd, Proposed subdivision of Pt Lot 1 DP 71625, 9 September 1999, Historic Places Trust, Wellington. SW Document Bank, Volume 4, p. 109.; Maori Land Online: <http://www.maorilandonline.govt.nz/>.

20 July in that area, except under Ms Forbes' supervision, assisting her with the uncovering and removal of the human remains.¹³⁵⁹

When Mr Hutchison of Payne Sewell arrived at the site at about 11am on 20 July, Mr Tupara explained to him "that the company had interfered with an archaeological site without authorisation and that they would need an authority if any further works were to proceed on the site". The Judge recorded that Mr Tupara had been told by Mr Hutchison "... that they had moved into that area in order to facilitate work on the drainage and therefore it seemed to me (Mr Tupara) that that was the work that was presently at hand". Mr Tupara also said that Mr Hutchison had explained that 'for reasons of safety and to protect the materials at the site, further work needed to be done to complete some drainage work'.¹³⁶⁰

The Judge then went on to explain his decision on the matter. He ruled in respect to the accusation of duplicity that the District Court was 'right to hold that the information against Higgins was not duplicitous, and made clear to Higgins the nature of the charge it faced'. With respect to specificity, however, he ruled in favour of the defendants. He said that the defendants complained that the 'informations' were not specific to location, that is, whether it was the whole of Tamati Place that was alleged to have been damaged or only part of it; had failed to 'allege the particular action(s) undertaken' that caused the damage or modification to the site; and failed to 'allege what was damaged or modified' (whether it was 'bones, middens or something else?'). The Judge said that it appeared that Higgins carried out the work on the days before 20 July and that it appeared (though he considered that there was no 'satisfactory' evidence of this) that between 17 and 19 July Higgins 'tested pipes previously laid through the subdivision and, upon finding there was a leak, dug down to the pipes in an effort to locate the leak' (this was described by the Judge as 'pipe testing and leak detection work'). It was in the course of undertaking that work that 'human bones were uncovered' which led to Ms Forbes being advised on 19 July. On 20 July, under Ms Forbes direction, 'Higgins workers uncovered' the other koiwi (described by the Judge as the 'archaeological work').¹³⁶¹

¹³⁵⁹ Ibid, p. 4.

¹³⁶⁰ Ibid, pp. 4-5.

¹³⁶¹ Ibid, pp. 8-9

The Judge noted that the ‘informations’ stated that the offence occurred ‘on or about 20 July 2000 at Tamati Place, Waikanae’ but pointed out that it was the ‘archaeological work’ that had been carried out on 20 July – not the ‘pipe testing and leak detection work’. As well, the ‘archaeological work’ was ‘done in Wi Kingi Place, not in Tamati Place’. The Judge stated:

I regard this as a case where both the date on which, and the location at which, the alleged offending occurred were essential parts of the charge.¹³⁶²

He then cited ‘relevant authorities’ and concluded:

I consider this is a case where the appellants have been materially prejudiced by both the date and the location given in the information. If the information was directed at the pipe testing and leak detection work, then it ought to have charged an offence committed “on or about 17-19 July 2000”. The Trust was aware of the dates of that work. Ms Forbes expressly referred to it in her statement of evidence. Mr Tupara also referred to work previously done, although he was not specific as to the date (s).

...

Equally, if the offending work was that which disturbed the burial site, then the informations ought to have charged that the offence occurred in Wi Kingi Place. Again, the Trust was aware of that location. It was clearly marked on the plan produced in evidence by Ms Forbes for the Trust.¹³⁶³

The defendants also claimed that the charge that the damage to the site occurred without the authority of the Trust was flawed. The Trust said that ‘authority’ referred to ‘formal written authority. The Judge pointed out that an authority had not been required to complete the earth works adjacent to the stormwater drain and that the further work reported to the Trust on 20 July was “in the vicinity of the stormwater drain”. A letter of 21 July from the Trust to Payne Sewell was said by the Judge to be referring to the pipe testing and leak detection work, and raised ‘doubt as to whether an authority from the Trust was (or had been) required for that work’. Also, that if the 21 July letter referred to archaeological work carried out on 20 July,

¹³⁶² Ibid, p. 9.

¹³⁶³ Ibid, 10-11.

there was ‘real doubt as to whether the Trust had established a lack of authority for that work, since it was carried out under the direction of Ms Forbes’.¹³⁶⁴

The Judge concluded:

I have found that the informations were bad, in that their lack of specificity as to date and location prejudiced the appellants in their defence. I have also found that the necessary element of lack of authority was not made out on the evidence. That makes it unnecessary to consider Higgins’ other appeal points, [d] and [e].

It also makes it unnecessary to consider Payne’s submission that the Trust had not established that Payne had caused the damage or modification of the site alleged.¹³⁶⁵

The result was that the two appeals against conviction were allowed. He said that ‘each information [was] bad, and prejudicially so, for lack of specificity’ and that the Judge ‘erred in finding that the element of a lack of authority from the Trust was made out’. The convictions of both Payne Sewell and Higgins were therefore set aside and the sentences quashed.¹³⁶⁶

This seems to suggest that had the Historic Places Trust specified that the damage had occurred between 17 and 19 July at Wi Kingi Place, instead of ‘on or around 20 July’ at Tamati Place and been clear as to the defendants lack of authority on these days there may have been a different outcome.

Baker records that in 2002, a ‘ground penetrating radar survey was undertaken on the site ... and located what the archaeologist report has referred to as a cluster of anomalies that may be further burials’.¹³⁶⁷

According to Te Kenehi Teira, the National Maori Heritage Manager for Heritage New Zealand, as it has been proven that there are human remains at Tamati Place, an authority has

¹³⁶⁴ Ibid, pp. 12-13.

¹³⁶⁵ Ibid, p. 13.

¹³⁶⁶ Ibid, p. 13.

¹³⁶⁷ Baker, p. 20.

now been registered against the Tamati Place site by Heritage New Zealand. This means that no further development is permitted on the site until that archaeological authority is lifted.¹³⁶⁸

9.49.8 Cultural Assessment Report, 2016

In 2014, the Waikanae Land Company proposed subdividing the land around Tamati Place and asked Ms Baker to write a cultural assessment considering three options for the area. These were:

- leave the koiwi in place and develop the subdivision in accordance with the original scheme plan;
- remove and re-inter the koiwi at a suitable alternative location and develop the subdivision in accordance with the original scheme plan;
- provide a Maori reserve on site, leave the koiwi in place and develop the subdivision in accordance with a modified scheme plan.¹³⁶⁹

She states that Te Atiawa ki Whakarongotai ‘vehemently’ opposes the three proposals and maintains that Te Karewarewa should be warranted ‘full protection from any further development’. As well, Te Atiawa ki Whakarongotai ‘appeals to Heritage New Zealand and the landowners to halt the extinguishment of their rights and seek resolution to this issue in partnership’ with them and the Kapiti Coast District Council.¹³⁷⁰ Baker concludes:

It has been extremely traumatic for the tangata whenua of Te Ātiawa to have their urupā desecrated in this way, and the remains of potentially some of their most significant tupuna exposed and disrespected.¹³⁷¹

9.49.9 Takamore Urupa, Ngarara West A24C

In an attempt to understand why Maori Land Court officials interpreted Native Land Court minutes from 1919 to mean that Maori were partitioning out Ngarara West A14 for the purpose of a cemetery to be used in the future (as opposed to an existing one), an examination

¹³⁶⁸ Conversation between Te Kenehi Teira and Suzanne Woodley, 9 March 2017.

¹³⁶⁹ Baker, p. 2.

¹³⁷⁰ Ibid, p. 21.

¹³⁷¹ Ibid, p. 20.

of the language used when Takamore Urupa, located on Ngarara West A24C was partitioned has been made. This urupa is also located at Waikanae.

When the partition of Ngarara West A24 was being discussed in the Native Land Court in August 1897, the Court ordered that section A24 be divided into four parcels in ‘accordance with a former proposition’ and that the parcels should be designated A24, A24A, A24B, A24C and ‘allotted to the following persons and purposes viz ... 24C Cemetery same person as 24B – 5 acres’. This was confirmed on 8 October 1897.¹³⁷²

Therefore, just like the entry in the minutes in 1919 in respect to Ngarara West A14B1 the name of the urupa was not given nor are details of who was buried or an explicit statement that the area was for an existing cemetery or to be used in the future – the minutes simply stated that the area was to be partitioned out for a cemetery. Like Te Karewarewa this cemetery was also used in the nineteenth century. The difference between Takamore Urupa (situated above the inland settlement to which Te Ati Awa moved in the mid-nineteenth century) and Te Karewarewa was that burials continued to be held at Takamore but not at Te Karewarewa.

Trustees were appointed for the Takamore Urupa located on Ngarara West A24C in November 1969. The reservation followed a meeting of the descendants of the original owners who had decided that trustees should be appointed. It also appears to have arisen because, according to Charles Talbot who represented the Horowhenua County Council at the hearing, it had originally been proposed that a motorway go through the cemetery. Following objections to the Ministry of Works in 1965, the motorway route was changed so that it bypassed the cemetery. The timing of this application is also of note as it happened shortly after Ngarara West A14B1 was sold. The land was vested under section 439 in trustees Ben Ngaia, John Edwin, Tarzan Thomas, Fred Jenkins, Garry Thomas and George Jenkins.¹³⁷³

In 1973, the land was formally set apart as Maori freehold land as a Maori reservation under section 439 of the Maori Affairs Act 1953.¹³⁷⁴

¹³⁷² Otaki Minute Book 31A, 26 August 1897, p. 105; 8 October 1897, p. 235.

¹³⁷³ Otaki Minute Book 75, 6 November 1969, pp. 24-25.

¹³⁷⁴ Maori Land Online: <http://www.maorilandonline.govt.nz/>.

As with Ngarara West A14B1, Ngarara West A24C was marked as ‘non-rateable’ in the valuation roll in the early 1950s. The valuation roll said that this was under section 103 of Rating Act 1925 (which related specifically to Maori land). There were improvements of £10 (fencing) on the land.¹³⁷⁵

9.49.10 Summary

The application for partition of Ngarara West A14 by its owners was to protect an existing urupa. As can also be seen in the case of the partitioning out of the Takamore Urupa (Ngarara West A24C) in 1897 this was standard practice. The Native Land Court minutes of 1897, 1905 and 1919 made it clear that Maori wanted to partition an area out of Ngarara West A14 for an urupa. The minutes do not state that it was to be used in the future for a cemetery. The minutes state that the area was to be cut out for an urupa or in the 1905 minutes reserved or cut out for a ‘certain’ urupa.

Despite this, Maori Land Court officials told the Waikanae Land Company and the Horowhenua County Council that there was no evidence that the land had ever been used for a cemetery and that the Native Land Court minutes when the land was partitioned supported this.

Maori Land Court officials therefore erred with their advice which was based on a mis-interpretation of the minutes of 1919, a failure to look at earlier minutes (especially those relating to the initial partitioning out of Te Karewarewa), and the absence of any formal reservation of the land for the purpose of an urupa by the owners. The officials do not appear to have engaged with owners or Waikanae kaumatua or kuia about the matter. The only evidence of the matter having been discussed was a comment that Mr Simpson, a lawyer representing just one owner, had said that it was a mistaken belief that an urupa was located on the land.

The consequence of this advice has been devastating for Ngati Awa and Te Ati Awa. The advice was used by the Director of the Waikanae Land Company to justify the removal of the designation and also used by the Waikanae County Town Committee and Horowhenua

¹³⁷⁵ Te Horo Valuation Roll, AFHQ 19340 V-WROLLS/177 3/26 part 2 Valuation rolls Wellington - Horowhenua County - Te Horo Riding - Roll numbers 651-1236, 1951-1954, Archives New Zealand, Wellington. SW Document Bank, volume 5, p. 125.

County Council to explain their decision to remove the cemetery designation which then allowed for the land to be developed for residential purposes.

The presence of two headstones was also discounted by the Waikanae Land Company, the Waikanae County Town Committee and the Horowhenua County Council as was the evidence of Te Aputa Kauri whose ancestors were buried there. The evidence of three other Maori was deemed invalid because their objections were received three days late. Their objections supported the assertion of Mrs Kauri that there was an existing urupa on the land but due to Horowhenua County Council rules, were unable to be considered as part of the objection process. It seems doubtful, however, that the evidence of the other three people would have changed the minds of Horowhenua County Council and the special committee. Although the evidence of Mrs Kauri was clear and compelling it was ignored and the limited and inadequate 'research' of Maori Land Court officials and the Director of the Waikanae Land Company given precedence. Of note too was the proviso given by both the special committee and the Company that if human remains were found then they would re-inter them and erect a memorial plaque. This would seem to be an acknowledgement that there was a possibility that there was a burial ground on the block but this was not sufficient to halt the change in designation and development of the block. Indeed, the Director for the Waikanae Land Company did not consider that an urupa on the land should prevent the development of the block implying that it was preferable for it to be developed than to stay in its current state. He also said that it was in the 'interests of good town planning' for the land, be it an urupa or not, to be developed. He did not add that it was in the Company's interest to have the designation lifted as the Company had already spent \$31,000 acquiring the land (and intended to derive a profit from its development).

The situation also exposes the flaws in the meeting of assembled owners process as provided by the Maori Affairs Act 1953 whereby less than three weeks was given from the time the notice of the meeting was sent to the time the meeting of owners was held, for owners to make a decision. Of the 77 named owners, many were deceased and successors not appointed. Addresses were also unknown for some. Just 39 notices advising of the meeting were sent out which meant that just over fifty percent of the total number of owners were told about the meeting (if indeed the addresses were correct). At the meeting, thirteen owners were in attendance or represented by proxy which was about 17 percent of the total number

of owners. The thirteen owners represented just twenty percent of the total shares of the block.

That koiwi has been unearthed by developers is obviously confirmation that Ngarara West A14B1 was indeed an urupa. Further research is required to establish the extent to which the Waikanae Land Company arranged for the internment of the remains or the erection of a plaque as promised to Mrs Kauri in 1970. What is known, however, is that further excavation work prior to 20 July 2000 resulted in the un-earthing of at least eleven bodies. A Court case held September 2001 between the Historic Places Trust and Payne Sewell Limited and Higgins Contractors Limited, who were working for the developer, the Waikanae Land Company, resulted in both defendants being fined a total of \$50,000. Their convictions were over-turned in the High Court with the Judge stating that the Historic Places Trust had not specified in great enough detail when the offences had occurred and where. Also, that there was insufficient evidence regarding whether the Trust had or had not given authority to the defendants to carry out further excavation work.

It seems clear that the views of Maori such as Te Aputa Kauri were ignored in 1970. Given that the Waikanae Land Company has still not given up its quest to develop all of Ngarara West A14B1, it is also clear that the concept of developing an area comprising an urupa is still considered acceptable by the Company, yet it is clearly abhorrent to Maori. The authority registered over the area by Heritage New Zealand is intended to prevent further interference of the urupa but Baker states that Maori would like further protection put in place.

Map 22: Te Karewerawera Urupa, Ngarara West A14B1



10. Kapiti Coast District Council (KCDC), 1989-2017

10.1 Local authorities and the Kapiti Coast

Up until 1989, the area along the Kapiti Coast north of the Waikanae River was administered by the Horowhenua County Council and that south of the Waikanae River (as far as Porirua) was administered by the Hutt County Council. This meant that Waikanae was administered by Horowhenua County and Paraparaumu by the Hutt County. In 1989, when local government in New Zealand was re-organised, ‘the Horowhenua County Council amalgamated with Levin Borough, Foxton Borough and part of the first Manawatu District Council to form the Horowhenua District Council’. The southern part of the Horowhenua County around the Waikanae, Paraparaumu and Otaki areas (including the Otaki and Kapiti Borough Councils – the latter being established in 1974 from part of the Hutt County Council) became part of the new Kapiti Coast District Council (KCDC).¹³⁷⁶

Between 1953 and 1989 various Waikanae based local authorities operated under the umbrella of the Horowhenua County Council. In 1953, the Waikanae County Town Committee was ‘formed to give Waikanae more say in its own affairs’. In 1971, the Waikanae County Town became a county borough, and in 1974 it became the Waikanae District Community Council.¹³⁷⁷

10.2 Paraparaumu (Kapiti Coast) Airport Zoning

10.2.1 Introduction

Tony Walzl records in his scoping report entitled ‘Ngātiawa / Te Āti Awa Research Needs’ completed in January 2016, that one of the most significant issues for claimants is the taking of land for the Paraparaumu airport under the Public Works Act in 1939 and the subsequent sale of the land by the government to private interests in 1995. The taking of the land and the offer-back process will be examined by Bassett Kay Research in their Public Works report for the inquiry district. Claimants, in particular Yvonne Mitchel, are also concerned with the actions of the Kapiti Coast District Council that have taken place subsequent to the purchase

¹³⁷⁶ Archives Central website: <http://archivescentral.org.nz/> accessed October 2016.

¹³⁷⁷ Maclean, Chris and Joan, p. 80.

of the airport in 1995 by private interests. These relate to the zoning of the land in 1995 as this, claimants state, facilitated the sale of airport lands by the private purchaser for residential purposes. In addition, there were further zoning changes in the 2000s. It is these zoning changes that are examined in this section of the report.¹³⁷⁸

10.2.2 Background

Walzl has provided a brief summary of what he describes as ‘the most salient developments’ regarding the airport. He records that several Ngarara West blocks were compulsorily acquired under the Public Works Act 1928 in 1939 ‘for an aerodrome within the context of wartime requirements’. He states that the ‘original reasons for the taking were for defence purposes and to provide an emergency landing ground alternative for Wellington Airport’. Circa 1991-1992, it was announced that Paraparaumu airport would be privatised and in 1992, ‘the Airport Authorities Act 1966 was amended to enable the Crown to transfer compulsorily acquired land to an airport company formed under that Act, and sell the Crown’s interest in the company, without affecting the Public Works Act rights of former owners of the land’. Walzl records that the land was transferred to Paraparaumu Airport Ltd. Further:

Te Whānau a Te Ngārara was formed to consult with Crown agencies in relation to the proposed sale. Over 1993 and 1994, the Ministry conducted a consultation process that was fraught with difficulties. In 1995, the Ministry advertised that it was accepting tenders for the sale of the airport company. Te Whānau a Te Ngārara unsuccessfully sought an injunction to prevent the sale of the airport to private interests. A closed tender was offered to users of the airport. Efforts by Te Whānau a Te Ngārara to be given dispensation to be allowed to tender were rejected. As a result, the airport company was sold to a private party (Kāpiti Avion Holdings) for a price that was half that of a Ministry of Transport valuation. Te Whānau a Te Ngārara were assured their s.40 rights were still guaranteed.¹³⁷⁹

The sale and purchase and share transfer agreements were said to be executed on 23 May 1995 although other sources give the date of the sale as 30 June 1995. When the shares in

¹³⁷⁸ Conversation with Yvonne Mitchell and David Laird, 2 November 2016; Tony Walzl, ‘Ngātiawa / Te Āti Awa Research Needs Scoping Report’, 18 January 2016, pp. 95-97. Bassett Kay Research have provided details of the takings but their report is not due for completion until after this report is completed.

¹³⁷⁹ Tony Walzl, ‘Ngātiawa / Te Āti Awa Research Needs Scoping Report’, 18 January 2016, pp. 95-97.

Paraparaumu Airport Ltd were acquired by Kapiti Avion Holdings, they became the holding company for the airport and Paraparaumu Airport Ltd ‘reconstituted’.¹³⁸⁰

Claims were lodged with the Waitangi Tribunal in 1996. Walzl also records that between 2010 and 2012:

.... negotiations proceeded between Te Whānau a Te Ngārara and Paraparaumu Airport Limited. A settlement was reached. Under law, however, several descendants of former owners were not entitled to join the negotiations.¹³⁸¹

This settlement is not discussed in this report.

10.2.3 Sources

The zoning of the airport has been discussed in various sources which have been utilised for this discussion. Of particular note are the following six sets of documents:

- Documents provided by Kapiti Coast District Council including the district plans of 1995 and 1999 and analysis and documents provided by the Principal Policy Planner in 2017;
- Department of Conservation records held at Archives New Zealand concerning the proposed district plan 1995-2000;
- Documents associated with the appeal to the Environment Court regarding Plan Change 18 in 2001-2002 particularly that of the report of the commissioners appointed to investigate the change; and Environment Court documents associated with Plan Change 73 in 2009;

¹³⁸⁰ Kapiti Coast District Council District Plan, Decision on Plan Change 18, Paraparaumu Airport, 20 December 2001 from Environment Court, Ministry of Justice, Wellington; Office of Auditor General, Inquiry into the sale of Paraparaumu Aerodrome by the Ministry of Transport, 2005, p. 56, <http://www.oag.govt.nz/2005/paraparaumu/part3.htm>; A Guerin, District Planner, Kapiti Coast District Council to Hon Mark Gosche, Chairperson, Transport and Industrial Relations Committee, 4 February 2004 entitled Paraparaumu Airport Chronology of Events, from papers supplied by Kapiti Coast District Council, Paraparaumu. SW Document Bank, volume 4, pp. 148-151.

¹³⁸¹ Tony Walzl, ‘Ngātiawa / Te Āti Awa Research Needs Scoping Report’, 18 January 2016, pp. 95-97.

- The ‘Report of the Transport and Industrial Relations Committee’ produced in May 2004 prepared in response to a petition by Ross Sutherland and 584 others regarding the sale of the airport;
- Report of the Auditor General appointed to inquire into the sale dated September 2005.

Due to the late receipt of documents pertaining to this issue, there has been insufficient time to prepare maps that show the changes to the zoning status of the original airport lands. Comparisons can, however, be made using maps in the document bank (see volume 4, pp. 162-165). As well, time constraints have prevented the analysis of map data which would provide the area of land affected by zoning changes and identify land sold by Paraparaumu Airport Ltd since 1995.¹³⁸²

10.2.4 Ngarara block land compulsorily acquired for airport, 1939-1954

Between 1939 and 1954, the Crown compulsorily acquired under the Public Works Act both Maori and European land comprising about 128 ha for the purposes of an airport at Paraparaumu. The area was made up of ten land areas of which six was Maori land. The land acquired in 1939 was for the airport and subsequent takings were for runway extensions.

The legal description of the Maori land, its area and date of taking are recorded below:

- 1939: Ngarara West B7 Subdivision 2B (30 acres)
 - 1939: Ngarara West B7 Subdivision 1 (90 acres)
 - 1939: Ngarara West B5 (107 acres 3 roods 09 perches)
 - 1940: Part Ngarara West B4 (6 acres 3 roods 14.5 perches)
 - 1949: Part Ngarara West B4 (4 acres 1 rood 11.1 perches)
 - 1954: Part Ngarara West B7 Subdivision 2C (5 acres 1 rood 07.5 perches)
- Total: 244 acres 1 rood 2.1 perches (98.8 ha)

The European Land, its area and date of taking are recorded below:

¹³⁸² For the zoning of Paraparaumu Airport in 2017 see: <http://www.kapiticoast.govt.nz/globalassets/your-council/planning/district-plan/map-11-districtwide-and-urban-plan-zones--features--pdf---adobe-acrobat.pdf>

- 1939: Ngarara West B7 Subdivision 2A (30 acres)
 - 1949: Part Lot 1 Block IV DP 2767 (2 acres 3 roods 36.8 perches)
 - 1949: Part Lot 3 Block IV DP 2767 and Lots 1, 3, 5, 7 DP 13859 (26 acres 1 rood 39 perches)
 - 1954: Part Lot 1 Block IV DP 2767 Part Sections 1 and II Wainui District (12 acres 0.6 perches)
- Total: 71 acres 1 rood 36.4 perches (28.9 ha)

The total amount of both European and Maori land acquired was 315 acres 2 roods 38.5 perches or 127.8 ha.¹³⁸³

In September 1995, the Kapiti Coast District Council's proposed district plan gave the area as 130.7869 ha. This difference may be due to a more accurate survey of the area though this has not been confirmed.¹³⁸⁴

10.2.5 Kapiti Coast District Council District Plans, 1989-2000

As noted above, the Kapiti Coast District Council was established in October 1989 bringing together the local authorities of Kapiti Borough, Otaki Borough and the southern part of the Horowhenua County. From October 1991, the Council operated 'for resource management purposes under the three separate local authority district schemes, which together form[ed] the Kapiti Coast Transitional District Plan'.¹³⁸⁵

The District Plan is described by the Kapiti Coast District Council as the 'guiding document for sustainable management of the district's natural and physical resources'. All city and district councils are required under the Resource Management Act 1991 to have a district plan. This was also a requirement under the Town and Country Planning Act 1977 in respect to county and borough councils. The plan has to include 'objectives, policies, rules and standards – known as provisions – for land use management'.¹³⁸⁶

¹³⁸³ Information received from Bassett Kay Research, February 2017.

¹³⁸⁴ Kapiti Coast District Council, Proposed District Plan, September 1995, p. 347.

¹³⁸⁵ District Planner, Kapiti Coast District Council to Minister of Conservation, 18 August 1997, AANS W5883 25344 Box 102 R22-306 part 7, District Plans – Reviews – Kapiti Coast District Council, 1995-1997, Archives New Zealand, Wellington. SW Document Bank, volume 4, pp. 167-168.

¹³⁸⁶ Kapiti Coast District Council website: <http://www.kapiticoast.govt.nz/Your-Council/Planning/District-Plan1/> accessed February 2017.

The Council's strategic plan of September 1992, included a provision for the 'continuance of the airport functioning primarily as a recreational flying facility with limited use, as well as a civil defence function'. When the airport was owned by the government it was 'covered by an Airport designation' and therefore a separate zoning was not deemed necessary. This designation was uplifted once the Minister of Transport no longer had financial responsibility for the airport (in May-June 1995). According to the commissioners who assessed re-zoning requests by Paraparaumu Airport Ltd in 2002, the designation could not be transferred to Paraparaumu Airport Ltd as the company was a 'requiring authority in respect of airspace protection only'.¹³⁸⁷

In September 1994, the Council 'released for public comment Discussion Paper 9 – Coastal Environment, Significant Landscapes, Natural Environment and Open Space Reserve Issues'. This 'identified the airport as open space zone along with the parks and reserves of the district'. In January 1995, the Council's Draft District Plan was prepared which showed all the airport lands with a 'proposed open space zone'. According to the Council:

The underlying zone under the Transitional District Plan (Kapiti Borough District Scheme) was residential with an overlying airport designation. Of the eight zones proposed in the Draft District Plan the Open Space zone was considered most appropriate given the predominantly open space character of the airport.¹³⁸⁸

The Draft District Plan was released to the public for comment in March 1995. It was described by the Council in an advertisement in a local newspaper as a 'preview of the Proposed District Plan' and said that it was not complete. The Council also said that its publication was 'designed to sort out any problems' before the Proposed Plan was published. It was also noted that topics that had not been incorporated in the Draft Plan included 'studies pertaining to roading and the airport, Tangata Whenua issues and designations'. Interested persons were given until 12 April 1995 to make submissions on the Draft District Plan.¹³⁸⁹

¹³⁸⁷ Kapiti Coast District Council District Plan, 1999, p. 76; Proposed Change 18 – Kapiti Coast District Plan Request by Paraparaumu Airport Limited to Introduce Airport, Industrial Service and Residential Zones, Section 32 Report, Kapiti Coast District Council, undated, circa 2002, p. 19 from Environment Court, Ministry of Justice, Wellington.

¹³⁸⁸ A Guerin, District Planner, Kapiti Coast District Council to Hon Mark Gosche, Chairperson, Transport and Industrial Relations Committee, 4 February 2004 entitled Paraparaumu Airport Chronology of Events, from papers supplied by Kapiti Coast District Council, Paraparaumu. SW Document Bank, volume 4, pp. 148-151.

¹³⁸⁹ Ibid; Extract from *Kapiti Observer*, 6 March 1995, p. 15 re Draft District Plan; AD Guerin, Planner, Policy, Kapiti Coast District Council to Chairperson and Members, Regulatory, Planning & Environment Committee,

As noted, the Draft District Plan of January 1995 showed an open space zone over all of the airport land. Subsequently, however, an area of the airport land situated in the vicinity of Avion Terrace (located on the western corner of the airport property) was re-zoned residential. This is an area that claimants are concerned with as it was later sold by Paraparaumu Airport Ltd. Avion Terrace is situated within Ngarara West B7 subdivision 1, 2A and 2B blocks. Ngarara West B7 subdivision 2A was European land and Ngarara West B7 subdivision 1 and 2B were Maori land at the time they were compulsorily acquired for the airport. Sherilyn Hinton, the current (in 2017) Principal Policy Planner at the Kapiti Coast District Council, has reviewed the district plan documents from this period and found that:

... the change in zoning of the Avion Tce area looks to have occurred between the issuing of the Draft District Plan for feedback/submissions in January 1995 and the notification of the Proposed District Plan 1995 (September), so it looks to have resulted from submissions received on the draft plan.¹³⁹⁰

Indeed, Ms Hinton has located a letter of 11 April 1995 from Wilson Lattey of Lattey Consultants Ltd, described as a Registered Surveyor, Land Development Consultant and Quality Management Consultant, to Andrew Guerin, the then District Planner for the Kapiti Coast District Council, which asked Mr Guerin to consider zoning issues relating to the Paraparaumu Aerodrome. Mr Lattey said that his company acted for ‘one of the major parties [in] negotiation for the purchase of the aerodrome’ and that if their bid was successful they would ‘appreciate the opportunity to make further, more detailed submissions’. As at 26 April 1995, there were three bids for the airport being considered including one from Kapiti Avion Holdings so Mr Lattey could have been representing any one of them. It is likely though that Mr Lattey was known to the Council in his professional capacity as he was appointed in the 1990s to the Council’s Transport Strategic Planning Committee ‘which was tasked with reviewing all transport systems’ in the district. In his letter to Mr Guerin, Mr Lattey noted that the whole of the aerodrome had been zoned as open space and that while this zoning was ‘probably appropriate for most of it’, his company believed that there were

Kapiti Coast District Council, undated, Circa 1995 from papers supplied by Kapiti Coast District Council, Paraparaumu. SW Document Bank, volume 4, pp. 132-133, 148-151.

¹³⁹⁰ Email between Sherilyn Hinton, Principal Policy Planner, Kapiti Coast District Council and Suzanne Woodley, 4 May 2017.

‘several major points ... better dealt with at this stage’. He described these ‘major points’ as follows:

1. The Kapiti Road frontage from the St Johns building to the Wei air hangar supports a number of generally airport-related commercial uses and has done for many years. We submit that an extension of the Industrial/Service zone along this frontage is appropriate, to reflect the actual current activities and to blend in with the uses immediately opposite and to the east.
2. You will be aware that there is an existing area of housing on the aerodrome off the end of Avion Terrace. Its existence is not recognised on the Plan.
3. There are several other existing uses on the airfield, such as the Associated Aviation hangar and the Met Service complex. Should these areas be separately described?¹³⁹¹

The housing on Avion Terrace referred to had been used for airport staff housing though this was not noted in the letter.¹³⁹²

The submission of Mr Lattey was one of 110 submissions received by the Council on the Draft District Plan at this time. These submissions included 490 requests for decisions. Of the 490 requests, 297 were agreed to, 53 agreed in part and 140 were ‘disagreed by staff’. ‘Staff’ of the Council prepared an initial summary of the 490 submissions which included staff comment and a preliminary decision. This was then considered by the chairperson and members of the Regulatory, Planning & Environment Committee of the Kapiti Coast District Council. The committee was then asked to ‘reach conclusions on the requests to recommend to Council for inclusion in the Proposed District Plan’.¹³⁹³ This committee therefore made

¹³⁹¹ Office of Auditor General, Inquiry into the sale of Paraparaumu Aerodrome by the Ministry of Transport, 2005, p. 56, <http://www.oag.govt.nz/2005/paraparaumu/part3.htm>; Report of the Transport and Industrial Relations Committee, Petition 1999/231 of Ross Sutherland and 584 others, p. 37, New Zealand Parliament website:

https://www.parliament.nz/resource/enNZ/47DBSCH_SCR2739_1/3a504f7a4a373c20dfcc1719fe9006dd15e78a6e; Mackays Crossing to Peka Peka Expressway Proposal, representation by WE & DM Lattey to Environmental Protection Authority, 11 January 2013.

<http://www.epa.govt.nz/Publications/Mr%20WE%20Mrs%20D%20Lattey%20Representation.pdf>. Mr Lattey also asked for zoning changes in respect to Otakihanga Road, Metzenthin Road, Matai Road, Mazengarb Reserve. Wilson Lattey, Lattey Consultants Ltd, Paraparaumu to Andrew Guerin, District Planner, Kapiti Coast District Council, Paraparaumu, 11 April 1995. SW Document Bank, volume 4, pp. 136-137.

¹³⁹² Report of the Transport and Industrial Relations Committee, Petition 1999/231 of Ross Sutherland and 584 others, p. 46, New Zealand Parliament website: https://www.parliament.nz/resource/en-NZ/47DBSCH_SCR2739_1/3a504f7a4a373c20dfcc1719fe9006dd15e78a6e

¹³⁹³ AD Guerin, Planner, Policy and MP Weir, Regulatory Services Manager, Kapiti Coast District Council to Chairperson and Members, Regulatory, Planning & Environment Committee, Kapiti Coast District Council,

recommendations to the Kapiti Coast District Council who then made the final decision. The Council produced a summary of its decisions which, in respect to the request of Mr Lattey, was similar to that submitted by staff to the committee. The summaries are essentially the same apart from the different wording in the decision column. The summaries, together with two differently worded decision columns are re-produced as follows:

Table 24: Summary of Decisions concerning Paraparaumu Airport submitted to Regulatory, Planning & Environment Committee, Kapiti Coast District Council and summary of Kapiti Coast District Council decisions, undated, circa 1995

Request:	Submitter	Decision of Staff submitted to Regulatory, Planning & Environment Committee, KCDC	Decision of KCDC	Comment
Parts of the airport be rezoned as follows:				
Kapiti Road frontage from the St Johns building to Weiair hanger be rezoned Industrial/Service to reflect actual current activities	W Lattey	Agree in part	Accept in part	There will, however, need to be a height restriction.
Existing housing area on the aerodrome off at the end of Avion Terrace be rezoned residential	W Lattey	Agree	Accept	
Should other facilities be zoned, eg Met Office complex	W Lattey	Disagree	Reject	All existing buildings and use have existing use rights. The intention of the Open Space Zone is to maintain this land as an open space environment. If the new owners wish to rezone the 'open' land for other purposes, eg residential development, the appropriate process is through an application for a change to the zoning, (not through a resource consent).

Source: Summary of Submissions to Draft District Plan for consideration by Regulatory, Planning & Environment Committee of Kapiti Coast District Council, undated, circa mid-1995; Decisions of the Council on Submissions to the Draft District Plan, undated, circa 1995, Kapiti Coast District Council papers, Paraparaumu. SW Document Bank, volume 4, pp. 134-135, 138-139.

As can be seen, the request to re-zone the area around Avion Terrace as residential was accepted. No specific comment was made about the re-zoning of Avion Terrace in the summary and no details of the area involved was given. It was just recorded that staff agreed

undated, (circa between April and July 1995), from papers supplied by Kapiti Coast District Council, Paraparaumu. SW Document Bank, volume 4, p. 133.

with the request and that the Council accepted the request. The wording of the request and the wording of the comment concerning the proposed zoning of other facilities such as the Met Office complex suggests that the Council justified the change to a residential zone in respect to Avion Terrace on the basis that the area was already being used for housing (albeit housing for airport staff). The rezoning of the Kapiti Road frontage to Industrial/Service was also agreed to on the basis that it was already being used for this purpose though a height restriction was required. It was acknowledged too that the new owners might later wish to develop 'open land' (which could be assumed was considered surplus to the requirements of an airport) for residential purposes and that they had an avenue to apply for this. That the land had been compulsorily acquired under the Public Works Act in the first instance and that an alternative scenario of surplus land being offered back to the descendants of the original owners was not, however, acknowledged. There was also no mention about the appropriateness of the timing of the zoning change given that at the same period as this district plan process was being undertaken the airport was being sold. The sale had not been without controversy with the descendants of the original owners challenging the sale in the High Court in June 1995. The summaries suggest therefore that the potential impact of the zoning changes on the descendants of the original owners such as the sale of the re-zoned area was not a factor in the Council's decision-making process.

Ms Hinton states that there was no change in the residential zoning around the Kaka Road area in 1995 (also said to have been part of the airport and sold by Paraparaumu Airport Ltd). There are three sections at the top of Kaka and Moa Roads which were part of the airport open space zone in maps of both February 1995 (as per the Draft District Plan) and in September 1995 (as per the Proposed Draft Plan). Maps of circa 2000, however, show these three sections zoned residential though the schedule of plan changes provided by the Council records that plan change 31, in respect to '3 lots on the corner of Kaka and Moa Roads' was not made operative until 8 February 2002. No further details have been located concerning this plan change. The corner of Kaka and Moa Roads appear to be located in what was an area of European land acquired for the airport described as 'Part Lot 3 Block IV DP 2767 and Lots 1, 3 & 5 and Part Lot 7 DP 13859' but further mapping research of the area is required to confirm this.¹³⁹⁴

¹³⁹⁴ Kapiti Coast District Council Zone Plan No 10 (Draft Plan), February 1995; Proposed District Plan zone map, Kapiti Coast District Council, September 1995 from papers supplied by Kapiti Coast District Council, Paraparaumu; Map Entitled 'Paraparaumu Airport: Land Holdings by Title', circa 2000, AANS W5883 25344

The Council resolved on 10 August 1995, that it would adopt the report as recommended by the Committee and approved the Proposed District Plan for public notification. The Proposed District Plan was notified in September. The Council also advised that any person could make a submission on the proposed district plan and that submissions had to be received by 4 December 1995.¹³⁹⁵ It seems likely that it was at this stage of the process that Kapiti Avion Holdings, who had by then purchased the airport, requested that the airport be zoned as ‘Airport Development zone’ instead of open zone though the date of this request has not been confirmed. There were, however, a ‘large number of submissions in opposition to the submission’ and after hearings in May, July and August 1997, the Council rejected the request for the following reasons:

- The relief sought in the submission (to rezone the land) contained insufficient detail;
- The development of an Airport zone is an alternative that would provide for the needs of the aerodrome and its users. A strategic approach taking into account future needs of the aerodrome would however need to be undertaken when drafting the plan change;
- The plan change process will be open for public submission.¹³⁹⁶

The District Plan was not made operative until July 1999 though in February 1998, the then District Planner for the Kapiti Coast District Council advised that apart from that portion of the District Plan entitled ‘Financial Contributions’ it was ‘effectively operative in that the provisions of the previous District Plans ... [had] no weight.’¹³⁹⁷

The District Plan noted that as a consequence of the sale of Paraparaumu Airport to private interests (in 1995), ‘combined with changes in the role and functions of the Civil Aviation Authority’, the Kapiti Coast District Council had ‘inherited a more direct role in managing

Box 101 R22-306 part 11, District Plans – Reviews – Kapiti Coast District Council, 2000-2001, Archives New Zealand, Wellington; Kapiti Coast District Council District Plan, Schedule of Changes – Last Updated May 2015, from papers supplied by Kapiti Coast District Council, Paraparaumu. SW Document Bank, volume 4, pp. 141, 144-146, 152-161, 170-171.

¹³⁹⁵ Kapiti Coast District Council Zone Plan No 10, (Draft Plan) 1995 from papers supplied by Kapiti Coast District Council, Paraparaumu; Kapiti Coast District Council, Proposed District Plan, September 1995, p. 347. SW Document Bank, volume 4, p. 141.

¹³⁹⁶ Office of Auditor General, Inquiry into the sale of Paraparaumu Aerodrome by the Ministry of Transport, 2005, p. 56, <http://www.oag.govt.nz/2005/paraparaumu/part3.htm>

¹³⁹⁷ District Planner, Kapiti Coast District Council to Minister of Conservation, 17 February 1998, AANS W5883 25344 Box 102 R22-306 part 9, District Plans – Reviews – Kapiti Coast District Council, 1995-1997, Archives New Zealand, Wellington. SW Document Bank, volume 4, p. 169.

the usage and effects of development of the Airport'. This was in addition to its role in 'managing the effects of land use activities in areas surrounding the Airport on the safety and efficient use of the Airport'. The District Plan recorded too that the airport had a 'small but established general aviation industry which has the potential to attract scheduled air services by third level operators' (operators of smaller planes). It was noted that the Council supported the 'maintenance and enhancement of all facets of aviation' and that the issues that need to be addressed included: 'noise associated with aircraft flight and engine testing, and their effects on residents, continuation of the airport for transport, civil defence and tourism purposes, the use of the surplus land and the effects of land use and tree growth on aircraft flight paths'. Therefore, there was again acknowledgement by the Council that the airport property contained land surplus to aerodrome requirements.¹³⁹⁸

10.2.6 The Open Space Zone

As noted above, when the airport designation was removed, 'existing and future development on the land ... [was] subject to the provisions of the Open Space Zone' (with the exception of the area around Avion Terrace). This permitted the 'ongoing existence and development of recreational flying'. Any commercial element, however, was 'treated as a non-complying activity'. This even extended to pilot training as it involved a commercial transaction.¹³⁹⁹

The open space zone was governed by rules. In the District Plan (operative from July 1999) subdivision was allowed 'where all the controlled activity standards for subdivision are complied with' but dwellings were in the category of 'Non-complying standards'. Open space was also described as 'any area of outdoor open space'. It included 'public and private parks, water ways and areas, gardens and landscaped areas, playgrounds, seating and other amenities'.¹⁴⁰⁰

The open space zone over the airport also meant that all airport activities were contained within the 'category of "existing use" rights in terms of section 10 of the Resource Management Act 1991'. Therefore, no activity could be 'significantly expanded without obtaining a resource consent, mostly as a non-complying activity and generally subject to

¹³⁹⁸ Kapiti Coast District Council District Plan, 1999, pp. 72 & 76.

¹³⁹⁹ Proposed Change 18 – Kapiti Coast District Plan Request by Paraparaumu Airport Limited to Introduce Airport, Industrial Service and Residential Zones, Section 32 Report, Kapiti Coast District Council, undated, circa 2002, p. 19 from Environment Court, Ministry of Justice, Wellington.

¹⁴⁰⁰ Kapiti Coast District Plan, July 1999, pp. 323-324.

public notification’. These applications would face, what was described by the Council, as ‘the very real hurdles of the requirements of section 105(2A) with significant weight being placed on the objectives and policies for the “Open Space” zone’.¹⁴⁰¹ This would suggest that if the area around Avion Terrace had remained in the open space zone the existing housing at Avion Terrace would have been covered by the ‘existing use’ category but that any further housing could not have been ‘significantly expanded without obtaining a resource consent’. It also meant that at this time, ‘aircraft operations to and from the airport [relied] ... on existing use rights from earlier planning and/or designation provisions’, and, according to the Council meant that ‘the use of land associated with the airport and logically available to provide ancillary and support services beneficial to the community [was] ... severely restricted’.¹⁴⁰²

The open space zone was by 2002, seen by the Council as a ‘completely inappropriate’ because it had failed to ‘recognise and facilitate the use and development of this important facility’. Hearing commissioners in 2002 described it as an ‘interim zone’ and instituted by the Kapiti Coast District Council ‘pending a district plan change’.¹⁴⁰³

10.2.7 Sale of Airport land and the Petition of Ross Sutherland, 2004

As noted above, claimants state that the re-zoning of a portion of airport land in 1995 facilitated its sale by Paraparaumu Airport Ltd for residential purposes. Walzl notes that the sale of land in the vicinity of Avion Terrace ‘resulted in a land occupation by local Māori in 1999’.¹⁴⁰⁴

The certificate of title for that part of the airport property which includes the former Maori land (Ngarara West B7 subdivisions parts 1, 2A and 2B and part B5) and comprises a total of 100.9816 ha records a transfer of what was described as Lot 2 DP 86004 to PT and PC Norman in August 1998. New certificates of titles were issued. The new certificate of title for

¹⁴⁰¹ Proposed Kapiti Coast District Plan, Open Space and Private Recreation Zones, Submitter Engagement Version, June 2015, p. 8
http://www.kapiticoast.govt.nz/contentassets/31df83eefa8541719236f6075f3f6a4c/chapter_08_open_space.pdf;
 Proposed Change 18 – Kapiti Coast District Plan Request by Paraparaumu Airport Limited to Introduce Airport, Industrial Service and Residential Zones, Section 32 Report, Kapiti Coast District Council, undated, circa 2002, p. 6 from Environment Court, Ministry of Justice, Wellington.

¹⁴⁰² Proposed Change 18 – Kapiti Coast District Plan Request by Paraparaumu Airport Limited to Introduce Airport, Industrial Service and Residential Zones, Section 32 Report, Kapiti Coast District Council, undated, circa 2002, p. 5 from Environment Court, Ministry of Justice, Wellington.

¹⁴⁰³ Ibid; Kapiti Coast District Council District Plan, Decision on Plan Change 18, Paraparaumu Airport, 20 December 2001, pp. 3-4, 6 from Environment Court, Ministry of Justice, Wellington.

¹⁴⁰⁴ Tony Walzl, ‘Ngātiawa / Te Āti Awa Research Needs Scoping Report’, 18 January 2016, pp. 95-97.

the balance of the land gives the area as 99.3050 ha and the plan shows a reduced area of land around Avion Terrace. This is likely to have been the land sold and indicates that the area sold comprised 1.6766 ha (just over four acres).¹⁴⁰⁵

Some details of the sales are discussed in the 'Report of the Transport and Industrial Relations Committee' of May 2004 particularly in an appendix to the report which contains advice prepared for the committee by Kim Murray, a Barrister. This committee was set up to inquire into the petition of Ross Sutherland and 584 others (which included Te Whanau A Te Ngarara Incorporation) which expressed a great number of concerns over the government sale process in 1995 and subsequent actions of Paraparaumu Airport Ltd. These actions included the sale of airport land by the new airport owners, the (non) utilisation of 'offer-back' provisions, as well as airport operational matters such as the shortening of the runway by the airport company (the latter is not discussed here).

The committee received evidence about the amount of land sold by Paraparaumu Airport Ltd and whether the offer-back provisions of the Public Works Act had been utilised. The committee was told by the petitioners that:

A few hectares of land within the airport boundary originally used for staff housing (Avion Terrace) was sold by Paraparaumu Airport Ltd for approximately \$885,000. This land had old housing on it when sold, which had previously been tenanted. Immediately following the sale of Avion Terrace, the development company relocated the houses elsewhere and proceeded to subdivide the land and sell off sections.

Paraparaumu Airport Ltd did not offer back the land to the original owners as required by the Public Works Act.

The Financial Accounts of Paraparaumu Airport Ltd for the year ended 31 March 2001 show a profit on sale of \$850,000.00 being realised in the year ended 31 March 2000 as well as a realisation of an earlier revaluation of that asset of \$35,500 – a total profit of \$885,500. At this time Avion Terrace was the only land that had been sold by the

¹⁴⁰⁵ Certificates of Title: WN 43A/974 and WN53D/165.

company. We believe it was not offered back to the original owners as required by their (court confirmed) obligations under the Public Works Act.¹⁴⁰⁶

The committee also asked the petitioners for clarification regarding ‘whether any of the previous owners had taken action or were proposing to do so to protect their legal rights under the Public Works Act’. The petitioners responded that ‘two groups of descendants of the previous land owners of the Avion Terrace development had stated that they approached the airport company and sought legal advice with regard to their “offer-back” rights’. Two documents were produced to support this. The first was a letter of 30 April 2003 from Matthew Love-Parata, the chairperson of Te Whanau A Te Ngarara Incorporated addressed to the ‘Friends of the Airport’ in particular Ross Sutherland (the main petitioner). It stated that Te Whanau were descendants of the land owners from whom the airport was compulsorily acquired and that they had unsuccessfully challenged the sale of the airport to Kapiti Avion Holdings at the High Court in 1995. The High Court judgement viewed by the committee showed that their application for an interim order to prevent the sale was unsuccessful with the Court citing section 3A(6A) of the Airport Authorities Act which said that nothing in sections 40 to 42 of the Public Works Act 1981 would apply to the transfer of land to an airport company under the Act but sections 40 and 41 applied to the land after the transfer ‘as if the airport company were the Crown and the land had not been transferred under the Act’. The Court said that their ‘interest in being able to repurchase the land (if they are entitled to do so) ... [was therefore] protected’.¹⁴⁰⁷

The second document produced was a ‘statement made to the Kapiti Coast District Council presented by Rodney Moffat and three accompanying persons’. Mr Moffat represented the descendants of Robert Glough MacLean, a farmer of Paraparaumu who also previously owned part of the airport lands (Ngarara West B7 subdivision 2A block). The block stretched from Kapiti Road to the other side of the airport and included part of Avion Terrace, which, they said was ‘sold off for housing without notifying us at any stage’. (Of note is that Ngarara West B7 subdivision 1 and 2B, which had been Maori land at the time of the taking, also encompassed Avion Terrace.) Mr Moffat stated in his submission that he had spoken to the commissioners acting for the Council regarding further re-zoning of the airport (see section

¹⁴⁰⁶ Report of the Transport and Industrial Relations Committee, Petition 1999/231 of Ross Sutherland and 584 others, p. 46, New Zealand Parliament website: https://www.parliament.nz/resource/en-NZ/47DBSCH_SCR2739_1/3a504f7a4a373c20dfcc1719fe9006dd15e78a6e

¹⁴⁰⁷ Ibid, pp. 46-47.

on plan change 18 below) and visited the Council's town planner to ask how it was possible for the land's designation to be changed from airport to residential zoning without actioning the Public Works Act. He said that 'both original owner groups and the Ministry of Transport representatives were told by the Kapiti District Council hearing commissioner, Paul Cavanagh QC that the "offer back" provisions were not relevant to the Resource Management Act District Plan Scheme Change issues being considered by the commissioners. Mr Murray (adviser to the committee) noted that the commissioners were 'undoubtedly correct'.¹⁴⁰⁸

The petitioners also responded to the suggestion of Mr Edwards of the Ministry of Transport that 'the sales of land to date were relatively insignificant' with the statement that while this was correct in terms of the area, 'the value of the land sold at Avion Terrace and Moa Road [which came off Kaka Road] have realised in the order of \$1 million, well over half the purchase price of the entire airport'.¹⁴⁰⁹

The report also recorded a written comment made by Mr Cole of Paraparaumu Airport Ltd thought (by Mr Murray) to be in response to questions by journalism students as to whether the offer-back provisions were applied in relation to Avion Terrace. His comment was that offer-back procedures were not required for Avion Terrace as 'it was impracticable to do so due to Houses built over boundaries [ie couldn't cut the houses up!]'. With respect to Kaka Road, the report stated that there was evidence in the Paraparaumu Airport Ltd files of correspondence with its solicitors who said that in their view the company had 'complied fully with the offer back provisions of the Public Works Act in relation to the three properties concerned'.¹⁴¹⁰

The report also referred to an affidavit of George Jenkins on behalf of Te Whanau A Te Ngarara Incorporated and the descendants of RG MacLean. It is in this affidavit that Mr Cole's evidence to the Committee that whenever surplus land had been sold, the airport company had 'always followed the mandatory offer back provisions' was disputed. This was in respect to the sale of the land 'formerly known as Avion Terrace to KTS Property

¹⁴⁰⁸ Ibid, pp. 46-47. See also Map Entitled 'Paraparaumu Airport: Land Holdings by Title', AANS W5883 25344 Box 101 R22-306 part 11, District Plans – Reviews – Kapiti Coast District Council, 2000-2001, Archives New Zealand, Wellington. SW Document Bank, volume 4, pp. 170-171.

¹⁴⁰⁹ Ibid, pp. 38, 47- 48.

¹⁴¹⁰ Ibid, p. 49.

Developments Ltd in 1999'. It said that this land was 'not offered back to any person even though Te Whanau was well known to the airport company at the time of the sale'.¹⁴¹¹ Indeed meetings between Te Whanau A Te Ngarara and Paraparaumu Airport occurred in 1999 and are discussed further below.

Speaking in respect to the evidence given to the committee by Paraparaumu Airport Ltd regarding the amount of airport land sold since they acquired the airport in 1995, Mr Murray concluded:

It is difficult to tell from the evidence exactly what surplus land has been sold by PAL [Paraparaumu Airport Ltd] to date. It appears the sales have been a small block of land known as Avion Terrace as well as lots 12, 13 and 14 Kaka Road, Paraparaumu. The evidence seems reasonably clear that PAL did not make an offer back to the original owners in relation to the Avion Terrace sale but there is evidence that the offer back provisions of the Public Works Act were complied with in relation to the three Kaka Road lots.¹⁴¹²

It was concluded in the report regarding the amount of land sold that:

... the evidence indicates only small parcels of land have so far been sold by PAL. The evidence received by the Committee does not indicate what use that land has been put to by its new owners. There is however no indication that airport usage has been restricted by the land sales to date.¹⁴¹³

The committee also found in respect to the protection of Maori interests that:

Māori interests were investigated by the ministry at the time of sale. It was wrongly assumed that the interests of former Māori owners would be protected through s40 of the Public Works Act on the disposal of any surplus land.¹⁴¹⁴

¹⁴¹¹ Ibid, pp. 49-50.

¹⁴¹² Ibid, pp. 48-49.

¹⁴¹³ Ibid, p. 55.

¹⁴¹⁴ Ibid.

10.2.8 Airport zoning changes (plan change 18), 2000-2005

Application from Paraparaumu Airport Ltd

In June 2000 (so prior to the report into the petition discussed above), the Kapiti Coast District Council ‘received an application from Paraparaumu Airport Ltd to rezone Paraparaumu Airport from open space to a number of zones’. This was known as plan change 18. The zones comprised:

- Airport (112.86ha)
- Residential (17.12 ha)
- Industrial/Service (1.96ha)¹⁴¹⁵

The proposed airport zone was to comprise:

- Precincts for Aviation Residential (23.43 ha);
- General Business (10.08 ha);
- Aviation Recreation (5.69 ha), Aviation heritage (1.23 ha);
- Aviation Industry and Services (8.29ha); and
- Core Aviation (64.14 ha).

The total amount of land affected was 131.94 ha.¹⁴¹⁶

In October and November 2000, the application was notified. According to the District Planner for the Council, 247 submissions were received. These were ‘summarised’ and in December 2000, ‘notified and a further 11 submissions in support and opposition were received’. In May 2001, the Kapiti Coast District Council appointed commissioners under section 34(3) of the Resource Management Act 1991 to hear submissions concerning ‘Plan Change 18, Paraparaumu Airport to the Kapiti Coast District Plan’. The commissioners (Paul Cavanagh and Stuart Kinnear) conducted hearings in August and October 2001 and submitted a report. The commissioners were told that ‘despite the company’s best endeavours’ that

¹⁴¹⁵ A Guerin, District Planner, Kapiti Coast District Council to Hon Mark Gosche, Chairperson, Transport and Industrial Relations Committee, 4 February 2004 entitled Paraparaumu Airport Chronology of Events, from papers supplied by Kapiti Coast District Council, Paraparaumu. SW Document Bank, volume 4, pp. 148-151.

¹⁴¹⁶ A Ibid.

zoning, which ‘perpetuate[d] a 1930’s military airfield design, ... [was] not appropriate in today’s competitive and demanding aviation environment’. Their report explained that the open space zone was ‘intended [by the Kapiti Coast District Council] only to be an interim zone’ and instituted by the Council ‘pending a district plan change’. The commissioners said that they were ‘satisfied’ that this was the case and that ‘no weighting should therefore be accorded to the provisions of the District Plan when consideration is given to the necessity for applying a more appropriate zoning to the airport property which reflects its existing use and future importance as a significant part of the regional transportation infrastructure’. The commissioners also said that they accepted that this zoning was an ‘inappropriate restriction on the company’s activities’.¹⁴¹⁷

A resource management consultant, Alistair Aburn, gave evidence stating that he had assisted the applicant in April 1999 with preliminary consultation on the proposal. He ‘expressed the opinion that despite the best endeavours of the company, the future of the airport ... [was] placed in considerable jeopardy through the imposition of an inappropriate zoning’ as it imposed restrictions ‘on the expansion of airport services’. He said too that the Council ‘accepted that a “Special Airport Zone” or similar was an alternative to the “Open Space Zone” first proposed in the then proposed District Plan in 1996 [sic]’ (the open space zone was first proposed in 1994).¹⁴¹⁸

The commissioners were told that the applicants desire to zone ‘small areas of land outside the Paraparaumu Airport Zone’ as residential or industrial/services was due to the airport property being ‘very under-utilised’ and that this it had ‘the potential to accommodate much more activity’ (which again suggests that there the airport property included land surplus to the requirements of an aerodrome).¹⁴¹⁹

Murray Cole, the Managing Director of the Airport Company confirmed to the commissioners that that ‘principal role of the airport ... [would] continue to be the provision of core airport facilities’. He explained that the airport’s ‘continued existence ... [was] dependent upon the company achieving an adequate stream of income’ and argued that due to

¹⁴¹⁷ Ibid; Kapiti Coast District Council District Plan, Decision on Plan Change 18, Paraparaumu Airport, 20 December 2001, pp. 3-4, 6-7 from Environment Court, Ministry of Justice, Wellington.

¹⁴¹⁸ Kapiti Coast District Council District Plan, Decision on Plan Change 18, Paraparaumu Airport, 20 December 2001, p. 8 from Environment Court, Ministry of Justice, Wellington.

¹⁴¹⁹ Ibid, p. 7.

the ‘low number of chargeable aircraft movements at the airport and the need to set landing charges at a competitive level’ the company need to ‘derive significant revenue’ from sources other than landing charges. It was ‘this reason’ the company said, that it sought to ‘encourage the development of a range of activities at the airport’. These ‘could include large and small scale aircraft maintenance or manufacture, hangars, avionics, flying training, specialist aircraft organisations, museum activities, tourism facilities, accommodation, offices, restaurants, car hire, freight forwarding, freight warehousing amenities and other industries which synchronise with and compliment airport operations and which could develop from easy access to the airport’. He said that the proposed aviation residential precinct would ‘add to the variety of the suburban areas of the Kapiti Coast District, and provide a specialised living opportunity for aircraft owners’.¹⁴²⁰

Further evidence was received by Frank Boffa described as ‘life member and past president of the New Zealand Institute of Landscape Architects’ who was employed by the company to ‘review and comment on the open space implications’ of the proposed plan change. He noted that the ‘addition of further buildings and structures within the three “open space like” Precincts [of the proposed airport zone was already] ... a permitted activity’. That is, the existing open zone already allowed for further building. He also said that the proposed residential zone would ‘provide a buffer between the proposed Industrial and Services Zone and the existing residential properties on Te Oti Street’ (not airport land). It was his opinion too, that the proposed residential zone along the southern boundary of the airport ‘rationalises pockets of undeveloped airport land that in many respects has more of a residential context than an Airport zone context’.¹⁴²¹

These statements made it clear that the airport property comprised areas that were surplus to aerodrome requirements.

A ‘preliminary issue’ (implications of the Public Works Act)

The commissioners’ report contains a section on what they described as a ‘preliminary issue’. This related to submissions that asked that the commissioners consider whether the hearing should be permitted to proceed:

¹⁴²⁰ Ibid, pp. 13-14.

¹⁴²¹ Ibid, pp. 15-16.

.... in view of the fact that the Airport Company had by initiating the proposed change process, indicated that land outside the Core Aviation Activity Zone was clearly surplus to the purpose for which it had originally been compulsorily acquired by the New Zealand Government and that therefore in terms of s40 of the Public Works Act 1981, it should be offered back to the original owners or their successors.¹⁴²²

After taking submissions on the issue, including one from the Ministry of Transport, the commissioners ruled that the obligation on the part of Paraparaumu Airport Ltd to offer land back to the original owners was ‘not relevant’ because:

- (a) The plan change proposed addresses zoning issues and questions relating to the appropriateness of certain activities occurring at the periphery of the operational airstrips and not land ownership. The issue to be address is therefore whether the proposed zoning change would be consistent with the purpose and principles of the act.
- (b) The zoning of land is permissive (s9RMA) and does not in itself require a landowner to change the existing use of the land if he or she does not choose to take advantage of a new zoning, nor does it preclude a future application to change a zoning that has been achieved.
- (c) The Kapiti Coast District Council as the district planning authority, has no jurisdiction to inquire into questions of land ownership by taking into account assertions made by former owners that portions of the airfield site should not be offered back to them. That is a matter for another forum.¹⁴²³

This stance was reiterated throughout the commissioners’ report and the barrister advising the Transport and Industrial Relations Committee (Mr Murray) discussed above agreed with the commissioners’ interpretation of the legislation.¹⁴²⁴ It meant, however, that the descendants of the original owners had no other recourse. They instead had to rely on Paraparaumu Airport Ltd to invoke offer-back procedures which, as already noted, had not been done in respect to Avion Terrace land.

¹⁴²² Ibid, p. 5.

¹⁴²³ Ibid, pp. 6, 24-25.

¹⁴²⁴ Report of the Transport and Industrial Relations Committee, Petition 1999/231 of Ross Sutherland and 584 others, p. 47, New Zealand Parliament website: https://www.parliament.nz/resource/en-NZ/47DBSCH_SCR2739_1/3a504f7a4a373c20dfcc1719fe9006dd15e78a6e.

Consultation with Maori

The commissioners' report also recorded the extent to which the airport company had consulted with interested parties, including tangata whenua, about the plan change. Mr Aburn told the commissioners that he had assisted the airport company in April 1999 with 'preliminary consultation on the proposal to seek the zoning change' for the airport. He said that on 14 April 1999, there were 'discussions with Te Whanau a Te Ngarara Inc being representatives of ancestral landowners' who had retained an interest in the airport land under section 40 of the Public Works Act 1981. He also confirmed to the commissioners that after the application for the plan change was lodged with the Kapiti Coast District Council he had learned that 'three groupings of descendants represented at the hearing by Mr O'Driscoll [representing Hoani Ihakara Trust 77, Kaiherau Trust 78 and Epiha Me Te Teira Trust] did not accept that Te Whanau a Te Ngarara Inc had a mandate to speak on their behalf'. As well, Mr Aburn explained that on 20 April 1999 a discussion had been held with Kapakapanui Environment Group which was the environmental management unit of Te Ati Awa Ki Whakarongotai (though he did not participate). Mr Aburn also met with 'groups operating from the airport and with special interest groups'. He said that the 'key issues raised during these meetings included':

- Strong support for the retention of an operating airport and for the district plan to provide for this.
- Strong interest in maintaining or improving visual access to the "open ness" of the airfield vista.
- An acceptance by current airport users that the "open space" zoning hindered the ability to ensure long term planning and therefore provide a measure of security for their tenancies.
- Continuation of the flight path safety restrictions and an acceptance of the present noise regime (including the evening curfew).
- A concern that airport development did not impact adversely on surrounding traffic conditions.

- The importance of s40 Public Works Act matters for the descendants of the former landowner.¹⁴²⁵

Mr Aburn said that following these meetings a discussion document was prepared for a ‘second round of consultation’ which included special interest groups, airport user groups and various government departments and local authorities. Also at this time further contacts were made with Te Whanau A Te Ngarara Inc on ‘Public Works Act matters’ and a copy of the plan change documentation provided to Te Whanau a Te Ngarara Inc and Kapakapanui Environment Group. This was prior to the application being lodged with the Council. A second meeting was also held with Kapakapanui at Whakarongotai Marae who stated that ‘opportunities should be taken to enhance the quality of the Wharemauku Stream through landscaping and riparian planting and controlling of the water quality of any stormwater discharges’.¹⁴²⁶

Mr Cole, the Managing Director of the airport company, also gave evidence regarding consultation with Maori. He said that he sought the assistance of Te Whanau A Te Ngarara Inc and Peter Love at the Wellington Tenth Trust Office in Wellington in July or August 1999 ‘with identification of the descendants of the former owners of the airport land and the status of the whanau’. The company was ‘concerned to identify all Maori groups with potential interest in the airport land’. At a further meeting with the group he was advised that they had appointed a new deputy chair, Mr Reeves from Waikawa, Picton and that Mr O’Driscoll had visited Mr Love to ‘inform him that the groups he represented were not the real representatives of the descendants of the former owners of the airport land’. Mr Cole said that it became clear to him that ‘Mr Love’s group could not establish that they represented the original owners’ and that he arranged for Mr O’Driscoll to be located so that ‘negotiations could be undertaken with him’.¹⁴²⁷

Of note is that this attempt by Paraparaumu Airport Ltd to identify the descendants of the original owners in 1999, occurred a year after the Paraparaumu Airport Ltd sold the area around Avion Terrace without reference to them (and without invoking the offer-back procedures of the Public Works Act).

¹⁴²⁵ Kapiti Coast District Council District Plan, Decision on Plan Change 18, Paraparaumu Airport, 20 December 2001, p. 9 from Environment Court, Ministry of Justice, Wellington.

¹⁴²⁶ Ibid.

¹⁴²⁷ Ibid, p. 14.

The commissioners noted that apart from those groups represented by Mr O'Driscoll, adequacy of consultation was 'not pressed hard at the hearing'. Mr Aburn advised at the 'resumed hearing' (in October 2001) that there had been further correspondence with Mr O'Driscoll where it was 'confirmed that the applicant was willing to undertake a further consultation'. The commissioners said that they were 'satisfied that overall the level of consultation was adequate'.¹⁴²⁸

Preliminary Approval

The Kapiti Coast District Council approved plan change 18 with amendments proposed by the commissioners on 20 December 2001. These amendments included the delay of the imposition of a residential zone and aviation residential precinct until noise issues had been resolved. In the interim these areas were to remain as 'open space'. In addition, part of the general business precinct was transferred to the aviation core precinct to 'ensure airport safety' and part of the proposed industrial service zone was to remain 'open space', also to ensure airport safety.¹⁴²⁹

Appeals to the Environment Court, 2002

An appeal against the decision of the Kapiti Coast District Council to approve 'Plan Change 18' was filed with the Environment Court in 2002 by Te Whanau a Te Ngarara Incorporated. Other appeals were made by Epiha Me Teira Ropu Charitable Trust and others, Kapiti Districts Aero Club, Richard Bull and Paraparaumu Airport Ltd. The appeals from Kapiti Aero Club and Richard Bull were 'mostly concerned about safety issues in relation to the secondary runway' and were later withdrawn as their concerns, according to the district planner, had been met. The appeal by Paraparaumu Airport Ltd concerned the commissioners' recommendations that included the 'deferral of the Residential zone and Aviation Residential precinct, extent of the General Business Precinct, the extent of the

¹⁴²⁸ Ibid, pp. 9-10.

¹⁴²⁹ Proposed Change 18 – Kapiti Coast District Plan Request by Paraparaumu Airport Limited to Introduce Airport, Industrial Service and Residential Zones, Section 32 Report, Kapiti Coast District Council, undated, circa 2002, pp. 1-2 from Environment Court, Ministry of Justice, Wellington.

Industrial zone at the western end of the secondary runway and the 15m building setback along Kapiti Road’.¹⁴³⁰

George Jenkins for Te Whanau A Te Ngarara Inc made a submission to the Environment Court. He said that the group opposed in its entirety the request by the applicant, Paraparaumu Airport Ltd, to change the airport zoning. Mr Jenkins told the Court that when the Ministry of Transport sold the airport to Paraparaumu Airport Ltd in 1995 the land was not offered back to the original owners because it was still required for an aerodrome. Therefore, the company was ‘bound to utilise the airport land for the public work of an aerodrome purpose or some other public work’. If they wished to use the airport land for any non-aerodrome related purpose, then they were ‘lawfully prevented from employing the Resource Management Act to allow such developments until the ... [airport company had] discharged its statutory obligation under the Public Works Act 1981 to organise an offer to transfer its ownership of the subject land back to the original owners or their descendants’. He said that the Resource Management Act could only be employed to change land usage at the airport after the requirements of the Public Works Act 1981 had been met and that it was ‘clear that the requirements of the Public Works Act 1981 ... [took] priority over the Resource Management Act’. Mr Jenkins said too that the company was ‘holding the land in breach of the Public Works Act’ and that the request represented a ‘possible fraud by the applicant’.¹⁴³¹

Mr Jenkins also raised the issue of the new zoning’s effect on the value of the land. He said that the application would ‘take advantage of the new zoning to increase the value of the land to a point that it may well become unreachable for those less affluent descendants or original owners’. This would allow the airport company to ‘take full advantage of the commercial potential of the land by retaining ownership of the land once rezoned’. He said that the request for new zoning contravened section 6 (e) of the Resource Management Act 1991, which stated that the Council should ‘recognise and provide ... for the relationship of Maori ... with their ancestral lands’. He noted that the land in question was ‘ancestral land of the descendants of the original owners ... represented by Te Whanau A Te Ngarara’. The

¹⁴³⁰ A Guerin, District Planner, Kapiti Coast District Council to Hon Mark Gosche, Chairperson, Transport and Industrial Relations Committee, 4 February 2004 entitled Paraparaumu Airport Chronology of Events, from papers supplied by Kapiti Coast District Council, Paraparaumu. SW Document Bank, volume 4, pp. 148-151.

¹⁴³¹ Opposing Submission, Te Whanau A Te Ngarara Incorporated, in the matter of the resource Management Act 1991 and Paraparaumu Airport Limited Plan change 18 and Kapiti Coast District Council, RMA 0117/02, received by Environment Court, March 2002, from Environment Court, Ministry of Justice, Wellington.

proposed change also, he said, contravened section 7(a) of the Act which required the Council to have regard to kaitiakitanga of tangata whenua noting that if the development proposals were to proceed then they were unable to carry out their obligations as kaitiaki of the land.¹⁴³²

Mediation talks commenced between the Council and the appellants with the result that most of the appellants withdrew their appeals. Indeed, the appeal of Te Whanau A Te Ngarara Incorporation was withdrawn and no Court decision given. This was because, according to the District Planner ‘it was not [considered] a zoning or Resource Management Act matter and cannot be part of these proceedings’.¹⁴³³

With respect to the appeal of Paraparaumu Airport Ltd, the Council and Paraparaumu Airport Ltd ‘reached a mediated agreement on the issues between them’ on 9 October 2002. The District Planner recorded that the agreement ‘provided for the rezoning of land to allow for residential development’. Further:

This is subject to subdivision restrictions until the supplementary water supply is available and noise restrictions. This includes covenants on the title to ensure that future landowners cannot take enforcement action in relation to aircraft noise and the installation of noise insulation in new dwellings. The agreement also provides for the reinstatement of the General Business Precinct with restrictions to ensure that development does not take place under the flight path and the Industrial/Service zone up to the 10 m Obstacle Limitation Surface at the west end.¹⁴³⁴

The agreement then went before the Environment Court though details of this process have not been located.¹⁴³⁵

In January 2005, the Airport Zone was introduced to the District Plan by Plan Change 18. Ms Hinton, the current Principal Policy Planner at the District Council has compared the zoning

¹⁴³² Ibid.

¹⁴³³ A Guerin, District Planner, Kapiti Coast District Council to Hon Mark Gosche, Chairperson, Transport and Industrial Relations Committee, 4 February 2004 entitled Paraparaumu Airport Chronology of Events, from papers supplied by Kapiti Coast District Council, Paraparaumu; Advice received from Environment Court, Ministry of Justice, Wellington, February 2017. SW Document Bank, volume 4, pp. 148-151.

¹⁴³⁴ Ibid.

¹⁴³⁵ Ibid.

of the airport area before and after plan change 18. She states that ‘the plan change removed the area now known as Simpson Crescent (which links to Rewa and Titoki Roads) from the Airport Zone and made it residential’.¹⁴³⁶ This area appears to be located in what was known as Part Lot 1 Block VI DP 2767 which was European land prior to being compulsorily acquired for the airport but further mapping research of the area is required to confirm this.¹⁴³⁷ No details have been located regarding the sale of this land by Paraparaumu Airport Ltd to private interests but it is clear from satellite images in 2017 that this land has been built on and used for residential purposes.

10.2.9 Further Zoning Changes (plan change 73) 2007-2010

In 2006, the airport was, according to *The Dominion Post*, purchased by Noel Robinson ‘for a sum described at the time as “well under \$40 million”’.¹⁴³⁸ The following year, the Paraparaumu Airport Ltd applied for another district plan change in respect to the airport. This was known as plan change 73. The plan change was notified and ‘attracted considerable public interest in the Paraparaumu/Kapiti area’ with a total of 1323 submissions received. Of these, 1169 ‘expressed outright opposition to the change, 86 supported the change without qualification, 12 supported the change if amendments were made, 48 did not specify any preferred outcome and a further eight submissions supported some aspects of the proposal but opposed others’. Hearing commissioners were appointed by the Council who recommended that approval be given to plan change 73 with some amendments. This recommendation was adopted by the Council. Appeals against the decision were made to the Environment Court in 2009 under clause 14 of first schedule to the Resource Management Act 1991 by Te Whanau a Te Ngarara, BP Cammack, AMR Evans and Paraparaumu Airport Coalition Incorporated.¹⁴³⁹

¹⁴³⁶ Email between Sherilyn Hinton, Principal Policy Planner, Kapiti Coast District Council and Suzanne Woodley, 4 May 2017; Kapiti Coast District Council District Plan, Schedule of Changes – Last Updated May 2015, from papers supplied by Kapiti Coast District Council, Paraparaumu. SW Document Bank, volume 4, pp. 152-161.

¹⁴³⁷ Map Entitled ‘Paraparaumu Airport: Land Holdings by Title’, AANS W5883 25344 Box 101 R22-306 part 11, District Plans – Reviews – Kapiti Coast District Council, 2000-2001, Archives New Zealand, Wellington. SW Document Bank, volume 4, pp. 170-171.

¹⁴³⁸ *Dominion Post*, 29 August 2012: <http://www.stuff.co.nz/dominion-post/business/7566694/Todd-family-takes-major-Kapiti-airport-stake>

¹⁴³⁹ Environment Court, BP Cammack and AMR Evans, Paraparaumu Airport Coalition Incorporated and Te Whanau A Te Ngarara Inc v Kapiti Coast District Council, Interim Decision No. W 069/2009, Wellington, September 2009, p. 4.

Plan Change 73 to the Kapiti Coast District Plan was described in the Environment Court judgement as a ‘private plan change requested by Paraparaumu Airport Ltd pursuant to clause 21, schedule 1 of the Resource Management Act 1991’. Plan Change 73 sought to ‘introduce new zoning provisions to the District Plan’ and applied to approximately 126 hectares of land which comprised the Paraparaumu Airport. The request for zoning changes made by Paraparaumu Airport Ltd sought to provide four ‘precincts or activity areas’ at the airport. These were:

- Airport Core (41.449 ha) where primarily airport related activities including hangars, cargo facilities, refuelling and maintenance areas, terminal buildings, runways etc are located.
- Airport Mixed Use (70.6429 ha) which is to provide for a range of light industrial, commercial and retail activities.
- Airport Heritage (0.32 ha) which contains an historic control tower, together with a museum and curtilage around those buildings.
- Airport Buffer (approximately 14.2429 ha) which will provide for stormwater control, wetland retention, ecological habitat and landscaping, as well as separating airport activities from surrounding residential uses.¹⁴⁴⁰

The key changes to the airport zone to be introduced by plan change 73 were summarised by Paraparaumu Airport Ltd’s principal planning adviser, Mr Aburn as follows:

- i. ‘restructuring’ the Airport Zone to reduce the precincts from six to four;
- ii. restatement of the zone objectives, policies and anticipated environmental outcomes;
- iii. broadening of the permitted activities in the new ‘Airport Mixed Use Precinct’;
- iv. removing opportunities for residential development within the Airport Zone;
- v. linking investment in the Airport Core Precinct with progressive development of the Airport Mixed Use Precinct;
- vi. new permitted activity standards including those relating to building height;
- vii. introducing design guidance;
- viii. establishing an ‘open space’ buffer zone;
- ix. ensuring that development progresses with the capacities of infrastructure; and

¹⁴⁴⁰ Ibid, p. 2.

x. recognising the ancestral connection of Maori to the land.¹⁴⁴¹

The appeals were summarised by the Environment Court as follows:

- Bernard Cammack and Ann Evans (Drs Cammack and Evans) filed a focused appeal directed specifically at issues of noise. These Appellants were concerned about what they considered to be a significant public health risk arising from the noise generated by airport activities and sought to restrict growth in airport activities, helicopter operations and circuiting activities.
- Paraparaumu Airport Coalition Incorporated (PAC) filed an appeal challenging a number of aspects of the Council decision. PAC is (according to its Counsel) a diverse community group including members of the aviation community, the Kapiti Aero Club, environmentalists, persons who monitor development in Kapiti and citizens concerned at injustices which have occurred in the community.
- Te Whanau a Te Ngarara Incorporated (Te Ngarara) is a group which represents the interests of the original owners of the land upon which the airport is now established. It filed an appeal raising similar issues to PAC although its concerns proved to be somewhat more narrowly centred.¹⁴⁴²

The following issues arising from the appeals were identified by the Environment Court:

- Airport safety;
- Airport noise;
- Economic issues;
- Tangata whenua issues;
- Traffic.¹⁴⁴³

¹⁴⁴¹ Ibid, pp. 3-4.

¹⁴⁴² Ibid, pp. 4-5.

¹⁴⁴³ Ibid, p. 5.

The Environment Court considered each issue separately as well as the issue of resource management planning. The following is an examination of the Environment Court's statements on 'tangata whenua issues' only.

The Court noted that Te Ngarara represented the interests of those who had an ancestral relationship with the land occupied by the airport. A planning advisor for Paraparaumu Airport Ltd claimed that Te Ngarara did not represent all of the descendants of the original owners of the land but the Court said that it was its understanding that there was no dispute that Te Ngarara represented a 'substantial body of those descendants'. Evidence was given to the Court which detailed the 'individual connections of [Puketapu] hapu members with the airport land ... by a number of witnesses'. Mr Jenkins, the chairperson of Te Ngarara told the Court that the airport 'represented the single largest taking of land in the greater Wellington area'. He and other hapu members were concerned:

... as to the way in which Paraparaumu Airport has devolved from an airport established for military aviation purposes and owned by the Government, into a privately owned general aviation facility on which a range of developments has occurred and where further development (including development of a commercial nature) is now proposed.¹⁴⁴⁴

The Environment Court also remarked that the evidence of Te Ngarara and their continued presence at the hearing:

... testified to the strong sense of grievance and bewilderment which they felt as to loss of the airport lands. As Te Ngarara formally conceded, however, matters relating to ownership of the land are beyond this Court's jurisdiction to consider and it would be inappropriate for us to make any comment regarding them.¹⁴⁴⁵

The Court also held that 'the history of the airport land, the connection of Te Ngarara members with that land and its ongoing significance to them were uncontroverted before us'.¹⁴⁴⁶

¹⁴⁴⁴ Ibid, pp. 47-48.

¹⁴⁴⁵ Ibid, p. 48.

¹⁴⁴⁶ Ibid, p. 48.

The Court divided the concerns of Te Ngarara into two categories: Consultation/mandate issues; and Physical works issues. With respect to Consultation/Mandate Issues it was the position of Te Ngarara that they had not been consulted about plan change 73. Paraparaumu Airport Ltd argued, however, that it had consulted with Te Runanga Te Ati Awa ki Whakarongotai Charitable Trust which had resulted in a relationship agreement between the two parties. This relationship agreement envisaged an ‘ongoing relationship between PAL [Paraparaumu Airport Ltd] and Te Runanga, so that the airport land might be developed in a way which recognises the relationship of Maori with that land’. Te Ngarara, however, opposed this agreement, which they stated had been ‘entered into without their knowledge or approval’. The Court said that the evidence established that Paraparaumu Airport Ltd ‘did engage actively with Te Ngarara with respect to its claim with the Crown for compensation for loss of the airport lands’ and Mr Robinson, for the Airport, testified that the Paraparaumu Airport Ltd had ‘spent somewhere in the order of \$200,000 in assisting that claim by the provision of research’. Te Ngarara felt, however, that the company should have also engaged with them in respect to plan change 73 as opposed to dealing with Te Runanga. The Court noted that the issue of consultation was ‘not directly relevant’ to the decision of the Court as to whether to grant approval to plan change 73. Instead, the ‘real issue [was] the extent to which plan change 73 recognises and provides for the relationship of Maori with their ancestral lands’.¹⁴⁴⁷

The Court found that it was ‘entirely appropriate for PAL [Paraparaumu Airport Ltd] to negotiate with Te Runanga in respect of the Plan Change’ as Te Runanga was the ‘recognised iwi authority for this part of the Kapiti Coast’. The Court also noted that it was apparent that ‘ownership issues were in fact at the heart of what Te Ngarara sought’ but that the Court could not deal with that issue and that it could only deal with whether plan change 73 ‘failed to adequately provide for the relationship of Te Ngarara with their ancestral lands’.¹⁴⁴⁸

The Court found that it was ‘unable to accommodate’ the wishes of Te Ngarara. Further:

If Te Ngarara had suggested ways in which their relationship with the (now) airport land might be recognised other than through ownership reverting to descendants of

¹⁴⁴⁷ Ibid, pp. 49-50.

¹⁴⁴⁸ Ibid, pp. 50-53.

the original owners, we would have considered such proposals and PAL similarly indicated a willingness to do so. No such suggestions were made to us.¹⁴⁴⁹

The Court found that plan change 73 ‘recognises and provides for the relationship of Maori with the land contained within Paraparaumu Airport, to the extent that it is able to do so’.¹⁴⁵⁰

Te Ngarara also raised what ‘might be described as an archaeological issue or rather a concern as to how development on the airport lands might affect sites of concern to Maori’. What was described as ‘comprehensive briefs’ were filed with the Court from two archaeologists together with the evidence of historian, Bruce Stirling, ‘who gave evidence on behalf of Te Ngarara regarding Maori occupation and settlement of the Ngarara West B Block’. Evidence was given about the presence of urupa and archaeological sites and the extent to which the earthworks and other developments proposed within plan change 73 would have on such sites. The Court concurred with the evidence it received from witnesses for Paraparaumu Airport Ltd that plan change 73 put a ‘comprehensive series of controls in place regarding earthworks and their possible effect on sites of interest to tangata whenua’. Also, that it recognised the ‘parallel jurisdiction of NZHPT [New Zealand Historic Places Trust] but without surrendering District Plan control over such matters’. The Court said that ‘no additional provisions, controls, rules or standards were suggested by Te Ngarara’. The Court concluded that plan change 73 recognised and provided for matters identified in ss 6(e) (the recognition and provision of the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga), section 7(a) (the need to have regard to kaitiakitanga of tangata whenua) and section 8 (the need to take into account the principles of the Treaty of Waitangi) of the Resource Management Act. The Court said that it appreciated that its findings did not ‘satisfy the specific concerns of Te Ngarara as to ownership of the airport land’ but that it was beyond the jurisdiction of the Court to consider the matter.¹⁴⁵¹

The Court concluded that plan change 73 promoted the ‘sustainable management of natural and physical resources as required by s5(1) RMA [Resource Management Act] and proposed to approve Plan Change 73 in accordance with the *CLOSING VERSION (21 May 2009)*

¹⁴⁴⁹ Ibid, p. 54.

¹⁴⁵⁰ Ibid, pp. 48 & 84.

¹⁴⁵¹ Ibid, pp. 54 & 62.

submitted to us with PAL's closing submissions, subject only to the amendment of the noise contours identified in the section of this decision addressing noise issues' [emphasis in text].¹⁴⁵²

Plan change 73 became operative on 21 October 2010.¹⁴⁵³

Walzl notes that the plan change allowed for a '\$450 million redevelopment of the airport and its landholdings which included the establishment of a business park'. The extent to which any further airport land has been sold has not been investigated.¹⁴⁵⁴

10.2.10 Settlement and subsequent re-zoning, 2010-2017

As noted above, circa 2010-2012, 'negotiations proceeded between Te Whānau a Te Ngārara and Paraparaumu Airport Limited' and a settlement was reached. According to Walzl, 'under law, however, several descendants of former owners were not entitled to join the negotiations'. Also in 2012, the Todd Property Group purchased 75 percent of the shareholding of the airport, with former owner Sir Noel Robinson retaining 25 per cent. *The Dominion Post* reported that as both parties were private companies, they were 'not obliged to disclose a sale price'. Mr Robinson was recorded as stating that he had 'developed the 72-hectare business park at the airport as far as he could with his own resources, and was reducing his stake to introduce new capital so the development could continue'. The article also reported that 'since securing consents to upgrade the airport and create the business park, it is estimated the value of the business has increased by between \$10m and \$20m'. It was reported too that in October 2011, Air New Zealand had begun return flights from Paraparaumu to airport and that according to Mr Robinson, 'the service was performing well, and further routes would be added'. Mr Robinson 'also announced construction of the second major building phase of the business park' with the first phase having been completed circa 2011.¹⁴⁵⁵

¹⁴⁵² Ibid, p. 87.

¹⁴⁵³ Kapiti Coast District Council District Plan, Schedule of Changes – Last Updated May 2015, from papers supplied by Kapiti Coast District Council, Paraparaumu. SW Document Bank, volume 4, pp. 152-161.

¹⁴⁵⁴ Tony Walzl, 'Ngātiawa / Te Āti Awa Research Needs Scoping Report', 18 January 2016, p. 99.

¹⁴⁵⁵ Ibid; *Dominion Post*, 29 August 2012: <http://www.stuff.co.nz/dominion-post/business/7566694/Todd-family-takes-major-Kapiti-airport-stake>

There were further submissions regarding zoning of the airport in 2016 and 2017 (plan change 84) but time constraints prevent the examination of this.¹⁴⁵⁶

10.2.11 Conclusion

Almost 100 hectares of Maori land was compulsorily acquired for the Paraparaumu airport under the Public Works Act between 1939 and 1954 and sold by the government to private interests in 1995. When the descendants of the original owners challenged the sale in the High Court (also in 1995) they were assured that their rights under the Public Works Act were protected.

Since 1995, a number of applications have been made to the Kapiti Coast District Council to have various parts of the airport rezoned. The first such application was made in respect to what is thought to be 1.67 ha around Avion Terrace not long before the airport was sold by the government. The area around Avion Terrace had been used for the housing of airport staff. The re-zoning in 1995 of the area around Avion Terrace occurred as a result of a submission by a consultant acting for one of the parties bidding for the airport in the months between the release of the draft district plan (March 1995) and the preparation of the proposed district plan (September 1995). It has not been established which one of the three parties the consultant was acting for but the consultant's request was sufficient for the change to be made. That is, the change was made purely on the evidence of a consultant acting for an unnamed group. There was no record of involvement by either the Maori or European descendants of the original owners of the land.

The request to re-zone the area around Avion Terrace as residential appears to have been justified on the basis that the land was already being used for housing. There was no acknowledgement that this housing had been used for airport staff and could have continued to be utilised for this purpose under existing provisions. Changing the land to a residential zone meant that further development could occur over and above what already existed. It could be argued that the zone change request was therefore based on the assumption that the area would be further developed for residential use and that a likely outcome was the sale of the land. Indeed, the Council did acknowledge at this time that the new owners might later wish to develop 'open land' for residential purposes and that they had an avenue to apply for

¹⁴⁵⁶ Kapiti Coast District Council website: <http://www.kapiticoast.govt.nz/Your-Council/Planning/District-Plan1/District-Plan-Changes/plan-change-84---airport-zone/>

this. It could also be assumed that the Council knew of the controversy over the sale and the desire of the descendants of the original owners to ensure their rights under the Public Works Act were protected. Their appeal to the High Court occurred at the same time as the proposed district plan was being prepared. Despite this, the potential impact of the zoning changes on the descendants of the original owners such as the sale of the re-zoned area does not appear to have been a factor in the decision-making process.

It is difficult to second guess why this was not a factor in the decision-making process. It is possible that the Council, given that the descendants of the original owners had been assured in the High Court that their rights were protected, did not anticipate any implications for descendants. It is also possible that the Council did not consider the implications of rezoning on descendants to be its concern or within its remit in the district plan decision making process though under the Resource Management Act 1991 local authorities were required to recognise the relationship between Maori and their ancestral lands. It is possible too that the Council was aware that a sale could emanate from its decision but ignored the implications on the descendants of the original owners and went instead with the submission of the consultant.¹⁴⁵⁷

Submissions could have been made to the Council challenging the re-zoning of the area around Avion Terrace but given that the rest of the airport remained zoned ‘open space’ at this time (and until 2005) it may well have been overlooked by those interested.

It is apparent that the rezoning of the Avion Terrace area facilitated the sale of this surplus land for residential purposes as without the rezoning, further residential development could not have occurred and developers would not have been interested in purchasing it. Evidence provided to the Transport and Industrial Relations Committee records that the descendants of the original owners were not part of any offer-back procedures instigated by the Paraparaumu Airport Ltd.

¹⁴⁵⁷ Report of the Transport and Industrial Relations Committee, Petition 1999/231 of Ross Sutherland and 584 others, p. 46, New Zealand Parliament website: https://www.parliament.nz/resource/en-NZ/47DBSCH_SCR2739_1/3a504f7a4a373c20dfcc1719fe9006dd15e78a6e; Summary of Submissions to Draft District Plan, circa July 1995; Decisions of the Council on Submissions to the Draft District Plan, circa August 1995, from papers supplied by Kapiti Coast District Council, Paraparaumu. SW Document Bank, volume 4, pp. 134-135, 138-139.

As well, three sections at the top of Kaka Road and Moa Street were re-zoned in 2002 and sold though it would appear that this land had been European land at the time it was compulsorily acquired under the Public Works Act (though further mapping is required to confirm this).

It is quite clear given the sale of the area around Avion Terrace circa 1998 and the three sections at the top of Kaka and Moa Streets that the airport owners had land surplus to the requirements of an airport. In addition, the commissioners hearing a re-zoning request in 2001 were told that the reason why Paraparaumu Airport Ltd wished to zone ‘small areas of land outside the Paraparaumu Airport Zone’ as residential or industrial/services was due to the airport property being ‘very under-utilised’ and that this it had ‘the potential to accommodate much more activity’. It was also the opinion of a consultant for Paraparaumu Airport Ltd, Frank Boffa, that the proposed residential zone along the southern boundary of the airport ‘rationalises pockets of undeveloped airport land that in many respects has more of a residential context than an Airport zone context’. As well, after a further plan change (73) was agreed to in 2010, the airport was developed to include a business park.¹⁴⁵⁸

According to the commissioners who considered zoning changes in 2001-2002 (plan change 18), the rezoning of surplus land for other purposes that had been compulsorily acquired was not a zoning or resource management issue. Likewise, when the Environment Court heard Te Whanua A Te Ngarara complaints about the re-zoning of the airport in 2009 (plan change 73) they were told that the Court could only consider land use and not issues of ownership. Therefore, concerns about the way the airport had ‘devolved from an airport established for military aviation purposes and owned by the Government, into a privately owned general aviation facility on which a range of developments has occurred and where further development (including development of a commercial nature)’ was proposed could not be considered.¹⁴⁵⁹

It is also clear that the government erred when it sold the land in not ensuring that legislation provided for the guarantee that any land not directly required for the purpose of an airport was offered back to the descendants of the original owners. This means that the Crown did

¹⁴⁵⁸ Kapiti Coast District Council District Plan, Decision on Plan Change 18, Paraparaumu Airport, 20 December 2001, pp. 7, 15-16 from Environment Court, Ministry of Justice, Wellington.

¹⁴⁵⁹ Ibid, pp. 47-48.

not ensure that it protected the interests of all the descendants of the original owners. Despite a settlement circa 2010-2012 between some of the descendants of the original owners and Paraparaumu Airport Ltd, other descendants state that they have been left out of this settlement process.¹⁴⁶⁰

10.3 Kapiti Coast District Council Maori Rates Remission Policy, 2016

As noted in the legislative section, under the Local Government Rating Act 2002, all local authorities are required to have a policy on rates remission and postponement of rates on Maori freehold land. Under the policy adopted by Kapiti Coast District Council, the council can ‘grant an application for a remission or postponement on all or some of the Kāpiti Coast District Council rates levied on Maori freehold land where the relevant criteria is met’. The policy objectives are outlined in the Council’s long-term plan for 2015-2035 and are to:

- Recognise that certain Maori owned land may have particular conditions, features, ownership structures, or other circumstances that make it appropriate to provide for relief from rates;
- Recognise whether there is no occupier or person gaining an economic or financial benefit from the land;
- Recognise that the council and the community benefit through the efficient collection of rates; and
- Meet the requirements of section 102 of the Local Government Act 2002 to have a policy on the remission and postponement of rates on Maori freehold land.¹⁴⁶¹

The policy conditions and criteria are:

Application for a remission or postponement under this policy should be made prior to the commencement of the rating year. Applications made after the commencement of the rating year may be accepted at the discretion of the council. A separate application must be made for each rating year.

¹⁴⁶⁰ Tony Walzl, ‘Ngātiawa / Te Āti Awa Research Needs Scoping Report’, 18 January 2016, p. 99.

¹⁴⁶¹ *Future Kapiti, Kapiti Coast District Council Long Term Plan, 2015-2035*

<http://www.kapiticoast.govt.nz/contentassets/989a93ca72e34aa9b7296085f56d6102/ltp-2015-35-supporting-information.pdf>

Owners or trustees making application should include the following information in their applications: Details of the rating unit or units involved; documentation that shows that the land qualifies as land whose beneficial ownership has been determined by a freehold order issued by the MLC; and the objectives that will be achieved by the council providing a remission.

The council may investigate and grant remission or postponement of rates on any Maori freehold land in the district. Relief and the extent thereof is at the sole discretion of the council and may be cancelled and reduced at any time.

The council will give a remission or postponement of up to 100% of all rates for the year for which it is applied for based on the extent to which the remission or postponement of rates will:

- Support the use of the land by the owners for traditional purposes;
- Support the relationship of Maori and their culture and traditions with their ancestral lands;
- Avoid further alienation of Maori freehold land;
- Facilitate any wish of the owners to develop the land for economic use;
- Recognise and take account of the presence of wahi tapu that may affect the use of the land for other purposes;
- Recognise and take account of the importance of the land in providing economic and infrastructure support for Marae and associated papakainga housing whether on the land or elsewhere);

Recognise and take account of the importance of the land for community goals relating to

- The preservation of the natural character of the coastal environment;
- The protection of outstanding natural features;
- The protection of significant habitats of indigenous fauna;

Recognise the level of community services provided to the land and its occupiers;

Recognise matters related to the physical accessibility of the land; and

Provide for an efficient collection of rates and the removal of rating debt.¹⁴⁶²

The policy states that it applies to owners of Maori freehold land ‘who meet the relevant criteria as approved by the Chair of the council committee with responsibility for managing council finances at the time of adopting this policy this is the Chair of the Corporate Business Committee), and the Group Manager, Corporate Services’. The administration of the policy could also be ‘sub-delegated to a council officer as appropriate’.¹⁴⁶³

While it has not been possible in the timeframe to investigate fully the effectiveness and the extent to which the policy is used, it is known that there is Maori land within the jurisdiction of the District Council which is non-revenue producing and still levied rates. Pahianui B5A (comprising 1.5 ha with six owners) is located on River Bank Road between Miro Street and Matta Products at Otaki (to the south). As owner Iwi Nicholson states, and Kapiti Coast District Council zoning maps confirm, the land is zoned industrial and therefore owners are restricted to this use and cannot build homes. Mr Nicholson states that the land has been zoned industrial for 20 to 30 years. The land is also very stony which means it cannot be used for grazing. Owners do not have the means or desire to build for industrial purposes. The land, therefore remains unoccupied and non-revenue producing. It also remains rateable.¹⁴⁶⁴

10.4 Te Whakaminenga o Kāpiti

As noted in the legislative section, the Local Authorities Act 2002 requires local authorities to ‘establish and maintain processes to provide opportunities for Maori to contribute to the decision-making processes of the local authority ... [and] consider ways in which it may foster the development of Maori capacity to contribute to the decision-making processes of the local authority’. A local authority must also ‘provide relevant information to Maori’ for the purposes of establishing and maintaining the processes.

¹⁴⁶² Ibid

¹⁴⁶³ Ibid

¹⁴⁶⁴ Feedback from Iwi Nicholson, Porirua ki Manawatu, Local Authorities Issues Draft Report Hui, Otaki, 2 March 2017; Maori Land Online: <http://www.maorilandonline.govt.nz/>; Kapiti Coast District Council Zoning Maps, 2017: http://www.kapiticoast.govt.nz/contentassets/07cbe00c20474620b310acce2a17cd66/maps03_zones-and-feat_ver_01.pdf

Even before this legislation was enacted, KCDC established Te Whakaminenga o Kāpiti which is described by KCDC as ‘one of the longest lasting partnerships between tāngata whenua and Local Government in New Zealand’.¹⁴⁶⁵

KCDC states that Te Whakaminenga o Kāpiti stems from ‘two core principles of the Treaty of Waitangi as identified and defined by the Court of Appeal and the Waitangi Tribunal’:

The first principle, ‘partnership’, obliges both parties ‘to act reasonably, honourably and in good faith’. For that, consultation is vital. The second principle, ‘active protection’, requires the Crown to protect Māori in the use of their lands and waters to the fullest extent practicable.¹⁴⁶⁶

Te Whakaminenga o Kāpiti first met on 8 March 1994. The name was devised by the Council’s then Iwi Consultation Group: ‘the three iwi used ‘Te Whakaminenga’, meaning ‘The Confederation’, to describe themselves, but the addition ‘o Kāpiti’ (of Kāpiti) was designed to include the Kāpiti Coast District Council’.¹⁴⁶⁷

In 1994, the group developed and signed a Memorandum of Partnership. This is described as ‘the primary guide for the group’s general conduct and purpose’. Te Whakaminenga o Kāpiti ‘guides the Council relationship with iwi, although where appropriate the Council undertakes direct consultation with iwi’.¹⁴⁶⁸

The goal of Te Whakaminenga o Kapiti is to ‘forge a relationship of mutual benefit between the Kāpiti Coast District Council and the tāngata whenua that will develop into an effective and meaningful partnership’. Further:

While Te Whakaminenga o Kāpiti has primarily been involved with issues to do with resource management, it has also worked, particularly in more recent years, to ensure that the Māori World view is better represented and understood in the broader

¹⁴⁶⁵ <http://www.kapiticoast.govt.nz/Our-District/Tangata-Whenua/Te-Whakaminenga-o-Kapiti-Iwi-and-Council-Partnership-Committee/>

¹⁴⁶⁶ Ibid.

¹⁴⁶⁷ Ibid.

¹⁴⁶⁸ Ibid.

community. From the beginning Te Whakaminenga o Kāpiti has focused on harmonising different cultural attitudes to resources and solve local issues according to national legislation.¹⁴⁶⁹

KCDC state that ‘the partners are the Kāpiti Coast District Council and the mana whenua (people with ‘authority over the land’) on the Kāpiti Coast. They are given as Te Āti Awa ki Whakarongotai, Ngāti Raukawa ki te Tonga and Ngāti Toarangatira’.¹⁴⁷⁰ The following groups - Te Āti Awa ki Whakarongotai Charitable Trust, Ngā Hapū o Ōtaki and Te Runanga o Ngāti Toarangatira - elect two representatives each for Te Whakaminenga o Kāpiti. The Council is represented by the Mayor and a councillor. These representatives, KCDC states, ‘discuss matters of social, environmental, economic and cultural significance to tāngata whenua’.¹⁴⁷¹

10.5 Ngati Awa ki Kapiti view on Te Whakaminenga o Kāpiti

Ngati Awa ki Kapiti claimants do not consider that their views are represented by the Maori representation process set up by the KCDC. They state that up until 1996, Pehi Parata operated in such a way as to ensure their views were represented. Since then they consider that their views have been excluded from the process set up by KCDC.¹⁴⁷² As noted above, Ngati Awa ki Kapiti are not included in those considered to have mana whenua over the Kapiti Coast by KCDC and do not have representation on Te Whakaminenga o Kāpiti.

They state that various actions of KCDC reflect this exclusion. These include placing a plaque at Paraparaumu beach which acknowledges and commemorates the role of other iwi in the history of the beach but not that of Ngati Awa. The plaque, they state, has only recently been built. Ngati Awa ki Kapiti are also concerned with the development of Otarua Park and that their desire to correct the name of the park has not been given credence. They are also concerned that the spring located on the park is being polluted. They are particularly concerned too about what they see as a lack of information coming from Te Whakaminenga o Kāpiti and of not being advised of decisions that affect them. They also state that they have

¹⁴⁶⁹ Ibid.

¹⁴⁷⁰ Ibid.

¹⁴⁷¹ Ibid.

¹⁴⁷² Meeting with Ngati Awa ki Kapiti, 11 May 2016.

been excluded from being involved in the Greater Wellington Regional Council Maori representation process.

11. Hutt County Council, 1877-1989

11.1 Establishment

Along with Manawatu County Council, the Hutt County Council was one of the earliest counties established in the inquiry district. It was formed in 1877 and ‘included the whole region south of the Waikanae River, except the city of Wellington’. In 1908, the Makara County was founded which separated out the ridings of Makara and Porirua from the Hutt County which encompassed the area south of Titahi Bay. Te Ara notes that as ‘townships and suburbs became established between the 1880s and 1910s, they set up their own councils’ and that those next to Wellington ‘later joined the city to benefit from its services, including trams’. Hutt County Council, however, ‘remained confined to rural areas and some smaller settlements until its abolition in 1989’.¹⁴⁷³

The first meeting of the Council was held on 4 January 1877. The chair was Thomas Mason, and councillors included James Taylor, John Chew, P Monaghan, Stephen Lancaster, David Speedy, R Dick, Edward Morgan and R Smith. No reference has been located to any Maori councillors in the sources viewed in the course of the research.¹⁴⁷⁴

Maori land blocks within the inquiry district and the boundaries of the Hutt County from 1908 included Hongoeke, Ngarara West, Paekakariki, Paraparaumu, Pukerua and Wainui.

11.2 Ferry Reserve at Waikanae, 1879-1882

One of the first examples of contact between Maori and the Hutt County Council was in relation to what was called the ‘ferry reserve’ at Waikanae which was Maori land. There had been a belief on the part of the Council that it had been purchased based on a ‘verbal agreement’ but no formal documentation was found by the Native Department in 1879 when the Hutt County Council sought clarification on the issue. The Council said that the

¹⁴⁷³ Te Ara – The Encyclopedia of New Zealand: www.teara.govt.nz/.

¹⁴⁷⁴ James M Daley, *Hutt County Council Centenary, 1877-1977*, Hutt County Council, 1978, pp. 13, 204-212.

‘ferryman’ wished to build a house by the river which, it acknowledged, could only be done with the permission of Maori.¹⁴⁷⁵

In October 1880, the Council advertised for tenders to lease the Waikanae Ferry for a period of two years.¹⁴⁷⁶ Several months later it was recorded at a meeting of the Council that Mr JH Walker had been appointed ferry man at the Waikanae ferry for two years from 1 January 1881 at £52 per year. It was also decided at the meeting to ask the government to ‘place in the possession of the Council a certain piece of land at Waikanae, which the Council understood had been purchased by the Government from the natives for ferry purposes’. In March 1881, the Council resolved that the Chair should apply for a survey of the Waikanae Ferry Reserve so that the ‘ferryman’ could erect a house on it and that the ferryman be asked to ‘make the best arrangements he can with the natives in the meantime’.¹⁴⁷⁷

In April 1881, the ferryman attended a meeting of the Council had advised that Maori had ‘given him notice to quit’. In response, the Council decided that the matter would be ‘looked into at once’.¹⁴⁷⁸ In 1882, Waikanae Maori (Te Peura Te Heke and others) told the Land Purchase Officer that they did not agree to sell or lease the land requested. Instead they asked why they could not themselves ‘convey the coach passengers across the river’.¹⁴⁷⁹ It does not appear that Maori were given the opportunity as in January 1883, the Council decided that it would hand over to HA Field the ferry at Waikanae at the rate of £52 per annum. In 1886, the ferry was closed.¹⁴⁸⁰

This situation suggests that the relationship between Maori and the Council was an uneasy one there being no indication that the Council was willing to directly negotiate with Maori about the utilisation of the land or to facilitate Maori running the ferry themselves.

¹⁴⁷⁵ Hutt County Council to Native Minister, 24 April 1879; Te Peria Te Heke and ten others to Mr Booth, 31 January 1882, AECZ 18714 MA-MLP1/10/ai 1882/30 From: James Booth, Wanganui Date: 2 February 1882 Subject: Forwards letter from Natives declining to sell the land required for site for Ferryman's residence at Waikanae, 1882, Archives New Zealand, Wellington. SW Document Bank, volume 5, pp. 127-128.

¹⁴⁷⁶ *Manawatu Herald*, 27 October 1880, p. 2.

¹⁴⁷⁷ *Evening Post*, Volume XX, Issue 292, 14 December 1880, p. 2; *Evening Post*, Volume XXI, Issue 74, 30 March 1881, p. 2.

¹⁴⁷⁸ *Evening Post*, Volume XXI, Issue 86, 13 April 1881, p. 2.

¹⁴⁷⁹ Hutt County Council to Native Minister, 24 April 1879; Te Peria Te Heke and ten others to Mr Booth, 31 January 1882, AECZ 18714 MA-MLP1/10/ai 1882/30 From: James Booth, Wanganui Date: 2 February 1882 Subject: Forwards letter from Natives declining to sell the land required for site for Ferryman's residence at Waikanae, 1882, Archives New Zealand, Wellington. SW Document Bank, volume 5, pp. 127-128.

¹⁴⁸⁰ *Evening Post*, 16 January 1883, p. 2; *Evening Post*, 11 November 1886, p. 2.

11.3 Otaki to Paekakariki Road, 1880

Other early contact between the Hutt Council and local Maori concerned the Otaki to Paekakariki Road. In early October 1880, the chair of the Council advised that he had received a letter from Maori at Otaki asking that he, together with the chair of the Manawatu County Council, visit Waikanae on 29 October to hear proposals from Otaki and other Maori ‘respecting roads running through Maori lands, and also concerning other important matter’. A councillor, Mr Mason, said that the government would have to be consulted regarding the matter. He moved that the chair be authorised to communicate with the government with a view to obtain their consent to such lines of road as may be agreed upon by the Manawatu and Hutt Councils and the native land-owners; and also to ‘further the continuation of the Mangaroa and Waikanae roads through native land’. This was agreed to by the Council.¹⁴⁸¹

Later that month, Wi Parata attended a meeting that he had organised with the Chair of the Hutt County Council, Councillor Smith and the County Engineer at Waikanae to discuss making the road from Otaki to Paekakariki. The Chair of the Manawatu County Council was also invited but did not attend. This, according to the newspaper report, annoyed Wi Parata. The meeting, it was said was ‘not of a very satisfactory character, as the only grounds on which the natives would consent to the construction of the road was, that there should be no taxes of any kind imposed upon them “forever”’. The writer said that ‘of course it was explained that such a promise could not be made’. The outcome of the meeting was a request by Wi Parata that the Chair explain to his council what had been discussed and to arrange for another meeting at an early date.¹⁴⁸²

Indeed, in November 1880, it was recorded that at a meeting the Council ‘went into committee to consider a report by the chair regarding the recent interview with the natives at Waikanae on the subject of opening roads through that district and it was decided to communicate the result of their deliberations to the government’.¹⁴⁸³

Despite this early consultation, it does not appear that the road was without its difficulties for Maori. In August 1883, Gordon Allan, a solicitor, attended a meeting of the Council, together

¹⁴⁸¹ *Evening Post*, Volume XX, Issue 239, 12 October 1880, p. 3.

¹⁴⁸² *Evening Post*, Volume XX, Issue 249, 23 October 1880, p. 2.

¹⁴⁸³ *Evening Post*, Volume XX, Issue 264, 11 November 1880, p. 2.

with Wi Parata and other Maori (who were not named). Their concern was the road at Paekakariki where the Council had ordered some houses encroaching on the highway to be removed. The Council pointed out that they were ‘compelled by Mr Bills, a resident, to take action, and the road which the natives claimed as their property, was set out as a road in a Crown grant’. A letter from Messrs Brandon, Shaw & Brandon, solicitors for Mr Bills, was read which threatened the Council with a ‘mandamus if proceedings were not taken to remove the obstruction’. The Council resolved to ‘proceed against Mr Cameron, the alleged obstructor, under the Public Works Act’.¹⁴⁸⁴

Time constraints have prevented further examination of roading over Maori land by the Hutt County Council though a comment made by Wi Parata on the occasion of the opening of the Otaki Cottage Hospital in 1899, where he addressed the Governor, the Premier and other officials indicates dissatisfaction with the actions of the Council. He reportedly ‘devoted some time to airing grievances against the government for its interference with the native and his land and against the County Council in regard to taking land for roads’. Mr Parata also said that ‘he had found that the making of roads had not improved the price of land’.¹⁴⁸⁵

11.4 Rates on Maori Land, 1882-1930

Few details about the rating of Maori land in the Hutt County Council up until the early 1930s have been discovered and there is little information about any interaction between Maori and the Council about the matter. What is known is that the Council did not receive any rates under the 1882 Act; the Council was involved with other authorities trying to legislate for changes to the way that Maori land was rated; and the Council did not receive much of what it levied though the amount was, relative to other Counties, quite small. These issues are discussed in more detail below.

There is no record of the Hutt County Council having received reimbursement from the Crown levied on Maori land in the county between 1882 and 1888 which the county was entitled to under the 1882 Act. This was a point of difference from other counties many of which received not insignificant amounts of money from the Crown during this period. Unfortunately, records examined have not been revealed why this occurred. Whether it was

¹⁴⁸⁴ *Evening Post*, Volume XXVI, Issue 38, 14 August 1883, p. 3.

¹⁴⁸⁵ *Evening Post*, 8 August 1899, p. 2.

because the County simply did not levy the rates perhaps considering the area of Maori land within the County to be too small to be concerned with, or there was an issue with the process they followed is not known.¹⁴⁸⁶

The first record of the Hutt County Council supporting a change in the legislation came in 1889, when the Hutt County Council received a circular from the North Auckland Charitable Aid Board asking for its co-operation with efforts to get the government to amend the rating legislation pertaining to hospitals and charitable aid. The Board wanted Maori land to be liable for rates in support of hospitals and charitable institutions. The Hutt County Council agreed to sign the petition.¹⁴⁸⁷

Similarly, in 1890, the Hutt County Council received a letter from the Cook County Council which pointed out that it was the first year that local bodies would not receive rates from Crown and Maori lands (under the 1882 Act) and asked for the co-operation of the Hutt County Council in ‘impressing upon’ the members of parliament for the district the ‘necessity’ of bringing Maori land under the operation of ‘ordinary’ rating Acts. Again, despite not ever having received rates (or perhaps even pursued them) under the 1882 legislation, the Hutt County Council resolved that the members for Hutt, Foxton and Wellington South be asked to support ‘any measure that may be brought before Parliament with the object of making Crown and Native lands rateable for local purposes’.¹⁴⁸⁸

A year later, the Hutt County Council also decided to co-operate with the Horowhenua and Ohinemuri County Councils in their efforts to ‘induce the Government to place the rating of native land in a more satisfactory state’.¹⁴⁸⁹

In August 1894, the Hutt County Council hosted the County Councils’ conference where the issue of the rating of Maori land was discussed. In attendance for the Hutt County Council was Messrs Majendie, CW Brown and HA Field. Mr Field moved the motion, which was carried: ‘That the Government be asked to introduce a measure providing for the rating of

¹⁴⁸⁶ Payments to Local Bodies in inquiry district under Crown and Native Lands Rating Act, 1882, from 23 July 1885 to 31 May 1886 AJHR, 1886, B15; Payments to Local Bodies in inquiry district under Crown and Native Lands Rating Act, 1882, from 1 June 1886 to 30 September 1887, AJHR, 1887, Session II, B7.

¹⁴⁸⁷ *Evening Post*, Volume XXXVII, Issue 36, 12 February 1889, p. 3.

¹⁴⁸⁸ *Evening Post*, Volume XXXIX, Issue 135, 10 June 1890, p. 2.

¹⁴⁸⁹ *Evening Post*, Volume XLI, Issue 87, 14 April 1891, p. 2.

Native lands by County Councils and Road Boards, for the purpose and upon the same basis as that obtaining in respect of European lands'.¹⁴⁹⁰

In 1899, the Whakatane County Council wrote to the Hutt County Council 'pointing out the unfairness of native lands being subject to only half rates and exempt from special rates, and the difficulty of collecting rates from the natives'. The Council resolved to 'co-operate in any movement to bring about an alteration of the present system'.¹⁴⁹¹

In November 1900, the County Clerk for the Hutt County Council (HD Atkinson) wrote to the MP for Otaki, WH Field, pointing out the 'great difficulty' that the Council had collecting rates from Maori owners. This was partly because, he said, 'the Government Valuation Rolls do not afford the full information required and in all cases on account of the cumbersome procedure to enforce the law'. He asked that Mr Field 'approach the Native Minister with the object of obtaining a simplification of the procedure required to enforce collection of rates, and his assistance in flagrant cases of default where the land is individualised and the Council is empowered to proceed'. Of note is that the issue regarding the accuracy of the valuation rolls prevailed, with the County later applying for charging orders over Maori land using appellations that did not exist.¹⁴⁹²

Twenty years later, it was reported that the Hutt County Council was supporting the Bay of Islands County Council 'in urging that legislation be introduced giving local bodies full power to enforce the payment of rates' by Maori or to provide for the payment of rates on Maori land by the 'general government'.¹⁴⁹³

The only data located as to the amount of rates levied on Maori land in the County and that received have been for 1913 and 1927. A report in 1913 recorded that the Hutt County Council had levied £243.14.9 of rates on Maori land during the previous 5 years (less than

¹⁴⁹⁰ New Zealand County Councils' Conference, August 1894, AJHR, 1895 Session I, H-05. AJHR, 1895 Session I, H-05.

¹⁴⁹¹ *Evening Post*, Volume LVIII, Issue 33, 8 August 1899, p. 5.

¹⁴⁹² County Clerk, Hutt County Council to W Field, MP, 17 November 1900, 73-128-114, Field, William Hughes, 1861-1944: Papers, Local Issues, Alexander Turnbull Library, Wellington. SW Document Bank, volume 4, p. 111.

¹⁴⁹³ *Evening Post*, Volume XCIX, Issue 135, 8 June 1920, p. 7.

£50 per year) and collected £18.¹⁴⁹⁴ In 1927, it was reported that the Hutt County Council ‘lost’ £71 annually in rates on Maori land.¹⁴⁹⁵

No details of Maori being taken to Court for the non-payment of rates by the Hutt County Council have been located. Unlike the neighbouring Horowhenua County Council, the Hutt County Council did not give evidence to the Native Rating Committee in 1933.

11.5 Charging orders, 1930s

Evidence of the rating of Maori land in the inquiry district is more prolific from 1933 which was when the County began to apply for charging orders at the Native Land Court under section 108 of the Rating Act 1925.

The first charging orders applied for by the Hutt County Council were heard by the Native Land Court on 24 January 1933. There were 15 applications of which 11 concerned blocks within the inquiry district. The land concerned was Ngarara West and Hongoeka blocks and the charging orders ranged from between £5.14.5 for Hongoeka 5 and £14.18.5 for Hongoeka 1A plus costs (full details of these and all other charging orders are in table 25 below). The only information given in the minutes was that the charging orders covered the period 31 March 1932 to 31 March 1933. No discussion was recorded about any of the blocks or the owners. There is simply a list of blocks from the Maori Land Court *Panui* pasted into the minute book with the amount of the order. There was also no comment made by the Court about some of the unusual appellations (for instance Ngarara West A1x 54 and B1/111/7)) which would suggest that a comprehensive title check of the land over which charging orders had been made had not taken place. This then raises questions about the accuracy of all the title details used by the Council.¹⁴⁹⁶

Two of the blocks over which charging orders were made, Hongoeka 1A1 and 1A2, the later block being described as ‘hilly, grazing land near Plimmerton’ were sold four years later. At the Court hearing to confirm the transfers of 1A1 from Thomas Whetuturu Ellison to Roderick Mulhern, and 1A2 from Kahumangmange Parata and others also to Roderick

¹⁴⁹⁴ *Dominion*, Volume 6, Issue 1649, 16 January 1913, p. 4.

¹⁴⁹⁵ *Evening Post*, Volume CIV, Issue 84, 6 October 1927, p. 8.

¹⁴⁹⁶ Wellington Minute Book 27, 24 January 1933, p. 285.

Mulhern it was stated that the Registrar was to apply for the cancellation of the charging order, on the grounds that the title did not exist in 1933 (presumably as Hongoeka 1A had been partitioned into two parts in 1923). Notice of the application was to be given to the Hutt County Council in order that it could be heard. This supports the view that the Hutt County had not checked title information before proceeding with the charging order applications or if they had, the Council was still utilising valuation rolls with out of date and inaccurate information in order to charge Maori land with rates.¹⁴⁹⁷

The application for the cancellation of the charging order was heard by the Native Land Court in December 1937 before Judge Harvey. M Awarau was in attendance for the Registrar and asked for the cancellation of the charging order. The representative for the Hutt County Council, Mr Parker, opposed the application. He said that the Court made the order ‘through inadvertence’ and suggested that the Court amend the old order under section 35 & 36 and make a new order that it could have made in 1933. The validity of the demand was then discussed. Mr Parker said that he wished to investigate the matter further and would prepare a memorandum on the subject. The minutes noted that the application for the charging order showed that the land had been partitioned and ‘that it was owned in two titles by two distinct groups’. This was ‘known to the Court from the search attached to the application’. The application was then adjourned.¹⁴⁹⁸

When the sale of Hongoeka 1A2 was confirmed several years later, no mention was made of rates charging orders though it was noted that survey liens, which had been paid by the purchaser, would be deducted from the owner’s purchase money.¹⁴⁹⁹ That no charging orders were mentioned at this hearing could suggest that the application to cancel the charging order was successful though no details of the actual decision of the Court have been located.

The Hutt County Council then applied for over 90 charging orders for the period 1 April 1933 to 31 March 1935 in 1938 but none of the applications were in respect to inquiry district lands.¹⁵⁰⁰

¹⁴⁹⁷ Wellington Minute Book 30, 10 September 1937, pp. 115-116; Wellington Minute Book 31, 2 March 1939, pp. 195-197.

¹⁴⁹⁸ Wellington Minute Book 30, 16 December 1937, p. 164.

¹⁴⁹⁹ Wellington Minute Book 31, 2 March 1939, pp. 195-197.

¹⁵⁰⁰ Wellington Minute Book 31, 24 & 25 February 1938, pp 187-201.

11.6 Charging and receivership orders, 1940-1961

The next set of charging order applications in respect to inquiry district land were heard by the Native Land Court on 20 June 1941. On this occasion, the Hutt County Council applied for 19 charging orders, 15 of which were in respect to inquiry district lands. In attendance were Mr Bergin for the Hutt County Council and the County Clerk, Hercules Robert Robinson. Mr Robinson gave evidence that the rates had been ‘struck’ and produced Council minutes showing that resolutions had been passed to strike rates. Nothing was said about the land or the owners and charging orders were made in each case for the period 1939 to 1940 and 1940 to 1941. The blocks were again Hongoeka and Ngarara West blocks as well as a block described as Lots 1, 2, & 3 DP 462 Block 5 Paraparaumu which again was an unusual appellation. The charging orders ranged from £1.19.6 for Part Hongoeka 3C1 and £20.13.0 for Ngarara West A49A (further details are in table 25 below).¹⁵⁰¹

No further applications for charging orders were made during the second world war though the next sets of applications concerned rates levied during the war – 1944 to 1945. On 5 June 1946, the council applied for three charging orders – two of which were in the inquiry district: Hongoeka 3C1 and 2A2. In both cases the Court recorded that there was no appearance by the owner or occupier. Two charging orders were made for 19/8 and £4.17.1 respectively.¹⁵⁰²

Thirteen more applications were made on 14 May 1947, ten of which were in the inquiry district. The rates levied were for the year 1944 to 1945. The orders were again in respect to Ngarara West and Hongoeka subdivisions as well as Wainui B2 and Part 2B2 Paekakariki Native Reserve. In all ten cases, charging orders were made and in all but one case no information about the owners or the blocks was recorded. The only comment made in these cases was that there was ‘no objection’ though it would appear that no owners were in Court to object. The exception was Ngarara West A9 No 1 which was the only block where the charging order was over £10 (most were less than £4). Mr Watts for the Council referred the Court to a declaration by the county clerk that showed that the rates for 1944 to 1945 were levied on 18 August 1944 and had not been paid. The amount due was £11 and the sum had been ‘demanded by notice addressed to the person whose names appear in the valuation roll’.

¹⁵⁰¹ Wellington Minute Book 33, 20 June 1941, pp. 170-176.

¹⁵⁰² Wellington Minute Book 36, 5 June 1946, p. 96.

It was also noted that the Rate Book had been presented to the Court for inspection on 5 June 1946 when the application and others were under consideration. The Court said that the ‘question as to the requirement of service of a demand on each owner where more than one has not yet been settled’. The Court considered, however, that ‘on the grounds of Public Interest, and being moved by a desire to give effect to the statutory provisions in connection with these matters, orders should be made’.¹⁵⁰³ Mention of this at the hearing suggests that the Court considered that only levying rates on one owner when there were many was an issue but that the Court had not, even by 1947, resolved the matter. The Court instead considered it in the ‘public interest’, to charge the land with rates. The ‘public interest’ in this case was the Council. As well, no attempt seemed to have been made to correctly identify the correct appellation of ‘Ngarara West A9 No 1’ as several years later it was found that no such block existed. Therefore, the pattern of using incorrect title information continued which again casts doubts over the accuracy of all the title data used by the Council be it for charging order applications or when simply levying the rates.¹⁵⁰⁴

Two years later on 20 October 1949, further applications for charging orders were made by the Council. Mr Watts of the Hutt County Council said that there were a number of applications for orders in respect to unpaid rates for the years ending 31 March 1947 and 31 March 1948. He said that ‘in accordance with the practice of ... [the Native Land] Court the County Clerk had verified the particulars as set out in each application and in each case has completed a declaration to this effect and that the rates claimed in each case have been duly levied and demanded’. In response, the Court said that proof of non-payment was required and the applications were to stand down in the meantime. Ronald Wood, the assistant clerk to the Hutt County Council, gave evidence stating that he had inspected the rates book and compared the outstanding rates with the amounts claimed on the respective applications. In all cases these had been identified with four exceptions where in three instances parts of the rates levied had been paid and in one instance the rates had been paid in full. This information was deemed sufficient as nothing further was noted about the blocks or owner’s circumstances and charging orders were issued for all but the blocks where rates had been paid (which were not in the inquiry district). Of the 19 applications, 17 were in the inquiry district and charging orders were issued in all but three cases. These were Hongoeka 2B1A which was adjourned (it was not stated why), Hongoeka 6A which was stood down as it was

¹⁵⁰³ Wellington Minute Book 36, 14 May 1947, pp. 195-198.

¹⁵⁰⁴ Ibid.

being leased and Ngarara West A9 1 which was also adjourned. Although the minutes do not say why it was adjourned it was likely to have been because, as discussed above, the appellation did not exist.¹⁵⁰⁵

The land concerned were again Hongoeka and Ngarara West blocks as well as Paekakariki 2B2 part, Pukerua 3A5B, Wainui B2 part and Whareroa Pa. The charging order for Whareroa Pa was for the largest amount - £77.8.4. A charging order was also made again Lots 1, 2, 3 DP 462 [Paraparaumu] for £18.1.6 which is another block where the appellation is thought to be incorrect.¹⁵⁰⁶

Of note is that Whareroa Pa consisted of 20 acres and was described in Maori Land Court papers as being located on the coast by the Whareroa Stream. An intention to take for 'better utilisation purposes' had already been published in the *New Zealand Gazette* on 2 December 1948 and the block was declared Crown land on 5 May 1949. The same year, the owners were awarded £3780 in compensation which was paid to the Ikaroa Maori Land Board for distribution 'subject to the usual provisions', meaning that the amount of the charging order would be deducted from the purchase money.¹⁵⁰⁷

Six months later, on 31 May 1950, three applications from the Hutt County Council were considered by the Court, all in respect of inquiry district lands. Mr Watts for the council noted that the three applications had been adjourned since 1948 for 'varying reasons' but now wished to pursue the orders. Charging orders for two of the blocks Hongoeka 2B1A (£4.6.10) and Hongoeka 6A (£5.15.9) were made but the application for Ngarara West A9 No 1 Block 9 was dismissed as there was 'no such land'. It was not stated what happened to the charging order made on this very same non-existent block in 1947.¹⁵⁰⁸

By 1950, 31 blocks in the inquiry district (including subdivisions of parent blocks and one non-existent block) were affected by charging orders.

On 10 May 1951, ten further applications for charging orders were considered by the Court – all in the inquiry district. Applications for the appointment of the Maori Trustee as agent for

¹⁵⁰⁵ Wellington Minute Book 37, 20 October 1949, pp. 240-242.

¹⁵⁰⁶ Ibid.

¹⁵⁰⁷ Wellington Minute Book 37, 12 October 1949, pp. 217-218; 20 October 1949, pp. 240-242.

¹⁵⁰⁸ Wellington Minute Book 37, 31 May 1950, p. 318.

the owners under section 34 (2) of the Maori Purposes Act 1950 were also made for each of the ten blocks.¹⁵⁰⁹

The Court firstly stated that the application for orders in each case was supported by a declaration made by the county clerk. Also, that it had been held that no demand was necessary on owners where the demand had been properly made upon the occupier. The declaration filed was to the effect that the rates have been duly levied and demanded in accordance with the provisions of the Rating Act 1925. The ‘copy demand’ supplied in each case appeared, according to the Court, to be in agreement with the particulars on the valuation roll ‘in most cases’. It was recorded that Counsel (for the council) had assured the Court that any apparent variation was due to amendments in the present roll and compared with the roll exactly at the time the rate was levied.¹⁵¹⁰

The Court made charging orders in eight cases. They were for rates levied for the years ending 31 March 1949 and 31 March 1950 and were again made against the Hongoeke, Ngarara West, Pukerua, Paekakariki blocks and Whareroa Pa.¹⁵¹¹ As noted above, Whareroa Pa, had by this time (May 1949) already been taken under the Public Works Act which indicates again that either the Council records and/or valuation rolls were still not being kept up to date or an attempt was being made to secure rates subsequent to the taking (it is not known if the charging order was ever paid).

In addition, the Court made orders under section 34(2) in these same eight cases. The order appointed the Maori Trustee as ‘agent to execute in a manner provided by the said statute an instrument of alienation of the land under the provisions of Part III of the Maori Purposes Act 1950’. This was the first instance of the Hutt County Council using this piece of legislation.¹⁵¹² Presumably the Maori Trustee advised the Council in the period following that Whareroa Pa was no longer Maori land having been taken under the Public Works Act.

As noted in the legislative section, under section 34, the Maori Land Court could ‘appoint the Maori Trustee as agent for owners to affect alienations in situations where land was

¹⁵⁰⁹ Wellington Minute Book 38, 10 May 1951, pp. 31-32.

¹⁵¹⁰ Ibid.

¹⁵¹¹ Ibid.

¹⁵¹² Ibid.

unoccupied and/or; not cleared of noxious weeds and/or; the rates have not been paid and the amount of rates had been charged against the land'. Bennion notes that in the House it was explained that this policy 'provided for the use of the land but retaining the fee-simple to the beneficial owners, as 'alienation' in the Act was intended to be only by lease. This provision was 'repeated as section ... [387] of the Maori Affairs Act 1953'.¹⁵¹³

The other two applications were dismissed as rates had been paid. These were for Wainui section 22 sub 2B1 and land described as 'Lots 1-3, DP 462' which in other minutes was said to be located at Paraparaumu. As noted above, no details of this block have been located and therefore it is not known whether this was another case of an incorrect appellation.¹⁵¹⁴

Several days later, the Court heard a further ten applications from the Hutt County Council all of which were in the inquiry district. The representative for the Council, Mr Watts, stated that at the request of the Court he had produced the relevant valuation roll. He said that the roll for the year ended 31 March 1950 was an amendment of the roll for the year ended 31 March 1949. The 'copy demand' attached to each application was in agreement with the new roll. He produced both rolls for inspection by the Court to explain any variations between the names on the claims and the names on the demands. The Court then made charging orders against the following blocks for the following amounts (excluding costs). The rates levied were also for the years ending 31 March 1949 and 31 March 1950 and were in respect to Hongoeka, Ngarara West and Pukerua blocks. The charging orders ranged from £1.14.0 for Ngarara West C4 and £18.1.5 for Ngarara West B1 sub 2. Two applications were also adjourned (Part Hongoeka 2A2 and Hongoeka 2B1A1) and unlike the previous Court sittings, no applications under section 34 were made.¹⁵¹⁵

Two more applications were made in October 1951 for those adjourned the previous May. As was the custom nothing was noted about the blocks or owners just that the rates had been levied and not paid. Charging orders were made in respect to Hongoeka 2B1A2 (1 acres 1 rood 20 perches) for £5.3.0 plus costs and Part Hongoeka 2A2 (2 acres 2 rood 3 perches) for

¹⁵¹³ Bennion, p. 70.

¹⁵¹⁴ Wellington Minute Book 38, 10 May 1951, pp. 31-32.

¹⁵¹⁵ Wellington Minute Book 38, 15 May 1951, p. 44.

£7.19.9 plus costs. The rates were levied for the years ending 31 March 1949 and 31 March 1950.¹⁵¹⁶

In January 1953, 17 charging orders were made at the instigation of the Hutt County Council in respect to subdivisions of Hongoeka, Ngarara West B and Pukerua blocks. At the hearing, Mr Watts for the council referred the Court to a declaration by the county clerk attached to each application which said that in each case the demand had been made on the person named in the roll. Nothing, however, had been paid in respect of the 17 blocks. Following the ordering of the rates charging order, the council applied for the Maori Trustee to be appointed under section 34 (2) of the Maori Purposes Act 1950 in respect to each of the 17 blocks. Little other comment was made about the block it simply being noted that the application was for the Maori Trustee to execute in his own name as agent for on behalf of the owners as instrument of alienation in respect of the lands affected. The orders under section 34 (2) were duly made (even though the Maori Trustee had already been appointed agent on behalf of the owners for three of the blocks in 1951).¹⁵¹⁷

In the same year, on 19 October 1953, a further ten applications for charging orders and section 34 (2)/1950 orders were considered by the Court. The land concerned were again Hongoeka, Ngarara West and Pukerua blocks. Mr Watts for the council said, the applications contained particulars of the amount owing for rates and was supported by a declaration by the county clerk. The Court responded that particulars of the land, the year or years it concerned, and the amount owing was shown and charging orders made in respect of each application. In addition, ‘for the purposes of enforcing the respective orders’ the Maori Trustee was appointed receiver under the provisions of section 42 of the Native Land Act 1931 which was a different legislative provision than that applied for by the Hutt County Council. As noted in the legislative chapter, section 42 allowed for the appointment of the Maori Trustee as receiver to enforce a charge. Being appointed receiver could include leasing of the land. Two of the blocks (Ngarara West C4, Pukerua 3A5B1 and Pukerua 3A5B2B) were already subject to section 34 of the 1950 Act (and in fact the order under section 34/1950 had been made twice in respect to Pukerua 3A5B2B). All rates owed were in respect to the years ending 31

¹⁵¹⁶ Wellington Minute Book 38, 11 October 1951, p. 94.

¹⁵¹⁷ Wellington Minute Book 38, 9 January 1953, pp. 308, 310.

March 1952 and 1953 apart from Pukerua 3A5B1 which was for years ending 31 March 1950 and 1951.¹⁵¹⁸

Unusually, almost four years passed before the Hutt County Council applied for further charging orders. In May 1957, the Council applied for rates charging orders on 11 Hongoeka blocks and two Ngarara West blocks. The rates were for the years 1 April 1954 to 31 March 1956 apart from for one of the Ngarara West blocks (A sec 80A) which was for rates owed between 1 April 1954 and 31 March 1955. The amounts of rates owed ranged from £16.19.1 to £1.1.3. What was also unusual was that for the first time, the Council commented about the land affected though it is not entirely clear whether the Council representative, Mr Watts, was just speaking initially about the Hongoeka blocks or both Hongoeka and Ngarara West blocks. His first statement was that 'the land is of a total area not economic nor suitable for farming'. He continued with reference to the Hongoeka blocks: 'Hillside to Coast between Karehana Bay and Paremata - residential sites someday'. Curiously he noted too that there had been no charging orders before though this was not actually true as many of the blocks or their parent blocks had been charged with rates orders previously.

It would seem then that an acknowledgement that blocks that were not revenue producing and unlikely to ever be so (unless subdivided in the future for residential sites) did not preclude charging orders from being made by the Court. As with other Councils in the inquiry district, no mention was made of exempting the land from rates.¹⁵¹⁹

In November 1958, 12 further applications for charging orders were considered. All but one was in respect to Hongoeka. Only three orders were made: Hongoeka 3A2 (£29.6.0); Ngarara West C4 (£2.14.0) and Hongoeka No 5 (£4.5.0) plus costs. The application for Hongoeka 2A2 was dismissed as a Mr Simpson for the owners advised that all rates had been paid and the remainder of the applications were adjourned so that rates could be apportioned.¹⁵²⁰

Eight applications for charging orders in respect of Hongoeka blocks were dismissed by the Court on 2 May 1960 for 'non prosecution'.¹⁵²¹

¹⁵¹⁸ Wellington Minute Book 39, 19 October 1953, pp. 19-20.

¹⁵¹⁹ Wellington Minute Book 40, 6 May 1957, p. 247.

¹⁵²⁰ Wellington Minute Book 41, 4 November 1958, p. 275.

¹⁵²¹ Wellington Minute Book 42, 2 May 1960, p. 192.

About a year later, in April 1961, the Maori Land Court before Judge Jeune considered an application by the Maori Trustee to cancel the receivership orders for Hongoeka 3B1 & 3C1A; Hongoeka 3B1 & 3C1B; Hongoeka 3B1 & 3C1E; Hongoeka 3B1 & 3C1F; Hongoeka 3B1 & 3C1G; and Ngarara West C4. The minutes stated that the total amount of the charging orders for these blocks was £34.14.10 and that all of the blocks were occupied. Therefore, the question of leasing was ‘out of [the] question’. It was also noted that the names of the occupiers of the land locked Ngarara West C4 block comprising 100 acres and described in 2016 as being ‘marginal for pastoral & forestry’ which had been subject to charging orders since 1951 had been supplied to the Hutt County. As well, the Maori Trustee gave evidence at the hearing that he had suggested to the Hutt County that the Maori Trustee be relieved of the receiverships on 27 January 1959 but that the Council said on 12 August 1960 that it still wanted the Trustee to continue as receiver (this was presumably because rates had not been paid). The Court’s response was that it saw ‘no reason for the receivership remaining’ as nothing was being done (by the Trustee) and it was ‘probable that the County Clerk ... [could] make better on-the-spot arrangements’ which was what the Court has found to be the position elsewhere in New Zealand. As a representative from the Hutt County was not in attendance, and as they were the applicant, the application was adjourned to a Wellington sitting to give the Council the opportunity of being heard. The Court said that it might be possible to appoint an officer of the Council in place of the Maori Trustee. The Maori Trustee was told by the Court to advise the Clerk of the County of this and to arrange a suitable time for them both to attend a hearing. Nothing was said about finding a suitable time for the owners to attend.¹⁵²²

A further hearing was held in Wellington on 3 May. The minutes stated that a Mr Mason for the Maori Trustee and a representative for the Makara County (though this would appear to be an error as it should have been the Hutt County) were to consent to the discharge of all except one block (Hongoeka 3C1 & 3C1D) which was earning rent. No details on whether the Hutt County proposed to appoint an officer in place of the Maori Trustee who would deal directly with owners was noted. It still does not appear that the rates had been paid as it was

¹⁵²² Otaki Minute Book 69, 20 April 1961, pp. 1-2; Maori Land Online: <http://www.maorilandonline.govt.nz/>.

not until 1964 that £98.4.6, which was secured by charging orders on 3B1 & 3C1E, was paid.¹⁵²³

In October 1961, another receivership order was cancelled in respect to Hongoeka 3B1 & 3C1D. It was noted in the Court minutes that when other orders were cancelled the Hutt County Council asked to ‘keep this one’ as a Mr Mitchinson had paid rent on the block. The owner of the land, however, had advised that rent was not being paid. The Hutt County Council was notified the previous month of the proposal to cancel. The Court then cancelled the receivership order and the Registrar advised to notify the County that Mr Mitchinson as occupier on the rates roll could be ‘amended accordingly’.¹⁵²⁴

This suggests that the receiverships were cancelled because the Maori Trustee considered that he was unable to lease the land as the land was said to be occupied. It is not clear what the Hutt County proposed to do instead but it is of note that there was no mention in the minutes that the Court had suggested applying under section 109 for the land to be vested in the Maori Trustee and sold. This could have been for two reasons. The first is that the land was said to be occupied and that the Court and possibly the County did not want to pursue the compulsory sale of occupied Maori land at that point. The second is the timing as section 109 orders did not begin to be made until 1963.

Details of when all the receiverships were cancelled have not been located. Further research is required as to when this occurred.

The following table shows the blocks where charging orders were made, the years they were made, if receivership orders were made and whether alienations in the form of leases and sales followed. In addition, the status of the land in 2017 is given.

¹⁵²³ Wellington Minute Book 42, 3 May 1961, p. 304; Hutt County Council Order Paper, 28 May 1964, 184-223-037/Pt4 Hutt County Council: Records Rates – General, Alexander Turnbull Library, Wellington. SW Document Bank, volume 4, p. 121.

¹⁵²⁴ Wellington Minute Book 42, 6 October 1961, p. 376.

Table 25: Charging orders made at instigation of Hutt County Council, 1933-1959

Block name and area (acres, roods, perches or ha)	Charging orders: date & amount (exc costs)	Other orders	Description of land & alienations	Status Today
Hongoeka 1A (60.0.15)	1933: £14.18.5		Sold in parts in 1938 and 1939. Question over validity of charging order as Court used incorrect appellation	No longer Maori land
Hongoeka 2A2, 2B, 1A (unusual appellation so not known)	1933: £7.9.2			See below
Hongoeka 2A (4.1.14)	1941: £7.16.3		2A1: According to MLOL 100% of block 'not suited to cropping but good for pastoral & forestry'. 2A2: No alienations recorded	2A1 is Maori land (.7588 ha (1.8 acres), 13 owners)
Hongoeka 2A2 (2.1.34)	1946: £4.17.1 1949: £8.13.7 1951: £7.19.9 1953: £4.4.3 1957: £16.9.11 Application in 1958 dismissed	1953: 34(2) /1950 (MT)	2A2: No alienations recorded	2A2B is Maori land (.2188 ha), 1 owner)
Hongoeka 2B1A (1.3.2)	1941: £1.8.2 1950: £4.6.10		No alienations recorded	2B1A1A & 2B1A1B are Maori land
Hongoeka 2B1A2 (1.1.20) See below – maybe same block	1951: £5.3.0 1953: £3.10.1 (balance may be same block)	1953: 34(2) /1950 (MT)	No alienations recorded	
Hongoeka 2B1A (balance)	1957: £14.5.8		No alienations recorded	2B1A1A (.0996 ha), 1 owner & 2B1A1B (.1027 ha) 1 owner are Maori land
Hongoeka 2B2A (4.2.16)	1951: £1.6.7 1953: £1.9.10	1951: 34(2) /1950 (MT) 1953: 34(2) /1950 (MT)	No alienations recorded	No longer Maori land
Hongoeka 2B2B (26.2.04)	1941: £3.2.3 1947: £1.11.0 1949: £7.10.5 1953: £7.14.7 See partition below	1953: 34(2) /1950 (MT)	No alienations recorded	2B2B1 is Maori land
Hongoeka 2B2B2 (no such appellation located)	1957: £1.1.3		n/a	No longer Maori land
Hongoeka 3A1 (0.3.05)	1933: £7.16.9; 1941: £2.18.5 1947: £1.18.8 See partition below		See below	No longer Maori land
Hongoeka 3A1A	1951: £2.16.2	1953: 34(2)	Alienation not recorded	No longer Maori

(0.1.24)	1953: £1.19.6	/1950 (MT)		land
Hongoeka 3A1B (0.1.21)	1953: £2.19.7		Alienation not recorded	No longer Maori land
Hongoeka 3A2	1951: £3.1.10 1953: £4.9.4 1957: £17.5.4 1959: £29.6.0	1953: 34(2) /1950 (MT)	Alienation not recorded	No longer Maori land
Hongoeka 3B1 part (3 roods)	1941: £2.12.9 1947: £1.6.4 1953: £2.2.2 See partitions below	1953: 34(2) /1950 (MT)		3B1 & 3C1F; and 3B1 & 3C1H are Maori land
Hongoeka 3B1 & 3C1A	1953: £1.13.3	1953: 42/1931 (MT) 1961: order cancelled	Occupied in 1961 when receivership cancelled.	No longer Maori land
Hongoeka 3B1 & 3C1B (0.1.32)	1953: £5.15.1 1957: £14.10.4	1953: 42/1931 (MT) 1961: order cancelled	Sold 1949, but stayed Maori land. Occupied in 1961 when receivership cancelled	No longer Maori land
Hongoeka 3B1 & 3C1D (0.2.29)	1953: £7.9.1 1957: £16.2.5	1953: 42/1931 (MT) 1961: order cancelled	Occupied in 1961 when receivership cancelled	No longer Maori land
Hongoeka 3B1 & 3C1E (0.3.0)	1953: £8.2.6 1957: £17.5.6	1953: 42/1931 (MT) 1961: order cancelled	Occupied in 1961 when receivership cancelled Charging order discharged in May 1964 as £98.4.6 had been paid. No details of alienations.	No longer Maori land
Hongoeka 3B1 & 3C1F (1 ½ acres/.6359 ha)	1953: £3.7.9 1957: £7.9.4	1953: 42/1931 (MT) 1961: order cancelled	Occupied in 1961 when receivership cancelled	Maori land: 9 owners
Hongoeka 3B1 & 3C1G (1.2.11)	1953: £3.7.9 1957: £7.9.2	1953: 42/1931 (MT) 1961: order cancelled	Occupied in 1961 when receivership cancelled	No longer Maori land
Hongoeka 3C1 part (5 acres)	1941: £1.19.6 1946: 19/8 1953: £1.8.2	1953: 34(2) /1950 (MT)		No longer Maori land
Hongoeka 3C2 (50.2.0)	1933: £6.18.0; 1941: £7.3.2 1947: £3.11.7 1949: £14.9.6 1951: £14.9.4 1953: £17.16.10 See partition below	1953: 34(2) /1950 (MT)		3C2A1A & 3C2A1C; 3C2B1; and 3C2B2 are Maori land (see below)
Hongoeka 3C2B (47.2.0)	1957: £2.11.2		No alienations recorded. Subdivided in 1961. According to MLOL re 3C2B1 55% not suited to cropping but good for pastoral and forestry; 45% marginal for pastoral and forestry. Dwelling on 3C2B1	3C2B1 (.5058 ha - 1 owner) and 3C2B2 (18.7167 ha - 5 owners) are both Maori land

Hongoeka 4B (52 acres/21.0437 ha)	1951: £2.13.2	1951: 34(2)/1950 (MT)	Leased for ten years from 1952 (lease included metal rights). According to MLOL 100% of block is 'marginal for pastoral & forestry'	Maori land: 11 owners
Hongoeka section 5 (76 acres/30.7561 ha)	1933: £5.14.5; 1941: £2.18.5 1947: £1.9.2 1949: £8.13.7 1951: £9.0.5 1953: £11.12.0 1957: £3.4.1 1959: £4.5.0	1953: 34(2)/1950 (MT)	No alienations recorded. According to MLOL 100% of block is 'marginal for pastoral & forestry'	Maori land: 34 owners
Hongoeka 6A (33 1/3 rd acre/ 13.4886 ha)	1950: £5.15.9 1953: £2.7.7	1953: 34(2)/1950 (MT)	20 acres leased for 21 years from 1938. According to MLOL 66% of block is 'marginal for pastoral & forestry' and 34% has 'extreme limitations'	Maori land: 142 owners
Ngarara West A9 No 1 (no such block)	1947: £11 1949: app dismissed as no such land			No such block
Ngarara West A49 (52.1.0)	1933: £21.5.5 See below for partition		See below	See below
Ngarara West A49A (appellation should either be A49A1 or A2)	1941: £20.13.0 See below for partition		See below	See below
Ngarara West A49A1 (29.0.14)	1951: £67.7.8 1953: £106.3.1	1951: 34(2)/1950 (MT) 1953: 34(2)/1950 (MT)	Ngarara West A49A1A (2 roods) sold in 1958 to Hereke Jenkins (£2218) Ngarara West A49A 1B1B (7 acres) sold in 1971.	Ngarara West A49A1B2 (7.65 ha about 19 acres) is Maori land
Ngarara West A54B (15.2.38)	1941: £11.5.6 1947: £6.0.1			Ngarara West A54B2A, 2B & 2C (.2214 ha – about 2 roods) is Maori land
Ngarara West A1x 54	1933: £8.10.5			Appears to be incorrect appellation
Ngarara West A sec 80A (49.0.36)	1957: £14.9.2		Sold in 1954 to HLT Ady	No longer Maori land
Ngarara West B1 (86.1.35)	1933: £6.3.3 – see below for partition			No longer Maori land
Ngarara West B1 sub 2 (8 acres 6 perches)	1941: £6.17.8 1949: £11.19.2 1951: £18.1.5		Sold in 1953 to Te Kati Tawhai for £350	No longer Maori land
Ngarara West B1	1933: £10.1.7 –	1951: 34(2)	B1 sub 5A (2 acres 2	No longer Maori

sub 5 (12.1.9)	see also below for partition 1951: £19.15.9	/1950 (MT)	roods) sold 1955 to Roman Catholic Church for £900	land
Ngarara West B1 sub 5B (8.3.28)	1949: £15.12.10		Sold 1952 to Roman Catholic Church for £3080	No longer Maori land
Ngarara West B1 sub 6 (14.3.34)	1933: £8.17.10 1949: £13.0.5		Not recorded in Block order file	No longer Maori land
Ngarara West B1/111/7 (1933) – most likely B1 sub 7 (1949) (11.3.36)	1933: £6.19.5 1949: £12.7.4		As above. No alienations recorded	No longer Maori land
Ngarara West B7 sub 2C (30 acres)	1953: £152.3.7	1953: 42/1931 (MT)	Was leased from 1921 to 1950 and then various pieces subdivided and sold in 1957 & 1959 including two small sales to Hutt County Council (1 acre in 1929 and 15 perches in 1957).	No longer Maori land
Ngarara West C4 (100 acres/40.4685 ha)	1951: £1.14.0 1953: £2.11.4 1953: £3.16.11 1957: £2.10.1 1959: £2.14.0	1953: 34(2) /1950 (MT) 1953: 42/1931 (MT) 1961: order cancelled	Occupied in 1961 when receivership cancelled. No alienations recorded. Appears from MLOL to be landlocked According to MLOL 100% of block is 'marginal for pastoral & forestry'.	Maori land near Maungakotukutuku (west of Nikau valley and Paraparaumu): 69 owners
Ngarara West C18 part (733 acres) also known as C18 sec 2 (733 acres/ 296.6345 ha)	1941: £4.5.1 1947: £2.5.0 1949: £11.16.6 1951: £15.13.0 1953: £21.8.5	1953: 34(2) /1950 (MT)	Sale of timber & license for timber cutting granted in 1939 and 1966 respectively. Appears from MLOL to be landlocked. Land potential given as 29% not suited for cropping but good for pastoral & forestry; 36% marginal for forestry & pastoral; 35% extreme limitations.	Maori land. Lies adjacent to Tararua Forest Park: 139 owners (including some European owners)
Lots 1, 2, & 3 DP 462 Block 5 Paraparaumu (3 roods)	1941: £14.13.9		Unknown (no alienations recorded)	No longer Maori land
Part 2B2 Paekakariki Native Reserve (1947) or Paekakariki 2B2 part (1949)	1947: £2.9.5 1949: £9.19.5 1951: £5.10.0	1951: 34(2) /1950 (MT)	33 acres 1 rood 29 perches taken for railway. Court ordered compensation of £250 in November 1954. Registrar to discharge all rates outstanding at date of taking.	No longer Maori land
Pukerua 3A5B (1.3.34)	1949: £7.10.6 See partition below		See below	Pukerua 3A5B2C1(.1508 ha about 1/3 rd of an acre) and 2C2

				(.153 ha about 1/3 rd of an acre are Maori land)
Pukerua 3A5B1 (0.1.38)	1951: £7.14.8 1953: £4.13.1 1953: £8.9.2	1953: 34(2) /1950 (MT) 1953: 42/1931 (MT)	No alienations recorded.	No longer Maori land
Pukerua 3A5B2B (0.1.38)	1951: £3.9.2 1953: £3.17.5 1953: £4.8.2	1951: 34(2) /1950 (MT) 1953: 34(2) /1950 (MT) 1953: 42/1931 (MT)	No alienations recorded.	No longer Maori land
Wainui B2 (16.2.35)	1947: £4.18.2 1949: £14.12.8 (to be apportioned) 1951: £30.7.7 (part B2)	1951: 34(2) /1950 (MT)	Part (14 acres 2 roods 35 perches) leased for 21 years from 1 January 1939. Crown acquired leasehold interest circa 1948. One portion partitioned out for housing purposes in 1947 (B2A1). Part reserved as a burial ground, 1953 (.0253 ha) and the rest declared Crown land also in 1953.	Remaining area is isolated piece of Maori land (Maori reservation reserved for burial ground - .02353 ha)
Whareroa Pa (18.3.20)	1949: £77.8.4 1951: £70.16.6	1951: 34(2) /1950 (MT)	Taken under Public Works Act for 'better utilisation purposes' in May 1949. Owners awarded £3780 in 1949 which was paid to the Ikaroa MLB for distribution 'subject to the usual provisions', meaning that the amount of the charging order would be deducted from the purchase money. (It is not clear whether the charging order (for the period 1949-1950 made in 1951 was paid)	Crown land
Lots 1, 2, 3 DP 462 (unknown location)	1949: £18.1.6		No alienations recorded	Unknown

Source: Wellington Minute Book 27, 24 January 1933, p. 285; Wellington Minute Book 33, 20 June 1941, pp. 170-176; Wellington Minute Book 36, 5 June 1946, p. 96; Wellington Minute Book 36, 14 May 1947, pp. 195-198; Wellington Minute Book 37, 12 October 1949, pp. 217-218; 20 October 1949, pp. 240-242 & 31 May 1950, p. 318; Wellington Minute Book 38, 10 May 1951, pp. 31-32; 15 May 1951, p. 44; 11 October 1951, p. 94; 9 January 1953, pp. 308, 310; Wellington Minute Book 39, 19 October 1953, pp. 19-20; 2 November 1954, p. 265. Wellington Minute Book 40, 6 May 1957, p. 247; Wellington Minute Book 41, 4 November 1958, p. 275; Wellington Minute Book 42, 3 May 1961, p. 304; *New Zealand Gazette*, 5 May 1949, p. 978; Maori Land Online: <http://www.maorilandonline.govt.nz/> accessed 2016; Walghan Partners, 'Porirua ki Manawatu Inquiry District Research Programme: Block research Narratives, Draft', research report commissioned by the Crown Forestry Rental Trust, 1 May 2017.

What the alienation data available reveals is that several of the larger areas were taken under the Public Works Act and the rates secured by charging orders likely to have been deducted from compensation monies. One of the Hongoeka blocks was sold following the initial charging orders of 1933. This was Hongoeka 1A which was one of the larger blocks at 60 acres in size. With respect to the receivership orders over the Hongoeka blocks, many were cancelled as the Maori Trustee did not wish to enforce the lease of the blocks as the blocks were already occupied. There was one exception with Hongoeka 4B, which again was one of the larger blocks (52 acres), leased for ten years a year after the receivership order was made. This lease also included mineral rights. Two of the Ngarara West blocks (A49A1 and B1 sub 2) were sold to individual owners or Maori following either a receivership or charging order in the 1950s. Several small Ngarara West blocks (Ngarara West B1 sub 5A (2 acres 2 roods) and 5B (almost 9 acres)) that had been subject to a receivership order were sold to the Catholic Church in the early 1950s. Similarly, Ngarara West B7 sub 2C (30 acres) was subdivided in the early 1950s and sold between 1957 and 1959. Although the Maori Trustee was also appointed receiver in respect to other Ngarara West Blocks (C4 and C18) comprising larger areas (100 acres and 733 acres respectively) no leases immediately followed. Both blocks appear from Maori Land Online to be landlocked with limited capacity for producing revenue though neither the Court or the Council raised the possibility that these blocks could be exempted from rates. (Ngarara West C18 section 2 is discussed further below).

11.7 Ngarara West C18 section 2

The Hongoeka blocks were not the only reasonably sized blocks rated by the Hutt County Council that were not revenue producing or had limited capacity to do so. The Ngarara West C section 18 block, which had six charging orders registered against its title in 1941 (£4.5.1), 1947 (£2.5.0), 1949 (£11.16.6), 1951 (£15.13.0) and 1953 (£21.8.5) was also an example of this. The Maori Trustee had also been appointed agent for the owners in 1953.

Ngarara West C section 18 was originally 1100 acres in size. In 1929, a European, Anne Elder, who had acquired an undivided share in the 1890's gifted 367 acres to the Forestry Service. The block, which lay adjacent to a State Forest Reserve of 1520 acres, was inspected by the Forestry Department who reported that the section was at very high altitude (the highest being over 2000 feet) divided by very high ridges and covered by 'mixed bush'. For

this reason it was considered 'unsuitable for settlement'. Roding was also considered difficult with the main access being by road along the Ngatiawa River. A metal road was formed as far as section 63 owned by a Mr Gregg which was located some way from section 18. The Forest Inspector also noted that towards the south-eastern corner of Gregg's section 38, 'the river flat becomes narrow, whilst continuing across the boundary of section 18 the main stream valley becomes very steep and a road would take a lot of maintenance to keep open on account of the hillsides which outcrop in rock'. It was considered 'advisable' that the area be conserved for 'future water supply and climatic purposes' and it was recommended that it be acquired at 10/- per acre.¹⁵²⁵

During negotiations in 1929, it was noted that Mrs Elder had paid the rates on the block and that there were two years owing. She agreed that she would be responsible for the payment of the outstanding rates prior to the gifting and she confirmed that she had paid up until 31 March 1930. There was also a discussion regarding the 367 acres that was apportioned out of the main block for the Crown. It was stated that the 367 acres was located at the south-east end of the block and that it was 'rather less valuable than the two-thirds of the block'. The Director of Forestry also stated that 'the whole of the block is of very little value owing to its broken nature and absence of milling timber'.¹⁵²⁶

In November 1939, timber on the block was sold to William Baxter & Co Ltd for £3500. It was possibly this that prompted the charging orders in 1941. No further timber or any other alienations were recorded until 1960 when an incorporation under Part XXII of the Maori Affairs Act 1953 was formed as a body corporate in the name of 'The proprietors of Ngarara West C18 section 2'. It was noted in the Maori Land Court block order file that the block had owners who were European as well as Maori. This could well account for the committee of

¹⁵²⁵ Henry R Elder to E Phillips Turner, 2 February 1920; Forest Inspector to Secretary, Forest Department, 1 March 1920, ADSQ F1 18 9/3/6 Section 18 Ngarara West C. Waikanae, 1920-1950, Archives New Zealand, Wellington. SW Document Bank, volume 5, pp. 130-133. Mrs Elder had acquired the land in 1905 from her husband Henry Richardson Elder who had acquired it in 1893. The previous year, in 1892, two Maori owners had transferred their undivided interests to Jane Brown.

¹⁵²⁶ Title notes of section 18 Ngarara West C section 18, 30 September 1920; Morison, Spratt & Morison, Barristers & Solicitors to Director of Forestry, 4 June 1929 & 27 March 1930; Director of Forestry to Messrs Morison, Spratt and Morison, Barristers & Solicitors, 29 August 1929, ADSQ F1 18 9/3/6 Section 18 Ngarara West C. Waikanae, 1920-1950, Archives New Zealand, Wellington. SW Document Bank, volume 5, pp. 134-137.

management being comprised of both Europeans and Maori. They were: JB Mannis, Rangitoenga Tamati, Piri Parae, EP Reilly and JAE Magrath.¹⁵²⁷

In 1966, a timber cutting license was granted to Oxnan Timber & Hardware Ltd for 10 years from 6 July 1966 for £19,500 (\$39,000). Any outstanding charging orders would have had to be paid at this point so that title was clear to register the alienation. There was no right of renewal. The timber rights expired in the mid-1970s. The last payment was made to owners in January 1973.¹⁵²⁸

Several years after the last payment was made, the Assistant District Officer of the Maori Trustee wrote to all owners of Ngarara West C18 section 2. He advised that the timber grant would expire on 5 July 1976 and suggested that the owners consider steps necessary to 'ensure that the land is revenue producing'. The owners were also advised that the grantees wanted an extension of two years and that this could be the basis of a further agreement if the owners saw fit. Also, that an inspection of the land would be carried out prior to the expiry of the lease to ensure that the covenants of the grant had been complied with. It was later confirmed that the covenants had been complied with but there was no indication in Maori Trustee files that the grant was extended. Therefore, the block was no longer revenue producing.¹⁵²⁹

In 1977, interest was expressed by the Department of Lands and Survey in the purchase of the land on behalf of the New Zealand Forestry Service though this did not proceed.¹⁵³⁰

During the mid to the late 1970s, no other alienations including leases or cutting rights were confirmed and rates were not paid. This prompted a letter to the Maori Trustee in March 1980 from the Kapiti Borough Council, who had been given jurisdiction over some Hutt County Council lands. The Borough Treasurer said that the former lessee had advised that the Maori

¹⁵²⁷ District Office, Maori Trustee 24 February 1976, AAVN W3599 869 Box 76 12/6/66 Ngarara West C18 No 2, 1966-1980, Archives New Zealand, Wellington; SW Document Bank, volume 6, p. 135. Ngarara West Block order file, Porirua ki Manawatu Inquiry District Research Assistance Projects: Whanganui Maori Land Court Records (Block Order Files): Document Bank Project.

¹⁵²⁸ District Office, Maori Trustee 24 February 1976, AAVN W3599 869 Box 76 12/6/66 Ngarara West C18 No 2, 1966-1980, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 135.

¹⁵²⁹ Assistant District Office, Maori Trustee to All owners, Ngarara West C18 section 2, 24 May 1976; Maori Trustee to General Manager, Oxnan Timber and Hardware Limited, 25 February 1977, AAVN 869 W3599/76 12/6/66 Ngarara West C18 No. 2, 1966-1980, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 132-133.

¹⁵³⁰ Deputy Registrar, Maori Land Court to Evening Post, 18 May 1977, AAVN 869 W3599/76 12/6/66 Ngarara West C18 No. 2, 1966-1980, Archives New Zealand, Wellington. SW Document Bank, volume 6, p. 134.

Trustee was handling the affairs of Jane Elizabeth Magrath and others (some of the owners). As rates were accruing on the property, the Treasurer wished to be advised whether the Maori Trustee held funds to pay them. The Maori Trustee replied that he did not have funds to pay the rates and that enquiries would have to be made with the beneficial owners. The Borough of Kapiti then asked the Department of Maori Affairs with help to locate the owners of the block. The Borough was sent a list of owners which numbered 49. Research has not established whether the Borough secured the payment of rates on the block at this time.¹⁵³¹

In 1985, in response to a query from the Maori Trustee, the Registrar of the Maori Land Court advised that if there had been ‘any activity’ on Ngarara West C18 section 2, then the Court was not aware of it with the last reference in Maori Land Court files being the timber cutting license issued to Oxnan Timber & Hardware Ltd in 1966. The Maori Trustee then closed its file on the block.¹⁵³²

Maori Land Online images for 2016 show that the block is landlocked and is surrounded by the Tararua Forest Park. There are 139 owners. There is no indication on Maori Land Online that the land is leased though it is noted that 35 percent of the block has ‘extreme limitations’ (which makes it ‘unsuitable for cropping, pasture or forestry’); 36 percent is marginal for pastoral and forestry and just 29 percent is ‘not suited for cropping but good for pastoral and forestry’ (‘non-arable land with moderate limitations for use under perennial vegetation such as pasture or forest’).¹⁵³³

¹⁵³¹ Borough Treasurer, Borough of Kapiti to Maori Trustee, 31 March 1980, Maori Trustee to Borough of Kapiti, 3 April 1980, AAMK W3074 869 Box 401 d 12/66 part 2 Maori Trustee Appointed Agent – Ngarara West C18, No. 2, 1981-1985, Archives New Zealand, Wellington. SW Document Bank, volume 5, pp. 139-140.

¹⁵³² Registrar, Maori Land Court, Whanganui to Head Office, Department of Maori Affairs, 23 October 1985, AAMK W3074 869 Box 401 d 12/66 part 2 Maori Trustee Appointed Agent – Ngarara West C18, No. 2, 1981-1985, Archives New Zealand, Wellington. SW Document Bank, volume 5, p. 141.

¹⁵³³ Maori Land Online: <http://www.maorilandonline.govt.nz/> accessed November 2016.

Map 23: Hutt County and Porirua City Boundaries, 1966



11.8 Rating from 1960

No other charging orders have been located in Maori Land Court minute books nor are there any charging orders on the block order files for any of the Hongoeka or Ngarara West blocks after 1959. The reason for the halt in charging orders at this time was revealed in a letter from the county solicitors to the county clerk in October 1961. The county solicitors said that ‘the Judge [of the Maori Land Court] ... [had] advised that he ... [would] not grant charging orders as a general rule unless a receivership order ... [was] applied for at the same time’. Given that there had been limited success with receivership orders and that some had been cancelled without leases being secured or rates paid, this may account for the lack of subsequent applications for receivership orders too.¹⁵³⁴

Instead, the Council utilised other remedies. In this same letter from county solicitors of 1961, the solicitors record that judgement (in the Magistrates’ Court) had been obtained for unpaid rates for 1959-1960 in September 1960 in the case of a Mrs Roach (the block name was not given). The solicitors said that the judgement would remain in the force for 12 years from 12th September 1960. It was noted that the judgement could not be enforced after six years had elapsed without the consent of the Court first being obtained unless some payment was ‘made into Court by or on behalf of the debtor within the twelve months immediately before proceedings for enforcement are issued’. Of note too, was that Mrs Roach had asked for rates to be remitted due to hardship but this was declined (this is discussed in the next section).¹⁵³⁵

Another instance has been located whereby a Maori woman, who also had financial issues, was issued with summonses. Mrs Budge, who was likely to have been the same person as the Mrs Budge whose land at Paekakariki (Wainui B2) was sold to the Crown in 1953, had been issued with a number of summonses against her and on various occasions the solicitors had obtained judgement against her. As well, ‘distress warrants’ had been issued the previous year (1962) in respect to two of the judgements. As is discussed in the next section, the solicitors, said that in the circumstances, there seemed to be ‘little possibility of enforcing payment’ and suggested that it might be appropriate for her to make application for

¹⁵³⁴ Brandon, Ward, MacAndrew & Watts, Barristers & Solicitors to County Clerk, Hutt County Council, 25 October 1961, 184-223-037/Pt1 Hutt County Council: Records: Rates – General, 1960-1962, Alexander Turnbull Library, Wellington. SW Document Bank, volume 4, p. 161.

¹⁵³⁵ Ibid.

postponement of rates in accordance with the provisions of the Rating Act. Alternatively, he said, the county clerk might ‘well consider that this is a suitable case for writing-off on the grounds of hardship’. This, however, does not appear to have been done.¹⁵³⁶

No further details on the Council taking Maori to the Magistrates’ Court for non-payment of rates has been located though in 1962, it was reported that initial steps were being made taken by the Council against 400 defaulting ratepayers (presumably both Maori and Europeans) and that the 400 had been warned that unless the rates were paid by a certain time ‘or satisfactory written arrangements made for payment legal action would be taken’. In addition, it was reported that about 150 people had accepted the offer of the Council to pay their rates by instalments at this time.¹⁵³⁷

In 1967, the Department of Maori Affairs and Maori Trust Office on 21 March 1967 for details regarding rating position of those with Departmental mortgagors residing within the council’s boundaries. Many, the Department said, were not paying rates and that the Department would do what it could to encourage their mortgagors to ‘meet their responsibilities’. The Hutt County Council provided a list of people concerned most of whom lived in Wainuiomata. About 15 lived within the inquiry district at Paremata, Paekakariki, Paraparaumu and Pukerua though whether this related to Maori land was not noted.¹⁵³⁸

11.9 Exemptions and Rates remitted for indigency/hardship

No formal exemptions of rates on Maori land within the Hutt County Council have been located due to either the inability of the land to generate sufficient income or due to the ‘indigency’ or hardship of owners. This is the term used in the 1925 Act. ‘Hardship’ was the term used by the Hutt County Council and Kapiti Borough Treasurer in the 1960s and 1980s.

¹⁵³⁶ Brandon, Ward, MacAndrew & Watts, Barristers & Solicitors to County Clerk, Hutt County Council, 13 May 1963, 184-223-037/Pt2 Hutt County Council: Records: Rates – General, 1962-1963, Alexander Turnbull Library, Wellington. SW Document Bank, volume 4, p. 119.

¹⁵³⁷ Unreferenced newspaper article, circa 1962, 184-223-037/Pt1 1960-1962, Hutt County Council: Records: Rates – General, Alexander Turnbull Library, Wellington. SW Document Bank, volume 4, p. 116.

¹⁵³⁸ Maori Affairs Department to Hutt County Council, 21 March 1967, Hutt County Council to Maori Affairs Department, 20 April 1967, 84-223-037/Pt4 Hutt County Council: Records Rates – General, 1964-1967, Alexander Turnbull Library, Wellington. SW Document Bank, volume 5, p. 122 & 128.

The letter from the county solicitors in October 1961 discussed above, specifically concerned the non-payment of rates on land owned by a Mrs Roach (though the name of the block was not given) due to hardship. She was in arrears of £31.8.0 which included the rates for 1961/62 and arrears to 31 March 1961. The solicitor noted that the land was subject to the Native Housing Act 1935 and section 12 of the Maori Housing Amendment Act 1938 which therefore deemed the land to be Maori freehold land. The solicitors outlined to the Council the various means available to the Council to postpone rates. It was noted that the power to postpone rates and obtain a registered charge on land in the case of hardship was conferred by section 75A of the Rating Act 1925 and 75A (10) but that this specifically excluded Maori land. Therefore, the Council did not have the power under that section to postpone rates. The solicitor went on to say that section 113(1) of the same Act provided that the Council could postpone rates due on land owned or occupied by Maori 'for such time as it thinks fit' but no provision was made for 'registering a charge on the title'. The situation, the solicitors said, could not be remedied by applying for a charging order under section 108 as the provisions of that section were 'limited to the case where the local authority sought to recover the rates from the owners or beneficial owners'. In the case being discussed the Council could not seek to recover rates when it had postponed payment. The solicitors outlined the 'following possible courses of action' available to the Council:

- (a) It can postpone the payment of the rates owing by Mrs Roach for such period as it thinks fit pursuant to section 113 in which case it does not appear that there is any method by which a registered charge can be obtained, or
- (b) It can revoke its resolution to postpone the rates and rest on the Judgement which it has obtained in the Magistrates Court. In this case, judgement for 1959-1960 rates was obtained on the 12th day of September, 1960 and this judgement will remain in the force for 12 years from 12th September 1960. The judgement cannot however be enforced after six years has elapsed without the consent of the Court first being obtained unless some payment is made into Court by or on behalf of the debtor within the twelve months immediately before proceedings for enforcement are issued, or
- (c) It can revoke its resolution to postpone the rates and remit the rates on the grounds of extreme poverty in accordance with section 74 of the Rating Act.¹⁵³⁹

¹⁵³⁹ Brandon, Ward, MacAndrew & Watts, Barristers & Solicitors to County Clerk, Hutt County Council, 25 October 1961, 184-223-037/Pt1 1960-1962, Hutt County Council: Records: Rates – General, Alexander Turnbull Library, Wellington. SW Document Bank, volume 4, pp. 113-115.

The solicitors said that it was ‘not possible to revoke the resolution to postpone the rates and apply for a charging order under section 108 as the time limit of two years under that section has already expired’. In addition, (as noted above) the Judge has advised that he would ‘not grant charging orders as a general rule unless a receivership order is applied for at the same time’. In order to avoid applying for a receivership order, the solicitors said, ‘it would be necessary to disclose the full facts of the case’. Further:

In the circumstances it seems to us to be probable that the Judge would either refuse to grant a charging order which he has full power to do as the act provides only that the Court ‘may make an order granting a charge over the land’ or he may act under section 108(6) which in part provides:

In special circumstances arising from hardship or indigency the Court may remit the whole or part of any rate so levied, and thereupon such rates, or such much therefore as shall be so remitted shall be deemed to be discharged.¹⁵⁴⁰

The solicitors then asked for the Council’s decision on the matter. The Council considered writing the rates off but decided that in view of the advice from the solicitors ‘that ways and means of recovering them should be gone into’. It was therefore resolved that the resolution to postpone the rates be revoked and the matter be left in the hands of councillor Pope. A reminder was sent to councillor Pope on 15 November to ‘go into ways and means of recovering the rates’ owed by Mrs Roach but there is no reply to the county clerk on the file by Mr Pope to determine what the outcome was.¹⁵⁴¹

Solicitors for the Council wrote to the Council in May 1963 about the non-payment of rates by Mrs Budge, described as an elderly Maori woman. As noted above, the solicitors recorded that over the past few years a number of summonses had been issued against her and on various occasions the solicitors had obtained judgement against her. As well, ‘distress warrants’ had been issued the previous year in respect to two of the judgements. The bailiff

¹⁵⁴⁰ Ibid.

¹⁵⁴¹ Brandon, Ward, MacAndrew & Watts, Barristers & Solicitors to County Clerk, Hutt County Council, 25 October 1961; Order paper, Finance & General Purposes Committee, 9 November 1961; County Clerk, Hutt County Council to Councillor Pope, 15 November 1961, 184-223-037/Pt1 Hutt County Council: Records: Rates – General, 1960-1962, Alexander Turnbull Library, Wellington. SW Document Bank, volume 4, pp. 113-115, 117-118.

had reported that she received a widow's pension of £20 per month. She had offered to pay £2 per month to clear the amount owing but it had 'apparently been impossible for her to keep to this arrangement'. The solicitors, said that in the circumstances, there seemed to be 'little possibility of enforcing payment' and suggested that it might be appropriate for her to make application for postponement of rates in accordance with the provisions of the Rating Act. Alternatively, the county clerk might 'well consider that this is a suitable case for writing-off on the grounds of hardship'.¹⁵⁴²

The matter was discussed by the Paekakariki County Town Committee who had jurisdiction over the area in June 1963. It was resolved by the Committee that the rates not be written off and that the County Solicitor instead investigate what rent was being paid to her by her family who lived with her and what money she received from the Maori Land Court. A letter was sent to this affect to Mrs Budge's solicitors. Nothing further about the matter has been located on the Hutt County Council file.¹⁵⁴³

In the 1960s, the Hutt County Council produced spreadsheets of those whose rates were to be written off. The spreadsheet for the year ending 31 March 1965 & 31 March 1966 included Crown land, church land, recently acquired roads, where there had been an error in the address or the calculation of the rates, or whether there had been a re-valuation of the land. There were also a number of owners whose rates were written off due to 'hardship' (3 cases in 1965 and 11 in 1966) though there is no information on the spreadsheet to indicate whether these related to owners of Maori land. In the 1966 spreadsheet (but not in 1965) there were six instances of rates on Maori land being written off. The names of the blocks were not given but they were in the Makara riding which made it less likely to be in the inquiry district. In the column for owner's names it was simply recorded as 'Maoris' and the reason for the rates being written off was given as 'multiple ownership'.¹⁵⁴⁴

The contents of a letter sent in 1983 from the Borough Treasurer of the Kapiti Borough Council (which was formed from the Paraparaumu, Paekakariki and Whareroa Ridings of the

¹⁵⁴² Brandon, Ward, MacAndrew & Watts, Barristers & Solicitors to County Clerk, Hutt County Council, 13 May 1963, 84-223-037/Pt2 Hutt County Council: Records: Rates – General, 1962-1963, Alexander Turnbull Library, Wellington. SW Document Bank, volume 4, p. 119.

¹⁵⁴³ Extract from Minutes of meeting of Paekakariki County Town Committee, 4 June 1963, 84-223-037/Pt3 Hutt County Council: Records: Rates – General, 1963-1964, Alexander Turnbull Library, Wellington. SW Document Bank, volume 4, p. 120.

¹⁵⁴⁴ Hutt County Council, Rates to be written off 31 March 1965 & 31 March 1966, 84-223-037/Pt4 Hutt County Council: Records, Rates – General, 1964-1967, Alexander Turnbull Library, Wellington. SW Document Bank, volume 4, pp. 123-127.

Hutt County Council) to the Hamilton City Council about the remission and postponement of rates reveals something about the Council's attitude to such exemptions. The Borough Treasurer said that in the previous nine years, no rates had been remitted on the grounds of hardship. He said that applications for postponement were dealt with by the Borough Treasurer and a councillor and the granting of any application involved 'fairly extensive research' and usually included consultation with the Social Welfare Department. He also noted that he carried out a similar exercise that the Hamilton County Council was carrying out (seeking the views and policies of other councils on the remission of rates) and found that 'none of the Local Authorities in the lower half of the North Island had a clearly defined set of guidelines with which could be used in these circumstances'. He said that he had come to the conclusion that 'each individual application must be considered and treated on its merits'.¹⁵⁴⁵

11.10 Ngarara West B1 No 3B4, section 438 vesting, 1973

While there is no further evidence of applications by the Hutt County Council for rates charging orders, receivership orders or vesting land in the Maori Trustee under section 109 of the Rating Act for sale, there is evidence of the continuation in the 1970s of rates being levied on undeveloped Maori land. The Ngarara West B1 No 3B4 block, which was not only undeveloped but had no access until the early 1970s, was sold to the Hutt County Council in 1974. The Council took the opportunity to ensure that a significant amount of money that it had levied in rates was deducted from the purchase price.

On 18 October 1973, solicitors for the Hutt County Council, Brandon Ward McAndrew & Co, advised the Maori Trustee that the Council had made an application under section 438 of the Maori Affairs Act 1953 in respect of Ngarara West B1 No 3B4 which the Council wished to purchase. They asked whether the Trustee was prepared to act for those owners who could not be located. The Maori Trustee responded that it was not possible to have the interests of the missing and deceased owners vested in the Maori Trustee under section 438 and that if an application was to be made under that section then the interests of all the owners in the block must be vested in the Maori Trustee. Alternatively, if there were less than ten owners, the

¹⁵⁴⁵ Borough Treasurer, Kapiti Borough Council to Hamilton City Council, 25 October 1983, Kapiti Borough Council, Series 6A Box 1-1771 6A/48 F170 Rates – policy & general, 1977-1989, parts 1-7, Kapiti Coast District Council, Paraparaumu. SW Document Bank, volume 4, p. 130.

Maori Trustee could be appointed under section 447/53 to ‘execute the documents for the missing owners’. If there were more than ten owners then an application for a meeting of owners would have to be made under Part XXIII of the Maori Affairs Act 1953. On this advice, the solicitors for the Council amended the application to include the interests of all owners and asked if the Maori Trustee was prepared to act as Trustee under these circumstances.¹⁵⁴⁶

On 7 November 1973, the Maori Land Court, presided over by Judge MC Smith, heard the application from the Hutt County Council for Ngarara West B1 No 3B4 block to be vested in the Maori Trustee under section 438 so that it could purchase the land. Mr Simpson, who had also appeared for Maori in the Papangaio J and Te Karewarewa urupa cases, said that he appeared as agent for ‘Brandon, Ward’ (the council’s solicitors). He said that the block was about seven and a half acres in size (the partition order reveals it was 7 acres 2 roods 31.32 perches in size) and located on hills overlooking Paraparaumu to the east of the railway line. Previously, he said, there was no practical access but a road was recently taken up to it. He said it was ‘unsuitable for subdivision without considerable earthworks’. The owners were shown on the application (they numbered ten). Mr Simpson proceeded to list the owners, whether he had contacted them, whether they had died and left no issue, and whether they agreed to the vesting. He noted that two owners had ‘substantial interests’ and that the Eruini family (who made up many of the owners) was known to him.¹⁵⁴⁷

The certificate of title dated 3 September 1959, (which was when the block was partitioned) listed ten owners as did a list of owners said to be ‘compiled to 18 April 1973’ and dated 8 April 1974 in the Maori Trustee file. The lists are similar apart from one adjustment – that Frederick Noho Jenkins was administrator of the estate of Hinewaru Jenkins/Eruini. The list from 1974 is recorded below (the first two named had eight shares and everyone else had one share). Next to each name is the comment made by Mr Simpson at the hearing about them:

- Te Oti Tapu Ropata: ‘... had left will & widow. Both widow & trustee consent to this appln’. Widow is Hariata Whakatau Eruini who had ‘filed consent in own right’

¹⁵⁴⁶ Brandon Ward MacAndrew & Co, Barristers & Solicitors, Wellington to Maori Trustee, 18 October 1973 & 29 October 1973; District Officer, Maori Trustee to Messrs Brandon, Ward, MacAndrew & Co, 26 October 1973, AAMK W3074 869 Box 397 g 12/4/44 Maori Trustee Appointed Agent – Ngarara West B1 – No 3B4, 1973-1975, Archives New Zealand, Wellington. SW Document Bank, volume 5, pp. 143-145.

¹⁵⁴⁷ Otaki Minute Book 78, 7 November 1973, pp. 87-88.

- Hoani Ihakara: Had died leaving two children
- Horiaana Tumarua Eruini: died many years previously, had one child who he (Simpson) had been unable to contact
- Frederick Noho Jenkins as administrator of the estate of Hinewaru Jenkins/Eruini: had consented to the application
- Mohi Rawiri Eruini: had died 'without issue'
- Reuma Eruini: advised of application but had not replied
- Materoa Eruini: had written agreeing to the sale
- Hariata Whakatu Eruini: 'filed consent'
- Ruhia Eruini: had died 'without issue'
- Korokino Eruini: 'does not object'¹⁵⁴⁸

Therefore of the ten owners five were said to have consented to the application and four had died. Mr Simpson also said that there was urgency about the application but did not say why. None of the owners appeared to have been in attendance at the hearing.¹⁵⁴⁹

The Court stated that once the consent of the Maori Trustee was filed, it was prepared to grant a section 438 order vesting the land in the Maori Trustee to sell to the applicant at government valuation plus 15 percent.¹⁵⁵⁰

In response Maori Trustee officials considered the request noting that the Hutt County Council wanted to purchase the block for a water supply scheme (which it could have zoned as such and leased thereby ensuring the land remained Maori land). As well, it was noted that there were a number of 'missing owners'. On this information and the information contained in the Court minutes (and presumably the application (not cited)), it was recommended that the trust be accepted. On 21 November 1973, on receipt of the consent of the Maori Trustee, the Court ordered that the land be vested in the Maori Trustee for sale to the 'Chairman, Councillors and Inhabitants of the County of Hutt at a price equal to the capital value of the land according to a special government valuation made no earlier than 1 August 1973 with

¹⁵⁴⁸ Otaki Minute Book 78, 7 November 1973, p. 87. Certificate of title for Ngarara West B1 3B4, No 857/93.

¹⁵⁴⁹ Otaki Minute Book 78, 7 November 1973, p. 87.

¹⁵⁵⁰ Otaki Minute Book 78, 7 November 1973, p. [cannot decipher page number]; Partition order, 25 October 1957, Ngarara West B Block Order file, Oti 227, Porirua ki Manawatu Inquiry District Research Assistance Projects: Whanganui Maori Land Court Records (Block Order Files): Document Bank Project, volume 17, p. 581.

the addition of 15% thereof'. The Maori Trustee's costs and expenses and the payment of any charges upon the land and all mortgages for which the beneficial owners might be liable was to be deducted from the proceeds.¹⁵⁵¹

A special valuation was completed which valued the land at \$8100 (land value). There were no improvements. The Valuation Department report dated 1 November 1973 stated:

From the unformed Epiha Street frontage, the section rises very steeply to a high ridge approximately six chain back where there is a calculated area of 1.4 acres of reasonable land. The section then falls steeply to rear. Apart from the 1.4 acres the section is overgrown with high gorse and second growth.

Access to this highest area of the section is now possible from the end of Rewai Street which has been extended up to the southern boundary.

The present zoning on the District Scheme Plan is Residential B and land along the ridge could be developed as residential sections, but this would be limited to the 1.4 acres and would have access from Rewai Street.

It is understood that the County Council require the land for a water reservoir site which has been included in the planning of their water supply reticulation now under review.¹⁵⁵²

The Hutt County Council was asked by the Maori Trustee for the amount of rates arrears and advised that the following was owed:

- Year ending 31 March 1968 - \$41.67
- Year ending 31 March 1969 - \$52.14
- Year ending 31 March 1970 - \$56.10

¹⁵⁵¹ Otaki Minute Book 78, 21 November 1973, p. 124; File note between officials, 13 November 1973, AAMK W3074 869 Box 397 g 12/4/44 Maori Trustee Appointed Agent – Ngarara West B1 – No 3B4, 1973-1975, Archives New Zealand, Wellington. SW Document Bank, volume 5, p. 146.

¹⁵⁵² Maori Trustee to Messrs Brandon, Ward, MacAndrew & Co, 19 December 1973; District Valuer, Valuation Department, Urban Valuation and Report for Part Ngarara West B1 sec 3B3, 1 November 1973, AAMK W3074 869 Box 397 g 12/4/44 Maori Trustee Appointed Agent – Ngarara West B1 – No 3B4, 1973-1975, Archives New Zealand, Wellington. SW Document Bank, volume 5, pp. 147-149.

- Year ending 31 March 1971 - \$62.70
- Year ending 31 March 1972 - \$66.00
- Year ending 31 March 1973 - \$80.52
- Year ending 31 March 1974 - \$76.23¹⁵⁵³

The arrears therefore totalled \$435.36. The above statement also revealed that the amount levied for rates had doubled between 1968 (\$41.67) and 1973 (\$80.52). This would indicate either a rates increase, a re-valuation of the land or a combination of both. It is not clear why there was a \$4 reduction in rates between 1973 and 1974.

The County Clerk advised too that there was no other rating authority in the area in which the land was situated. Maori Trustee officials noted that a local authority could not sue after six years so therefore the trustee would only pay \$393.69 (the rates had also not been secured by charging orders). There was also a discussion between several other officials about whether the rates were payable given the purchaser of the block was the Hutt County Council and the rates were owed to them. The response was that rates were payable by the owners and therefore would be paid by the Maori Trustee from the purchase money when received. Advice was also received from the solicitors for the Hutt County Council that the county wished to collect rates and for payment to be arranged with the Council.¹⁵⁵⁴

The settlement statement records that the purchase money comprised \$8100 (capital value) plus 15 percent of the capital value (\$1,215) which totalled \$9315. Rates of \$393.69 and registration fee of \$5 were deducted leaving \$8916.31 for the owners of the undeveloped, and until recently, inaccessible land. This meant that just over 4 percent of the purchase price was deducted for rates.¹⁵⁵⁵

¹⁵⁵³ County Clerk, Hutt County Council to Maori Trustee, 4 March 1974, AAMK W3074 869 Box 397 g 12/4/44 Maori Trustee Appointed Agent – Ngarara West B1 – No 3B4, 1973-1975, Archives New Zealand, Wellington. SW Document Bank, volume 5, p. 150.

¹⁵⁵⁴ County Clerk, Hutt County Council to Maori Trustee, 4 March 1974; File note dated 7 March 1974 on Maori Trustee to Hutt County Council, 27 February 1974; File note on Settlement Statement, 11 & 13 March 1974, AAMK W3074 869 Box 397 g 12/4/44 Maori Trustee Appointed Agent – Ngarara West B1 – No 3B4, 1973-1975, Archives New Zealand, Wellington. SW Document Bank, volume 5, pp. 150-152.

¹⁵⁵⁵ Settlement Statement, Ngarara West B1 No 3B4, March 1974, AAMK W3074 869 Box 397 g 12/4/44 Maori Trustee Appointed Agent – Ngarara West B1 – No 3B4, 1973-1975, Archives New Zealand, Wellington. SW Document Bank, volume 5, p. 153.

The memorial schedule confirms that the block was sold to the Hutt County Council on 29 March 1974 for \$9315.¹⁵⁵⁶

There were other deductions from the purchase money. Initially officials decided that the Maori Trustee's commission would be \$200. Regulations cited by the Maori Trustee specified that commission of 2 ½ percent was charged. An official noted that as 2 ½ percent of \$8862 (this would appear to have also been a mistake as the figure should have been \$8916.31) exceeded the amount equal to \$20 per beneficiary (the maximum amount). Based on there being ten owners, the commission was calculated to be \$200. In June 1974, however, other officials realised that this was incorrect. Another regulation, cited as volume 5, chapter 11, paragraph 24, said that the aforementioned formulae was not to be applied to alienations of land under section 438 (of the Maori Affairs Act 1953). Instead, in such cases, the commission would be taken at 'full scale rates' which was five percent of the purchase price. The commission was therefore five percent of \$8916.31 which was \$445.82.¹⁵⁵⁷

Therefore, Maori Trustee commission, rates and registration fee which totalled \$844.51 were deducted from the purchase price. This was just over nine percent of the purchase price.

On 16 August 1974, one of the owners, Materoa Eruini of Otaki who, the minute's record, had agreed to the sale, wrote to Mr Wise, a Maori Trustee official. She asked how the 'meeting got on' as she had not 'heard a thing about it since they wanted to sell the said land Ngarara West B1 No 3B4 of 7 acres 2 roods 31.72 perches for months'. She said that if they still could not find the rest of the owners she was sure she could 'supply some of their names'.¹⁵⁵⁸

Distribution of the share of Materoa Eruini was then delayed while the Palmerston North Office checked whether Ngarara West B1 No 3B4 was included in a list of blocks 'assigned'.

¹⁵⁵⁶ Memorial schedule, Ngarara West B Block Order file, Oti 227, Porirua ki Manawatu Inquiry District Research Assistance Projects: Whanganui Maori Land Court Records (Block Order Files): Document Bank Project, volume 17, p. 581.

¹⁵⁵⁷ Notes between Maori Trustee officials, 5 April 1974 on Maori Trustee, Wellington to District Office, Palmerston North, 4 April 1974; Handwritten notes between Maori Trustee officials, 17 and 19 June 1974, AAMK W3074 869 Box 397 g 12/4/44 Maori Trustee Appointed Agent – Ngarara West B1 – No 3B4, 1973-1975, Archives New Zealand, Wellington. SW Document Bank, volume 5, pp. 154-155.

¹⁵⁵⁸ Materoa Eruini, Otaki to Mr Wise, 16 August 1974, AAMK W3074 869 Box 397 g 12/4/44 Maori Trustee Appointed Agent – Ngarara West B1 – No 3B4, 1973-1975, Archives New Zealand, Wellington. SW Document Bank, volume 5, p. 156.

This was because she had a 'housing assignment' placed on her 'card' (presumably file) and confirmation was required as to whether the purchase money from the block would need to be retained, presumably for the 'housing assignment'. It was later confirmed that it was not. Her purchase money was not paid until 12 November of that year.¹⁵⁵⁹

Mrs Eruini was also advised in September 1974 that the sale had been completed and arrangements being made to distribute the money to the beneficial owners which were listed as those given in the certificate of title dated September 1959. Mrs Eruini was asked if she could supply the addresses of any of those named. There is no answer on file.¹⁵⁶⁰

Complications also ensued regarding the identity of the other owners. Solicitors for a Mrs Heni Tuhaka wrote to the Maori Land Court, initially in October and later in February 1975, asking for her share of the proceeds. Officials advised the solicitors in March 1975 that she was not known as an owner and asked if she was known by any other name so that they could again check their records. The solicitors responded that the Maori Land Court had on 30 April 1974 at Levin made an order vesting the interest of the late Horiana Tumaru Eruini in Ngarara West B1 sub 3B4 in their client (so after the section 438 vesting had been made and the sale finalised). Officials then responded that a check of their Court records register showed no vesting orders had been received in respect of Horiana Tumaru Eruini. Another official, however, was asked to confirm this. It was then discovered that succession orders had indeed been made by the Maori Land Court at Levin on 30 April 1974. The solicitors for Mrs Tuhaka were then advised in September 1975 that arrangements were being made for funds to be distributed to her in respect to the sale of Ngarara West B1 sub 3B4.¹⁵⁶¹

¹⁵⁵⁹ Note between Maori Trustee officials, 3 September 1974; File note, 5 September 1974; District Officer, Wellington to Palmerston North, 4 September 1974; RF Wise for the Maori Trustee to Materoa Eruini, 12 September 1974, AAMK W3074 869 Box 397 g 12/4/44 Maori Trustee Appointed Agent – Ngarara West B1 – No 3B4, 1973-1975, Archives New Zealand, Wellington. SW Document Bank, volume 5, pp. 157-160.

¹⁵⁶⁰ RF Wise, for Maori Trustee to Mrs M Eruini, Otaki, 12 September 1974, AAMK W3074 869 Box 397 g 12/4/44 Maori Trustee Appointed Agent – Ngarara West B1 – No 3B4, 1973-1975, Archives New Zealand, Wellington. SW Document Bank, volume 5, p. 160.

¹⁵⁶¹ Morison, Taylor & Co, Barristers & Solicitors, Wellington, 18 October 1974, 24 February 1975, 3 September 1975; Maori Trustee to Messrs Morison & Taylor & Co, 11 March 1975 & 15 September 1975, Notes between officials, 8 September 1975 on Morison, Taylor & Co letter of 3 September 1975; District Officer, Wellington to Palmerston North office, 8 September 1975 and notes between officials, 9 September 1975 on this letter; AAMK W3074 869 Box 397 g 12/4/44 Maori Trustee Appointed Agent – Ngarara West B1 – No 3B4, 1973-1975, Archives New Zealand, Wellington. SW Document Bank, volume 5, pp. 161-168.

From the above it is clear that the Maori Trustee had not, by September 1975, which was over a year since the sale was finalised, distributed all the purchase money. It is not clear from the file whether this was in fact ever done or whether the interests of those who had died were ever succeeded to and those people given their share of the proceeds. No further correspondence from owners is on the Maori Trustee file.

11.11 Ngarara West B1 No 3B4, Summary

This sale raises a number of issues including whether the legislation provided for an adequate consent process and full distribution of the purchase money (particularly as not all interests of deceased owners had been succeeded to and information on those owners who were alive was not being actively sought). Also, whether the legislation and government policy that allowed 9 percent of the Maori owner's purchase money to be paid to two agencies created by government legislation (the Maori Trustee and the Hutt County Council) adequately protected the interests of Maori.

In addition, the sale raises questions as to whether the Hutt County Council's right to secure six years of rates was a reasonable one when the land was undeveloped and had only just been afforded formed access. Of note is that as the purchaser, the Council offered no deduction in the rates (which some local authorities did in similar situations when a large amount of rates had been levied) which would suggest that the Hutt County Council was willing to take advantage of the situation. Therefore, the question is whether the legislation adequately protect the interests of the Maori owners or if the interests of the Council took precedence.

12. Makara County Council (1908-1962), Porirua Borough Council (1962-1965) and Porirua City Council (1965-)

12.1 Establishment

The Makara County Council was established in 1908 under the Makara County Act 1907. It encompassed the former Porirua and Makara ridings of the Hutt County Council which comprised Titahi Bay to Papakowhai in the north to Cape Terawhiti and Sinclair Head in the south ‘skirting around Johnsonville Town District, Onslow Borough, Wellington City and Karori Borough’. Some minor boundary changes occurred in 1909 with some sections moving from Karori Borough into the new county but this did not affect inquiry district land.¹⁵⁶²

Elections were held on 28 January 1908 and the first meeting held the following day. The first Council comprised George Monk, Frederick Henry Hawkins, Stephen Bryant, Frank Thomas Moore, John Herbert Haggerty and Thomas Henry Eastwood – all it would appear, European men.¹⁵⁶³

Later, however, there were Maori councillors. They were T Wineera (1956-1962) and M Metekingi (1959-1962).¹⁵⁶⁴

When the Porirua Borough Council was established in 1962, the Makara County Council was dis-established at the same time. The Borough Council became a City Council in 1965.¹⁵⁶⁵ There were Maori councillors from the beginning of the Porirua City Council’s inception. They included T Wineera (1965-1972), P Katene (1968-1977), G Te H Moke (1968-1979), W Herewini (1980-1985), MM Herewini (1986-1989), T Tutera (1986-1989), RE Rangi

¹⁵⁶² Makara County Council Minutes, volume 1, 1908-1913, introductory page, Wellington City Council Archives, Wellington.

¹⁵⁶³ Ibid.

¹⁵⁶⁴ <http://www.pcc.govt.nz/About-Porirua/Porirua-s-heritage/Porirua-s-natural--cultural-and-historic-heritage/Civic-History/Members-of-Boards-and-Councils>

¹⁵⁶⁵ Makara County Council Minutes, volume 1, 1908-1913, introductory page.

(2004-2007), H Matenga (2007-2010), T Manu (2007-), R Rangi (2004-2007 & 2010-2013), and W Poutoa (2010-2013).¹⁵⁶⁶

William (Bill) Herewini (1980-1985) was also Deputy Mayor. In 2016, Mike Tana became the first Maori mayor of Porirua City Council to be elected.¹⁵⁶⁷

Maori land in the inquiry district within this council's jurisdiction and where there was some involvement by the Council were the Takapuwahia township and Tutaeparaike block.

12.2 Rating 1909-1953

The first reference made to the rating of Maori land by the Council (or indeed Maori in general) was recorded in its minutes in February 1909 when the council decided to obtain from its solicitors an opinion as to the Council's position in regard to Maori rate payers for that and subsequent years.¹⁵⁶⁸ The following month, in March 1909, the Makara County Council considered the opinion of its solicitors, Field, Luckie & Toogood (not located), and it was resolved that demands for the current years rates (1908/1909) be sent to those concerned.¹⁵⁶⁹ The *Evening Post* also reported that the Council had decided that Maori rates due would be collected as was provided under the [Rating] Act and that the council would sue those who had not paid their rates including owners of Maori land.¹⁵⁷⁰ Any references to Maori being sued for the non-payment of rates at this time, however, have not been located and indeed the next reference to the rating of Maori land by this Council indicates that the Council had decided to write off as 'uncollectable' the rates on Maori land for 1909/1910. These totalled just £17.2.3.¹⁵⁷¹

¹⁵⁶⁶ <http://www.pcc.govt.nz/About-Porirua/Porirua-s-heritage/Porirua-s-natural--cultural-and-historic-heritage/Civic-History/Members-of-Boards-and-Councils>

¹⁵⁶⁷ Porirua City Council website: <http://www.pcc.govt.nz/>

¹⁵⁶⁸ Makara County Council Minute Book, volume 1, 9 February 1909, p. 50, Wellington City Council Archives, Wellington.

¹⁵⁶⁹ Makara County Council Minute Book, volume 1, 12 March 1909, p. 53, Wellington City Council Archives, Wellington.

¹⁵⁷⁰ *Evening Post*, Volume LXXVII, Issue 60, 12 March 1909, p. 8; *Dominion*, Volume 2, Issue 455, 13 March 1909, p. 14.

¹⁵⁷¹ Makara County Council Minute Book, volume 1, 10 February 1911, p. 165, Wellington City Council Archives, Wellington.

This small total reflects the relatively small amount of Maori land occupied by Maori within the County area. Indeed, this was commented on by the Makara County Council in January 1913 after the Patea County Council asked for information on the rating of Maori land by the council and for support in having the law amended so as to make the collection of rates on Maori land 'more workable'. The Makara County Clerk, GR Hislop, advised the Council that the rateable Maori land within the County was valued at £16,624 and of this, rates on £4813 worth of land were 'unobtainable' though it is not clear whether this meant they were written off. It did mean, he said, a loss of £15.0.10 based on a 3/4d rate. Mr Hislop said that most of this land was in 'small sections'. A councillor, Mr Moore, also stated how lucky the council was 'because Europeans are occupying the lands and are paying rates'.¹⁵⁷²

Little more on the subject of the rating of Maori land has been located in the Council minutes or local newspapers during the following 15 years or so until it was reported in 1930, that the Makara County Council had written off £152 of rates in that year, of which £130 was levied on Maori land.¹⁵⁷³

In December 1933, the Makara County Council decided to support the Waiapu County Council in its bid to change the legislation in relation to the rating of Maori land.¹⁵⁷⁴ This did not, however, extend to representatives of Makara attending a conference arranged by the Waiapu Council regarding the issue with Makara Council deciding to advise Waiapu that 'as the question is a small one so far as this council is concerned it cannot see its way to be represented at the conference'.¹⁵⁷⁵

Further discussion on the issue occurred sporadically over the next decade. At a Council meeting of 9 March 1934, a letter was received from the Valuation Department in regard to Maori lands in the county. It was decided that the council would write to the Judge of the Native Land Court to ask if he 'desires to nominate any Native owner of the Native Lands

¹⁵⁷² Makara County Council Minute Book, volume 1, 10 January 1913, pp. 279-280, Wellington City Council Archives, Wellington; *Evening Post*, Volume LXXXV, Issue 8, 10 January 1913, p. 8; *Taranaki Daily News*, Volume LV, Issue 245, 6 March 1913, p. 7.

¹⁵⁷³ *Evening Post*, Volume CIX, Issue 62, 14 March 1930, p. 3.

¹⁵⁷⁴ *Evening Post*, Volume CXVI, Issue 138, 8 December 1933, Page 14; *New Zealand Herald*, Volume LXX, Issue 21671, 11 December 1933, p. 12.

¹⁵⁷⁵ Makara County Council Minute Book, volume 6, 13 April 1934, p. 338-339, Wellington City Council Archives, Wellington.

owned in common as the person entitled to exercise the vote and to receive the rate notices'. The response has not been located.¹⁵⁷⁶

In 1941, the County Clerk advised the Native Department that the total amount of rates levied on Maori land for the year 1939-1940 by the Makara County Council was £67.16.3 none of which had been paid. It was also noted that a property at Titahi Bay was the only Maori land charged with a special rate (lot 2 DP 752 of section 109, Block XI, Paekakariki SD) consisting of 16 acres which was in arrears for the previous three years.¹⁵⁷⁷

The three other issues that arose during this period in respect to Maori, were roads, damage to an old pa site and conditions at what was described as 'Porirua Pa' or Takapuwahia township.

12.3 Roads

It has not been possible in the time-frame to look at roading issues in full. An example found of a disagreement between Maori and Council that perhaps reflected Council attitudes towards Maori, concerned Makere Inia Tuhata in September 1917. He had advised the Council that the corner peg of sections 101 & 102 of the 'Native township at Porirua [Takapuwahia] was in the road', that is, a road was encroaching on Maori land. The letter also indicated that a fence had or was going to be built presumably up to where the corner peg was located. Councillor Haggerty moved that Mr Tuahata be advised that if the fence was built the council would 'consider it an obstruction on the road' and would 'proceed accordingly'. The Council would also hold Mr Tuahata 'immediately responsible for any accident that may arise from such obstruction'. The motion was seconded by Councillor Bryant and then carried.¹⁵⁷⁸

12.4 Damage to Te Pa o Kapo, 1934

¹⁵⁷⁶ Makara County Council Minute Book, volume 6, 9 March 1934, p. 332, Wellington City Council Archives, Wellington.

¹⁵⁷⁷ County Clerk, Makara County Council to Under Secretary, Native Department, 29 April 1941, ACIH 16036 MA 1 box 403 20/1/1, part 4, Rating of Native Lands - General, 1939-1945, Archives New Zealand, Wellington. SW Document Bank, volume 1, p. 40.

¹⁵⁷⁸ Makara County Council Minutes, volume 2, 14 September 1917, p. 266.

In November 1934, Henry M Christie, who was the author of articles published in the Journal of the Polynesian Society, wrote a letter to the editor of the *Evening Post* complaining about the vandalism allowed by the Makara County Council near Rocky Bay at Titahi Bay. He said that a road had been cut through what the writer described as the ‘eastern slope of the age-old stronghold of bygone days – Te Pa-o-Kapo, the resort of Ngati Ira’ until 1819-1920’. He said that on the side of the pa, a quarry had been opened and the metal was being removed. Mr Christie said he wished to record his protest against the damage of such a place of interest and said that there should be a ‘board with the pa name and a few details, name, occupants, etc, placed thereon that visitors be able to learn of its importance’. He noted too that there had been ‘three or four fine Maori ovens right on the road in front of the Titahi Club but the efforts at road improvement have caused their removal’. He said that he had written to the Makara County Council suggesting that both the ovens and Te Pa-o-Kapo be ‘preserved for show purposes’ but the ovens had gone. He concluded: ‘I do hope the members of the Makara County Council will see this letter, and may their consciences stir them most uncomfortably’.¹⁵⁷⁹

As a result of the letter the matter was discussed at the next meeting of the council. The chair (RW Bothamley) responded that there was ‘no evidence that the spot referred to was the site of a Maori pa’. Another councillor, Mr Horrobin, said that he had ‘not heard of any objections being made by the Maoris to the work being carried out by the council’. It was then decided that the chair would inquiry into the matter and report back to the Council.¹⁵⁸⁰

Mr Christie responded to the chair’s claim of a lack of evidence with another letter to the editor. He stated:

... what evidence the legal mind requires I know not, but if the chairman were at all acquainted with the common indications that mark pa sites he would find them at Te Pa-o-Kapo. There are several almost filled-in post holes, the hut sites, and the familiar “midden” or rubbish tip. To the layman these details are not usually known unless

¹⁵⁷⁹ *Evening Post*, Volume CXVIII, Issue 110, 6 November 1934, p. 6. Note that a Henry M Christie wrote for the Journal of the Polynesian Society.

¹⁵⁸⁰ *Evening Post*, Volume CXVIII, Issue 113, 9 November 1934, p. 3.

specially pointed out, but to persons who have studied pa sites that they are the first things observed.¹⁵⁸¹

Mr Christie then quoted a portion of Elsdon's Bests publication 'Porirua and They Who made It' which explained the significance of Pa-o-Kapo and described it in detail. Mr Christie said that he too had examined the site with Elsdon Best and 'counted the post holes which had contained the palisading supports, and noted other details'.¹⁵⁸²

This did not convince another member of the public (LU Chaffey) who responded to Mr Christie's claims a few days later. He said that he could claim to speak with some local knowledge and that he had never heard of any "show" place on the "peninsula" nor yet of any residential pa there', though he had heard of a Maori battle having taken place at the spot'. He went on to say that the whole area around the Titahi Bay Stream was 'rich in Maori memories and the protection of all the places of such interest would seriously interfere with public progress, and it would surely be time enough to protest against "vandalism" when the good feelings of our Maori friends are offended. Hitherto I have heard no word of objection from them'. He also commented that if it was not for the Makara counties excavations for road purposes, it was questionable whether the ovens opposite the Titahi Bay Club would have been found.¹⁵⁸³

What is curious is that there are no further letters to the editor in the *Evening Post* on the matter nor record of the council's final response have been located.

12.5 Conditions at Takapuwahia Township ('Porirua Pa'), 1921 - 1960

The Makara County Council first discussed the 'sanitary conditions' of what was described as the Maori Pa at Takapuwahia in November 1921. Advice was received by the Council from the District Health Officer (Dr IE Faris) that the township had been inspected. He reported that the 'general condition existing at the time of his visit was satisfactory'. He said that there were 12 houses built 'in European fashion' which were clean and well lit. Some matters were to be attended to such as the removal of pigs from such close proximity to the

¹⁵⁸¹ *Evening Post*, Volume CXVIII, Issue 114, 10 November 1934, p. 8.

¹⁵⁸² Ibid.

¹⁵⁸³ *Evening Post*, Volume CXVIII, Issue 119, 16 November 1934, p. 10.

housing. Dr Faris stated that he had investigated whether children suffering from tuberculosis were attending school at Porirua and found that since November 1920, five cases of phthisis (tuberculosis) had been notified from the Pa. Of these, three were children and two were adults. With regard to the children attending school, 'Dr Faris found that in each case the disease had been arrested and the children were not in an infectious condition'.¹⁵⁸⁴

The matter was again discussed at a Council meeting in September 1931. The Sanitary Inspector reported that he had inquired into complaints received about overcrowding at the Pa and 'found that further investigation was necessary'. He said that one Maori had died of tuberculosis seven days after he had been admitted to Wellington Hospital. The matter was then 'considered in committee' and it was decided that two councillors, Messrs Bothamley and Prosser, meet with the Minister of Native Affairs about the matter.¹⁵⁸⁵

The Council also discussed the matter in December 1932. The chair, E Windley, told the Council that the health of the children attending Porirua Public School was 'menaced as a result of their coming in contact with Maori pupils from the pa'. He said that the pa was 'overcrowded and conditions generally were very insanitary'. Also, that this state of affairs had 'existed for a long time'. While water had been 'laid on' this had been of little help and that apart from inspections by the Council, nothing had been done. He thought it was the responsibility of the Native Department but that they were able to do little because the money was not available. Further: 'Such a state of affairs was a menace to public health, and he did not think the council should allow it to continue if it was possible to bring about a change'. He noted too that there were eight cases of tuberculosis at the pa and that it was 'a disgrace that such a state of affairs should continue when the Government was doing, or professing to do, what it could to stamp out the disease. The parents whose children attended the Porirua School deserved consideration and that was one of the reasons why he had mentioned the matter'. He moved that the matter be brought to the notice of the Prime Minister stating that the council wanted to go to the head of the government as it was 'the only way of bringing about an improvement'. The motion was carried.¹⁵⁸⁶

¹⁵⁸⁴ *Evening Post*, Volume CII, Issue 115, 11 November 1921, p. 6.

¹⁵⁸⁵ *Evening Post*, Volume CXII, Issue 64, 12 September 1931, p. 7.

¹⁵⁸⁶ *Evening Post*, Volume CXIV, Issue 139, 9 December 1932, p. 11.

The *Evening Post* reported in May 1935 on a report presented by J Lerwill, Sanitary Inspector, to the Makara County Council. It stated that there had been one death from tuberculosis at Porirua Pa during the previous year, that a child living there had recovered from the disease and there were presently four cases of the disease at the pa. It was reported also that the housing conditions of Maori living there ‘continued to be unsatisfactory, chiefly owing to the inability of the Natives to finance a satisfactory dwelling’. Mr Lerwill noted that the Deputy Native Trustee was ‘aware of the conditions and had promised to give every assistance for improvement’.¹⁵⁸⁷

There were still serious concerns about conditions at Takapuwahia over twenty years later. The seriousness of the issue was reflected by the involvement of the Prime Minister, Walter Nash, who reported to the Ministry of Works in 1959, that the settlement was ‘without a proper drainage and sewerage system, a proper water-supply, and high class roads’.¹⁵⁸⁸

Pakeha residents were also concerned. A letter from RS Kinghorn, described as the President of the Takapuwahia Township Progressive & Ratepayers Association which Mr Kinghorn said was not connected to the Marae ‘Peoples’ Committee. His letter complained about the conditions of Takapuwahia describing the roads as being in a ‘deplorable condition’. He said that the Makara County Council had ‘done nothing to maintain the roads in useable condition except to fill the odd pot hole and to grade Ngatitoa Street once in the last four years’. He was also critical of the proposals to upgrade sewerage, kerbing, channelling, stormwater and footpaths.¹⁵⁸⁹

The lack of services provided by the Makara County Council was confirmed in a report prepared for the Minister of Maori Affairs in September 1960 so as to respond to the letter from the Takapuwahia Township Progressive & Ratepayers Association. This stated that the water supply was ‘very poor, and the roading poor’ and drainage was by septic tanks. It was reported that the Takapuwahia settlement comprised around 50 houses (‘of which all but a

¹⁵⁸⁷ *Evening Post*, Volume CXIX, Issue 103, 3 May 1935, p. 6.

¹⁵⁸⁸ W Nash, Prime Minister to Minister of Works, 12 June 1959, ABJZ W4644 869 Box 53 19/8/5 part 1 Miscellaneous – Land Matters – Miscellaneous – Takapuwahia Township (Porirua/Pa) Roding, Sewerage and Water Supply, 1959-1976, Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 197.

¹⁵⁸⁹ RS Kinghorn, President, Takapuwahia Township Progressive & Ratepayers Association to Minister of Maori Affairs, 4 August 1960, ABJZ W4644 869 Box 53 19/8/5 part 1 Miscellaneous – Land Matters – Miscellaneous – Takapuwahia Township (Porirua/Pa) Roding, Sewerage and Water Supply, 1959-1976, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 198-200.

very few [were] under mortgage to the Department [of Maori Affairs]' and that most were 'well looked after'. There were about 70 vacant housing sites and that 'none of the residents ... [were] wealthy in money or in land, all but a few Social Security beneficiaries being dependent upon wages'.¹⁵⁹⁰

The Minister of Maori Affairs was advised that in May 1957, the Makara County Council had 'lodged with the local government loans board [an application] for authority to raise a water and sewerage reticulation loan of £150,000 being the estimated cost of reticulating the Porirua/Titahi Bay districts of the county'. The Makara County Council told the Department that:

... until further arrangements more satisfactory to the Council were reached concerning payment of rates – by which the county appears to have meant that it should have the same rights and remedies in respect of Maori land as it has in respect of European land and that ownership of the Maori land should be reduced to ownership in severalty – the Takapuwahia district was being excluded from the scheme.¹⁵⁹¹

This statement was made despite the Takapuwahia township already comprising around 50 titles (according to the Minister of Maori Affairs), most of which were mortgaged to the Department of Maori Affairs. This would indicate that title to much of the township had already been individualised.

It was also noted that in 1958, it had been estimated that the development of the 'Pa' as a 'special rating area would involve the County Council in raising a loan of £50,000. The local people, however, preferred to incorporate the area in a 'general Titahi Bay/Porirua scheme'. A meeting was held regarding this but 'arrangements regarding payment of rates lapsed for lack of attendance'.¹⁵⁹²

¹⁵⁹⁰ Secretary, Department of Maori Affairs to Minister of Maori Affairs, 2 September 1960, ABJZ W4644 869 Box 53 19/8/5 part 1 Miscellaneous – Land Matters – Miscellaneous – Takapuwahia Township (Porirua/Pa) Rooding, Sewerage and Water Supply, 1959-1976, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 201-202.

¹⁵⁹¹ Ibid.

¹⁵⁹² Ibid.

The Minister was advised that there was currently a ‘deadlock between the County Council and the Maori occupiers, the former contending that nothing can be done until rates are paid or guaranteed, and most of the latter replying that they are not willing to pay rates until something has been done to meet their needs’.¹⁵⁹³

This was the catch-22 that many Maori were caught up in. That is, Councils provided no services so there was no incentive to pay rates but then the Council refused to provide service until rates were paid. It was a stalemate which the Crown had done little to resolve. Some relief was eventually to be provided by central government, however, with the Minister of Works advising that the ‘development of the area beyond the Pa’ which was to be taken for housing purposes ‘should produce some adventitious improvement to the Pa area, as sewers and storm-water drains, and probably water mains, must pass through the area occupied by the Maori houses’.¹⁵⁹⁴

12.6 Charging orders, 1953 and 1962

Despite the legislation providing for rates charging orders being in existence since 1924, the Makara County Council does not appear to have applied to the Maori Land Court for charging orders until 19 May 1953. The County’s first applications were in respect to Tutaeparaikete 1A and Tutaeparaikete No 1 section 2 blocks which were located next to the Takapuwahia Township on the road to Titahi Bay on Porirua Harbour. The minutes of the hearing record that a Mr Walsh for the Council told the Court that rates were due and owing for the year ending 31 March 1951 on Tutaeparaikete 1A of £17.3.0 and that a demand had been made in accordance with the name on the valuation roll. In addition, rates were owed for the year ending 31 March 1952 for the amount of £13.13.1. On this information (nothing further was noted), charging orders were made for both years with costs of 15/-. Similarly, charging orders were made for the year ending 31 March 1951 and 31 March 1952 for Tutaeparaikete No 1 section 2 totalling £20.1.11 plus costs of 15/-.¹⁵⁹⁵

Tutaeparaikete 1A became Crown land on 26 May 1952. The block, comprising 8 acres 3 roods and 37 perches, was taken under the Public Works Act for ‘better utilization’ purposes.

¹⁵⁹³ Ibid.

¹⁵⁹⁴ Ibid.

¹⁵⁹⁵ Wellington Minute Book 38, 19 May 1953, pp. 324-325.

Compensation was assessed on 22 May 1953. That the charging orders were applied for after the land was taken (19 May 1953) but before compensation was assessed (22 May 1953) and that the Makara County Council had not applied for any previous charging orders suggests that the timing was not coincidental. It appears to have been a (successful) attempt by the Council to have the land charged with rates arrears secure in the knowledge that the charge could be deducted from the compensation monies prior to payment to owners.¹⁵⁹⁶

Similarly, in July 1961, the Makara County Council applied for charging orders in respect to Takapuwahia land that had also already been taken under the Public Works Act for Maori housing purposes. Mr Simpson, a solicitor for owners of some of the land asked whether a charging order could be made given that the land had become Crown land. Mr Ellis, for the Council admitted that normally the Crown was not liable for rates and what was sought was a 'safeguard for the applicant Council to obtain payment of the rates up to the date when the Crown took the land by Proclamation on 19th September 1960'. He said that the land remained liable irrespective of ownership. Mr Simpson said that liability for rates was not disputed when the land was in possession of anyone but that there were questions as to whether a charging order could be made over land from the date of taking and if it could be made over land that had become Crown land. He said that the Crown went into 'constructive possession' in that the owners could not exercise any rights over the land and the Crown surveyors and engineers from time to time were on it for survey and other purposes'. Therefore, he said, liability from September 1960 had ceased. He said that there was provision for collection by other means such as personal proceedings against the owners, a charge on the land either by judgement registered with Europeans or a charging order with the Maori Land Court but that there was no provision to collect from the Crown. He said that the personal liability remained and the Council could sue to which Mr Ellis responded that it would be 'virtually impossible to locate the owners to sue and proceed to attach compensation in time'. This would suggest that the Council did not have full details of all the owners which brings into question the validity of the rates demands. The Court reserved its decision.¹⁵⁹⁷

¹⁵⁹⁶ Wellington Minute Book 38, 22 May 1953, pp. 334-335; Maori Land Online: <http://www.maorilandonline.govt.nz/> accessed February, 2016.

¹⁵⁹⁷ Wellington Minute Book 42, 7 July 1961, pp. 348-9.

On 11 October 1962, the Court ruled that an apportionment of rates owing on each piece of land for the period 19 September 1960 to 31 March 1961 (so for the period after the land had been taken) be paid to the Makara County Council out of the compensation awarded to owners for the taking of their land and that the balance be paid to the Maori Trustee and the three firms represented at the compensation hearing. It is not clear from the minutes, however, whether actual charging orders were made or if the Court's ruling was deemed sufficient¹⁵⁹⁸ It is, however, clear that the applications for rates after the land had been taken was a deliberate (and ultimately successful) attempt to ensure that rates were deducted from the compensation monies.

Other charging orders were applied for by the Council over Takapuwahia lands. This included Takapuwahia D1B1 (£13.7.0 plus costs) for the period 1 April 1960 to 31 March 1961 and eleven Takapuwahia D2 sections: D2A, D2B, D2C, D2D, D2E, D2F, D2G, D2H, D2I, D2J and D2K (totalling (£21.11.4 plus costs) for the period 1 April 1959 to 31 March 1961. Charging orders were also made in respect to Takapuwahia C2D, C2E, C2F, C2G and C2H – all for £7.8.1 each plus costs for the period 1 April 1959 to 31 March 1961.¹⁵⁹⁹

12.7 Porirua Borough, later City Council

As noted above, Porirua Borough Council was established in 1962 at the same time that the Makara county was dis-established. It became Porirua City Council in 1965.

On 12 May 1964, the Borough of Porirua wrote to the Department of Internal Affairs about the proposed amendments to the Rating Act 1925. One of the suggestions was to make a new provision whereby the Maori Trustee could 'consolidate the ownership of land under, say two acres, in an urban area and thus avoid the problem of multiple ownership'. The Council said that in their experience 'the provisions of section 107 (4) ... [were] of no help in the recovery of unpaid rates'. (Section 107(4) related to land that was owned by two or more owners and provided for the appointment of one person to be entered as occupier of land and given notice of all claims for rates).¹⁶⁰⁰

¹⁵⁹⁸ Wellington Minute Book 43, 11 October 1962, p. 88; 12 October 1962, p. 98.

¹⁵⁹⁹ Wellington Minute Book 43, 11 October 1962, p. 88; 12 October 1962, p. 98.

¹⁶⁰⁰ RG Walsh, Town Clerk, Borough of Porirua, 12 May 1964, AAVN W3599 869 Box 116 22/2 part 2 Roading Legislation and General Powers of the Maori Land Court, 1964-1969, Archives New Zealand. Note

The Borough also suggestion that section 108(2) which gave the local authority two years in which to make a claim for rates with the Registrar of the Maori Land Court, 'be amended to 6 years and it would be of considerable benefit if the procedure for making a claim by way of charging order were simplified'. In addition, it was suggested that section 109, which allowed for the vesting of Maori land in the Maori Trustee for the purpose of sale be amended so that it no longer required the consent of the Minister of Maori Affairs. This, the Council said, would be of 'considerable help'.¹⁶⁰¹

The suggestions reflect a desire by the Borough to make it easier for them to recover rates and to sell Maori land without recourse to the Minister of Maori Affairs.

12.8 Vestings in Maori Trustee for purpose of sale, 1967

While still requiring the consent of the Minister, the Porirua City Council did utilise section 109 of the Rating Act 1925 which allowed for Maori land to be vested in the Maori Trustee for the purpose of sale due to the non-payment of rates. The utilisation of section 109 by the Porirua City Council followed that of the Otaki Borough Council and Horowhenua County Council, from 1963 and 1964 respectively. As noted in the chapters on these Councils the provision had been rarely used until this time but their use was facilitated by the willingness of Maori Land Court Judges to make the orders. In addition, the Maori Affairs Minister Hanan, was prepared to sign the orders.

In 1967, the Porirua City Council applied to the Maori Land Court for seven orders under section 109 of the Rating Act 1925. Four orders were made by the Maori Land Court in February 1967. These were in respect of Takapuwahia sections 2 (2 roods 3.7 perches), 25 (1 rood), 82 & 83 (2 roods) and 123 (1 rood 10 perches) with between one and four owners. The other three were made in July 1967 which were also Takapuwahia sections – 100 (1 rood 29 perches), 102 (1 rood 29 perches) and 104 (1 rood 6.7 perches). All seven sections were

that this file is wrongly described in the Archives New Zealand catalogue and is actually called Rating on Maori Land, Policy, 1964-1978, reference 20/1 vol 1. SW Document Bank, volume 1, pp. 141-142.

¹⁶⁰¹ Ibid.

small, undeveloped and within the township.¹⁶⁰² Any subsequent vestings have not been examined.

The seven sections vested in 1967 are discussed in varying detail below.

12.9 Takapuwahia Township, part section 2

In February 1967, the Porirua City Council applied to the Maori Land Court to have Takapuwahia township, part section 2, consisting of 2 roods 03.7 perches and located on the corner of Ngatitoa Street and Puaha Street vested in the Maori Trustee for sale. This was on the basis that rates amounting to over £250 (\$500) had not been paid. The section was valued at £1000 (\$2000) in 1963 and had two owners who were named as Wi Kerehoma and Mr Elkington. There were no buildings on the land.¹⁶⁰³

At the hearing, Mr Forsyth for the Council said it had not corresponded with Wi Kerehoma and that he was not known to the Council. The Court had, however, advised the Council in 1962 that Mr Kerehoma had died and his interests had not been succeeded to (which would account for the lack of correspondence). With regard to the other owner, Mr Elkington, Mr Forsyth reported that he was known to the Council, was bankrupt and had been advised in July 1966 by the Council's solicitors that unless he arranged payment the council would be obliged to make the section 109 application.¹⁶⁰⁴

The Court made the order under section 109 of the Rating Act 1925. The consent to the order was given by the Minister of Maori Affairs in June 1967. The Maori Trustee then invited tenders for the purchase. By January 1968, the Maori Trustee reported that no offers had been received for the section. The Maori Trustee said that this was probably due to the section being a 'difficult building site' (it was located on the side of a steep gully which went down to the Hikarito Stream) with no formed access. The District Officer in Palmerston North said that it might be necessary for the matter to be referred back to the Court to cancel the section

¹⁶⁰² Wellington Minute Book 44, 8 February 1967, pp. 262-263; 6 July 1967, pp. 337-338.

¹⁶⁰³ Wellington Minute Book 44, 8 February 1967, p. 262; District Officer, Palmerston North, Maori Trustee to Head Office, Maori Trustee, 16 May 1967, AAVN 869 W3599/246 54/22/7 part 1 Takapuwahia Township, 1967-1974, Archives New Zealand, Wellington. SW Document Bank, volume 5, p. 170.

¹⁶⁰⁴ Wellington Minute Book 44, 8 February 1967, p. 262.

109 order but before doing so, would arrange with a departmental building supervisor to inspect the property and report on its 'saleability, position regarding access etc'.¹⁶⁰⁵

The building supervisor reported that the section was not suitable for 'requirements' (Maori housing) as there was 'no formed access' and it fell away into a gully at the rear which prevented any sewerage connections being made. It was also noted that the Porirua City Council would not allow septic tanks which implied that there was no means to provide any sort of sewerage facilities to any house built in the future. Following the report, the District Officer in Palmerston North applied to the Maori Land Court to cancel the section 109 order.¹⁶⁰⁶

Several months later, in November 1968, the District Officer advised Head Office that the Porirua City Council opposed its application to cancel the order and had indicated that it was interested in buying the section. The District Officer asked whether there was any objection to them dealing with the Porirua City Council with a view to selling the section to the Council. He was advised that there was no objection to treating with the Porirua City Council 'trying them out at Government Valuation plus 10%, and perhaps going down to Government Valuation if necessary'.¹⁶⁰⁷

A formal offer was then made by the Porirua City Council to purchase the section for \$2000 which was noted by officials to be 'considerably less than the roll valuation of \$2500'. The official at Palmerston North added that if the offer was free from all deductions for rates (which then totalled \$538) the offer would receive further consideration.¹⁶⁰⁸ Solicitors for the Porirua City Council then responded to concerns regarding the price offered. The Solicitors,

¹⁶⁰⁵ Assistant District Officer, Maori Trustee, Palmerston North, to Head Office, Department of Maori Affairs, 18 January 1968, AAVN 869 W3599/246 54/22/7 part 1 Takapuwahia Township, 1967-1974, Archives New Zealand, Wellington. SW Document Bank, volume 5, p. 171.

¹⁶⁰⁶ District Officer, Maori Trustee, Palmerston North to Head Office, Department of Maori Affairs, 7 June 1968, AAVN 869 W3599/246 54/22/7 part 1 Takapuwahia Township, 1967-1974, Archives New Zealand, Wellington. SW Document Bank, volume 5, p. 173.

¹⁶⁰⁷ Assistant District Officer, Palmerston North to Head Office, Department of Maori Affairs 13 November 1968; Maori Trustee to Palmerston North Office, 15 November 1968, AAVN 869 W3599/246 54/22/7 part 1 Takapuwahia Township, 1967-1974, Archives New Zealand, Wellington. SW Document Bank, volume 5, pp. 174-175.

¹⁶⁰⁸ Assistant District Officer, Palmerston North to Head Office, Department of Maori Affairs 24 April 1969, AAVN 869 W3599/246 54/22/7 part 1 Takapuwahia Township, 1967-1974, Archives New Zealand, Wellington. SW Document Bank, volume 5, p. 176.

Martin, Evans-Scott & Hurley, said that the council believed that the price offered for the section was fair for the following reasons:

- (a) The Council might have to wait some time to recover its initial investment.
- (b) It will be required to write off arrears of rates prior to 31st March 1963 amounting to \$60.87 plus Court costs incurred in proceedings against the owner personally
- (c) That there will be costs involved in subdivision and sale of the land.
- (d) The Council is involved in some risk in being able to resell the land after subdivision.
- (e) You do not consider the land suitable for building and believe that there is no market for the section.¹⁶⁰⁹

The letter argued that the Council was prepared to pay a fair price but not an excessive one, that the valuation of the land in 1963 was \$2000, that the sales of the other sections (vested in the Maori Trustee) were in the vicinity of their 1963 government valuations and as this sale would take place within a short time of the others, then the Councils offer was 'realistic'.¹⁶¹⁰

The District Officer in Palmerston North responded that the Trustee's duty to the owners was to obtain the full value of the section. He noted that the suggested price of \$2000 clear of rates deductions brought the price close to the current government valuation and that 'under the circumstances, could hardly be considered excessive'. He also commented that the land had not ever been utilised and the owners had received nothing in return for the rates. He stated:

In considering the owners' position in this matter, I would ask the Council to bear in mind that they really have derived nothing from this land in the past and, therefore, have received nothing from the rates which the Council has charged against the section. In commenting in this way I am not denying the legal responsibility for the payment but there is some moral excuse for the failure to pay.

¹⁶⁰⁹ Martin, Evans-Scott & Hurley to District Officer, Palmerston North, 21 May 1969, AAVN 869 W3599/246 54/22/7 part 1 Takapuwahia Township, 1967-1974, Archives New Zealand, Wellington. SW Document Bank, volume 5, p. 177.

¹⁶¹⁰ Ibid.

These would be hereditary lands inherited by people who are in the lower income brackets and, unless they can make the land income producing, would find it extremely difficult to pay rates in spite of the fact that they own the land.¹⁶¹¹

He asked that the Porirua City Council reconsider the matter especially as the Maori Trustee was ‘really only suggesting an offer equal to the government valuation’. He concluded:

We have already considered asking the Court to cancel the order, but such action would not solve the problem either for the Council or the owners. All it would do would be to absolve the Maori Trustee from any criticism for having completed a deal at less than the true value.¹⁶¹²

The solicitors replied that although the Porirua City Council believed the price offered was fair they would make a final offer of \$2300 which was the amount of the valuation obtained by the Council in January of that year. The District Officer at Palmerston North advised Head Office of the offer noting that it was \$200 below the special valuation and that outstanding rates of \$538.78 would still have to be paid of which \$60 was not enforceable. He noted that there were three options: to ask the Court to cancel the order (which he described as ‘checkmate’); to re-advertise with the likelihood of the same lack of success; or to accept the amended offer. The option of exempting the land from rates was not given and he instead recommended the latter option. Officials at Head Office then advised the Maori Trustee that the section was ‘of no use to anyone, owners included, except the Porirua City Council which opposes cancellation of s 109 order because it wants the section itself’, that the valuation of \$2300 was completed by registered urban valuers and that the Trustee would ‘not get a better offer than the Councils and acceptance shouldn’t leave us open to attack’. Approval to accept the amended offer was given on 14 July 1969.¹⁶¹³

¹⁶¹¹ District Officer, Palmerston North to Messrs Martin, Evans-Scott & Hurley, Wellington, 11 June 1969, AAVN 869 W3599/246 54/22/7 part 1 Takapuwahia Township, 1967-1974, Archives New Zealand, Wellington. SW Document Bank, volume 5, p. 178.

¹⁶¹² Ibid.

¹⁶¹³ Martin, Evans-Scott & Hurley, Wellington to District Officer, Palmerston North, 20 June 1969; District Officer, Palmerston North to Head Office, Department of Maori Affairs, 4 July 1969 (including notes between officials annotated on letter, 4 July 1969), AAVN 869 W3599/246 54/22/7 part 1 Takapuwahia Township, 1967-1974, Archives New Zealand, Wellington. SW Document Bank, volume 5, pp. 179-180.

The memorial schedule for the block records that the block was sold to the Porirua City Council on 31 August 1970 for \$2400 though confirmation of whether it was \$2300 or \$2400 has not been located. Regardless, it was still at least \$100 less than its special valuation. The rates owed (between \$478 and \$538 depending on whether \$60 was ‘enforceable’) on the unoccupied land with no access, the contour of which did not allow for sewerage connections, represented between 20 and 23 percent of the purchase money (depending on whether \$2300 or \$2400 was paid).¹⁶¹⁴

12.10 Takapuwahia section 25

The application by the Porirua City Council to have Takapuwahia section 25 vested in the Maori Trustee for the purpose of sale was also heard in February 1967. Mr Forsyth, for the Council, said it was a vacant section and that the Council had ‘endeavoured for some years to get in touch with Emma Manupiri’ (the owner). The Council had an address ‘which they believe[d] to be correct, but never had any reply from her, although no letters returned unclaimed’. A letter had not, however, been sent to that address regarding the section 109 application. A summons was issued against her at that address but the bailiff was unable to find her. He had received a letter from solicitors, Morison, Taylor and Co, dated 1963 which indicated that Hori Manupiri (another owner) had died a long time before then and there was no knowledge of successors. Despite the lack of confirmation that the owner had been advised of the vesting let alone levied the rates correctly, the Court ordered that the land be vested in the Maori Trustee for sale under section 109.¹⁶¹⁵

No time was wasted with a transfer executed by the Maori Trustee on 30 November 1967. Section 25 was also sold to the Crown for Maori housing for £1200 (\$2400). No details as to whether any of the owners or successors were located in order to pay out the purchase money has been located.¹⁶¹⁶

¹⁶¹⁴ Walghan Partners, Draft Alienations Spreadsheet, 19 August 2016; Memorial Schedule, Takapuwahia Block Order files, Porirua ki Manawatu Inquiry District Research Assistance Projects: Whanganui Maori Land Court Records (Block Order Files): Document Bank Project, volume 25.

¹⁶¹⁵ Wellington Minute Book 44, 8 February 1967, pp. 262-263; Walghan Partners, Draft Alienations Spreadsheet, 19 August 2016.

¹⁶¹⁶ Assistant District Officer, Palmerston North, to Head Office, Department of Maori Affairs, 18 January 1968, AAVN 869 W3599/246 54/22/7 part 1 Takapuwahia Township, 1967-1974, Archives New Zealand, Wellington. SW Document Bank, volume 5, p. 171.

12.11 Takapuwahia sections 82 & 83

The application in respect to Takapuwahia Township Sections 82 and 83 was heard in February 1967. Mr Forsyth said that over a number of years the Council has been in touch with the owner, Nora Kokiri White and that in August the previous year 'Council solicitors wrote advising full details of rates owing and that application would be made in November to have sections sold'. Mr Forsyth said that he understood that Mrs White's son had called at the Department of Maori Affairs to 'see if anything could be done about selling the land'. The Council, he said, had received no objections to the application. At the time the order was made rates totalling £333 (\$666.03) were owed.¹⁶¹⁷

In January 1968, it was noted by the District Office of the Department of Maori Affairs that representations had been made by Messrs Martin, Evans-Scott & Hurley of Wellington, who were counsel for the beneficial owners of sections 82 and 83. They asked for the sale deadline to be extended until 1 June 1968 to enable title to be completed. One of the beneficial owners had applied for succession orders in January 1967 but 'difficulties' had arisen. The succession applications had been adjourned to the Wellington Court commencing in February. In addition, another one of the owners has made an application for a partition of section 82 and therefore 'an apportionment of the rates liability on both sections pursuant to sec 179/53' was required. The solicitors stated that they hoped to arrange payment of the total rates due in respect of section 82 before the hearing so that liability would only be in respect to section 83. Also that there would be 'no objection to the sale of this section [83] proceeding'.¹⁶¹⁸

The matter was still being discussed in 1974 when the District Officer at Wellington, DJ Glengarry, reported to the Maori Trustee on the progress made with regard to the selling of sections 82 and 83. Mr Glengarry firstly noted that in 1968, the Porirua City Council had changed the zoning of the sections from residential to "proposed playing fields" which made it 'impossible for the Maori Trustee to dispose of the sections'. The Takapuwahia Marae

¹⁶¹⁷ Wellington Minute Book 44, 8 February 1967, p. 264; District Officer, Palmerston North, to Head Office, Department of Maori Affairs, 25 July 1974, AAVN 869 W3599/246 54/22/7 part 1 Takapuwahia Township, 1967-1974, Archives New Zealand, Wellington. SW Document Bank, volume 5, pp. 181-182.

¹⁶¹⁸ Assistant District Officer, Palmerston North, to Head Office, Department of Maori Affairs, 18 January 1968, AAVN 869 W3599/246 54/22/7 part 1 Takapuwahia Township, 1967-1974, Archives New Zealand, Wellington. SW Document Bank, volume 5, p. 171.

Committee, however, stated that it wished to acquire the sections as they were located adjacent to the Toa Rangatira Marae and would be suitable for a new dining and recreation hall. According to Mr Glengarry, further discussions occurred between the Committee and the Council with the outcome that the Committee was ‘fairly confident of having the zoning changed to “reserve”, which would fit in with its purpose’. Following this, an offer was made (presumably by the Maori Trustee) to sell the sections to the committee for the then government valuation of \$3600. It was proposed that a deposit of \$360 would be made with the balance payable over 5 years at 7 percent interest.¹⁶¹⁹

Mr Glengarry reported that the sale was then complicated by the Committee having insufficient trustees with whom the Maori Trustee could deal as many had died and not been replaced by the Court. This was not resolved until June 1974. In the meantime, however, the sections were re-valued at \$7600. Mr Glengarry presumed that now this was the ‘lowest price that could be acceptable’.¹⁶²⁰

Mr Glengarry also noted:

The owners of the land in question have been in to see me and are most concerned that the land could be sold for \$3600 when its true value is far greater. On the other hand, the Porirua City Corporation has written saying that it would be unprepared to write off rates which have accrued since 1967 if the land is to be sold at round about this figure. The Council mentions that \$7600 is obviously a residential valuation and not a “proposed playing fields” valuation. Despite this argument, the Council appears to have rated the property on a residential basis because outstanding rates now amount to \$1280.44. The Marae Committee itself contends that it has a valid contract inasmuch as an offer was made to sell for \$3,600 and a \$360 deposit has been paid. Whilst this may be the case, I doubt whether this contract could be enforced. The offer was made on 19 December 1972 when a suggested draft Agreement for Sale and Purchase was sent. The agreement has never been completed and apart from the

¹⁶¹⁹ District Officer, Wellington, to Head Office, Department of Maori Affairs, 25 July 1974, AAVN 869 W3599/246 54/22/7 part 1 Takapuwahia Township, 1967-1974, Archives New Zealand, Wellington. SW Document Bank, volume 5, pp. 181-182.

¹⁶²⁰ Ibid.

deposit no payments have been made towards the purchase price. There is a limit to the amount of time that an offer can be kept open.¹⁶²¹

Mr Glengarry concluded by asking for advice as to the figure that should be sought for the land. He also suggested that if they were to sell at the figure of a new valuation whereby the land was zoned as playing fields then this would be unfair to the owners. To Mr Glengarry, this appeared to be a 'jackup between the Marae Committee and the Council'.¹⁶²²

Officials from Head Office then commented on the letter. It was pointed out that the Trustee's first duty was to the owners and from this viewpoint the Trustee 'must get [the] best price possible for [the] land'. The official noted that the delay was due to the marae trustee's not being 'quick enough off the mark' which was their fault and not the Maori Trustee. Also, that it was presumed that the present government valuation of \$7600 was based on current zoning. The official felt that the Trustee should 'stick by the owners' provided the marae committee could not enforce the contract.¹⁶²³

Officials at Head Office then advised the District Officer at Wellington to send all relevant papers to Palmerston North and ask the District Solicitor for an opinion as to whether or not the contract was enforceable. If it was, then they would have to proceed with the sale and 'every possible effort should be made to inform the owners of the legal opinion and the Maori Trustee's intentions to proceed'. If it was not enforceable then the Porirua City Council should be asked whether the present designation could be lifted and then the trustee would 'see where we go from there'.¹⁶²⁴

The legal opinion of the District Solicitor was that the terms of the correspondence with the Secretary of the marae trustees and their solicitors, together with the draft agreement that had been signed by some of the trustees, and the acceptance of the deposit, 'could be adequate to constitute an enforceable agreement to sell'. That said, he questioned whether the trustees had

¹⁶²¹ Ibid.

¹⁶²² Ibid.

¹⁶²³ Notes between officials, 29 and 30 July 1974 on District Officer, Wellington, to Head Office, Department of Maori Affairs, 25 July 1974, AAVN 869 W3599/246 54/22/7 part 1 Takapuwahia Township, 1967-1974, Archives New Zealand, Wellington. SW Document Bank, volume 5, pp. 181-182.

¹⁶²⁴ Maori Trustee, Head Office to District Office, Wellington, 31 July 1974, AAVN 869 W3599/246 54/22/7 part 1 Takapuwahia Township, 1967-1974, Archives New Zealand, Wellington. SW Document Bank, volume 5, p. 183.

the power to enter into such a contract given that they were appointed under section 439 of the 1953 Act. He said that section 439 did not provide for trustees to acquire additional land. This was because the land reverted to the successors of the original owners if the reservation was cancelled which would be problematic if land had been acquired. In addition there was a limit of \$2000 under the Trustee Act 1956 as to the amount trustees could spend when purchasing land. The District Solicitor concluded:

In view of the fact that the only persons who would purchase the land have no power to do so and the Maori Trustee cannot get any other purchaser, then it looks as if the Maori Trustee should ask the Court to cancel the vesting and let the Porirua City whistle for their rates unless they are prepared to re-designate the land as residential and so make it marketable.¹⁶²⁵

Head Office was then asked for confirmation that the marae trustees did not have the power to purchase the land noting that the draft agreement was signed by three people but that only two of them were trustees (although there were four out of the six trustee alive at the time). It was also noted that the owners were ‘showing more than a passing interest in the fate of the land’ and that he thought they ‘must protect their interests’.¹⁶²⁶

Head Office responded that the advice of the District Solicitor should be followed and that they should not proceed with the sale and instead seek the cancellation of the vesting order. The District Officer was also told that the owners should be kept ‘fully apprised of all the Maori Trustee’s intentions and actions’.¹⁶²⁷

Nothing further about the matter is on the Maori Trustee file but the Maori Land Court block order file records that in January 1977, the land was transferred, pursuant to an agreement for sale and purchase from the Maori Trustee, to the Porirua Maori Committee for \$5000. In 1978, the rate charging orders against the land were discharged so were presumably paid out

¹⁶²⁵ District Solicitor, Palmerston North to District Officer, Wellington, 16 August 1974, AAVN 869 W3599/246 54/22/7 part 1 Takapuwahia Township, 1967-1974, Archives New Zealand, Wellington. SW Document Bank, volume 5, p. 184.

¹⁶²⁶ District Officer, Wellington to Head Office, Department of Maori Affairs, 22 August 1974, AAVN 869 W3599/246 54/22/7 part 1 Takapuwahia Township, 1967-1974, Archives New Zealand, Wellington. SW Document Bank, volume 5, p. 185.

¹⁶²⁷ Head Office, Department of Maori Affairs to District Officer, Wellington, 28 August 1974, AAVN 869 W3599/246 54/22/7 part 1 Takapuwahia Township, 1967-1974, Archives New Zealand, Wellington. SW Document Bank, volume 5, p. 186.

of the purchase money. The sections were declared general land in 1979 and Maori land in 1984. In 1985, the land was included in the Maori Reservation Takapuwahia Township Pt 78, 79 and 81 which lay adjacent to sections 82 and 83.¹⁶²⁸

In 2016, the land is described on Maori Land Online as ‘General land owned by Maori’ and is administered by the Ngati Toa Marae Reservation who also administers Pt 78, 79 and 81 where the Takapuwahia Marae is situated.¹⁶²⁹

12.12 Takapuwahia sections 123

Also in February 1967, an application was made by the Porirua City Council for a vesting order over Takapuwahia Township section 123. Mr Forsyth (for the Council) said that the section was in the name of Ropata Tangahoe who according to Council’s records died in 1895. No succession orders in respect to his interests had been made. There was also no record of rates ever having been paid. The Court ordered that the land be vested in the Maori Trustee under section 109 for the purposes of sale.¹⁶³⁰

A transfer was executed by the Maori Trustee on 30 November 1967 for \$2000. The land was sold to the Crown for the purpose of Maori housing. It is not known who received the purchase money.¹⁶³¹

12.13 Takapuwahia sections 100, 102 and 104

In July 1967, the Porirua City Council applied under section 109 of the Rating Act 1925 to the Court to have three other undeveloped sections within the Takapuwahia township vested in the Maori Trustee to be sold due to the non-payment of rates. Approval was given to the vesting by the Minister of Maori Affairs.¹⁶³²

¹⁶²⁸ Memorial Schedule, section 82 and 83 Takapuwahia township, Takapuwahia block order file, Wn 111, Porirua ki Manawatu Inquiry District Research Assistance Projects: Whanganui Maori Land Court Records (Block Order Files): Document Bank Project, volume 26, pp. 344-345.

¹⁶²⁹ Maori Land Online: <http://www.maorilandonline.govt.nz/> accessed 2016.

¹⁶³⁰ Wellington Minute Book 44, 8 February 1967, p. 264.

¹⁶³¹ Assistant District Officer, Palmerston North, to Head Office, Department of Maori Affairs, 18 January 1968, AAVN 869 W3599/246 54/22/7 part 1 Takapuwahia Township, 1967-1974, Archives New Zealand, Wellington. SW Document Bank, volume 5, p. 171.

¹⁶³² Wellington Minute Book 44, 6 July 1967, pp. 337-338.

In November 1967, public tenders were called for the purchase of the three sections. Tenders closed on 11 December 1967. Two offers were received for section 100. They were \$2300 from a Mr Leavitt of Hamilton and \$1850 from the Ministry of Works (Maori Housing section). The special government valuation dated 14 November 1967 for section 100 was \$1850 (no improvements). The Ministry of Works (Maori Housing section) also made offers of \$1700 for section 102 and \$1650 for section 104. The special government valuations were \$1750 and \$1600 respectively (no improvements).

The District Office at Palmerston North advised that using the special government valuations as a 'yard stick', they had accepted Mr Leavitt's tender for section 100 and the Ministry of Works tender for section 104 (both offers being above the special valuation). The Maori Trustee was not prepared to accept the offer of \$1700 for section 102 as it was below the valuation though the Ministry of Works had been advised that the trustee would be prepared to accept \$1750 which would bring the offer in line with the valuation. The Ministry of Works, however, said that it was not prepared to increase their original offer which was still extant if the trustee was prepared to re-consider. The District Officer further explained:

We are inclined to accept M.O.W's offer of \$1700 as we have had too many sales fall through by trying to comply with policy. If the land is put on the market again, further advertising costs and expenses would no doubt offset the difference of \$40, that is S.G.V. \$1750 as against M.O.W's offer of \$1750.¹⁶³³

It was then recommended by the District Officer that the sale of lot 102 proceed on the basis of the Ministries tender of \$1700. Head Office then approved the sale noting that '50 is hardly here nor there'.¹⁶³⁴

¹⁶³³ Assistant District Officer, Maori Trustee, Palmerston North, to Maori Trustee, Head Office, 31 January 1968, AAVN 869 W3599/246 54/22/7 part 1 Takapuwahia Township, 1967-1974, Archives New Zealand, Wellington. SW Document Bank, volume 5, p. 172.

¹⁶³⁴ Ibid.

ID	Block Name
1	Part Takapuwahia Township 2 Block
2	Part Takapuwahia Township 25 Block
3	Takapuwahia Township 83 Block
4	Part Takapuwahia Township 82 Block
5	Part Takapuwahia Township 100 Block
6	Part Takapuwahia Township 102 Block
7	Part Takapuwahia Township 104 Block

12.14 Summary

Like most local authorities, the Makara County Council and Porirua Borough Council had an expectation that rates should be paid on all Maori land. This expectation was enabled by legislation. This was despite clear evidence that the Makara County Council had neglected the Takapuwahia township which was predominantly Maori owned and occupied. At Takapuwahia in the 1950s the provision of services for Maori in the township was so minimal that it drew the attention of the Prime Minister. It was justified by the Council because of the non-payment of rates. Government officials described the situation where by Council officials were demanding rates and Maori refusing to pay unless they were provided with services, as a 'deadlock'. Little was done to resolve the situation until it was decided that land at Takapuwahia would be taken for housing purposes and that at the same time, improvements would be made (by the government – not the Council) to the 'Pa area'.

Not content with this, and having provided minimal services to the area, the Council applied for charging orders over Takapuwahia Maori lands that had already been taken under the Public Works Act for housing purposes so as to get the rates from the compensation money. Again, the legislation enabled this with the Court making the charging orders and ruling that the amount owed would be deducted from compensation money awarded to the Maori owners.

Rates on unoccupied and undeveloped sections were pursued by the Porirua Borough Council in the 1960s to the extent that the Council made seven applications under section 109 of the Rating Act 1925. This legislation allowed the land to be vested in the Maori Trustee for sale due to the non-payment of rates. In each of the seven cases, the Maori Land Court made the order which was then approved by the Minister of Maori Affairs. Some of the owners were unknown with successors not appointed, some of the sections had no access (and no ability to support sewerage facilities meaning that housing was not an option), and one of the sections was sold directly to the Council. Where owners were known, they attempted to change the Council's stance and reverse the vesting order but because they were unable to pay the rates owing, the order stood and the land was sold.

The Council's attitude was reflected in its refusal to pay the special government valuation when it was purchasing one of the sections. The Council was asked by the District Officer to consider not only the owner's circumstances but the fact that the land had never been utilised and the owners had received nothing in return for the rates. It was also pointed out that the lands were 'hereditary ... inherited by people who ... [were] in the lower income brackets ... [who], unless they can make the land income producing, would find it extremely difficult to pay rates in spite of the fact that they own the land'. These arguments were not considered sufficient for the Porirua Borough Council to reconsider paying below the government valuation. In addition, outstanding rates had to be deducted from the purchase price which represented at least 20 percent of the total.

13. Crown Provision of Separate forms of Maori local self-government

13.1 Introduction

The Project Brief for this report includes a requirement to evaluate:

... the extent to which the Crown provided for separate forms of Māori local self-government, such as Native Committees and Māori Councils, tribal kōmiti/committees and rūnanga.

The examination of this issue has largely concentrated around the Raukawa and Kurahaupo Maori Councils (1901-1920), the Raukawa and Kurahaupo Health Councils (1920-1940) and the Raukawa Tribal Executive (from 1948 until the 1960s). Time constraints prevent further examination of this issue particularly in the periods prior to and after the life-time of these Councils including that of the Raukawa District Maori Council which was established in the 1970s. Of note is that Sir Taihakurei Durie has recently completed a report regarding the Raukawa District Maori Council.¹⁶³⁵

It should be noted that Maori Councils set up under the Maori Councils Act 1900 were different to the Maori Land Councils also set up in 1900. The latter are not covered here.

Sources for the Maori Councils in the inquiry district (Raukawa and Kurahaupo) set up in 1900 are limited. They include newspaper reports, Appendices to the Journals of the House of Representatives reports and Native Department files (though these are particularly bereft of relevant content). Minutes of the Kurahaupo Maori Council in Maori are, however, available but were unable to be translated and utilised in time for this report. Raeburn Lange has examined Maori Councils in his social impact report for Rangitikei, Manawatu and Horowhenua, as well as in his general history of Maori health between 1900 and 1920. Councils are also discussed by the Waitangi Tribunal in the Wairarapa ki Tararua report as are Maori Health Councils established under the Health Act 1920. Sir Taihakurei Durie has also examined the Raukawa Maori and Health Council as well as the Raukawa Executive in

¹⁶³⁵ Tahakurei Durie, 'Raukawa District/New Zealand Maori Council History and Future Direction', 27 September 2016.

his report. Significantly, Department of Health correspondence files contain a reasonable amount of information on both the Raukawa and Kurahaupo Health Councils from 1920 to 1940 and Lange's social impact report provides further context. As well, the minutes of the Raukawa Tribal Executive contained in a Department of Maori Affairs file have been examined.¹⁶³⁶

13.2 Establishment of Maori Councils, 1900

The Maori Councils Act 1900 provided for the establishment of Maori councils and local komiti marae (marae committees) 'in almost every Maori district'. According to Lange, the Act:

... as well as expressing the desire of politicians to defuse Maori campaigns for greater self-government, was an attempt to draw Maori leaders into cooperation with the Government to work with the Native Health Officers (Dr Maui Pomare and Dr Peter Buck [Te Rangi Hiroa]) in the improvement of health and social conditions in the villages.¹⁶³⁷

Lange states that the government 'saw the Act as a means of responding to Maori self-government agitation without too many misgivings'. He said that its emphasis on social welfare 'made it appear less of a political innovation than it actually was'. James Carroll, who was appointed as 'member of the Executive Council representing the Native race' in March 1892, was a 'sponsor of the new legislation'. He explained that it was intended for komiti marae to 'control and improve the kainga'.¹⁶³⁸

¹⁶³⁶ Raeburn Lange, *May the People live: A History of Maori Health Development, 1900-1920*, Auckland University Press, 1999; Raeburn Lange, 'The Social Impact of Colonisation and Land Loss on the Iwi of the Rangitikei, Manawatu and Horowhenua Region', 1840-1960, A report commissioned by the Crown Forestry Rental Trust, December 2000, Wai 2200, #A1. Note that the minutes of the Kurahaupo Council located at Archives New Zealand, Wellington have not been translated so were unable to be used for this report (see AEDK 18746 MA-WANG7/5/10 Minutes of the Kurahaupo District Maori Council - 27 February 1906 - 27 January 1917, Archives New Zealand, Wellington); Tahakurei Durie, 'Raukawa District/New Zealand Maori Council History and Future Direction', 27 September 2016.

¹⁶³⁷ Raeburn Lange, *The Social Impact of Colonisation and Land Loss on the Iwi of the Rangitikei, Manawatu and Horowhenua Region, 1840-1960*, A report commissioned by the Crown Forestry Rental Trust, December 2000, Wai 2200, #A1, p. 111.

¹⁶³⁸ Waitangi Tribunal, *The Wairarapa ki Tararua Report*, volume 1, Waitangi Tribunal Report, Legislation Direct, 2010, online version, p. 343.

Lange records that ‘wide-ranging responsibilities were conferred on the Maori Councils created by the Act’:

The councils were to apply themselves to ‘the promotion of health and welfare and moral well-being’ of their constituents. This was to be achieved by the making of by-laws designed to regulate such things as sanitation, water supplies, liquor consumption, and the activities of tohunga, and to administer meeting houses, burial grounds, eel weirs, oyster beds, foreign hawkers, noxious weed control, the dog tax and the registration of births, deaths and marriages.¹⁶³⁹

Twenty-four districts were proclaimed between 1901 and 1902 two of which were within the Porirua ki Manawatu inquiry district - Kurahaupo and Raukawa. The Kurahaupo Council boundaries extended from just south of the Rangitikei River as far as Whanganui and the Raukawa Council boundaries encompassed the western side of the North Island from the bottom of the island to just south of the Rangitikei River.¹⁶⁴⁰

Lange also records that liaison between the councils and the Native Department was undertaken by Gilbert Mair in his role as Superintendent of Maori Councils which he held between 1903 and 1907. He visited many of the Councils and attending the yearly Council hui. When he retired, the role was ‘made part of the duties of the Records Clerk’ (Mr Hackworth) which would suggest that the role no longer had the priority it once did. Also assisting the Council was Apirana Ngata who had the job title of Organising Inspector. He held the position between 1902 and 1904 before being replaced by Pirimi Mataiawhea of Rotorua. When Pirimi Mataiawhea died in 1907, no one else was appointed. When Ngata became a Minister without portfolio in 1909, he was ‘delegated many of the Native Minister’s Maori health and Maori Council responsibilities’. Lange records that he then spent ten weeks visiting ‘all the newly elected councils’.¹⁶⁴¹

Native Sanitary Inspectors were also connected with Maori Councils though they were ‘not structurally part of it’. The first paid inspector, Henare Parata, ‘travelled extensively on inspection work [and] also accompanied, Carroll, Pomare, Ngata and others to hui where

¹⁶³⁹ Raeburn Lange, *May the People live: A History of Maori Health Development, 1900-1920*, Auckland University Press, 1999, pp. 144-145.

¹⁶⁴⁰ Ibid, pp.189-190.

¹⁶⁴¹ Ibid, pp. 191, 194.

the Maori Councils Act and its workings were explained and commended to the people'. This included hui with the Raukawa Council. He resigned in 1903, after which other inspectors were appointed, on salaries acknowledged to be 'minimal'. One of the inspectors was Eruera Te Kahu who, Lange believes, was appointed without a salary for the Kurahaupo Council and who 'performed his duties until 1910 at least'. No details of whether a Maori sanitary inspector was appointed for the Raukawa Council have been located but Mair's 1906 list of the seven Sanitary Inspectors paid from the 'Civil List for Native Purposes' does not include either Eruera Te Kahu or an inspector assigned for the western part of the lower North Island. The inspector who worked nearest to the inquiry district was Hori Pukehika who covered Whanganui. The role involved the inspection of kainga and recommending sanitary improvements which were to be carried out by the Council. They were also to monitor for infectious diseases. The Chief Health Officer asked the Native Department in 1907 for funding for three further Native Sanitary Inspectors 'to look after the sanitation of the Native Pas' with a salary of £100 per year. The Under Secretary responded that as there were insufficient funds in the Civil List and as expenditure already exceeded what had been allocated, it was 'not deemed advisable to incur any further expenditure' in that respect. In 1911 and 1912, funding of the inspectors was completely withdrawn which was viewed at a Maori Councils conference with 'regret and concern'. Carroll was also 'surprised and disappointed that the Health Department had not seen fit to retain such inexpensive officers'. Lange describes it has a 'mistake'.¹⁶⁴²

Dr Peter Buck was the Native Health Officer in charge of the Maori Council districts of both Raukawa and Kurahaupo (as well as Whanganui, Taranaki and parts of the Maniapoto and Taupo districts). He reported in 1906 that he had endeavoured to meet with the councils but thought that it was 'very difficult in many cases to get as much assistance from them as one would desire owing to their not fully realising the amount of power conferred upon them under the Act'. He said that Council members had attended lectures where he had attempted to make them understand 'their duties as local governing bodies'. Also, that the Councils and marae committees were responsible to the Sanitary Inspector and to himself for 'carrying out

¹⁶⁴² Ibid, pp. 208, 216; Chief Health Officer, Department of Public Health to Under Secretary, Native Department, 24 April 1907; Under Secretary, Native Department to Chief Health Officer, 1 May 1907, ACIH 16036 MA1/915 1907/185 Received: 26th April 1907. - From: Chief Health Offices. - Subject: Native Sanitary Inspectors. Suggests appointment of three additional inspectors at £100 per annum each. Wants Native Department to share cost, 1907; Gilbert Mair, Superintendent of Maori Councils to Under Secretary for Native Affairs, 1 August 1906, ACIH 16056 MA23/11/14, Maori Councils [Special file 184A], 1906-1907, Archives New Zealand, Wellington. SW Document Bank, volume 9, pp. 135-139, 151-153.

their instructions in respect to sanitary reform'. He stated too that the Councils themselves said that for the previous few years they had been 'trying to wield a new weapon, and were only just 'learning the grasp of it and the way it should be used'. He said that they were 'beginning to learn that they have been entrusted with no mere toy with which to play at home-rule, but with something real in helping towards improving the condition of the people'. He suggested that health officers be made members of the Council in whose districts they visited. It was also at this time that he suggested that there should be Maori nurses and a system of Maori cottage hospitals. Any specific information about Councils in his report, however, was restricted to the Whanganui Council.¹⁶⁴³

The main issue facing the Councils was the lack of funding to carry out this work. It was intended by the government that Councils would be funded from 'government grants and subsidies as well as from local rates, fines and taxes'. This was to be used for 'council expenses and for sanitary and other work'. Lange states that because the grants were so small, they 'barely covered the administrative expenses of the councils ... [which] left almost nothing for sanitation projects'. Finance, he states, was a 'persistent problem for the individual councils'. He also records that neither James Carroll or Apirana Ngata were 'able to secure for the system the practical government backing it needed' and that 'in this respect it was handicapped from the start'. He notes that the 'biggest contributions the government ever made' was the employment of Mair and Ngata but that 'both men eventually resigned in disillusionment'. Indeed, Mair complained in 1906 that apart from a small period when the Act was passed, he had not even been provided with an office in which to undertake the work. He said that the Council records were 'scattered in all directions and more or less damaged'. It had become 'quite impossible', he said, to carry out the correspondence required, to reply to urgent appeals or 'do justice to the requirements of the department'. This also included the preparation of reports for presentation to Parliament on three Maori Councils conferences already held (which do not appear to have ever been completed). He was even unable to secure copies of the various Acts to give to new members elected.¹⁶⁴⁴

Mair also said:

¹⁶⁴³ *New Zealand Times*, 26 September 1906, p. 5; Report of Dr Peter Buck, Native Health Officer, AJHR 1906, H 31, pp. 73-75.

¹⁶⁴⁴ Raeburn Lange, *May the People live: A History of Maori Health Development, 1900-1920*, Auckland University Press, 1999, pp. 145, 194-5; Gilbert Mair, Superintendent of Maori Councils to Under Secretary for Native Affairs, 1 August 1906, ACIH 16056 MA23/11/14, Maori Councils [Special file 184A], 1906-1907, Archives New Zealand, Wellington. SW Document Bank, volume 9, pp. 135-139.

Owing to the above causes, matters have drifted from bad to worse, and the natives generally are losing all interest in the institution and the tribes no longer collect sums of money in support of their respective Councils. It is greatly to be regretted that the situation is so unsatisfactory, for I fervently believe that great permanent good might have otherwise resulted and it redounds to the credit of the natives themselves that so much good has been accomplished without any assistance worthy of the name.¹⁶⁴⁵

After 1909, no further grants were made by the government with the only items of government expenditure being for 'a little stationery and a proportion of the salary paid to Hackworth, the clerk who acted as Superintendent'. After 1913, this was no longer paid. Ngata's request in 1910 for the reinstatement of a sum (he suggested £500) to subsidise sanitary works carried out by Councils, particularly with respect to the improvement of the water supply was simply noted as 'received' and 'filed'. Lange records that from 1912, when Carroll was no longer Native Minister, 'few if any public references were made to the Maori Councils or matters of Maori health'. As noted above, the government also stopped funding the Maori Sanitary Inspectors at this time who were the only paid workers linked to the system.¹⁶⁴⁶

Lange surmises that the Act was 'welcomed by many Maori and for a time the Councils did some very effective work. ... The weakening of Government support after the first decade [however] ... contributed to the gradual decline of Maori interest [in Maori Councils] and the virtual demise of the whole system'. The Waitangi Tribunal concurs stating that by 1912, the Maori Council system was 'so rundown it was really a dead letter'. This, the Tribunal states, was due to a lack of government funding and practical support.¹⁶⁴⁷ Lange also concludes that:

¹⁶⁴⁵ Gilbert Mair, Superintendent of Maori Councils to Under Secretary for Native Affairs, 1 August 1906, ACIH 16056 MA23/11/14, Maori Councils [Special file 184A], 1906-1907, Archives New Zealand, Wellington. SW Document Bank, volume 9, pp. 135-139.

¹⁶⁴⁶ Raeburn Lange, *May the People live: A History of Maori Health Development, 1900-1920*, Auckland University Press, 1999, pp. 145, 194-5, 208; Apirana Ngata to Native Minister, 17 May 1910, ACIH 16036 MA1/1034 1910/4821 Received: 24th September 1910. - From: Honourable Mr. Ngata. - Subjects: recommends reinstatement of subsidies to Maori Councils for sanitary works, 1910, Archives New Zealand, Wellington. SW Document Bank, volume 9, pp. 155-156.

¹⁶⁴⁷ Raeburn Lange, *The Social Impact of Colonisation and Land Loss on the Iwi of the Rangitikei, Manawatu and Horowhenua Region, 1840-1960*, A report commissioned by the Crown Forestry Rental Trust, December 2000, Wai 2200, #A1, p. 111; Waitangi Tribunal, *The Wairarapa ki Tararua Report*, volume 1, Waitangi Tribunal Report, Legislation Direct, 2010, p. 345; Wellington. <http://www.teara.govt.nz/en/te-hauora-maori-i-mua-history-of-maori-health/page-3>

The achievements of the council's movement might well have been enormous throughout this period if the enthusiasm of 1900 had been nurtured through the years by generous official finance and support.¹⁶⁴⁸

13.3 Raukawa Maori Council, 1901-1920

The Raukawa Maori Council, (sometimes called the Otaki Maori Council) was established in 1901. Elections were held in March 1901 and the following twelve persons elected: Kipa te Whatanui (Otaki), Pitiera Taipua (Otaki), Tereturu Hamahona (Otaki), Wereta Pineaha (Otaki), Pape Ranapiri (Ohau), Hauikamu te Hiko (Porirua), Tutua Hapi (Hutt), Eparaima Paki (Horowhenua), Kerehi Roera (Mohunua), Himiona Kowhai (Horowhenua), Nepia Te Rau (Porotawhao), and Matai Porotene (Horowhenua). The first chair of the Council was Pitiera Taipua who as discussed in the Otaki Borough Council chapter, later became the first Maori commissioner of the Otaki Town Board (in 1916). Lange notes that the 'first members elected to the Raukawa Maori Council were all from the Horowhenua except for two from Porirua and the Hutt Valley'. Rere Nikitini represented the Raukawa Council at the first Maori Council held at Rotorua on 17 April 1903.¹⁶⁴⁹

The Raukawa Council was visited by Messrs Sheridan (described as 'Superintendent under the Act'), Hone Heke (MP) and Henare Parata (the Sanitary Inspector) in August 1901 but no further details of this meeting have been located.¹⁶⁵⁰ Henare Parata resigned in 1903 but no details of a sanitary inspector appointed specifically for the Raukawa Maori Council have been located. The absence of this information, particularly in the list of inspectors provided by Mair in 1907, suggests that if there was an inspector, they were not paid for by the government. The absence of a sanitary inspector from 1903, would have made the job of the Raukawa Council more difficult. The theory was that it was the inspector who would recommend to the Council the work that should be undertaken but without a (paid) person

¹⁶⁴⁸ Raeburn Lange, *May the People live: A History of Maori Health Development, 1900-1920*, Auckland University Press, 1999, pp. 196-7.

¹⁶⁴⁹ *Evening Post*, 6 March 1901, p. 5; Declaration of Poll, 6 March 1901, ADYY 18209 MA-MC3 3 Volume of miscellaneous papers relating to the constitution, election, etc. of Maori Councils, 1901-1909, Archives New Zealand, Wellington. SW Document Bank, volume 9, p.133; Raeburn Lange, *The Social Impact of Colonisation and Land Loss on the Iwi of the Rangitikei, Manawatu and Horowhenua Region, 1840-1960*, A report commissioned by the Crown Forestry Rental Trust, December 2000, Wai 2200, #A1, p. 111.

¹⁶⁵⁰ *New Zealand Times*, 2 August 1901, p. 5.

with this expertise, and who was part of the Maori Councils systems, the work would have proved problematic.

In 1909, the following people were elected to the council: Kipa Te Whatanui (Otaki), Manahi Pokaitara (Manakau), Kingi Rawiri (Otaki), Hema te Ao, (Otaki), Patara Penekoti (Porirua), Kawa Irirangi (Manakau), Eruera (Rere) Nikitini (Hokio, Levin), Hokowhitu Mekerika (Koputarua), Tatana Whatupoko (Poroutawhao), Kerehi Roera (Mahunua, Ohau), Ruihi Wehipeihana (Ohau) and Pitiera Hoani Taipua (Otaki). It was also noted by the *Dominion Post* at this time that these were the third elections of Maori Councils held, the system having been in place six years. The article said that it had been said (though it did not say by whom) that many of the Councils had 'done, and are doing, exceedingly good work for the betterment of their race, but others are inclined to indolence'. It reported that Ngata had been appointed Minister in charge of the councils and was 'expected to liven up their work and possibly introduce some changes'. At a recent meeting of the Maori Congress in Wellington 'strong feeling was expressed that the powers of the councils should be increased'. In April 1909, Ngata presided over a meeting of the Raukawa Maori Council where 'various matters appertaining to the Maori race were discussed' (no details were given) though it was noted that Rere Nikitini was elected chair.¹⁶⁵¹

As noted above, one of the roles of the Council was to register dogs owned by Maori and the funds raised from this could then be used by the Council. Together with fines and the small amount from government, this was the only revenue the Council received. Initially Maori had a choice between registering their dogs with either the local county council or with the Maori Council but in 1907 this changed so that Maori or 'half caste' Maori had to register their dogs with the Maori Council in their area. The collection of the dog tax, however, proved to be a difficult and time consuming exercise. In 1907, the Raukawa Maori Council sued several Maori for failing to register their dogs. Mr Stavely, who appeared for the Council at the hearing 'stated that the Maori Council had had great difficulty in collecting the dog tax'. He said that Ohau Maori 'in particular had set their faces against the Council in the matter, and refused to pay their taxes'. There was an impression, he said that Maori could pay their tax to either the Horowhenua County Council or to the Maori Council and that the Horowhenua Council had collected taxes from many Maori. Mr Stavely pointed out that under the latest

¹⁶⁵¹ Report of the General Conference held under the Provisions of the Maori Councils Act, 1900, 1903, AJHR, 1903, G1, p. 3; *Dominion*, Issue 442, 26 February 1909, p. 2.; *Evening Post*, 27 April 1909, p. 8.

amendment to the Act the Maori Council had the 'exclusive right to collect dog tax, and the County Council had no right whatever to collect the tax' from Maori. At the hearing, Mr O'Donnell, said that he had paid his dog tax to the Horowhenua County Council ranger who had called on him. He had advised the Maori Council ranger of this. Other cases were heard against Kiri Poutere, Karauti Remana and Hare Ihaia, all of Ohau. Kiri Poutere and Hare Ihaia said that they had a council of their own and would not recognise the Raukawa Maori Council and 'absolutely refused to register with the Maori Council'. Karauti Remana said that he had been led to believe by James Carroll and Mr Sheridan (of the Native Department) that Maori could either register with either. The Stipendiary Magistrate responded that the Act was 'very clear' and that there was 'no doubt' that Maori should pay the Maori Council and not the County Council. Messrs O'Donnell and Remana were then 'let off lightly with a fine of 1s each and costs of 20s 'but the other two defendants, who refused to pay altogether' were fined 5s each and costs of 30s.¹⁶⁵²

This did not prevent a complaint by a Horowhenua County Councillor in 1907 that the Maori Council was ineffective in its collection of the dog tax. Councillor Richard McLeavey claimed that the Maori Council did not collect the dog tax and that 'useless curs are numerous in Waikanae, Otaki and Horowhenua, the same being half starved, and hence become a constant menace to the European settlers'. He asked that the Act be amended so that local bodies in the colony had the sole registration of dogs 'dual control being detrimental to all concerned'.¹⁶⁵³

Despite this criticism, the Raukawa Maori Council continued to prosecute Maori for non-registration of their dogs. For example, in 1909, a person described as a 'half caste' Maori, was in Court after refusing to pay the Raukawa Maori Council (he said he had paid the European equivalent instead). The issue was also discussed in March 1911 at a meeting of the Council attended by Rere Nikitini, Hema te Ao, Grace Royal, Patara, Hawa te Hatete, Albert Hiwi and N Tatana. The meeting was reported on by the *Horowhenua Chronicle* who said that an 'ordinary amount of routine business was dealt with, after which the question of the dog tax for ensuring year came under discussion'. The *Chronicle* said that it was 'finally

¹⁶⁵² *Wairarapa Daily Times*, 11 June 1906, p. 7;

<http://teaohou.natlib.govt.nz/journals/teaohou/issue/Mao01TeA/c13.html>

¹⁶⁵³ *Manawatu Standard*, Volume XLI, Issue 8392, 18 September 1907, p. 2. Curs are aggressive or unkempt dogs.

decided that the license for sheep and cattle dogs be 2s 6d and for all other classes of dog 5s'. In addition, Mr Kowo [sic] Te Hatete of Manakau was appointed registrar and collector.¹⁶⁵⁴

Support from the Otaki Town Board on the issue was not forthcoming with unhappiness over the way in which the dog tax was administered expressed at its meeting in May 1916. This criticism may well have come about due to the gradual demise of the Council (together with other Councils nationally) around 1912. The Town Board decided to ask the MP for the area, WH Field, to take steps to have the power to register dogs taken away from Maori Councils. The Board considered the present system of registering Maori dogs in Otaki to be 'very unsatisfactory'. Several years later, at a meeting held December 1918, the Board received a letter from Dr Pomare in reply to a letter written by the Board regarding Maori dog tax. Dr Pomare replied that their representations were receiving attention. The Board also continued in January 1919 to press for the collection of Maori dog tax to be handed over to it. It was reported that 'many "kuris" ... [were] a source of great annoyance, and very few appear to be registered'. Dr Pomare, it was said, had been written to about the matter and had promised to consider it. (As noted below, Maori Councils retained the ability to collect dog tax until the early 1930s.)¹⁶⁵⁵

The Raukawa Maori Council was also concerned with the consumption of alcohol. In 1906, a notice was gazetted that stated that alcohol was not be supplied to any Maori for 'consumption off the premises' in the Maori Council districts of Raukawa (and others).¹⁶⁵⁶

Another area where the Council was involved concerned a billiard saloon at Kereru (Koputaroa). The Raukawa Maori Council fined Hone McMillan and George Stephenson £12.10.0 for keeping a billiard saloon without having first obtained a license from the Council. The *Feilding Star* reported in 1910 that Mr Stephenson was Pakeha and that Hone McMillan 'disclaimed liability on the grounds that he had sold the saloon to the Pakeha'. The Council 'settled the question by fining both of them'. The legal expenses incurred by the Council by taking action to enforce the fine (which included attending the Magistrates' Court) were, however, significant amounting to £15.9.0. The Council asked Ngata if, given

¹⁶⁵⁴ *New Zealand Herald*, Volume XLVI, Issue 14247, 18 December 1909, p. 8; *Horowhenua Chronicle*, 27 March 1911, p. 3.

¹⁶⁵⁵ *Horowhenua Chronicle*, 8 May 1916, p. 3; *Manawatu Standard*, Volume XLIII, Issue 1402, 7 December 1918, p. 7; *Manawatu Standard*, Volume XLIII, Issue 1440, 23 January 1919, p. 6.

¹⁶⁵⁶ *Taranaki Herald*, 5 October, 1906, p. 5.

the 'low state of the Council's finances' (the Council's bank balance was £13.9.6) for assistance in meeting the legal costs and the cost of bringing nine members of the Raukawa Council to Wellington to re-draft the by-law on the issue (£4.18.4). Mr Ngata asked Native Minister Carroll who agreed stating that it would be paid from the Civil List.¹⁶⁵⁷

With respect to the meeting of the Council held in Wellington, it was explained by the Superintendent of the Maori Councils, Mr Hackworth, that at the meeting, which he also attended, all council by-laws were 'fully considered and all the old ones revoked'. Ngata explained to Carroll that the re-draft would be 'used as a model in accordance with which the by-laws of the other Councils will be amended'. He described the Raukawa Council as having done a 'general service' and that the expenses incurred in the process were 'beyond its funds'. He said that he had directed that the Council meet in Wellington and gave the chair an understanding that the members expenses would be paid.¹⁶⁵⁸

The by-law ruled that any Maori wishing to set up a billiard room had to take out a license and pay a fee of 10s per annum. Other bylaws passed at the same time prohibited the sale of tobacco, cigars or cigarettes to Maori youths under the age of 15 years. The under 15's were also prohibited from playing billiards and gambling within the 'precincts of the kainga'. There were also by-laws relating to the construction and upkeep of houses (floors were to be wooden and raised, couches or wooden bedsteads were to be at least 1 foot (0.3 metres) from the floor and dwellers to clean their houses within a certain number of days). These by-laws seem to suggest a focus on providing for the well-being of younger Maori as well as promoting housing that facilitated good health.¹⁶⁵⁹

In 1911, Rere Nikitini attended the Maori Councils general conference along with Taraua Marumaru of the Kurahaupo Council. It was here that Ngata, again described as Minister in

¹⁶⁵⁷ *Feilding Star*, 2 February 1910, p. 2; Superintendent of Maori Councils to Apirana Ngata, 4 October 1910; Apirana Ngata to Native Minister, 4 October 1910; Under Secretary, Native Department to Native Minister, 5 October 1910, ACIH 16036 MA1/1036 1910/4871 Received: 5th October 1910. - From: Honourable Mr Ngata. - Subject: Raukawa Maori Council. Recommends that accounts in connection with Kereru Billiard Case and revision of by-laws be paid by Government, 1910, Archives New Zealand, Wellington. SW Document Bank, volume 9, pp. 158-160.

¹⁶⁵⁸ Superintendent of Maori Councils to Apirana Ngata, 4 October 1910; Apirana Ngata to Native Minister, 4 October 1910; Under Secretary, Native Department to Native Minister, 5 October 1910, ACIH 16036 MA1/1036 1910/4871 Received: 5th October 1910. - From: Honourable Mr Ngata. - Subject: Raukawa Maori Council. Recommends that accounts in connection with Kereru Billiard Case and revision of by-laws be paid by Government, 1910, Archives New Zealand, Wellington. SW Document Bank, volume 9, pp. 158-160.

¹⁶⁵⁹ *Dominion*, 21 October 1910, p. 4; *Feilding Star*, 26 October 1910, p. 2.

charge of Maori Councils, asked the conference to draw up a list of reasons why councils should continue. On the motion of Mr Nikitini, it was resolved that the conference was 'strongly of opinion that the Maori Councils Act, 1900, and its amendments, together with the Councils appointed thereunder should continue'.¹⁶⁶⁰

A sub-committee was formed comprising Messrs Ngata, Marumaru and others to draw up the reasons why Councils should continue. The sub-committee said that the various Councils and Komiti Marae were 'assiduous in carrying out the work for which they are authorized'. The advantages to the Maori people were listed as follows:

1. All of the old Maori whares have been done away with, and have been replaced by wooden buildings in all the pas and villages.
2. All of the pas, residences and maraes, together with their latrines, have been tidied up and improved.
3. Drinking-waters at the pas and settlements have been made good.
4. Animals have been shut off from the maraes.
5. Waters used for steeping Indian corn (kaana piro) at pas and settlements have been absolutely abolished and the practice discouraged.
6. Grog has been prohibited from pas and settlements, and fines strictly imposed upon persons committing breaches of the Act in this respect.
7. Gambling of all kinds has been prohibited.
8. Tohungaism has been prohibited strictly, and is not carried on as formerly.
9. The evils arising out of the holding of tangis have been greatly reduced, and are being gradually done away with.
10. Owing to the activity of the Komitis Marae and the Councils local troubles and petty crimes have been greatly diminished.
11. Burial-places and everything in connection with the dead are being carefully attended to be the Councils.
12. Maori dogs are being registered as provided for in the Act.¹⁶⁶¹

The sub-committee said that this was sufficient evidence that benefit had been derived from the Act and that other advantages such as an increase in the Maori population, Maori schools

¹⁶⁶⁰ Maori Councils: General Conference Minutes, August 1911, AJHR 1911, G3.

¹⁶⁶¹ Ibid.

and Maori becoming ‘more and more industrious’ were also due to the Maori Councils Act. The sub-committee then asked the conference to urge Sir James Carroll, Native Minister to support the continuation of Councils. As well as the compilation of the list of benefits, the conference discussed raising more funds for the support of Councils. The conference agreed that Council’s should be able to raise funds by a tenement-tax, by voluntary donations out of rents and by taxing stock. Instead, as noted above, all funding for Maori Councils was withdrawn from 1912 and it is also at this time that records of the Raukawa Maori Council peter out.¹⁶⁶²

13.4 Kurahaupo Maori Council, 1901-1920

The Kurahaupo Council boundaries extended from just south of the Rangitikei River as far as Whanganui. In March 1901, elections were held and the following elected to the Council (spelling is as per newspaper article): Hawea Kawana (Oroua Bridge), Keepa Waitere (Parewanui), Wireti Paranihi (Reu Reu), Uru ti Angina (Whangaehu), Pene Pirere (Rata), Hone Reweti (Bulls), Winiata Te Puhaki (Kauangaroa), Ngahiraka Rongohikaia (Fordell), Pitihira Roiri (Foxton), Te Raika Kereama (Feilding) and Karena ti Mana o Tauhaki (Turakina). In October 1902, Constable Edwin J Whitehouse of Feilding was appointed as the official member of the Kurahaupo District.¹⁶⁶³

The first meeting of the Kurahaupo Council was held at Parawanui in July 1901. It was presided over by P Sheridan, described as Superintendent of the Maori Land Administration and Councils Department. Also present was MP Hone Heke who explained the provisions of the Maori Councils Act 1900 and ‘anticipated results’ which he said ‘depended in a very considerable measure upon the Maoris themselves’.¹⁶⁶⁴

By December, the Council chair, Te Raika Kereama, had given notice in the *Whanganui Herald*, together with the Whanganui and Taranaki Maori Council chair, that as per the Maori Councils Act 1900, ‘all taxes due for dogs owned by Maoris’ within the three districts would, from then on, be received and collected by the three councils. Also, that the registration of all

¹⁶⁶² Ibid.

¹⁶⁶³ *Manawatu Times*, 13 March 1901, p. 2.

¹⁶⁶⁴ *Whanganui Herald*, 30 July 1901, p. 2.

dogs owned by Maori within the three districts would be under the control of the Councils.¹⁶⁶⁵

The Kurahaupo Council was involved in selecting a candidate to represent the Western Maori electorate at the November 1902 election. It was reported that the meeting, held in August 1902 at Rangitane on the Foxton railway line, and presided over by 'Raika, the Awahuri chief' was attended by 'representatives of Maori Councils of the southern districts of the island'. In attendance were seven delegates from Upper Rangitikei, six from Whanganui, ten from Turakina, three from Reu Reu and four from Wairarapa. The Maori Councils Act was also discussed. In general, the meeting felt that the 'provisions of the Act should be brought into force gradually'. It was also noted that Maori had been 'counselled strongly to take European methods of living as a model, especially in regard to cleanliness of the paha [sic]'. In addition, it was decided that if a Maori practiced as a doctor among members of their tribe without a government or Council license, they would be fined £50. This would have been an attempt to discourage tohunga from practising who, it had been reported, had dissuaded sick Maori in the district from being attended by medical professionals. As well, the dog tax was discussed and the increase of the tax from 1 shilling 6 pence to 2 shillings 6 pence was approved (presumably to raise more funds). It was also decided to establish a Maori paper to act as the 'official organ of the Council' with the object to circulate reports of meetings of Council and to 'assist in generally advancing the object for which the Councils were formed'. The paper was to be issued fortnightly but if it was to receive the support of all Councils throughout the country, it would be published weekly. A yearly subscription of ten shillings was to be charged and the paper to be published at Greytown, edited by Mahupuku of Wairarapa and called Pukekihikurangi (The Hill at Hikurangi). Indeed, this newspaper had already been published since 1897 and continued to be published in Maori until 1913.¹⁶⁶⁶

The Council passed various bylaws and regulations. In addition to the by-law fining tohunga, the Kurahaupo Maori Council (as with the Raukawa Council) also gazetted a by-law in 1906 which stated that liquor was not be supplied to any Maori for consumption off premises in the Kurahaupo district. The following year, police prosecuted a hotel keeper at Bulls for supplying liquor to a Maori for consumption off the premises'. This was due to Bulls being

¹⁶⁶⁵ *Whanganui Herald*, 13 December 1901, p. 3.

¹⁶⁶⁶ *New Zealand Times*, 25 August 1902, p. 5; <https://paperspast.natlib.govt.nz/newspapers/puke-ki-hikurangi>

situated in the ‘prohibited district of Kurahaupo’. The hotel keeper was fined £15 plus costs of £3.3.0.¹⁶⁶⁷

In 1906, the following people were elected to the Kurahaupo Maori Council (spelling as per newspaper article) : Taraua U Marumaru (of Parewanui) who was chair, Uru Te Angina (of Whangaehu), Winiata Te Puhaki (of Raketapauma), Pene Piere (of Rata), Tawhi Paranihi (of Reu, Marton)), Rangihoapu Hue (of Reu Reu, Marton), Hone Reweti (of Bulls), Akapita Tahitangata (of Awahuri), Rota te Kangi (of Oroua Bridge), Pitihia Roiri (of Motuiti, Foxton), Taiuru he Rango (of Mangaone), and Henare Waitere (of Turakina). The Native Minister, James Carroll, was reportedly ‘pleased to hear of the satisfactory result of the Council election’.¹⁶⁶⁸

Lange records that ‘Eruera Te Kahu of Kauangaroa and Taraua Utiku Marumaru of Parewanui were prominent members of Kurahaupo’s Council’. Indeed, Eruera Te Kahu was appointed sanitary inspector of the Council and Taraua Utiku Marumaru as chair. There are records of Mr Te Kahu inspecting kainga in various places including Whanganui, Taihape, Kauangaroa, Feilding, Palmerston, Aorangi, Reu Reu and Parewanui between July and September 1900 which was prior to the passing of the Maori Councils Act. He submitted at least 13 reports which appear to be in response to fears about the bubonic plague (so not a Maori Councils initiative). It does, however, indicate that there was a need in Maori communities for assistance with health-related matters and that there was support from hapu leaders. Mr Te Kahu advised Maori living at kainga on ‘the necessity of cleaning up their places’, keeping animals and housing separate, the safe preparation of food, as well as what he called the ‘social well being’ of Maori. Some kainga he found in ‘excellent order’ and others he expressed much concern. At the kainga of Te Rama Apakura (John Mason Durie) which Mr Te Kahu described as an ‘exceedingly good place’, Te Rama Apakura said that he was pleased of the measures that the government were taking and had ‘done his utmost to tell his hapu to do what they could to support’ these measures.¹⁶⁶⁹

¹⁶⁶⁷ *Bay of Plenty Times*, 5 October 1906, p. 3; *Feilding Star*, 30 April 1907, p. 2; *Feilding Star*, 4 May 1907, p. 2.

¹⁶⁶⁸ *Whanganui Herald*, 1 March 1906, p. 7.

¹⁶⁶⁹ Eruera Te Kahu, Kauangaroa to Colonial Secretary’s Office, Wellington, 23 July 1900, 27 July 1900, 7 August 1900, ACGO 8333 IA1/802/[40] 1900/2594 From: E Te Kahu, Native Health Inspector, Waipu Date: 20 July 1900 Subject: Forwarding 3 reports of his inspection of certain native kangas, etc, 1900, Archives New Zealand, Wellington. SW Document Bank, volume 9, pp. 117-126.

Mr Te Kahu also told a meeting attended by the Native Minister Carroll in 1908 that since Maori Councils had been established, there had been ‘great improvements in the sanitary conditions’ of the district though he thought that there was ‘still room for advance’. He thought that the Councils should be ‘given power to take proceedings against Europeans living in their midst if they did not comply with the Act’. Mr Marumaru told the meeting that there was ‘noticeable improvement in his district’ with very little drinking amongst the young people though ‘some of the older ones ... [still] indulged’.¹⁶⁷⁰

Few other details of the work of Eruera Te Kahu have been located apart from that he was not paid by central government (though it is possible there are further records within more general Health Department files).¹⁶⁷¹

At the same meeting, Reverend Nikora Tautau of Tologa Bay complained that Maori Councils were not being funded sufficiently and were held back by the government who had control over the finances. He advocated that the power of the Councils should be increased to ‘deal with certain difficulties’ His speech, described as ‘parabolic’, was reported to have been enthusiastically received by those in attendance. He stated that:

The Maori Councils had their hands on the handle of the axe, but the Government were holding it; the Maori had hold of the handles of the plough, but how could they plough straight when the Government was dragging the horses? The Maori Councils had no money. Give it to them; they must get it to have mana; The Maori Councils needed more power; how were they to do well when they had no power to deal with an insanitary European, located in a pa, whose bad example was always before them for evil?¹⁶⁷²

Indeed, Native Minister Carroll acknowledged to the meeting that the weakness of the Maori Councils to effect improvement of sanitation in their dwellings ‘might be partly due to insufficient power and funds’. He also thought it ‘had to be further said that jealousy on the

¹⁶⁷⁰ Raeburn Lange, *The Social Impact of Colonisation and Land Loss on the Iwi of the Rangitikei, Manawatu and Horowhenua Region, 1840-1960*, A report commissioned by the Crown Forestry Rental Trust, December 2000, Wai 2200, #A1, p. 111; Te Ara: <http://www.teara.govt.nz/en/te-hauora-maori-i-mua-history-of-maori-health/page-3>; *New Zealand Times*, 14 July 1908, p. 5; *Evening Post*, 15 July 1908, p. 3.

¹⁶⁷¹ Lange, *May the People Live*, p. 208.

¹⁶⁷² *Evening Post*, 15 July 1908, p. 3.

part of those who were not members had made the work more difficult' though did not elaborate on who he thought was responsible.¹⁶⁷³

As noted above Taraua Marumaru attended the Maori Councils general conference in 1911 where he helped prepare a list of advantages to the Maori Council system. Unlike many other Councils, the Kurahaupo Council continued to operate after 1912. In May 1913, the secretary of the Council was taken to Court by the chair of the Council, Edward Sutherland who alleged that the secretary, had not provide the Council with the dog tax monies he was supposed to have collected. Nothing further has been located on the outcome of this Court case.¹⁶⁷⁴

Lange notes that surviving minute books of the Council 'provide a long record of meetings regularly held'.¹⁶⁷⁵ Unfortunately these have not been translated for the purpose of this report but what is clear is that meetings continued until January 1917 indicating that despite having no government funding, this Council remained active for a good deal longer than most of the other Councils. The chair of the Council, Hue te Huri died in April 1917. Nothing further has been located about this Council after this date.¹⁶⁷⁶

In 1919, a large number of local authorities led by the Tauranga Hospital and Charitable Aid Board, including the Foxton Borough Council, complained to the government about the sanitary conditions of Maori settlements and suggested 'the inauguration of an adequate sanitary system in the Maori pas of the Dominion'. The Foxton Borough Council said in view of the likelihood of a recurrence of the influenza epidemic (of 1918) 'and the danger of infection from the above source [Maori settlements] that the matter receive the attention of the Department of Public Health'. The matter was referred to Dr Pomare in his capacity as 'Minister in Charge of Maori Councils' by the Minister of Public Health who noted that the 'expert officers of the Department' were investigating the matter. Also, that he had 'arranged to issue a circular to the Maori people emphasising the need, especially at the present time, of methods of sanitation being strictly adhere to'. He added that the Department was taking steps to appoint a full-time Health Officer to Maori. Dr Pomare was later forwarded the

¹⁶⁷³ *Marlborough Express*, 17 July 1908, p. 2.

¹⁶⁷⁴ *Evening Post* 26 December 1911, p. 8; *Manawatu Times*, 27 May 1913, p. 6.

¹⁶⁷⁵ Lange, *May the People Live*, p. 227.

¹⁶⁷⁶ See AEDK 18740 MA-WANG 7/5/10 Minutes of the Kurahaupo District Maori Council, 27 February 1906 – 27 January 1917, Archives New Zealand, Wellington; *New Zealand Herald*, 12 April 1917, p. 4.

aforementioned circular in Maori regarding sanitation as were all the Maori MPs. They were also told that it was hoped that both Pakeha and Maori Villages would be ‘put into a thoroughly sanitary state in order to reduce the possibility of danger to the Public Health should another epidemic arise’. The Minister of Health also advised that Dr Peter Buck had been appointed Medical Officer for Maori and that he would ‘devote his energies to bringing about an improvement in the sanitary condition of Maori villages’.¹⁶⁷⁷

13.5 Maori Health Councils, 1920

Indeed, in 1920, Dr Peter Buck in his role as Director of Maori Hygiene, attempted to ‘resuscitate the old Maori Councils all over the country’ renaming them ‘Maori Health Councils’. They were set up under section 66 of the Health Act 1920. Health Councils had ‘general advisory functions with respect to matters relating to the health of the Maori inhabitants of the district’ and could have ‘such powers and duties in relation thereto as the Director-General may approve’ or as the Governor General prescribed. Every Health Council could, with the approval of the Director General of Direction of the Division of Maori Hygiene, direct a village committee to carry out ‘such sanitary works and enforce such by-laws relating to health and sanitation as the Health Council’ specified. Any money provided by a Health Council to or village committee for the purpose of carrying out any sanitary works could be subsidized, at a rate not exceeding one pound for one pound, out of money appropriated for Maori purposes from the Civil List Act, 1920. The expenses incurred in the administration of the Councils and the cost of any sanitary works could be paid out of ‘moneys appropriated by Parliament for the purpose’.¹⁶⁷⁸

As with Maori Councils there were issues with the funding of the Maori Health Councils.

13.6 Raukawa Maori Health Council, 1921-1940

¹⁶⁷⁷ Foxton Borough Council to Minister of Public Health, 27 March 1919; Minister of Public Health to Dr Pomare, Minister in Charge of Maori Councils, 28 April 1919 and 14 May 1919; Minister of Public Health to Tau Henare, 29 May 1919, ADBZ 16163 H1/1360 36 13303 Sanitation of Maori Settlements – General, 1919-1930, Archives New Zealand, Wellington. SW Document Bank, volume 9, pp. 128-131.

¹⁶⁷⁸ Raeburn Lange, ‘The Social Impact of Colonisation and Land Loss on the Iwi of the Rangitikei, Manawatu and Horowhenua Region, 1840-1960’, A report commissioned by the Crown Forestry Rental Trust, December 2000, Wai 2200, #A1, p. 112.

The Raukawa Maori Council was re-established in 1921 as the Raukawa Maori Health Council with Rere Nikitini again as the chair. In June 1922, a list of members of Marae Komiti was gazetted. The Marae Komiti included Otaki, Tainui me Katihiku, Poroutawhao, Matakara, Waikanae, Ohau, Shannon and Porirua.¹⁶⁷⁹

Several months after it was established, the Raukawa Maori Health Council published a comprehensive set of bylaws concerning buildings, movable and temporary dwellings, meeting houses, drainage, nuisances, the keeping of animals, 'privies', infectious diseases, tangi, hui and gatherings, drunkenness, 'hawkers', smoking, gambling and village committees.¹⁶⁸⁰

No formal meetings were held between 1921 and 1928 though in 1925, the Raukawa Marae Komiti became involved through the Raukawa Maori Council with trying to improve the housing conditions of an individual called Ngaraima Rikihana. One of the inhabitants of the house in which Ngaraima lived had died from an infectious disease which, the komiti secretary stated, proved the 'insanitary and unhealthy environment in which he was compelled to live'. He asked that the storm water be deviated which would abate the 'dangerous nuisance to Public Health'. The Native Inspector of Health then asked the Medical Officer of Health for assistance with the matter though it is unclear from the file whether anything was done to assist.¹⁶⁸¹

Rere Nikitini also forwarded for gazetting what was described as 'additional by-laws' under the 1900 Act in 1926. These outlined a series of offences punishable by fines payable to the Council or Village Settlement. The offences ranged from theft, adultery, assault and the mistreatment of animals. In addition, those owning a store or movie theatre in the Maori settlement was subject to a fee and permission was required from the Council for hui or gatherings.¹⁶⁸²

¹⁶⁷⁹ *New Zealand Gazette*, 30 June 1921; Director of Maori Hygiene to Manager, Bank of New Zealand, Levin, 21 May 1921; Director of Maori Hygiene to Direction General of Health, 5 June 1922, ADBZ 16163 H1/1939 121/25 Maori Health Councils – Raukawa, 1920-1935, Archives New Zealand, Wellington. SW Document Bank, volume 9, pp. 217-222.

¹⁶⁸⁰ *New Zealand Gazette*, 10 October 1921.

¹⁶⁸¹ Secretary, Raukawa Committee Marae, 19 October 1925, ADBZ 16163 H1/1939 121/25 Maori Health Councils – Raukawa, 1920-1935, Archives New Zealand, Wellington. SW Document Bank, volume 9, p. 224.

¹⁶⁸² Additional By-Laws made by the Council of the Raukawa Maori Council District in Pursuance of section 16 of the Maori Councils Act, 1900, 2 December 1926, ACIH 18593 MAW1369/20 26/3/16 Raukawa Maori

Rere Nikitini, in his stated capacity as chair of the Raukawa Maori Council, also requested that the land on which the Raukawa Marae stood be exempted from rates in 1928. He also gave evidence to the commission of inquiry investigating the Otaki Borough Council in the same year and asked that the rating of Maori land in the Borough be reviewed. This is discussed further in the Otaki Borough Council chapter.

Also in 1928, the Director of Maori Hygiene Division, asked the Headmaster of Otaki Maori College, H Willis, if he would accept the honorary position of official member of the Raukawa Maori Council. It was noted at this time that the council consisted of Rere Nikitini, Tohuroa Hira Parata, Ruihi Wehipeihana, Hemana Te Ao, Rawiri Porota, Wiremu Kiriona and Horo Karautu. The Director said that the Council had become 'somewhat lethargic' and asked if Mr Willis could assist with 'livening matters up by accepting the position'. Mr Willis agreed and was appointed in August 1928. Also appointed at this time was Pirimi Tahiwī, Hapi Love and Rawiri Tatana with Hema Te Ao, Horo Karauti and Wiremu Kiriona having resigned. These new appointments may well have arisen from the Council not having met since 1921.¹⁶⁸³

In 1929, appointments to Raukawa Maori Council Komiti Marae were made under the Maori Councils Amendment Act 1903. The seven Komiti Marae included Otaki, Shannon, Ohau, Poroutawhao, Petone me Waiwhetu, Porirua me Taupo and Waikanae me Paraparaumu. These were the same Komiti Marae as formed in 1907 apart from Petone me Waiwhetu (which was new) and Matakara (which was no longer in existence).¹⁶⁸⁴ The following year, Rere Nikitini resigned and Hone McMillan was appointed as chair though this wasn't formally recognised until the Council meeting held March 1931.¹⁶⁸⁵

Council bylaws, 1926-1933, Archives New Zealand, Wellington. SW Document Bank, volume 9, pp. 161-162; New Zealand Gazette, 20 January 1927, p. 160.

¹⁶⁸³ EP Ellison, Director, Division of Maori Hygiene to H Willis, Headmaster of Otaki Maori College, Otaki, 14 July 1928; Director, Division of Maori Hygiene to Under Secretary, Native Department, 8 August 1929, ADBZ 16163 H1/1939 121/25 Maori Health Councils – Raukawa, 1920-1935, Archives New Zealand, Wellington. SW Document Bank, volume 9, pp. 227-230.

¹⁶⁸⁴ List of membership of Raukawa Maori Council Komiti Marae, 15 August 1929, ACIH 18593 MA W1369 20 26/3/16 Raukawa Maori Council bylaws, 1926-1933, Archives New Zealand, Wellington. SW Document Bank, volume 9, p. 163.

¹⁶⁸⁵ Ibid; *New Zealand Gazette*, 4 December 1930, p. 3700; PP Tahiwī, Hon Secretary, Raukawa Maori Council to Health Department, 18 February 1931, ADBZ 16163 H1/1939 121/25 Maori Health Councils – Raukawa, 1920-1935, Archives New Zealand, Wellington. SW Document Bank, volume 9, pp. 231-233.

Lange reports that in 1930 the Raukawa Maori Health Council asked the Health Department to 'subsidise the £100 the Council already had in hand for the purchase of a car for Nurse Wereta who was 'covering all the Maori settlements from Waikanae to Shannon - a district acknowledged by the Health Department as "on the large side for thoroughly effective work" - and was travelling by train'. Lange records that the bicycle she used in Otaki was 'replaced by a car before the end of 1930, and it was hoped she would be able to range as far as the settlements near Foxton and Feilding; she did start visiting Kakariki'.¹⁶⁸⁶

The following year discussion was recorded about the construction of the Otaki Meeting House with the Health Department wanting to ensure that the structure was safe.¹⁶⁸⁷

Also in the early 1930s, Mr Tahiwī, Secretary of the Raukawa Maori Council was advised by the Director, Division of Maori Hygiene that the dog tax had been 'deleted' from the powers of the Council. Mr Tahiwī was told too that one of the Councils in the North Island had made a 'very satisfactory arrangement with the Pakeha Local Authorities' and that if the Council wanted to approach the local authorities within the Council's district, they might be able also to come to a 'satisfactory working arrangement'. It was further explained that the Council in question had supplied dog collars and collected license fees and that half of the fees remained the property of the Maori Council and the remainder was given to the local authority. The Council had therefore 'increased its funds and ... recently installed a very satisfactory water supply in one of the Pas in its district'. Given the complaints by the Otaki Town Board about the way that the Raukawa Maori Council had administered the collection of the dog tax in the preceding decades, and that the relationship between Maori and the Borough was strained due to rating issues (as explained in the Otaki Borough chapter), such an agreement would have been unlikely.¹⁶⁸⁸

Other suggestions were made to the Raukawa Health Council. The Director General of Health wrote to the Medical Officer of Health in Wellington suggesting that the Raukawa Maori Health Council, with the approval of the Otaki Borough Council 'define certain

¹⁶⁸⁶ Lange, p. 108.

¹⁶⁸⁷ Medical Officer of Health to Department of Health, 4 March 1931, ADBZ 16163 H1/1939 121/25, part 1, Maori Health Councils – Raukawa, 1920-1935, Archives New Zealand, Wellington. SW Document Bank, volume 9, p. 235.

¹⁶⁸⁸ Director, Division of Maori Hygiene to PP Tahiwī, Otaki, 11 March 1931, ADBZ 16163 H1/1939 121/25 Maori Health Councils – Raukawa, 1920-1935, Archives New Zealand, Wellington. SW Document Bank, volume 9, p. 236.

portions of the Otaki Borough' where Maori congregated as a Maori kainga under the Maori Councils Act. He said that for one or more of these defined villages, a Komiti Marae could be appointed which would 'have the power to force the Maori people to cleanse their houses and carry out necessary sanitary improvements'. The suggestion, he said, arose from being told that the Otaki Borough Council was 'experiencing a certain amount of difficulty in regard to the Maori people settled within the Borough boundaries'. He understood that some of the houses were 'in a very unsatisfactory sanitary condition' and that the Council had 'found it very difficult, if not impossible to induce the Maori people to carry out very necessary sanitary improvements'. If this went ahead, then the Otaki Borough Council could then 'impose rates and a working arrangement might be made whereby the Maori Council, through its Komiti Marae, could collect rates and the Borough Council could receive a proportion of the rates collected to reimburse them for any sanitary services they would carry out within those defined villages'. He asked the Medical Officer of Health whether such an arrangement would 'assist in arriving at the end desired'. A note on the letter said that an official, Dr Maclean had discussed the question with Mr Atmore (the Mayor of Otaki) but that Dr Maclean had heard nothing further from Mr Atmore though proposed to discuss the matter again at the first available opportunity. Nothing more on the matter is on the Health Department file on which correspondence with the Council was held and nothing was located in the Otaki Borough Council minutes at this time. This discussion between officials was, however, happening in the period where there were many complaints about the non-payment of rates on Maori land by the Otaki Borough Council. This had resulted in over 120 sections being vested in the Ikaroa Maori Land Board for administration. This 'suggestion' may well have been seen by Maori as just another way for the Borough Council to impose their rating regime on Maori (but legitimising it by getting the komiti to collect it). It did not recognise that there were already difficulties for Maori in paying Borough Council rates. What may have assisted was some funding for the Raukawa Council but this was not forthcoming.¹⁶⁸⁹

In 1932, the membership of the Council was again discussed with the Director General of Health noting that in the past few years the Council had 'not been particularly active'.¹⁶⁹⁰ WH

¹⁶⁸⁹ Director General of Health to Medical Officer of Health, 18 May 1932; Note between officials, 6 September 1932, ADBZ 16163 H1/1939 121/25 Maori Health Councils – Raukawa, 1920-1935, Archives New Zealand, Wellington. SW Document Bank, volume 9, pp. 238-239.

¹⁶⁹⁰ Director General of Health to WH Wills, Official Member, Raukawa Maori Council, 21 September 1932, ADBZ 16163 H1/1939 121/25 Maori Health Councils – Raukawa, 1920-1935, Archives New Zealand, Wellington. SW Document Bank, volume 9, p. 240.

Wills, the official member responded to the Health Department on 11 November 1932 outlining the two main reasons why he considered the Council was 'not very active':

- (1) That there is no source of revenue. If regular meeting were held, the little money in hand would soon be gone.
- (2) The Maori no longer lives in pas or kaingas except in one or two isolated places, and it is very questionable whether we have any control whatever.

As far as I can see, the members can be of use to your department, each one in his own district. Later when the meeting house at Otaki is open little social functions to raise money for the Council may be made, and we may then be able to assist your department more efficiently. The President, Mr Hoani MacMillan is a very capable man, and his services should be of the greatest value. I cannot see that any alteration in the personnel or the Council would be of any advantage, and I would therefore suggest the members already on the Council'.¹⁶⁹¹

Mr Wills said that as far as he knew the members of the Council were: Hoani MacMillan (chair), PP Tahiwī (Otaki), Hape Love (Petone), D Prosser (Porirua), T Parata (Waikanae), R Wehipeihana (Ohau), D Tatama (Porotawhao), WH Wills (Official Member).¹⁶⁹²

The Director General of Health, MH Watt, responded that he appreciated the difficulties under which the Raukawa Council worked and realised that 'Maori 'at the present time ... [were] in the stage of transition from the old time pa to more or less scattered settlements'. Also, that there was 'no doubt that in these settlements great improvements can be effected'. He said that he considered that:

... an active Maori Council can do much towards the amelioration of the poor and sometimes very bad conditions that exist and I have no doubt that your Council will do its utmost to co-operate with me and the officers of my Department in improving

¹⁶⁹¹ WH Wills to Dr Watt, Health Department, 11 November 1932, ADBZ 16163 H1/1939 121/25 Maori Health Councils – Raukawa, 1920-1935, Archives New Zealand, Wellington. SW Document Bank, volume 9, pp. 241-242.

¹⁶⁹² Ibid.

the conditions of the Maori people through out the whole of the Raukawa Maori Council's district'.¹⁶⁹³

Little appears to have been done in respect to rectifying the issue of funding and apart from some discussion about the danger of drinking methylated spirits (cases had been heard of in Otaki) and the passing of further bylaws in 1933, there is no record of any further Council activity until 1940. This was quite likely to have been due to the continuing lack of finance which was also experienced by many Councils. Lange records that:

Health Department officials were told in 1939 by the chairman of a Council in another region that Maori Councils 'provided the last means whereby the mana of the Maori could be upheld', but also that they were functioning with extreme difficulty owing to lack of finance, being dependent on fines only, which 'did not appeal as a source of income'.¹⁶⁹⁴

Lange also records that in 1940, 'the need to make representations to the Otaki Trust Board concerning the College issue of the time brought moves to re-establish... the Raukawa Maori Health Council'. He states, that the 'factors militating against effective Maori Health Council activities, however, continued to operate, and soon afterwards their demise was acknowledged in the setting up of new structures under the Maori Social and Economic Advancement Act, 1945'.¹⁶⁹⁵

In the interim, however, what was also called the Raukawa Executive was very active. Chief Judge Durie records that during the second world war:

... the value for the government of a self-governing structure for Māori, based upon the customary community or hapū, and their natural group affiliations, was recognised when government sought to engage Māori to recruit personnel and food supplies for

¹⁶⁹³ MH Watt, Director General of Health to WH Wills, Official Member, Raukawa Maori Council, Otaki, 16 November 1932, ADBZ 16163 H1/1939 121/25 Maori Health Councils – Raukawa, 1920-1935, Archives New Zealand, Wellington. SW Document Bank, volume 9, pp. 243-244.

¹⁶⁹⁴ Raeburn Lange, 'The Social Impact of Colonisation and Land Loss on the Iwi of the Rangitikei, Manawatu and Horowhenua Region, 1840-1960', pp. 112-113, 224.

¹⁶⁹⁵ Ibid, p. 224.

the second world war. Government sought to work with the Komiti Marae and Tribal Executives that existed or could be established.¹⁶⁹⁶

He also records that:

Judging by the speed with which the Raukawa Tribal Executive with its komiti marae came into the war effort it seems that the structure was already in place in the Raukawa District. This may have been because the hapū had recently come together to build Raukawa Whare Runanga and had so organised that they were able to obtain supporting legislation as well, in 1936, to vest the marae area in representatives for each marae throughout the district.¹⁶⁹⁷

Further:

Accordingly, without state funding, the Tribal Executives and Māori Committees worked with the Māori recruiting officers/community officers and the manpower officers of the National Service Department, to engage Māori support for the War. In addition, the Tribal Executives had access to the Māori Parliamentarians who were members of the National Organisation.¹⁶⁹⁸

Chief Judge Durie notes too that the ‘Raukawa Tribal Executive’ minute books for February 1943 to February 1945 show that it ‘addressed a large range of issues affecting the Māori communities, not just matters relating to the War Effort’. As well the minutes record:

... that the Raukawa Tribal Executive of the war years was not so much involved in proposing policy for Māori, as in seeking to manage individual claims and to support individual applications within a wide range of basic, pressing issues. For example, the Executive was vitally interested in the housing policy for Māori, but did not

¹⁶⁹⁶ Durie, para 18.

¹⁶⁹⁷ Durie, para 19.

¹⁶⁹⁸ Durie, para 23.

propose a policy. Instead the Executive was concerned to take up the cases of individual housing applicants who had struck difficulties.¹⁶⁹⁹

13.7 Kurahaupo Maori Health Council, 1920-1940

Lange records that Dr Buck, the Director of Maori Hygiene, specifically asked the Kurahaupo Maori Council whether it was ‘still in existence’ as he ‘wanted to see it revived’ as a Maori Health Council. He also wanted to see ‘younger men’ involved. Hohepa Hawira of Kauangaroa agreed to be chair and ‘try to arouse interest’. The first Kurahaupo Maori Health Council was gazetted on 24 September 1920. The councillors were: W Maru Paki, Meihana Apakura, TF Iwikau, Joe Marumaru, Horima Hakopa, Wilson Winiata, Rorre Rangiheuea and Joseph Larmer (the official member). It covered the area between the Whangaehu and Manawatu Rivers which also ‘extended as far inland as Karioi’.¹⁷⁰⁰

Lange states that as early as 1922, there were ‘indications that the Council was not effectively dealing with health problems in its area, and it was clear later that this was partly due to the fact that Hawira and other members had become associated with Ratana’.¹⁷⁰¹ Indeed, having the Ratana community within the Kurahaupo Council boundaries proved problematic for the Council for most of its life.

In 1925, Maori from the Ratana settlement established their own ‘registered Maori Council’ with ‘self government laws for the Native race’. Lange records that steps were then ‘taken to reactivate the official Maori Health Council for the area’. In 1926, it was reported by Dr Buck that the Kurahaupo Health Council had ‘just been re-organised to eliminate Ratana influences and was “working splendidly”’. The seven councillors appointed were described in a newspaper article of being all ‘young men of high rank’. It was also noted in the same article that all were associated with either the Church of England or the Roman Catholic church emphasising perhaps that none had associations with the Ratana church. Those appointed to the Council were Hoeroa Marumaru of Bulls (chair), Wilson Winiata of Taihape, Toro

¹⁶⁹⁹ Durie, para 24.

¹⁷⁰⁰ Lange, ‘The Social Impact of Colonisation and Land Loss on the Iwi of the Rangitikei, Manawatu and Horowhenua Region, 1840-1960’, p. 112; *New Zealand Gazette*, 24 September 1920, p. 2792.

¹⁷⁰¹ Ibid, p. 112.

Iwikau of Marton, Mason Durie of Feilding, Bob Pitihira of Foxton, Maru Paki of Turakina and Horima Hakopa of Taihape.¹⁷⁰²

One of the first tasks of the new Kurahaupo Health Council was the submission of by-laws for gazetting. These concerned the mistreatment of animals, trespass, assault, bad language and stealing. In addition, by-laws specified that proprietors of a 'picture show' had to pay a yearly fee as did owners of any store within the Maori settlement and that a permit was required for any hui or gathering within the Maori settlement. The by-laws were forwarded by Dr Buck to the Under Secretary of the Native Department. He noted to the Under Secretary that the Council's operations took in the Ratana Settlement and as there was 'continuous trouble' asked that the by-laws be gazetted as soon as possible 'so as to have them in force by Christmas when large crowds visit that part'. They were not gazetted, however, until 20 January 1927, after the Christmas period.¹⁷⁰³

Lange records that the Kurahaupo Council also asked the Health Department for an assistant to Takiwaiaora Hooper (the Health Department's Native Health Inspector) 'who was regarded as very effective but responsible for too large an area'. The Council were told that there were insufficient funds for the purpose. It was also during this initial period of the new Council's life that it asked the Director of Maori Hygiene for a district nurse. The Council secretary, Toro Iwikau, said the Council was unanimous in its support for a nurse and specifically asked that the nurse be Maori. The Council were told that the Department of Health was handing over the district health nurses to the Hospital Boards and therefore would not be making any new appointments. It was possible though that the Department would assist in a financial way when the appointment was approved by the hospital board. Buck suggested that the Council wait until the scheme was working and then he would assist the Council with 'making representations to the right sources'. Lange reports that in 1929, a district nurse was appointed for the Council's area and that they were active in seeking the appointment. The appointment arose, however, only after a number of children had died at Kakariki which was said to be 'riddled with TB'. The Council secretary, who Lange notes helped those at

¹⁷⁰² Ibid, p. 113; *Whanganui Chronicle*, 9 October 1926; Director of Maori Hygiene to Under Secretary, Native Department 26 November 1926, ACIH 18593 MA W1369 18 26/3/10 Kurahaupo Maori Council bylaws, 1926-1941, Archives New Zealand, Wellington. SW Document Bank, volume 9, p. 167.

¹⁷⁰³ Kurahaupo Maori Council Bylaws, 2 December 1926; Director of Maori Hygiene to Under Secretary, Native Department 26 November 1926; *New Zealand Gazette*, 20 January 1927, p. 61, ACIH 18593 MA W1369 18 26/3/10 Kurahaupo Maori Council bylaws, 1926-1941, Archives New Zealand, Wellington. SW Document Bank, volume 9, pp. 165-167.

Kakariki affected, said that the ‘deaths could have been avoided if a nurse had been advising on prevention and care’.¹⁷⁰⁴

A letter from Hoeroa Marumaru of 20 February 1930 to EP Ellison, (the Director of Maori Hygiene from 1926) indicated that all was not well with the relationship between the Council and the Ratana settlement. Mr Marumaru said that Council matters in the district were ‘dead’ and asked for a meeting with Mr Ellison. He said that he would like the Council re-organised as they had, at times, wished to push the work of the Council on but:

When we delved down to the main motive force one is rather discouraged, the “Cause” we are asked to labour for is of the “Noblest & Highest” but the machinery we are asked to use, to carry it to a successful issue, appears to me obsolete – out of date. In view of the many obstacles to overcome more especially “Ratanism” I sincerely hope that at our next meeting you will give things a general overhaul for us and will submit for our pursuit a more vigorous & more aggressive policy and this considerably strengthen our position & mana.¹⁷⁰⁵

In 1931, the Director, Division of Maori Hygiene acknowledged receipt of the Council’s balance sheet received from Mr Marumaru (which showed that the Council was in credit (£19.8.5) stating that it appeared that the Council, ‘although not functioning in a very active manner, is still very financial’ (though it is not clear how this amount was seen as ‘financial’). He asked how matters were proceeding and hoped that the Council was continuing to ‘carry on the good work among the Maoris of your district’.¹⁷⁰⁶

As Lange states, ‘hopes that the Kurahaupo Council would find ways of doing its work despite the opposition of Ratana followers proved illusory’ with Mr Marumaru telling the Director of Maori Hygiene in 1931 that the Council had ‘practically ceased to function’.

¹⁷⁰⁴ T Iwikau to Director of Maori Hygiene, 3 March 1927; Director of Maori Hygiene to TF Iwikau, 8 March 1927, ADBZ 16163 H1/1938 121/22 part 2, Maori Health Councils – Kurahaupo, 1926-1935, Archives New Zealand, Wellington. SW Document Bank, volume 9, pp. 185-186; Lange, ‘The Social Impact of Colonisation and Land Loss on the Iwi of the Rangitikei, Manawatu and Horowhenua Region, 1840-1960’, pp. 112- 113.

¹⁷⁰⁵ Hoeroa Marumaru to Ellison, 20 February 1931, ADBZ 16163 H1/1938 Box 1938 121/22 3258 Maori Health Councils – Kurahaupo, 1926-1935, Archives New Zealand, Wellington. SW Document Bank, volume 9, pp. 187-188.

¹⁷⁰⁶ Director, Division of Maori Hygiene to Hoeroa Marumaru, 21 May 1931; Balance sheet to 31 March 1931, ADBZ 16163 H1/1938 121/22 part 2, Maori Health Councils – Kurahaupo, 1926-1935, Archives New Zealand, Wellington. SW Document Bank, volume 9, pp. 189 & 191.

Lange points out that this was not because the Council had ‘no interest in the welfare of its people but because it had no way of enforcing its recommendations: ‘we had to resort to BLUFF, which does not appeal to us a bit’.¹⁷⁰⁷

That the Kurahaupo Council felt that their authority was being undermined and that they were unable to operate was met with sympathy by government officials. No action, however, was forthcoming to help resolve the situation. Indeed, the Director General of Health replied to Hoeroa Marumaru on 3 July 1931 stating that he regretted that the bylaws of the Kurahaupo Council had been found ‘inoperable’. He said that he realised that the Council had a ‘very difficult element in its midst, namely Ratana Pa’ but he could ‘see no way to overcome this difficulty’. He said that he could not agree to the expenditure required for Mr Marumaru and his secretary to visit Wellington to discuss the matter though if he was ever in Wellington, then MH Watt would be pleased to talk the matter over.¹⁷⁰⁸

In 1934, the Council was described by the Medical Officer of Health as ‘moribund’. He said that ‘the Existence of the Ratana movement whose headquarters are in their district renders any effective activity quite impossible’.¹⁷⁰⁹

Lange records that in 1936, Taite Te Tomo attempted to establish a komiti marae at Kakariki and sent in the names of fourteen persons to be gazetted. There was also an attempt to revive the Kurahaupo Council. The Health Department responded, however, that as far as they knew, the Council had not met since 1930 and ‘probably could not be revived without an increase in its powers’ (which the Health Department was unprepared to do).¹⁷¹⁰ The Director General of Health also remarked in 1937:

¹⁷⁰⁷ Lange, ‘The Social Impact of Colonisation and Land Loss on the Iwi of the Rangitikei, Manawatu and Horowhenua Region, 1840-1960’ p. 223. Hoeroa Marumaru to Director of Maori Hygiene, 23 May 1931, ADBZ 16163 H1/1938 Box 1938 121/22 3258 Maori Health Councils – Kurahaupo, 1926-1935, Archives New Zealand, Wellington. SW Document Bank, volume 9, p. 190.

¹⁷⁰⁸ Ellison, Director General of Health to Hoeroa Marumaru, 3 July 1931, ADBZ 16163 H1/1938 Box 1938 121/22 3258 Maori Health Councils – Kurahaupo, 1926-1935, Archives New Zealand, Wellington. SW Document Bank, volume 9, p. 192.

¹⁷⁰⁹ Medical Officer of Health to Director General of Health, 9 June 1934, ADBZ 16163 H1/1938 Box 1938 121/22 3258 Maori Health Councils – Kurahaupo, 1926-1935, Archives New Zealand, Wellington. SW Document Bank, volume 9, p. 193.

¹⁷¹⁰ Lange, ‘The Social Impact of Colonisation and Land Loss on the Iwi of the Rangitikei, Manawatu and Horowhenua Region, 1840-1960’, pp. 223-224.

The Council's district is a very difficult one due to the active opposition of the followers of Ratana who form a large section of the total Maoris in this area. I therefore propose deferring any action regarding the re-appointment of this Council until a more suitable time. The question now arises concerning the appointment of a village committee for Te Hiiri-a-Mahua. Without a Council, no village committees can be formed.¹⁷¹¹

He said that Taite Te Tomo was to be advised that no action could be taken under the circumstances as there was no legislative authority for the Director General to make the proposed appointment. That is, without a Council, there could be no komiti marae.¹⁷¹²

In 1937, the Medical Officer of Health reported that there was no point in reviving the Council. He said that he had interviewed Mason Durie 'as a likely candidate for the position' of chairman of the Council but Mr Durie was 'unwilling to act as Chairman of the Council while their [Council] influence is so ineffective and there is no very definite object or purpose in their existence. If at any future time the Councils were given more power or the wherewithal to carry out some definite programme of work, I think that Mr Durie would reconsider his decision and would make a suitable chair. If any other less suitable or less competent Maori is appointed as Chairman and a new Council appointed, I do not consider that any benefit would accrue to anyone'.¹⁷¹³ (Indeed, Mr Durie was later appointed chair of the Raukawa Maori Executive discussed below.)

Lange records that in 1940, nominations were received for a new Kurahaupo Council as the 'Health Department was anxious to reactivate it so that a komiti marae could be set up for the Ratana settlement'. Further:

A Council consisting of H.T. Ratana and 6 others was gazetted soon afterwards. Concern was expressed that the Ratana sympathies of the new Council would hinder its effectiveness in communities not sympathetic to Ratana, but the aim of electing a

¹⁷¹¹ Director General of Health to Under Secretary, Native Department, 22 March 1937, ADBZ 16163 H1/1938 121/22 part 3, Maori Health Councils – Kurahaupo, 1935-1941, Archives New Zealand, Wellington. SW Document Bank, volume 9, p. 194.

¹⁷¹² Ibid.

¹⁷¹³ Medical Officer of Health to Director General of Health, 12 March 1937, ADBZ 16163 H1/1938 121/22 part 3, Maori Health Councils – Kurahaupo, 1935-1941, Archives New Zealand, Wellington. SW Document Bank, volume 9, p. 195.

Council composed of Ratana members had been simply to facilitate the creation of a komiti marae able to act in Ratana itself.¹⁷¹⁴

Lange records that nothing further was heard of the Kurahaupo Council.¹⁷¹⁵

¹⁷¹⁴ Lange, *The Social Impact of Colonisation and Land Loss on the Iwi of the Rangitikei, Manawatu and Horowhenua Region, 1840-1960*, p. 224.

¹⁷¹⁵ *Ibid.*

13.8 Maori Social and Economic Advancement Act, 1945

The Maori Social and Economic Advancement Act, 1945 'set up Tribal Districts, each with a Tribal Executive Committee and local Tribal Committees'. Lange states that these committees had:

... some continuity with the Maori Health Councils and komiti marae they replaced, and with the even earlier Maori Councils under the Act of 1900. They were also inspired by the spontaneously arising Maori War Effort Organisation, which had concerned itself with recruitment and the promotion of agricultural production and had been officially recognised in 1942.¹⁷¹⁶

Lange states that although there was 'some resemblance [and continuity] to the Maori Councils system ... the committees set up under the Act of 1945 clearly superseded the former institutions rather than extending their existence'. The emphasis of the new committees was different, he states, in that while the health of Maori was still one of the matters that the committees were to promote, the focus too was on the 'well-being' of the Maori community. Committees were to 'make and administer by-laws concerning health, cleanliness, nuisances, animals, meeting houses, recreation grounds, billiard rooms, gambling, hawkers, meetings and burial grounds'. They could also 'undertake local water-supply or sanitation projections' and from 1949, 'deal with' Tohunga and be granted control over shellfish and fishing grounds 'proclaimed as Maori reserved grounds. As well, they were charged with administering the work of the Maori Wardens whose central function was 'the control of liquor consumption'.¹⁷¹⁷

Provision was made within the Act (sections 22 to 29) for the application of funds to government for the funding of the Tribal Executive and Committees as well as for projects that they wished to fund.

Three Tribal Executives were established which incorporated land from the inquiry district. These were the Kurahaupo North and Kurahaupo South, the Raukawa and the Wellington

¹⁷¹⁶ Ibid, p. 225.

¹⁷¹⁷ Lange, *To Promote Maori Well-Being: Tribal Committees and Executives under the Maori Social and Economic Advancement Act, 1945-1962*, pp. 6-10.

Tribal Executives. The Raukawa Tribal Executive encompassed the majority of the land in the inquiry district comprising land on the west coast of the north island between the Rangitikei and Waikanae Rivers. The Kurahaupo North Tribal District encompassed lands in the inquiry district north of the Rangitikei River or more specifically land in the counties of Whanganui and Rangitikei and part of the counties of Stratford, Patea, Waitotara and Waimarino, the city of Whanganui, the boroughs of Ohakune, Raetihi, Taihape and Marton and the town districts of Bulls, Mangaweka and Huntville. In the southern part of the inquiry district was the Wellington Tribal Executive which included land south of the Waikanae River or more specifically, land in the Hutt and Makara Counties, the Lower Hutt and Wellington Cities, the Petone and Eastbourne Boroughs, the Johnsonville Town District and the Kapiti, Mana, Somes and Ward Islands'. The Raukawa Tribal Executive is examined in more detail below (time constraints prevent the examination of the Kurahaupo North and Kurahaupo South, and Wellington Districts).¹⁷¹⁸

Chief Judge Durie records that Councils were promoted by Eruera Tirikatene, the MP for Southern Maori. He records:

Tirikātene's proposals were developed with Māori and were confirmed at four conferences in 1944 at Wellington, Rotorua, Rātana, and Ōpoutama (Mahia). The prospect of self-government directly linked to Parliament through the four Māori seats, offered an extraordinary opportunity for Māori and the prospect of the formation of an independent Māori party. However, while Tirikatene's vision had some influence on Mason's [Minister of Maori Affairs] proposals, with the Committees and Executives becoming statutory bodies, it was nonetheless seriously compromised by Mr Mason himself. He not only rejected the large districts, the national organisation, and the appointment of the officers of the Native Affairs Department, but he proposed to make the Committees and Executives subject to the direction of the Department.¹⁷¹⁹

Lange concurs stating that the 1945 Act:

¹⁷¹⁸ Boundaries of the Kurahaupo North and South, Raukawa and Wellington Tribal District Executives, 1947, ACGT 18190 LS 1 1722 23/540/3 Miscellaneous – Maori Tribal Districts (Boundaries of), 1945-1951, Archives New Zealand, Wellington. SW Document Bank, volume 9, pp. 197-215.

¹⁷¹⁹ Durie, para 28.

... did not fulfil the hopes of Maori leaders who wanted to retain the autonomy they had experienced in the Maori War Effort Organisation. The new committees were closely linked with the structures of Government, and the Welfare Officers who were to work with them were made responsible to their public service superiors rather than to any Maori authority. The powers of local government conferred were very limited, and the system of committees did not extend as far as the district and national bodies envisaged by former War Effort leaders.¹⁷²⁰

Lange records that in 1946 and 1947, MP for Southern Maori, 'Tirikatene and other Maori politicians asked the Prime Minister to restore Maori control by putting the new structure under the Minister Representing the Maori Race, but without success'. Mr Tirikatene later stated in 'in 1945 his vision for the new legislation had been for Maori self-determination, not Native Department control' believing that 'Maori people should be given an opportunity of examining their own problems and difficulties'.¹⁷²¹

Lange said that his research 'indicates that Maori who participated in the system chose to do so, in an effort to exercise rangatiratanga in the particular circumstances of the post-war period'.¹⁷²²

13.9 Raukawa Tribal Executive

Confirmation of the exact date of the establishment of the Raukawa Tribal Executive has not been located (the minutes of the executive are not available until 1953 at Archives New Zealand) though names were submitted in 1946 for both the tribal executive and the tribal committees and there is a record of a meeting being held in February 1947. Lange also refers to executive actions of 1948 and records that by 1949, it was meeting 'fairly regularly'.¹⁷²³

The boundaries of the Raukawa Tribal District incorporated the counties of Horowhenua, Manawatu, Pohangina, Kairanga, Oroua, Kiwitea and part of Woodville as well as the boroughs of Foxton, Feilding, Shannon, Levin and Otaki and the city of Palmerston North.

¹⁷²⁰ Lange, *To Promote Maori Well-Being: Tribal Committees and Executives under the Maori Social and Economic Advancement Act, 1945-1962*, p. 11.

¹⁷²¹ Ibid, p. 11.

¹⁷²² Ibid, p. 3.

¹⁷²³ Lange, 'The Social Impact of Colonisation and Land Loss on the Iwi of the Rangitikei, Manawatu and Horowhenua Region, 1840-1960', p. 227.

Therefore its jurisdiction went as far south as the Waikanae River which was then the boundary line between the Horowhenua and Hutt counties and as far north as the Rangitikei River. At the same time as the boundaries of the District were gazetted, boundaries of 14 tribal committees were also gazetted. These were Kauwhata, Pikiahua-Waewae, Parewahawaha, Matakore, Foxton-Rangiotu, Palmerston North, Whakatere, Takihiku, Ngati-Huia, Muaupoko, Ngatokowaru, Tukorehe, Otaki and Waikanae.¹⁷²⁴

The aforementioned minutes of meetings have been used to examine the sort of issues the Executive dealt with and what actions it took. In addition, Lange has examined other Health and Maori Affairs Department files which have provided more specific information on some of the Executive's actions. This has been incorporated in the following discussion.

Hoani Meihana Te Rama Apakura, also known as John Mason Durie was the chair of the Raukawa Tribal Executive (and Kauwhata Tribal Committee) from its establishment until he died in 1971. When the Ikaroa District Council was formed, he was nominated as its first chair. He had also been a member of the aforementioned Kurahaupo Maori Health Council.¹⁷²⁵

Members of the first Raukawa Tribal Executive are as follows (the name in the brackets is the tribal committee that they were representing): A Knox (Otaki), S Enoka (Otaki), Hori Kereama (Pikiahua-Waewae), Purangi Herangi (Pikiahua-Waewae), RE Collins (Palmerston North), D Tatana (Palmerston North), Tumeke Wehipeihana (Tukorehe), Karanama Ruihi (Tukorehe), Tamihana Winiata, Harry Williams (Ngatikawau), Ngarori Kingi (Muaupoko), James Hurinui (Muaupoko), Mrs MC Pene (Takihiku), J Sciascia (Takihiku), Merehira Tatana (Ngati Huia), Harold Buckman (Ngati Huia), Te Waari H Ward (Kauwhata) as well as the aforementioned chair, John Mason Durie (Kauwhata). Nepia Winiata, who was a 'non-member', was appointed secretary. (Nepia Winiata later became Levin Borough's first Maori councillor.)¹⁷²⁶

¹⁷²⁴ Boundaries of Raukawa Tribal District and tribal committees, 1947 ACGT 18190 LS 1 1722 23/540/3 Miscellaneous – Maori Tribal Districts (Boundaries of), 1945-1951, Archives New Zealand, Wellington. SW Document Bank, volume 9, pp. 197-215.

¹⁷²⁵ Mason Durie. 'Durie, John Mason', from the Dictionary of New Zealand Biography. Te Ara - the Encyclopedia of New Zealand, updated 7-Jun-2013
URL: <http://www.TeAra.govt.nz/en/biographies/4d25/durie-john-mason>

¹⁷²⁶ Raukawa Tribal Executive members, undated, circa 1946; Member list circa 1947 ABJZ W4644 869 Box 96 35/23/1 part 1 Marae Subsidies and Maori Council – Raukawa Tribal District – Raukawa, 1946-1984, Archives New Zealand, Wellington. SW Document Bank, volume 9, pp. 141-142.

The names of the members of eight of the tribal committees were submitted at the same time (the place names in the brackets where the committee members lived). These were: Ngati Huia (Poroutawhao), Takihiku (Foxton and Hokio Beach), Muaupoko (Levin), Ngatokowaru (Ohau and Levin), Tukorehe (Ohau and Feilding), Otaki, Palmerston North, Pikiahu-Waewae (addresses not given). Later the membership of Kauwhata Tribal Committee was submitted. The committee members lived at Aorangi, Feilding, Awahuri and Kai iwi.¹⁷²⁷

By 1947, there were 12 tribal committees: Kauwhata, Pikiahu-Waewae, Matakore, Foxton-Rangiotu-Paranui, Parewahawaha, Palmerston North, Whakatere, Takihiku, Ngati-Huia, Muaupoko, Ngatokowaru (North and South), Tukorehe, Otaki and Waikanae. In 1949, a new tribal committee was formed replacing the Matakore committee called the Rangatahi committee. The committee was from the Kakariki area. Lange records that by 1949, seven of the Raukawa Tribal Executives 'affiliated tribal committees were described as active' and that by 1952 'twelve Committees (from Bulls to Otaki) were functioning, but three (including Palmerston North) were inactive'. In 1953, the following local tribal committees came under its umbrella: Otaki, Palmerston North, Tukorehe, Pikiahu Waewae, Ngatokowaru, Taki Ihu, Kauwhata, Rangatahi, Muaupoko, Shannon, Waikanae, Parewahawaha, Wehiwehi and Huia though not all had representatives attending executive meetings.¹⁷²⁸

The agenda for one of the first meetings of the executive 16 February 1947 provides an indication as to the sort of wide-ranging issues the executive wished to deal with. These were:

- Subsidies for sanitation works in private homes
- Question of mobile x-ray unit
- Exemption from Native Land Court fees in relation to marae
- The availability of trust lands for use in Palmerston North Area

¹⁷²⁷ Raukawa Tribal Committee members, undated, circa 1945, ABJZ W4644 869 Box 96 35/23/1 part 1 Marae Subsidies and Maori Council – Raukawa Tribal District – Raukawa, 1946-1984, Archives New Zealand, Wellington. SW Document Bank, volume 9, pp. 141-142.

¹⁷²⁸ ET Tirikatene, Native Minister, 10 July 1947, Raukawa Tribal District Schedule, ABJZ W4644 869 Box 96 35/23/1 part 1 Marae Subsidies and Maori Council – Raukawa Tribal District – Raukawa, 1946-1984, Archives New Zealand, Wellington. SW Document Bank, volume 9, pp. 144-149; Lange, 'The Social Impact of Colonisation and Land Loss on the Iwi of the Rangitikei, Manawatu and Horowhenua Region, 1840-1960', p. 225; Minutes of Raukawa Tribal Executive, 15 November 1953, ABJZ W4615 6878 Box 23 25/6/4 part 1 Committees & Councils – Raukawa Tribal Executive – Minutes of Meetings, 1953-1971, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 180-181.

- The appointment of Welfare Officers should first be referred to the Executive Committee concerned
- Whether progressive subsidies for Maraes would be available for portions of amount collected.
- Housing
- Revised list of education scholarships.¹⁷²⁹

The issues supported by the Executive have been divided into four sections: Marae and community facilities, economic development, housing and miscellaneous.

13.10 Marae and Community Facilities

Lange records that ‘soon after the [second world] war the Raukawa Tribal Executive and its committees began raising funds for the Palmerston North hostel and community centre that had been proposed by the Manawatu Young Maori Club in the city’. He said that it was:

... hoped that the building would meet the social and cultural needs of urban Maori, as well as providing accommodation for rural people visiting town (including hospital patients’ visitors who often spent ‘a night or two in the bus shelter outside the hospital’). After some frustrating delays and difficulties the project, which became a memorial to the Maori Battalion, languished for a while, but fundraising began again in 1953. With Government help, land was purchased. Fundraising was stepped up to a high level in 1956, and the centre was finally opened in 1964. Partly due to this activity, the Executive at this time and until after the end of the period was a very active and effective body.¹⁷³⁰

It was also recorded in a biography of John Mason Durie that in the 1950s the ‘Raukawa executive launched a major appeal to build a memorial to the Maori Battalion’. It was noted that Mr Durie ‘would have preferred a series of memorial educational scholarships, but there was strong support for the centre’:

¹⁷²⁹ Agenda Paper for 16 February 1947, ABJZ W4644 869 Box 96 35/23/1 part 1 Marae Subsidies and Maori Council – Raukawa Tribal District – Raukawa, 1946-1984, Archives New Zealand, Wellington. SW Document Bank, volume 9, p. 143.

¹⁷³⁰ Lange, ‘The Social Impact of Colonisation and Land Loss on the Iwi of the Rangitikei, Manawatu and Horowhenua Region, 1840-1960’, p. 227.

Along with his cousin Adelaide Poananga he devoted many years to fund-raising and planning, and in 1964 supervised the opening ceremony attended by the governor general, Sir Bernard Fergusson, and members of the battalion. Durie was also on the committee that organised the Maori side of the 1953 royal tour.¹⁷³¹

Another project that the Executive were concerned with was the renovation of Rangiatea Church at Otaki in 1949. The Executive also supported marae improvement projects instigated by the tribal committees and assisted with applications to the Department of Maori Affairs for subsidies to help fund the improvements. Lange states that by 1954 ‘most of the functioning committees were concerning themselves mainly with government subsidised marae improvement projects’. One such project was in respect to the Kauwhata Marae. In 1954, the Kauwhata Tribal Committee applied to the Maori Affairs Department for a subsidy to assist with the installation of a pumping system to reticulate water from a bore recently driven to supply water for the marae. The Welfare Officer, H Jacob, made the application on behalf of the committee noting that the committee had set out to raise funds for the completion of the project as well as general maintenance work requiring attention. Various reports and correspondence were exchanged between departmental officials and Mason Durie, the chair of the committee in order to proceed the application.¹⁷³²

Mr Durie reported that the committee had raised £100 for the water supply and £66.11.0. for cemetery maintenance – a total of £166.11.0 which was the sum for which the subsidy application was made. Mrs Tamihana, the Welfare Officer, spoke in support of the application, reported that the committee was ‘particularly active since its re-election when the younger generation of the tribe were elected as members’. Their interest, she said, was focused on furthering the welfare work in the district and the subsidy would ‘create further interest in matters required by the people and the Department, and with the appointment of Mr Inuwai Lawton as a Warden’. The Minister then approved a subsidy of £125.6.19 in

¹⁷³¹ Mason Durie. 'Durie, John Mason', from the Dictionary of New Zealand Biography. Te Ara - the Encyclopedia of New Zealand, updated 7-Jun-2013

URL: <http://www.TeAra.govt.nz/en/biographies/4d25/durie-john-mason>

¹⁷³² Lange, ‘The Social Impact of Colonisation and Land Loss on the Iwi of the Rangitikei, Manawatu and Horowhenua Region, 1840-1960’, p. 227; Welfare Officer, Levin to District Welfare Officer, Wellington, 17 August 1954, ABJZ W4615 6878 Box 21 25/6/2/10 part 1 Committees & Councils – Kauwhata Maori Committee, 1954-1978, Archives New Zealand, Wellington. SW Document Bank, volume 2, p. 151.

March 1956 (which was less than was applied for though there was no explanation for this).¹⁷³³

By 1971, discussions had commenced regarding Te Wananga o Raukawa at Otaki which was fully operational by the early 1980s (though not formally recognised by government as a wananga until 1993 under the Education Amendment Act 1990). Te Wānanga o Raukawa ‘arose from a joint effort of Te Ātiawa ki Whakarongotai, Ngāti Raukawa ki te Tonga and Ngāti Toa Rangatira, also known as the ART Confederation.

The Executive also endeavoured to get the marae committees that had stopped functioning meeting again.¹⁷³⁴

Lange records that in 1957:

... the committees at Aorangi, Foxton and Otaki were singled out for their excellent community welfare work; others ranged from fairly active to almost inactive. A year later the Otaki committee was again seen as among the most effective; it met monthly, alternating between each of its marae, and dealt with issues of education, youth, child welfare, crime, drinking and housing.¹⁷³⁵

13.11 Economic Development

Lange records that the Raukawa Tribal Executive supported the Maori Growers’ Association which had been formed in the late 1940s as part of a Maori Affairs Department initiative to utilise Maori land within Otaki for horticultural purposes. The Association and the Executive urged the Department to ‘activate the plan to make machinery available to the growers

¹⁷³³ Welfare Office, Department of Maori Affairs to District Welfare Officer, Wellington, 17 August 1954 & 15 November 1955; Mason Durie to Welfare Officer, 12 October 1955; Secretary, Department of Maori Affairs to District Officer, Wellington, 15 March 1956, ABJZ W4615 6878 Box 21 25/6/2/10 part 1 Committees & Councils – Kauwhata Maori Committee, 1954-1978, Archives New Zealand, Wellington. SW Document Bank, volume 2, pp. 151, 153-154.

¹⁷³⁴ Lange, ‘The Social Impact of Colonisation and Land Loss on the Iwi of the Rangitikei, Manawatu and Horowhenua Region, 1840-1960’, p. 227; Minutes of the Raukawa Executive Committee Meeting, 15 August 1954 and 23 March 1958 ABJZ W4615 6875 Box 23 25/6/4 part 1 Committees & Councils – Raukawa Tribal Executive – Minutes of Meetings, 1953-1971, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 182-183; 195-198.

¹⁷³⁵ Lange, ‘The Social Impact of Colonisation and Land Loss on the Iwi of the Rangitikei, Manawatu and Horowhenua Region, 1840-1960’, p. 227.

(contractors had been attending to Maori growers' needs only when Pakeha requirements had been met, by which time it was often too late)'. Lange reported that by February 1948, 'a tractor and other machinery had been bought and the supervisor's efforts were 'showing results''. Also, that the '12 participating growers (in Otaki, Manakau, Ohau, Levin and Poroutawhao) all seemed 'determined to continue'; some had received excellent returns'.¹⁷³⁶

13.12 Housing

Housing was an issue that concerned the Raukawa Tribal Executive from the late 1940s and where they played an important role in advocating for the provision of better housing for Maori. Government surveys of Maori housing had been completed in the 1940s which showed that there were many Maori houses in the area that were considered only fit for demolition. One such housing survey was prepared by the Department of Health in 1941. This showed that of 188 houses occupied by Maori in the county of Horowhenua, 90 were considered 'fit for demolition' (48 percent).¹⁷³⁷ (Note that separate data was prepared for the boroughs.) The data was presented thus:

Table 26: Maori Housing Survey, Horowhenua County, 1941

Locality	No of Houses	Houses Satisfactory (1)	Repairs Costing under £100 (2)	Renovations costing over £100 and under £500 (3)	Fit for demolition (4)	Privies satisfactory	Privies (none)	Costs of Repairs to Dwellings
Waikanae	15	2	3	6	4	9	1	£1505
Te Horo	6	1	3	1	1	4	-	£610
Otaki vicinity	27	2	4	4	17	10	8	£885
Manakau	22	5	4	2	11	18	2	£710
Kuku	29	3	4	6	16	17	3	£1245
Muhunua-Ohau	12	3	3	1	5	9	1	£345
Levin Vicinity	11	1	2	4	4	5	2	£1055
Hokio	26	3	4	6	13	13	6	£1395
Koputaroa	9	-	-	3	6	2	4	£515
Poroutawhao	19	6	3	4	6	12	3	£805
Shannon vicinity	3	-	2	-	1	1	1	£170
Foxton vicinity	9	2	1	-	6	1	4	£50
Horowhenua Total	188	28	33	37	90	101	35	£9290

Source: Maori Housing Survey, Horowhenua County, 1941, ABQU W4452 632 Box 1240 194-3 Maori Health – Maori Housing, 1942-1982, Archives New Zealand Wellington. SW Document Bank, volume 6, pp. 173-175.

¹⁷³⁶ Ibid, p. 168.

¹⁷³⁷ Maori Housing Survey, Rangitikei, Oroua and Kiwitea Counties, 1941, ABQU W4452 632 Box 1240 194-3 Maori Health – Maori Housing, 1942-1982, Archives New Zealand Wellington. SW Document Bank, volume 6, pp. 173-175.

Lange notes that another survey of Maori housing of Levin was completed in 1948 which showed that of the 12 houses there were 'several cases of overcrowding (including two extended families totalling 21 people in a five-bedroomed house, and two cases of 9 or 10 people in two-bedroomed houses), and living conditions that ranged from 'satisfactory' to 'very bad''. Much 'dissatisfaction ... [was] expressed at a Raukawa Tribal Executive meeting in October 1948'. Lange records that:

One speaker admitted that the people had been unable to agree on a land consolidation scheme, but angrily rejected the Department's suggestion that land near the Levin abattoir would be more suitable than the site proposed previously for Maori group housing: 'The Pakehas will not build near it and are complaining of the smells. Why put the Maoris there?'. The same speaker criticised the Department for the small number of houses (five renovated and three constructed) provided or repaired since 1935; 'the old cry that the Maoris must apply is worn out. The Department has not assisted the Maoris, who are ignorant, to apply. It is no excuse for doing nothing'.¹⁷³⁸

Lange notes too that the Executive, in co-operation with the Welfare Officer at the Department of Maori Affairs, facilitated the collection of applications for houses in Otaki with seven applications received by September 1949 (which, he records were then misfiled). Lange records too that there were 'long delays' in the building of houses at Otaki and that the executive complained in 1951 that the Otaki committee was 'getting tired and being frustrated' about the small amount of progress made.¹⁷³⁹

Housing at Otaki was still being discussed by the Executive in 1953, with the Executive being told that the Welfare Office and District Officer of the Department of Maori Affairs had 'promised that the matter would not be allowed to drag on'. The following year, Hema Hakaraia, who was also an Otaki Borough councillor from 1943 gave a report on state housing in Otaki noting that there were 48 sections set aside for that purpose in Otaki, 15 of which were allocated for Maori. He said that 21 houses had been built during the year and four just about completed. Of the four, he would like two for Maori and two for Europeans and he wished to solicit the assistance of the Committee to 'attain that end'. The Executive

¹⁷³⁸ Lange, 'The Social Impact of Colonisation and Land Loss on the Iwi of the Rangitikei, Manawatu and Horowhenua Region, 1840-1960', p. 192.

¹⁷³⁹ Ibid, pp. 199 & 201

agreed to write to the Department regarding the allocation of the houses in Otaki for Maori. It was also reported at the same meeting on what was described as the ‘deplorable conditions of Maori Housing in Foxton’.¹⁷⁴⁰

The issue of housing continued to dominate the Executive in 1954 with Mr Hakaraia advising that a large family at Otaki with tuberculosis had asked for the Executive’s assistance in obtaining a State Rental House. Mrs Tamihana, the Welfare Officer at the Department of Maori Affairs had been asked to assist with this and it was decided that the Committee would draw the attention of the Welfare Officer to such cases in the future. A similar situation of bad housing conditions at Waikanae was also discussed and referred to Mrs Tamihana for action. It is of note that Mrs Tamihana attended the following meeting to report on the family at Waikanae and also suggested that the Executive support a particular application for housing. The Executive agreed to write to the Maori Affairs Department in support of the application in question. She subsequently attended many of the meetings advising the Executive where assistance was required and of the work that she was doing. Other Departmental Welfare Officers also attended meetings at various times. While this appears to have been helpful, the Executive was still at the mercy of Department of Maori Affairs policies that they had no control over. This is particularly demonstrated by the ongoing battle the Executive had with the issue of housing.¹⁷⁴¹

Mr Hakaraia again reported to the Executive on sub-standard Maori housing in March 1958. He told the meeting that ‘appalling living conditions was an ever present problem to the Maori people’. He wished to draw the attention of the Maori Affairs Department to the lack of sections in Otaki for Maori housing purposes and ‘stressed the urgency in urging someone to look into the question of what sections could be purchased for Maori housing’. He also noted that other areas could have sections available and purchasers could be arranged for them. Officers of the Department responded that if there were sufficient numbers of people who wanted to build houses in a particular area the Department would give ‘serious consideration to purchasing sections for building purposes’. Mr Hakaraia was asked to submit the names of those who would be interested in the sections and then the Department would

¹⁷⁴⁰ Minutes of the Raukawa Executive Committee Meeting, 15 November 1953 & 15 August 1954 ABJZ W4615 6875 Box 23 25/6/4 part 1 Committees & Councils – Raukawa Tribal Executive – Minutes of Meetings, 1953-1971, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 180-183.

¹⁷⁴¹ Minutes of the Raukawa Executive Committee Meeting, October and November 1954, 10 November 1957, ABJZ W4615 6875 Box 23 25/6/4 part 1 Committees & Councils – Raukawa Tribal Executive – Minutes of Meetings, 1953-1971, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 184-187; 194.

‘be happy to go into the question’. Mr Jones, for the Department, also outlined the housing eligibility policy noting that it was expected Maori were eligible when they should themselves ‘capable of looking after [their] own affairs’ and considered ‘credit-worthy’.¹⁷⁴²

Several months later, Mr Hakaraia raised the issue again reiterating that there was a lack of sections available for housing and that the Department should buy Crown sections. He also noted that there were borough sections available in Otaki that could be purchased for Maori housing but it was in his opinion that there were ‘not many Maori who could put down a deposit of £500 or more’. He said that the matter was urgent. The Executive agreed that Mr Smiler (the Welfare Officer) would meeting with Mr Hakaraia and interview two of the people that Mr Hakaraia knew to be in need.¹⁷⁴³

The following month Mr Hakaraia reported that he had received 22 applications for houses and outlined the details of one particular case that he considered should receive some assistance from the Executive and whether the Executive could assist in purchasing the section. The Executive recommended that one of the houses where the family was most in need be built as soon as possible ‘without the applicant having to find the full amount asked for.’ At the same meeting, the Executive recommended that there be a Maori representative on the Levin State Rental Housing Allocation Committee.¹⁷⁴⁴

It was decided in September 1958 that all Tribal committees be asked to make a housing survey of their tribal district and ascertain the number of State Advances Corporation rental cases; Maori housing cases; State Advances residential housing cases and group housing cases. Subsequent minutes of the Executive have not revealed the outcome of the survey or

¹⁷⁴² Minutes of the Raukawa Executive Committee Meeting, 23 March 1958, ABJZ W4615 6875 Box 23 25/6/4 part 1 Committees & Councils – Raukawa Tribal Executive – Minutes of Meetings, 1953-1971, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 195-198.

¹⁷⁴³ Minutes of the Raukawa Executive Committee Meeting, June 1958, ABJZ W4615 6875 Box 23 25/6/4 part 1 Committees & Councils – Raukawa Tribal Executive – Minutes of Meetings, 1953-1971, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 199-200.

¹⁷⁴⁴ Minutes of the Raukawa Executive Committee Meeting, 13 July 1958, ABJZ W4615 6875 Box 23 25/6/4 part 1 Committees & Councils – Raukawa Tribal Executive – Minutes of Meetings, 1953-1971, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 201-202.

that of the work of Mr Hakaraia and the Executive towards the improvement of Maori housing.¹⁷⁴⁵

13.13 Further Issues

Other issues that the Executive became involved with included investigating various land grievances such as why land vested in the Education Department for educational purposes by Maori had been cut up for housing purposes at Tokorangi. In addition, Mr Hakaraia advised the Executive in 1954 that there was land in Otaki that was to be taken under the Public Works Act and that the time limit of 40 days had been given to owners to object.¹⁷⁴⁶

In 1956, a letter was received from the Minister of Maori Affairs regarding the 'liquor problem'. It was recorded that many delegates spoke on the matter and views given and that it was decided that the Executive would use 'every endeavour to cope with the liquor problem within its area. Furthermore, the Executive ... [was] prepared to use the powers vested in them under the M.S. & E.A. [Maori Social and Economic Advancement Act], 1945, inadequate though they be'. The Executive also thought that the re-introduction of the liquor laws would be a 'retrograde step and would not help this complex problem now facing the race as a whole'.¹⁷⁴⁷

The Executive also discussed with the Highway Board in 1957, the danger of vehicles parking on main road in front of Kuku, Ohau Marae. It was resolved that the Secretary write to the Highway Board offering the land for a parking space, and with it proposed that the cost be borne by the Board. In the same year, the Mayor of Palmerston North requested the assistance of Maori in the district to 'help in functions from time to time'.¹⁷⁴⁸

¹⁷⁴⁵ Minutes of the Raukawa Executive Committee Meeting, 7 September 1958, ABJZ W4615 6875 Box 23 25/6/4 part 1 Committees & Councils – Raukawa Tribal Executive – Minutes of Meetings, 1953-1971, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 206-208.

¹⁷⁴⁶ Minutes of the Raukawa Executive Committee Meeting, November 1954, ABJZ W4615 6875 Box 23 25/6/4 part 1 Committees & Councils – Raukawa Tribal Executive – Minutes of Meetings, 1953-1971, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 186-187.

¹⁷⁴⁷ Minutes of the Raukawa Executive Committee Meeting, 19 June 1956, ABJZ W4615 6875 Box 23 25/6/4 part 1 Committees & Councils – Raukawa Tribal Executive – Minutes of Meetings, 1953-1971, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 188-189.

¹⁷⁴⁸ Minutes of the Raukawa Executive Committee Meeting, 24 March 1957 and 14 April 1957, ABJZ W4615 6875 Box 23 25/6/4 part 1 Committees & Councils – Raukawa Tribal Executive – Minutes of Meetings, 1953-1971, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 190-193.

In 1958, details were given to the Executive at its meeting regarding ‘problems confronting certain Maori families in getting a first-class bus service for the transport of their children to and from school’. Mr Hakaraia said that ‘all avenues’ had been explored to rectify the matter but as the matter stood, some Maori children were not picked up at their gate but had to walk ‘some distance’ to where the bus made a turn. J Tukapua also noted that his children had to walk 3 miles to where the bus would pick them up and on wet days he did not send his children to school. Mr Katene, the Welfare Officer in attendance at the Executive meeting asked that all information be forwarded to another departmental official, Mr Smiler, who would look into the matter. It was later reported that the family had moved to Otaki which had resolved the situation.¹⁷⁴⁹

In 1962, it was reported that koiwi had been unearthed at Waikanae during excavations for buildings in the area. Mr Brewer of the Waikanae Committee told the Executive that they had taken responsibility for collecting the remains with a view to re-inter them. The Hutt County Council had made available at no cost a portion of the local cemetery for this purpose but Maori still had to pay for the costs of a casket which the Executive agreed to fund (£7).¹⁷⁵⁰

At the same meeting the Executive were frustrated to learn from TS Mihaere, the Welfare Officer at Palmerston North, that the Executive’s application for a subsidy for educational grants was not able to be met by the Department. It was felt that the Executive had been placed in an ‘unpleasant position’ as most applicants had been advised that they would be receiving the assistance and the Department had not advised before that there was an issue.

¹⁷⁵¹

13.14 Raukawa District Maori Council and the Maori Community Development Act 1962

Lange explains that District Councils, were not provided for in the 1945 Act but ‘on the initiative of certain leaders, Maori had gone ahead in 1952 and set up six District Councils, in

¹⁷⁴⁹ Minutes of the Raukawa Executive Committee Meeting, 13 July 1958 and 10 August 1958, ABJZ W4615 6875 Box 23 25/6/4 part 1 Committees & Councils – Raukawa Tribal Executive – Minutes of Meetings, 1953-1971, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 201-205.

¹⁷⁵⁰ Minutes of the Raukawa Executive Committee Meeting, 11 November 1962, ABJZ W4615 6875 Box 23 25/6/4 part 1 Committees & Councils – Raukawa Tribal Executive – Minutes of Meetings, 1953-1971, Archives New Zealand, Wellington. SW Document Bank, volume 6, pp. 209-211.

¹⁷⁵¹ Ibid.

which the Executives were represented'. The legislation that formally provided for District Councils was not passed until 1961. It was then incorporated into the Maori Welfare Act 1962 which also provided for the establishment of a new national Maori organisation called the New Zealand Maori Council. Tribal Executives and Tribal Committees were 'renamed Maori Executive Committees and Maori Committees respectively'. Chief Judge Durie records that the 1962 Act:

... provided for eight District Councils, seven corresponding with the seven Māori Land Court Districts and one for the Auckland Urban area, each appointing three members to constitute the New Zealand Māori Council. The Raukawa Executive was part of the Ikaroa District extending from Mohaka River on the East Coast and Rangitikei River on the West to Wellington in the South. However, the Council was to be given the power to divide the Districts and soon after, Ikaroa became divided into Wellington (in 1971) and in about 1984 the balance became the Takitimu District Māori Council on the East Coast, and the Raukawa District Māori Council on the West.¹⁷⁵²

The name of the Act was changed in 1979 to the Maori Community Development Act'.¹⁷⁵³

Chief Judge Durie also records that the 'Raukawa Tribal Executive was ...re-established as the Raukawa District Maori Council'. He states that it promoted Maori community development and advocated for Maori within the district. It also contributed to 'national policy development through the New Zealand Māori Council ... [sitting] within a structure comprised of Committees (usually marae committees), District Councils and the New Zealand Māori Council'.¹⁷⁵⁴

He states that 'historically the District Council has focused on marae, papakainga, and urban migration and at the national level, on rights in natural resources'.¹⁷⁵⁵

Time constraints prevent the further examination of the Raukawa District Council.

¹⁷⁵² Durie, para 63.

¹⁷⁵³ Lange, *To Promote Maori Well-Being: Tribal Committees and Executives under the Maori Social and Economic Advancement Act, 1945-1962*, pp. 53-56.

¹⁷⁵⁴ Durie, paras 3, 67.

¹⁷⁵⁵ Durie, para 4.

13.15 Summary

Records of the Raukawa and Kurahaupo Maori Councils are not comprehensive so it is difficult to effectively measure what they were able to achieve. What is clear though is that both Councils saw Maori Councils as being advantageous to Maori but were frustrated with the minimal funding the Councils received. The Kurahaupo Council had the benefit of a sanitary inspector, Eruera Te Kahu (though he was not paid by central government). Mr Te Kahu advised Carroll in 1908 that since the Councils had been established there had been much improvement in the sanitary conditions of the district. Both Kurahaupo and Raukawa Councils were represented at a meeting of all Councils in 1911 when a list of advantages to the Maori Council system was produced (and co-written by the chair of the Kurahaupo Council, Mr Marumaru).

The government's decision to stop funding the Councils saw the Raukawa Council die out. It does not appear that the Raukawa Council was ever allocated its own sanitary inspector. The Raukawa Council also spent what must have been a frustratingly significant amount of time collecting the dog tax and taking people to Court in an effort to raise funds. The Council also fined several people for having an un-licensed billiard saloon but the costs incurred in enforcing the fine were more than the fine itself. That this proved a financial strain for the Council and that they had to enlist the help of Ngata to assist with payment shows just how financially stretched the Council was. The Council, without funds and government support, was not able to continue the work started in the first twelve years of the twentieth century.

That the Kurahaupo Council was still operating in 1919 could be seen as testament to their desire to maintain this means of self-government though more research is required as to how they operated with no government funding.

Records of the Raukawa and Kurahaupo Health Councils established in 1920 suggest that both were frustrated by government policy which prevented them from carrying out their work. The Raukawa Health Council had no funds and the Kurahaupo Health Council had restricted authority. In 1932, the official pakeha member told the Director General of Health that the reason for the Raukawa Councils' inactivity was that they had no source of revenue. The response was sympathy but no solution. The Kurahaupo Health Council was thwarted for

most of its twenty-year life by the presence of the Ratana community within its boundaries who actively opposed the Council. Despite numerous complaints about their inability to operate under the current regulations in an area so heavily influenced by Ratana, the Health Department, who were administering the Councils again provided sympathy but no solutions (or even the funds for the Council to travel to Wellington to discuss the matter). That Ratana formed its own Council was a sign of their autonomy, but for those not associated with Ratana, there was no Council available to them and any needs they identified could not be met through their own Council.

The legislation setting up Tribal Executives in 1945, such as the Raukawa Executive meant they were restricted to an advocacy role. The legislation did not give the Tribal Executive power to enforce any particular policy or the power and funding to provide services such as housing. All the Raukawa Executive was able to do was advocate which they did with particular emphasis on providing better housing for Maori. They lobbied government to assist in the provision of houses for Maori and used their expertise and contacts to tap in to government to assist Maori. But the ongoing issue of sub-standard housing was frustrating for the Executive, as they could see a need but not necessarily any action to address that need. If there were solutions, these were slow to happen and the Council did not have the power to make it happen. The power remained with the Department of Maori Affairs whose actions were determined by government policy.

The advocacy role of the Executive extended to investigating grievances such as why a reserve at Tokorangi was being subdivided and issues with land taken under the Public Works Act. The Executive also supported marae committees trying to ensure that they remained active and supported them with their applications for subsidies for improvements to marae. The building of the Maori Battalion Memorial Hall at Palmerston North was also achieved through much fund raising and advocacy for the project by the Executive.

Of note was while there was liaison with the Department of Maori Affairs, particularly with the Welfare Officer who often attended meetings; liaison with the Palmerston North Borough Council in relation to the building of Maori Battalion Memorial at Palmerston North and assisting at functions; and liaison through Mr Hakaraia, who was both an Executive member and an Otaki Borough Councillor, the involvement with other local authorities, in particular the county councils was minimal. No mention was made of any liaison with the Kairanga,

Oroua, Manawatu and Horowhenua Councils with the Hutt County Council featuring in the minutes once. From the records examined for this report, these County Councils did not appear to enlist the assistance or seek the views of the Executive. This was despite their involvement with the rating of Maori land, the requirement that they must approve the partitioning of Maori land for housing purposes, and their (legislative) right to take Maori land under the Public Works Act. Indeed, while there was provision for Maori Councils or Executives, there was no legal obligation for local authorities to consult with them or adhere to their wishes on matters that were particular to Maori.

Thus, the Executive ended up as lobby group, albeit with some official recognition. This meant a limited ability to determine government policy and being restricted in what they were able to provide for Maori.

14. Conclusion

This conclusion brings together all the issues discussed in the report. More detailed summaries are also provided after each major section within the report. This conclusion is divided into two sections – local authority issues (part 1) and rating (part 2).

Part 1: Local Authority Issues

14.1 Establishment of local authorities within inquiry district and representation

Highway Boards established by the Wellington Provincial Government were the first local authority units within the Porirua ki Manawatu Inquiry District. The very first, the Manawatu Highway Board, was established in 1872. Other Highway Boards (later called Road Boards) followed: Manchester (formed from the Manawatu Board (1876-1903)), Otaki (1878-1913), Sandon & Carnarvon (1881-1887), Kiwitea (1882-1893), Te Horo (1884-1906), Whirokino (1884-1903) and Fitzherbert (1889-1902). In 1876, the provinces were dis-established and the county system introduced. Three counties were established in the inquiry district at this time: Rangitikei, Manawatu and Hutt. By 1921, there were nine counties in the inquiry district: Rangitikei, Oroua, Kiwitea, Pohangina, Kairanga, Manawatu, Horowhenua, Hutt and Makara. These were all dis-established by 1989 and replaced with four district councils: Rangitikei, Manawatu, Horowhenua and Kapiti Coast.

In addition to road boards and counties, there were boroughs and towns. Four boroughs were established within the inquiry district during the 1870s and 1880s. These were Palmerston North which was established in 1877 and became a city in 1930, Marton established in 1879, Feilding, established in 1881 and Foxton, established in 1883. By 1921, three more boroughs had been formed in the inquiry district: Levin in 1906, Shannon in 1917 until 1966 when it became a county town, and Otaki in 1921. In 1962, the Porirua Borough Council was established from what was the Makara County. It became a city council in 1965. As well, the Waikanae County Town became a county borough in 1969 (and then a district community council in 1974) and the Kapiti Borough Council was established in 1974 from the Hutt County Council.

Town districts were established at Bulls, Foxton, Halcombe and Lethbridge (Turakina) under the Town Districts Act, 1881. Rongotea Town District was established in 1905 and Otaki in 1912 (which was made an independent town (outside of the Horowhenua County) in 1914). Other county towns formed later in the twentieth century included Waikanae in 1953 (which became a borough in 1969), Paekakariki in 1960 and Paraparaumu in 1969. The following county towns were also established by 1966: Ratana, Bulls, Sanson, Tangimoana Beach, Himatangi Beach, Foxton Beach, Waitarere, Pukerua Bay, Plimmerton-Paremata and Wainuiomata. Other local authorities were established in the inquiry district and included the Foxton Harbour Board (catchment, river and lake boards have not been investigated).

Despite the large number of local authorities in the inquiry district, no evidence has been located that suggests that Maori were involved with the establishment of any of the local authorities examined. As well, the legislation that provided for their establishment did not include any requirement for Maori to act as participants in the decision-making process. That is, no iwi or hapu representation was stipulated. In addition, the system set up by the Crown for participation in the voting process for road boards and counties was not designed to ensure that each and every Maori adult in these counties had the opportunity to vote and have their views represented. Even after 1944, when residents of a county were entitled to vote (as opposed to just the occupier named on the valuation roll) weighted voting remained. This meant that those whose land was worth the most were entitled to more votes. Those in this position were more likely to be Pakeha and this bias in favour of wealthy land-owners continued until 1974. That there was a complete lack of Maori road board and county councillors for the inquiry district until the late 1950s – eighty years after the first counties and road boards were formed – suggests that the system did not facilitate Maori representation. Even in the 1950s, a Maori county councillor was the exception rather than the rule and in one county only (Makara). Indeed, between the establishment of the first road board in 1872 and the re-organisation of counties in 1989, just three Maori county councillors were elected in the inquiry district.

The voting process for borough councils was different to that of counties so that by 1910, those resident in boroughs could vote and every adult, regardless of how much their property was worth, was entitled to one vote only. With the exception of Otaki, however, the majority of Maori did not live in these boroughs at this time. The voting system, combined with the comparatively high Maori population of Otaki, appears to have facilitated the election of a

number of Maori Otaki borough councillors from a relatively early stage though initially just for short periods of time (1923 to 1927 and 1935 to 1938). From 1943, however, Hema Hakaraia was elected and served on the council for the following 28 years though it appears, always as the only Maori councillor. Maori were also elected to Levin and Shannon Borough Councils from the 1950s and to the Porirua City Council from the 1960s. The first Maori woman borough councillor in the inquiry district, Te Aputa Kauri, was elected to the Waikanae Borough in 1971.

With respect to towns in the inquiry district, the only reference found regarding Maori commissioners was in the town district of Otaki (prior to becoming a borough) where Maori were elected as commissioners between 1916 and 1920 but again, just one Maori served as a commissioner at any one time.

The dearth of Maori county councillors and the small number of town board commissioners and borough councillors in the Porirua ki Manawatu inquiry district meant that Maori were largely absent from the decision-making process and their views not widely represented. Despite this the legislation still provided that Maori land was rated and taken for roads by the various local authorities of the inquiry district. This is also known as ‘taxation without representation’.¹⁷⁵⁶

14.2 Concerns, complaints and issues

This report has discussed a large number of concerns, complaints and issues with the exercise of local authority powers within the inquiry district. These include issues from the late nineteenth and early twentieth century when local authorities were only recently established. Road Boards such as Manchester and Otaki wanted roads through Maori land. Initially there was some desire to negotiate with Maori but when it became apparent that Maori would not always agree to Board proposals, the compulsory and (often) non-compensatory provisions of the Public Works Act were utilised. Maori protests about the road through the Tokorangi Reserve in the 1880s were dismissed by the chair of the Manchester Road Board who stated that it did not matter that Maori did not agree with the road as the land was being taken under the Public Works Act. He said that Maori did not have the power to prevent it and that their only recourse was compensation which would be assessed by the Native Land Court

¹⁷⁵⁶ Striling, p. 119.

(although there is no evidence this was payable and, if it was, if it was ever paid). Likewise, the Otaki Highway Board attempted to negotiate with Maori with respect to a road from Mill Road in Otaki to the Otaki River stating in 1879 that it would not make any roads on Maori land unless Maori agreed. When Otaki Maori said that they would only agree to the road if compensation was paid, the Highway Board also enlisted the assistance of the Public Works Department and a proclamation was gazetted taking the land in 1881.

One of the first roads the Manawatu County Council undertook to build was the Inland Road between Foxton and Otaki. Some attempt was made to get the consent of Maori and the Council and Maori came to an agreement whereby Maori would build some of the road and be paid for this. For a time, the agreement seemed to work but when the Council refused to confirm with Maori that they would be paid for land taken for the road, the road was closed by Maori. Likewise, Maori closed the Foxton Beach Road in protest at being charged and taken to Court for not paying the ferryman employed by the Council to cross the Manawatu River preferring instead to use their own waka. Therefore, in order to be heard, Maori had to threaten or proceed with action that would inconvenience Pakeha. Maori also resented the imposition by the Manawatu County Council and Otaki Road Board of an animal pound at Otaki and the actions of the dog tax collector. The Council's response to a petition from Maori regarding the pound demonstrated an attitude of intolerance towards Maori with a councillor objecting to the petition because it was written in Maori. The Council's pedantic emphasis on procedure whereby it disregarded Maori objections because of a Council rule that such a petition (or 'memorial') had to be presented by a councillor (and not by Maori themselves) further demonstrated the Council's reluctance to consider the views of Maori.

Hoani Taipua, later the MP for Western Maori, recognised that the Otaki Highway Board was trying to take away Maori authority over Otaki even though Maori still held much of the land there. His comments, however, fell on deaf ears and the boards and counties continued to make it clear that the relationship was not one of equal partners but was one where they increasingly held the balance of power.

Indeed, Maori protests about the road through the Reu Reu block were also dismissed by the Oroua Council in the early twentieth century who alleged that Maori were being deliberately obstructive. The Council said that the Maori response was not warranted claiming that Maori paid no rates but still utilised Council roads. The Council was adamant that it did not matter

that the road had been surveyed through cultivations and an old Pa site as it asserted that Maori had planted the cultivations after the roads had been surveyed. Legislation was also available to the Council that allowed it to proceed.

During the ten-year period between 1929 and 1939, MP Taite Te Tomo enlisted the help of the Native Department to attempt to resolve issues in regard to Te Whakawehe Reserve (located to the north of Shannon on the Manawatu River). Taite Te Tomo complained that the Manawatu County Council had claimed the accretion to Te Whakawehe reserve without reference to Maori, had planted trees on a wall or stop bank built by the owners on their land and proposed building a fence that would impact on their ability to utilise the river. It also became apparent that the old river bed (or accretion) lying adjacent to the block was taken for a road at the instigation of the Council without title being investigated. Mr Tomo was adamant that the land had been taken in exchange for a rates exemption but this was denied by the Council. A second area was also taken but no compensation was assessed for this area either. With regard to rates the Council had levied the entire block with rates without any prior investigation. Had they done so, it would have revealed that the block was a cemetery reserve. Taite Te Tomo fought against the blanket rating of the reserve and was frustrated, together with the Native Department, by the lack of response from the Council and the efforts it took to ensure that five acres (as permitted under the legislation) was exempted from rates due to its cemetery status.

A significant issue with the application of local authority powers within the inquiry district was the trespass of Papangaio J by the Foxton Harbour Board. From at least the 1940s (though it was likely to have been earlier), the Board not only leased the Maori owned land but allowed the building of homes by the lessees on the land – all without the permission of the owners. At the time that this occurred, the Crown did not rectify the matter. In the late 1950s, the Crown, blaming the situation on a lack of accurate survey data, undertook to purchase the land from Maori. The option of Maori retaining the land was raised by officials but never progressed. Part of the motivation by the Crown to sell the land was to rid the Manawatu County Council, who was taking over the area from the Foxton Harbour Board, of the embarrassment of the Board having trespassed so blatantly on Maori land. It was also important to the Department and Council to be able to give security of tenure to the leaseholders and for the Council to be able to develop the area as it desired. It is difficult to categorically state that the sale was what was wanted by all the owners. Certainly, there

appeared to be a group of owners represented by a lawyer, Mr Simpson, who were said to be agreeable to the sale. There is also a question concerning the adequacy of the compensation as the content of some of the correspondence from the Department of Lands and Survey suggests that while the Department felt that Maori were getting an adequate deal (£20,000 between 305 owners) they could have received more. The Department's desire to avoid having the Maori Land Court assess the compensation and preference for special legislation also suggests that the Department felt that a larger amount of compensation would have been awarded had the compensation been assessed in this way. The Department, perhaps reflecting its priorities, also ensured that the solicitor for the owners received £885 in fees which was far more than any one owner would have received. The Manawatu Council's response that the payment to Maori was 'exorbitant' may well have been part of a strategy to avoid having to pay the Crown back for the land. They did indeed succeed in halving the initial asking price of the Crown.

Another issue with the application of local authority powers in the inquiry district was the role that the Kairanga County Council played at Kai Iwi Pa (Kauwhata Marae) whereby houses were demolished and funding for new houses only provided to those who re-located elsewhere. The evidence is quite clear that housing at Kai Iwi Pa in the 1950s was in a bad way. Many Maori at Kai Iwi told government officials that they wanted to improve their housing situation by building new homes at Kai Iwi. Senior officials were told by Welfare Officers that more would be done to interest people in improved housing if the Department was prepared to build at Kai Iwi and not Feilding or other places. The decision was made, however, by the Department of Maori Affairs that anyone at Kai Iwi who wanted the assistance of the Department to obtain improved housing had to move elsewhere. The argument was that employment of Kai Iwi residents was at Feilding and so this was where they should live. Another view was that if the papakainga was 'perpetuated' then it was likely that it would become 'squalid again'. It was also argued that Kai Iwi was a depressed area from both a housing and drainage point of view with it being impossible for houses to get sufficient drainage for septic tanks. There was also concern by the Department of Health about an area at Kai Iwi that flooded. The Kairanga County Council became involved when the Council was asked by Health and Maori Affairs Department officials to issue closing and demolition orders. One of the issues at Kai Iwi was that when a house was vacated, another family moved in, thereby continuing the cycle of those living in poor housing conditions. If a closing order was issued the house had to be improved before anyone could move back in. If

it was demolished, then the problem was permanently ‘solved’. While it was not the Kairanga County Council who made the decision not to provide funding for new houses at Kai Iwi, the Council was the agency who supported the policy of the Crown through the issue of closing and demolition orders. This was a policy not desired by Maori which impacted on their ability to live on their land near their marae. The period when this occurred saw the reduction in the Maori population at Kai Iwi from 98 in 1956 to 12 in 1966.

14.3 Provision of Services

The impression gained from examining the records of the various road boards, county councils, towns and boroughs of the inquiry district is that the provision of services for Maori was not a priority for these local authorities. It started early. The Manawatu County Council used the rates received from Maori land under the Crown and Native Lands Rating Act, 1882 (said to be in the vicinity of £1500) for the Foxton to Sanson tram. This was not a facility that specifically related to the provision of services for Maori and instead was oriented towards European settlement. Maori at Reu Reu asked the Oroua Council for a road at Onepuhi to be re-built in 1913, but ended up building it themselves. The Council refused despite it being the agency responsible for providing such roading services. It said that it was because Maori did not pay rates. In response, Maori not only built the road but established the Reu Reu Dairy Union which was set up to consider such matters as roading requirements for Maori and also to assist Maori with their dairy farms. Maori were supported in the building of the Onepuhi road and with the operation of their dairy farms by local Pakeha settlers and businessmen who provided practical advice and help in the form of more cows and the means to collect milk from Maori farms. It was not the government or the local authority who took on this role.

When the Otaki Borough Council ill advisably went into debt in the 1920s to fund a drainage and sewerage scheme, most of the Maori land within the Borough was not served by the new schemes. The Council then went on to blame its financial problems on the non-payment of rates by Maori. These complaints led to much of the Maori land in Otaki being vested in the Ikaroa Maori Land Board in 1929.

The response to a request for assistance with drainage made to the Manawatu County Council by the Registrar of the Maori Land Board in 1944 on behalf of one of the occupiers of a ‘unit’

being run as part of the Manawatu Development Scheme was simply that as the drain was a private drain, county funds ‘could not be used for this purpose without creating a precedence [sic]’.¹⁷⁵⁷ This was despite the Registrar stating that other properties would also benefit. The Registrar also asked for suggestions as to how the problem could be alleviated but no assistance or even advice was forthcoming.

At Takapuwahia in the late 1950s the provision of services for Maori in the township was so minimal that it drew the attention of the Prime Minister. Indeed, the settlement was ‘without a proper drainage and sewerage system, a proper water-supply, and high class roads’.¹⁷⁵⁸ As with the Onepuhi Road, it was justified by the Council because of the non-payment of rates. Government officials described the situation where by Council officials were demanding rates and Maori refusing to pay unless they were provided with services, as a ‘deadlock’. The Crown, however, did not resolve the situation until it was decided that land at Takapuwahia would be taken for housing purposes and that at the same time, improvements would be made (by the government – not the Council) to the ‘Pa area’.

When the Otaki and Horowhenua County Council land were instigating the compulsory taking of Maori land in the 1960s and early 1970s, it was apparent that many of the blocks did not have adequate road access. Many of the blocks were also undeveloped and unoccupied so were not provided with water and electric power. Despite this, such sections were expected to support the payment of rates.

Several examples have been located of county councils and borough councils specifically assisting Maori. In 1893, the Whirokino Road Board agreed to a request from Sir W Buller and Mr Stuckey for rates received on the Maori owned Horowhenua block sections to be spent on providing a scheme of roads to give access to each block (though it has not been confirmed that this was completed and whether this was also in respect to Maori owned and occupied land). The Otaki Town Board also ensured that Maori (and European) homes were disinfected to try to eliminate the spread of influenza during the epidemic of 1918. Hema

¹⁷⁵⁷ Registrar, Maori Land Board to Chairman, Manawatu County Council, 5 October 1944; County Clerk, Manawatu County Council to Registrar, Maori Land Court, 11 October 1944, MDC 00024: 27: 2 Maori Affairs Manawatu County Council 1949 – 1973, Archives Central, Fielding. SW Document Bank, volume 3, p. 106.

¹⁷⁵⁸ W Nash, Prime Minister to Minister of Works, 12 June 1959, ABJZ W4644 869 Box 53 19/8/5 part 1 Miscellaneous – Land Matters – Miscellaneous – Takapuwahia Township (Porirua/Pa) Roading, Sewerage and Water Supply, 1959-1976, Archives New Zealand, Wellington. SW Document Bank, volume 7, p. 197.

Hakaraia, the Maori Otaki Borough Councillor, also assisted Maori with re-vesting applications at Otaki in order to facilitate the provision of better housing.

14.4 The impact of zoning

Town and country planning legislation impacted on the ability of Maori to partition their land into smaller areas for housing during the 1960s and 1970s. The Town and Country Planning Act 1953 required county councils to prepare district plans. Under the Maori Affairs Act 1953, the Maori Land Court had to take into account or have regard to the district plan when making partition orders but did not have to have the express permission of the county. The Maori Affairs Amendment Act 1967, however, made it compulsory for counties to approve a scheme plan before partition orders by the Maori Land Court could be confirmed. It was not until the introduction of the Town and Country Planning Act 1977, that Maori values had to be taken into account during the preparation of district plans.

District plans specified how each area within a county was zoned. The Oroua, Kairanga and Horowhenua district plans of the 1950s, 1960s and 1970s zoned much of the Maori land within their boundaries rural. Rural zones within the three counties all had restrictions on the area allowed for a subdivision. The restriction on the size of subdivisions for Oroua and Kairanga Counties was initially ten acres which increased to 50 acres in the early 1970s. While the Horowhenua County restriction was much less (five acres which was later increased to ten acres) this Council began declining subdivision applications from Maori much earlier than the other councils. Arguments for restricting the area of a subdivision in the rural zone included preventing ‘sporadic subdivision and urban development’, the containment of urban growth within existing towns and boroughs and so that land did not become fragmented into uneconomic areas unsuitable for farming.

Title research shows that the partitioning out of small areas of Reu Reu, Aorangi, Taonui Ahuaturanga, Manawatu Kukutauaki, Ngakaroro and Ohau 3 blocks (which are the main blocks examined in respect to this issue) for housing purposes largely petered out from the early to mid-1960s. This contrasted with the preceding decade where there were a significant number of partitions involving areas of less than two acres.

Each county approached applications from Maori for small subdivisions for housing differently. The Horowhenua County consented to such applications in the 1950s and early

1960s. At this time, the Council accepted arguments from applicants that subdivisions of less than five acres would assist with the provision of better houses for Maori as it meant that Maori could build on their own land as opposed to having to purchase more expensive land in a town, borough or city. It also meant Maori could build in close proximity to their marae. Two applications in 1964, however, indicate that from then on until at least the late 1970s, applications for the subdivision of areas less than five acres (later ten acres), would not be approved. The County position was that the subdivisions were ‘not in harmony with the concepts of town planning’. Previous arguments that such subdivisions encouraged better housing conditions for Maori were not, from then on, accepted. The Council was also under pressure from the Ministry of Works who promoted and enforced this policy. Although a definite date has not been confirmed as to when the policy changed, it is clear that by 1988, similar applications were again being approved. The Council explained in respect to an application in 1988 that although they had concerns that subdivisions would ‘increase the existing grouping of small lots in the vicinity [of Manawatu Kukutauaki 4D1 3C1B3]’ it was more important to consider the ‘Maori cultural aspect of the proposal’.¹⁷⁵⁹

Applications made to the Oroua County Council began to be declined several years after the Horowhenua County Council first began to decline applications. In 1967, an application in respect to Taonui Ahuaturanga 2B6 and 2B7 where an owner wished to partition out four acres from the block for a new house was declined for the simple reason that the minimum area for a subdivision (or allotment) was ten acres. This contrasted with the Kairanga County Council policy who in the same year approved a similar application in respect to Taonui Ahuaturanga 3A. That different decisions were made by different councils in respect to the same parent block was because the boundary between the Oroua and Kairanga councils (the railway line) went through the Taonui Ahuaturanga block (showing how county boundaries did not necessarily take into account Maori land blocks). It shows too how counties could interpret the legislation differently.

No partitions for new subdivisions were made by the Maori Land Court in respect to both Taonui Ahuaturanga and Reu Reu blocks after 1967 (until 1980) and the evidence suggests

¹⁷⁵⁹ Walghan Partners, Draft, 1 May 2017, volume 3, p. 273; Decision by Horowhenua County Council, 24 August 1988; County Planner, Horowhenua County Council to Messrs Foster & CO, 16 September 1988, HDC 00001 : 26 : RS 1033 Subdivision LT 67131: State Highway 1, Manakau, Maori Owners, Subdivide 2 rural Subdivision of Manawatu-Kukutauaki 41 3C1B3, Horowhenua County Council 1988 - 1989, Archives Central, Feilding. SW Document Bank, volume 9, pp. 87-88.

that it was Oroua County Council policy at this time to decline any such applications. An application in respect of the Reu Reu block made in 1980, was considered more favourably. Initially the Council Town Planner argued that the ‘prevention of sporadic subdivision and urban development’ as specified in the Town and Country Planning Act 1977 took precedence over the provision to take into account ‘the relationship of the Maori people and their culture and traditions with their ancestral land’ (from the same Act). The County Clerk, however, told him that the Council thought it ‘desirable that some consideration should be given to the requirements of the Maori people in the vicinity of the Tokorangi area’ and suggested the drafting of an ordinance to this effect which would allow for close settlement in the vicinity of the marae. The Town Planner undertook to do this. While a clear resolution to this application has not been located, it is clear that the Council had begun to consider an alternative view. There is, however, little evidence of partitioning after the 1980s which may have been because there were fewer financial opportunities to build and that Maori from this area had already moved to nearby towns and cities. Certainly, the decline in the combined population of Tokorangi and Reu Reu between 1961 and 1971 reflects this – from 183 to 81 in that ten-year period.

With respect to the Kairanga Council, in 1963 an application for partition was viewed favourably by the Maori Land Court with the Court bypassing the need for Council consent. This was because the Court considered the partition of Aorangi 1 section 4C1B ‘necessary’. The Council subsequently agreed to it on the basis that the partition was required to avoid ‘undue hardship’ though in theory the Court could have proceeded without it. In the 1970s, however, it took seven years and three sets of applications for the Council to agree to partition off an existing house because the proposed area was less than fifty acres and located on the state highway. That this was Maori land where the Aorangi Marae was situated and that the partition was for an owner who had undertaken to look after the marae was not taken into consideration by the Council or the Ministry of Works to whom the application had been referred. There was a change in the Council’s position, however, in the late 1970s. This was possibly due to the applicant’s willingness to change the access routes from the state highway to Waughs Road but could also be put down to the involvement of the Minister of Works who in 1978, advised one of the trustees of the land to consult a solicitor and take action under the Town and Country Planning Act 1977. As noted, this Act provided that consideration should be given to Maori values in the preparation of district plans.

Therefore, while the Department of Maori Affairs warned the Oroua, Kairanga and Horowhenua Counties of the potential impact on the ability of Maori to build houses on their own land in the early 1960s, the advice was ignored from the mid to the late 1960s throughout most of the 1970s. As well, the Ministry of Works policed the decisions of counties made in respect to such applications making sure that they adhered to their zoning rules within their district plans. While changes did not occur immediately following the passing of the Town and County Planning Act, 1977, there was some movement in policy with all three Councils acknowledging the need to consider Maori values. While it is difficult to categorically state that Maori no longer had difficulties with Councils in this respect, there was certainly enough change to see some applications for subdivisions less than the minimum standard specified by the county approved in the 1980s.

The need to take into account Maori values came too late for Waikanae Maori. The 20-acre Ngarara West A14B1 block had been partitioned out to protect an existing urupa (Te Karewarewa) over a series of Native Land Court hearings between 1896 and 1919. The Horowhenua County Council also designated the area a cemetery reserve and accordingly it was exempted from rates. In 1969, a decision to sell the land was made by owners representing twenty percent of the shares in the block. This was allowed under meeting of owner provisions specified in the Maori Affairs Act which also allowed the sale to proceed despite the contact details of just fifty percent of the owners (77 in total) being known. As well, many of the owners had died and their interests not succeeded to and those whose addresses were known (and correct) were given less than three weeks-notice to attend the meeting. Many of the owners living away from Waikanae (including Australia). The application by the new owner, the Waikanae Land Company, to have the cemetery designation lifted and zoned residential was heard by a committee of the Horowhenua County Council in 1970. They decided, using flawed information provided by the Maori Land Court, that the land had not been reserved for an existing cemetery but for one to be used in the future. As there was no record of recent burials, they considered if had not been used for this purpose. They also ignored the presence of two headstones and the evidence of Te Aputa Kauri who told the committee that the block had been used as a cemetery in the nineteenth century. Instead the Council committee accepted the submission of the Waikanae Land Company who said that even if the block was found to be a cemetery, that it was better to develop the land for housing than to leave it as is. As a consequence, koiwi has been uncovered since the block began to be developed in the 1970s. Further earthworks in 2000

saw more koiwi exposed. This has been devastating for tangata whenua. These earthworks resulted in an unsuccessful prosecution brought by the Historic Places Trust against companies working for the developers. It has, however, also seen the Historic Places Trust, now Heritage New Zealand, register an authority over the site which protects it from further development for as long as the authority stays on the land. The land, however, remains zoned residential. Tangata whenua would like to see further protection of the urupa put in place.¹⁷⁶⁰

Maori in Otaki in the 1960s were also at the behest of the zoning decisions of the Otaki Borough Council. One area of Maori land that was compulsorily vested in the Maori Trustee for sale was re-zoned to facilitate its sale. Conversely Maori land zoned residential but used for gardening remained zoned this way despite the Council acknowledging that if it was placed on the urban farm land list, rates on the land would be reduced by 20 percent. As the land could not be leased for more than the rates charged by the Council it was compulsorily vested in the Maori Trustee for sale.

In 1995, the Kapiti Coast District Council approved the zoning of an area of the Paraparaumu Airport (Avion Terrace) as residential with the remainder of the airport lands at this time zoned 'open space'. The re-zoning request was made by a consultant acting for 'one of the major parties [in] negotiation for the purchase of the aerodrome'. This action later facilitated the sale of an area of what had been Maori land which was compulsorily taken for the purpose of an airport between 1939 and 1954. This was because in 1995, the Crown had sold the airport lands to private interests but failed to ensure that any land surplus to the requirements of an airport was offered back to the descendants of the original owners. Ongoing zoning decisions by the Council in the 2000s have also enabled the airport owners to develop airport land for residential use and a business park which would suggest that these areas are surplus to the requirements of the airport. The Council position has been that the issue is not a Resource Management Act or zoning issue. An agreement was reached circa 2010-2012 between the owners of the airport and some of the descendants of the original owners but other descendants state that they have been left out of the settlement process¹⁷⁶¹

¹⁷⁶⁰ Kapiti Coast District Council District Plan, <http://www.kapiticoast.govt.nz/contentassets/07cbe00c20474620b310acce2a17cd66/web-zone-districtwide-and-urban-features-map-09.pdf>. Accessed 2017.

¹⁷⁶¹ Wilson Lattey, Lattey Consultants Ltd, Paraparaumu to Andrew Guerin, District Planner, Kapiti Coast District Council, Paraparaumu, 11 April 1995, Kapiti Coast District Council, Paraparaumu. SW Document Bank, volume 4.

The zoning of Maori land is also of concern for owners of Maori land at Otaki in 2017. The Pahianui B5A block has been zoned industrial for several decades by the Kapiti Coast District Council. This is despite there being no desire on the part of the owners to utilise the land for this purpose. Yet, this is what they are restricted to. The land is therefore unable to be utilised by the owners (though it is still rateable).

These examples show how zoning decisions determined by local authorities have impacted detrimentally on Maori in the inquiry district. Zoning decisions have often been made as though Maori land was the same as European land. There has been little acknowledgement that Maori were operating within a different cultural and land tenure system to Pakeha and that priorities could be different. Although the Resource Management Act 1991 provides for local authorities to take into account the principles of the Treaty of Waitangi, there are still issues with zoning of concern to Maori in the inquiry district today.

14.5 Representation today

The Local Government Act 2002 provides local authorities with ‘principles and requirements ... intended to facilitate participation by Maori in local authority decision-making processes’. Even prior to this legislation, the Kapiti Coast District Council established Te Whakaminenga o Kāpiti (in 1994). The Manawatu District Council established the Marae Consultative Standing Committee, now called Nga Manu Taiko Manawatu District Council circa 2006.¹⁷⁶²

Claimants have expressed concerns about both committees. Te Whakaminenga o Kāpiti is described by the Kapiti Coast District Council as ‘one of the longest lasting partnerships between tāngata whenua and Local Government in New Zealand’.¹⁷⁶³ Ngati Awa ki Kapiti, however, state that they have been excluded from the committee as they are not among those iwi considered to have mana whenua over the Kapiti Coast. With respect to the Nga Manu Taiko Manawatu District Council, Ngati Kauwhata state that it lacks any real power to influence Council decision-making and instead, acts as a ‘rubber-stamp’ on Council decisions. It is apparent from the minutes viewed from 2006 to 2014 that Nga Manu Taiko Manawatu

¹⁷⁶² The Horowhenua and Rangitikei District Councils have not been examined in respect to this issue.

¹⁷⁶³ <http://www.kapiticoast.govt.nz/Our-District/Tangata-Whenua/Te-Whakaminenga-o-Kapiti-Iwi-and-Council-Partnership-Committee/>

District Council receives a lot of information from the District Council on various policies of the Council and on progress with particular projects. As well, Nga Manu Taiko Manawatu District Council is asked to comment on many issues proposed by the District Council and has provided feedback and recommendations on them. The minutes suggest, however, that it is not Nga Manu Taiko Manawatu District Council itself who makes final policy decisions and that this would appear to be the role of the District Council itself.

14.6 Separate forms of Maori local self-government provided by Crown

The provision by the Crown of separate forms of Maori local self-government in the inquiry district has been discussed in respect to the period 1900 to the 1960s. The Maori Councils Act 1900 provided for the establishment of Maori councils and local komiti marae (marae committees) throughout much of New Zealand. The Act was the government's response to a Maori desire for self-government. It had a particular emphasis on social welfare with the government wanting Maori to 'work with the Native Health Officers (Dr Maui Pomare and Dr Peter Buck [Te Rangi Hiroa]) in the improvement of health and social conditions in the villages'. The intention was that the komiti marae would 'control and improve the kainga'.¹⁷⁶⁴

Two Maori Councils were established in the inquiry district: Raukawa and Kurahaupo. Their records are not comprehensive so it is difficult to effectively measure what they were able to achieve. What is clear though is that both Councils saw Maori Councils as being advantageous to Maori but were frustrated with the minimal funding the Councils received. The Kurahaupo Council had the benefit of a Maori sanitary inspector, Eruera Te Kahu (though he was not paid by central government). Mr Te Kahu advised James Carroll in 1908 that since the Councils had been established there had been much improvement in the sanitary conditions of the district. Both Kurahaupo and Raukawa Councils were represented at a meeting of all Councils in 1911 when a list of advantages to the Maori Council system was produced (and co-written by the chair of the Kurahaupo Council, Mr Marumaru). Despite this, by 1913, the government had stopped all funding of the Councils. This was also the period where records of the Raukawa Council petered out.

¹⁷⁶⁴ Raeburn Lange, *The Social Impact of Colonisation and Land Loss on the Iwi of the Rangitikei, Manawatu and Horowhenua Region, 1840-1960*, A report commissioned by the Crown Forestry Rental Trust, December 2000, Wai 2200, #A1, p. 111; Waitangi Tribunal, *The Wairarapa ki Tararua Report*, volume 1, Waitangi Tribunal Report, Legislation Direct, 2010, online version, p. 343.

Unlike the Kurahaupo Maori Council, it does not appear that the Raukawa Council was ever allocated its own sanitary inspector. The Raukawa Council also spent a significant amount of time collecting the dog tax and taking people to Court in an effort to raise funds. The Council also fined several people for having an un-licensed billiard saloon but the costs incurred in enforcing the fine were more than the fine itself. That this proved a financial strain for the Council and that they had to enlist the help of Ngata to assist with payment shows just how financially stretched the Council was. It does not appear that the Council, without funds and government support, was able to continue the work started in the first twelve years of the twentieth century. Although the Kurahaupo Council was still operating in 1919, which could be seen as testament to their desire to maintain this means of self-government, they too had no government funding which would have significantly reduced their capacity to undertake the work. More research is required as to how they operated in this environment.

Maori Councils were replaced by Health Councils in 1920. Records of the Raukawa and Kurahaupo Health Councils established in 1920 suggest that both were frustrated by government policy which hindered their ability to carry out their work. The Raukawa Health Council had no funds and the Kurahaupo Health Council had restricted authority. In 1932, the official Pakeha member told the Director General of Health that the reason for the Raukawa Councils' inactivity was that it had no source of revenue. The response was sympathy but no solution. The Kurahaupo Health Council was thwarted for most of its twenty-year life by the presence of the Ratana community within its boundaries who actively opposed the Council. Despite numerous complaints from the Kurahaupo Council about their inability to operate under the Maori Health Council regulations in an area so heavily influenced by Ratana, the Health Department, who were administering the Councils again provided sympathy but no solutions (or even the funds for the Council to travel to Wellington to discuss the matter). That Ratana formed its own Council was a sign of their authority, but for those not associated with Ratana, there was no Council available to them so that their needs could not be met by their own Council.

The Maori Social and Economic Advancement Act, 1945 provided for the establishment of tribal executives and marae or Maori committees. Executives set up under the Act, such as the Raukawa Executive were restricted to an advocacy role. The legislation did not give the Tribal Executive power to create policy and the funding to carry it out. The Raukawa Executive was, however, able to advocate which they did with particular emphasis on

providing better housing for Maori. They lobbied government to assist in the provision of houses for Maori and used their expertise and contacts to tap in to government to assist Maori. But the ongoing issue of sub-standard housing was frustrating for the Executive, as they could see a need but not necessarily any action to address that need. If there were solutions, these were slow to happen and the Council did not have the authority to make it happen. The power remained with the Department of Maori Affairs whose actions were determined by government policy.

While there was liaison between the Raukawa Executive with the Department of Maori Affairs, particularly with the Welfare Officer who often attended meetings; liaison with the Palmerston North Borough Council in relation to the building of Maori Battalion Memorial at Palmerston North and assisting at functions; and liaison through Hema Hakaraia, who was both an Executive member and an Otaki Borough Councillor, the involvement with other local authorities, in particular the county councils was minimal. No mention was made of any liaison with the Kairanga, Oroua, Manawatu and Horowhenua Councils with the Hutt County Council featuring in the minutes once. From the records examined for this report, these County Councils did not appear to enlist the assistance or seek the views of the Executive. This was despite their involvement with the rating of Maori land, the requirement that they must approve the partitioning of rural Maori land for housing purposes, and their (legislative) right to take Maori land under the Public Works Act. Indeed, while there was provision for Maori Councils or Executives, there was no legal obligation for local authorities to consult with them or adhere to their wishes on matters that were particular to Maori.

Thus, the Executive ended up as lobby group, albeit with some official recognition. This meant a limited ability to determine government policy and being restricted in what they were able to provide for Maori.

Part 2: Rating

14.7 Early rating in the inquiry district

Maori land was rated extensively from 1882 though in varying degrees. In 1910, all Maori freehold land was rated with few exceptions. The rating of Maori land in the inquiry district, began by 'notification' in the form of the publication of a gazette notice under the Crown and

Native Lands Rating Act 1882 claiming rates from owners of Maori land as recorded in the valuation rolls of that county. There is no evidence that any rates were paid by Maori as a result of the publication of the gazette notices but the road boards and councils of the inquiry district did receive, as provided for by the Act, at least £6267 from the Crown for the duration of the Act's life (until 1888). The only county who did not claim rates on Maori land was the Hutt County though the reason why has not been established. There is little indication in the records as to what the money was spent on apart from the statement made by an ex councillor that the £1500 received by the Manawatu County Council was spent on the Foxton to Sanson Tram, a service aimed towards the enhancement of European settlement, not Maori development. There is nothing to suggest the money received was spent on the provision of services for Maori but the intention of the Act was that the sum be recovered when the rated land was alienated.

The attitude of the councils and road boards in the late nineteenth century was that the provisions of the 1882 Act whereby the Crown paid rates on Maori land should continue. When these provisions were revoked in 1888 and it was clear that these payments would no longer be made, it was argued that Maori land should be rated the same as European land. Indeed, most counties worked on the assumption that Maori should pay rates on all land regardless of whether it was revenue producing or not and spent time devising ways of trying to make this happen. This did not involve properly consulting with Maori about the issue or differentiating between land that could support rates and land that could not, or identifying those where the payment of rates was not financially possible. Instead attempts were made by counties to force payment. This included the Oroua County Council trying to persuade the Maori Land Court to deduct an amount for rates from the purchase price of a Reu Reu block sold in 1914 specifically to pay survey liens. Despite Maori receiving £439.5.7 for the block in question this was not enough to cover the survey liens, let alone the rates.

14.8 Compilation of Rating Data

Councils often provided details regarding the payment of rates on Maori land using misleading statistics whereby they did not include rates paid on Maori land leased to Europeans as evidence that rates on Maori land were being paid. This of course made the proportion of rates paid on Maori land appear much less than had this been included. This also made it easier to criticise Maori for not paying and made Maori a much easier target by

using the data in this way. The data supplied to the Native Rates Committee by the County Clerk for the Horowhenua County Council reflected this attitude with it being reported to the committee that the amount of £509 had been levied on Maori land occupied by Maori and £33 paid (6.5 percent). The £509 levied on Maori land occupied by Maori, however, represented less than three percent of the total amount levied by the Council (or less than three percent of the total capital value of the County) and did not include the rates levied on Maori land occupied by Europeans (comprising seven percent of the total levied) where it was more likely that these rates were being paid. It was also not emphasised that European land made up 90 percent of the capital value of the County meaning that the balance in terms of ownership and improvements to land was firmly favoured towards Europeans.

14.9 The accuracy of the valuation rolls and Maori land title records

A significant issue that has arisen while researching this report is the inaccuracy of the valuation rolls and its impact on the ability of local authorities to levy rates correctly in respect to Maori land. Councils used the information in the valuation roll to levy rates. Title information such as partitions, the presence of urupa or marae and the names and addresses of current owners and occupiers should have been reflected in the valuation roll. Valuation rolls were not, however, maintained to ensure that they always contained accurate and up to date details. Maori Land Court title records were usually more accurate in that they reflected partitioning information but were also problematic in terms of ownership details. In the 1930s and 1940s, title information presented by the Horowhenua County Council when it was applying for charging orders did not reconcile with Maori Land Court records resulting in the charging orders not being made. Similarly, the Hutt County Council tried to apply for a charging order in respect to a land title that did not exist. In 1930, the Court, aware that the Raumatangi block was leased, adjourned a charging order application against the block so that the Council could levy the rates correctly on the lessee, Rere Nikitini, (indicating again that they had not previously done so due to the inaccuracies of their records). The rates were paid. This also happened in respect to receiverships and vesting orders. That is, when up to date details of owners were found, rates were often paid and the orders revoked. There are many instances, however, where an owner had been dead for many years but was still given as the owner in both valuation rolls and Maori land Court records. This meant that the Council was sending rates advice to deceased owners and the rates were not paid. When rates

were not paid, charging, receivership and vesting orders were made which could result in the alienation of land in the form of both leases and compulsory sale.

14.10 Magistrates' Court

One of the means by which councils sought to recover the rates that they had levied was by taking Maori to the Magistrates' Court. This means of enforcement was used throughout most of the twentieth century. It was problematic as unlike the Maori Land Court, where there was at least a check that a title actually existed or was correct, the Magistrates' Court did not have the means to check title details and were completely reliant on the valuation rolls and information accrued by the respective councils. These, as has been noted, were often unreliable.

The first record of judgements for non-payment of rates being obtained at the Magistrates' Court in the inquiry district was in respect to Otaki township land in 1915. In total 79 judgements were ordered but according to the town clerk who spoke about the judgements over ten years later, he could not, without spending hours checking at the Magistrates' Court, match those judgements against the land concerned. This too showed a system lacking in checks and balances whereby a fine could be imposed but that the local authority concerned could not even say what land it related to. He could claim, however, that £133.9.3 was owed.

Protest by Maori against the Oroua County Council levying rates against Maori land owners did not prevent the Council solicitors from collecting £136.10.11 for rates that the solicitors had sued for in 1916. Between charging orders (1927 to the 1960s) the Oroua Council also took Maori to the Magistrates' Court for non-payment of rates. As well, the Horowhenua Council concentrated in the early twentieth century on Maori such as Hira Parata who was trying to develop Ngarara A78. He was taken to Court and fined. This was later 'enforced' and he paid the Council £143.16.9. Smaller amounts of less than ten pounds were pursued in the 1920s probably reflecting the smaller holdings of the owners. The Kairanga County Council also instigated proceedings at the Magistrates' Court but not until the 1920s and it was in respect to fairly modest amounts. Further research is required as to whether the Council used the Magistrates' Court subsequent to this. There is no evidence that this Council utilised the Maori Land Court at all for charging, receivership and vesting orders so if they

did pursue rates on Maori land, civil remedies would have been the likely means by which they did so. That said, the issue of non-payment was not as significant for this Council as others. In 1927, it was reported that the amount 'lost' by the Kairanga County Council on the rating of Maori land each year was £60 (which could be viewed as fairly minimal) and in 1940-41, 81 percent of the rates levied on Maori land in Kairanga County were paid which was, in comparison to counties such as Oroua (1 percent) and Horowhenua (3 percent) at this time, very high (though these later percentages would not have included the amount of rates paid on Maori land leased to Europeans.)¹⁷⁶⁵

While the Manawatu County Council complained in the late nineteenth century and the first twenty years of the twentieth century about the lack of payment by Maori of rates, unlike other councils there is no record of Maori being taken to the Magistrates' Court for non-payment of rates until the 1930s. It is of note that the Manawatu County Council only ever applied for a small number of charging orders and did not ever apply for receivership or vesting orders preferring to continue to utilise civil remedies such as Magistrate Court judgements. No evidence has been located that the Hutt County Council took Maori to the Magistrates' Court.

14.11 Rating Liens under the Rating Amendment Act 1913

Rating liens were introduced in 1913. The liens could be registered against the land if the rates levied remained unpaid for more than nine months. The owners were prevented from leasing or selling or dealing with their land until the lien was discharged. Evidence of the use of liens in the inquiry district has only been located in respect to the Oroua Council who registered two liens in 1916 across the entire Reu Reu 1 block which comprised 2546 acres. As there was no requirement to do so under the Rating Amendment Act 1913, the Council made no attempt to determine the lands ability to support rates. It is also not known whether Maori were advised personally of the lien at the time it was made. The first lien was for £139.4.5 and the second for £79.2.7. so not insignificant amounts. It also appears that other liens were registered so that when various Reu Reu blocks were sold in 1923, seven years of rates were deducted from the purchase price before the transfer could be registered. Similarly,

¹⁷⁶⁵ Horowhenua County Council evidence to Native Land Rates Committee, 23 June 1933, ACIH 16093 MA 86 1/2 Native Land Rates Committee, Minutes of Evidence, 9 June – 29 September 1933, Archives New Zealand, Wellington. SW Document Bank, volume 1, pp. 2-22. Note that the 3% figure was based on Maori land occupied by Maori and did not include Maori land occupied by Europeans.

in 1925 when a Reu Reu block was sold, rates liens registered on the title were deducted as they also were in 1955, when Reu Reu 1 section 22 was sold, forty years after the lien was registered.

Mention is also made of the Otaki Town Board issuing notices to Maori in 1917 which stated that liens would be taken on land on which rates were owed but evidence of whether this was carried out or not has not been located.

14.12 The vesting of Otaki Maori land

The response by the Crown to the complaints of the Otaki Borough Council about the non-payment of rates by Maori in the 1920s was to vest over 200 acres within 135 sections of Maori land in the Ikaroa Maori Land Board. The land vested comprised 80 percent of the total value of Maori land in the Borough.

Otaki had become a borough in 1921 (it had previously been a town) without the support of Maori who made up twenty five percent of the population. One of the concerns was that the change to borough status would result in rates rises. Indeed, the newly formed Otaki Borough Council embarked on drainage and sewerage projects which involved the raising loans totalling £44,200. Due to bad planning, these schemes had to be ‘virtually abandoned’ in 1925. In the meantime (between 1921 and 1926) rates trebled.

The Council then blamed its financial problems on the non-payment of rates by Maori. Apirana Ngata became involved and told the Council that Maori land should be rated the same as European land only when conditions were the same. As well MP Tau Henare recognised that the Otaki Borough Council were blaming its financial troubles on Maori for non-payment of rates when in fact the Council was in debt because of questionable decisions about loans and drainage. The Council was also told by Raukawa Maori Council chair Rere Nikitini that Maori land in the borough was being rated that would never be revenue producing and asked for this land to be exempted. Mr Nikitini also referred to many Maori who could not afford the rates. The Council were also present when Mr Shepherd of the Native Department, reflecting on the marked increase in rates, said that rates on Maori lands

in Otaki were so high and the ‘potential revenue so low’ that to ‘continue to levy the present high rates upon the lands looked remarkably like confiscation in a most insidious form’.¹⁷⁶⁶

The Otaki Borough Council was not, however, prepared to compromise, not wishing to exempt any land that was not revenue producing and the Crown was not willing to force the issue. The Council instead pushed for Maori land, where there were arrears of rates, to be sold. The response from Maori was not to pay. Those who did not pay included ex Town Board and Council members as well as hapu leaders. One owner said that Tiemi Rikihana, who had been a borough councillor between 1923 and 1925, had advised them not to pay. It is possible, therefore that there was an element of protest to what was almost an across-the-board non-payment of rates by Maori in the 1928-1929 financial year (just 1.63 percent of that levied on Maori land in the Borough was paid). It is also possible, however, that it was a continuation of a pattern of non-payment due to the factors identified by Ngata such as the economic situation of the owners and inability of land to support rates. Rather than address the Borough’s poor fiscal performance and its failure to properly utilise exemption measures, the government instead vested the land in the Ikaroa Maori Land Board.

About five sections were re-vested back in the owners in the late 1920s and early 1930s. In one case the owner had to use the rental from another section she owned to cover the rates on the vested section. Another section re-vested at this time was leased by the Board and arrangements made for the rates to be deducted from the rental. At the same time, four more sections were vested in the Board – one of which was described as ‘river bed covered in gorse’. Twenty years later, it had still not been leased.

By 1956, around 62 of the 135 sections (about 46 percent) remained vested in the Maori Trustee. This was when the District Officer of the Department of Maori Affairs at Wellington, frustrated with the amount of time the Department spent administering the lands, asked the Maori Trustee for the sections to be re-vested back in the owners. The Maori Trustee described himself as a ‘poorly paid rate collector’ and admitted that ‘for the most part’ owners were not ‘gaining a great deal by his administration of the Blocks’. He noted that in the previous two years ‘distribution has been made to owners from only eight of the blocks under administration and most of these have been very small’. It was also

¹⁷⁶⁶ *Evening Post*, Volume CV, Issue 110, 11 May 1928, p. 14.

acknowledged that where land was leased the amount of annual rates was one of the main factors considered when deciding on the rental and that the main ‘burden’ of administration had been ‘ensuring that sections derive enough income each year to meet the rates’. As well, it was admitted that the Trustee had only just begun to set rentals at a market rate (as opposed to at a level where they would only cover the rates). This meant that most owners had never received any revenue from their land and that any money earned from the land in the previous 30 years had gone instead to the Otaki Borough Council. Therefore, it had taken 30 years for the Board, and later the Maori Trustee to even attempt to obtain the full rental value of the block. It was also noted in 1956, again, thirty years after the land was first vested, that the occupancy of a few of the sections remained ‘obscure’. All these factors raises questions about the effectiveness of the Ikaroa Maori Land Board, and later the Maori Trustee’s administration of Otaki vested lands.¹⁷⁶⁷

When the decision was made for the Maori Trustee to divest himself from the administration of the sections, the attitude was one of getting ‘rid’ of the work as soon as possible. Many of the District Office’s and Maori Trustee’s actions during this process, including the sale of some of the sections without reference to owners saw Maori interests set aside in favour of administrative expediency.

14.13 Exemptions

As noted above, Apirana Ngata told Otaki Borough officials in 1928, that Maori land should be rated the same as European land only when conditions were the same. He outlined the problems Maori had with multiple ownership, and the complications that ensued with the use of the valuation roll as the means for the Council to identify owners from whom to levy rates. Ngata also spoke of the difficulties Maori had in relation to the ability to pay and ability of land to support rates. He supported a system of classification of lands noting that there was much Maori land that should not be rated at all. The Native Rates Committee appointed in 1933 by the government to investigate the rating of Maori land recommended that local authorities investigate exempting non-revenue producing land from rates. The committee concluded that there were ‘considerable areas of Maori land with no rateable value’ and that

¹⁷⁶⁷ District Officer, Wellington to Maori Trustee, 17 April 1956; Maori Trustee to Town Clerk, Otaki Borough Council, 12 September 1956, ACIH 16036 MA1/411 20/1/37 part 3 Native - Otaki - Borough Council - Maori rates, 1951-1956, Archives New Zealand, Wellington. SW Document Bank, volume 7, pp. 120-121, 137.

there was provision within the 1925 Act for such land to be exempted from rates. The committee noted, however, that ‘very little appears to have been done in that direction’. Similarly, in 1937, Judges of the Native Land Court suggested amendments to Maori rating legislation which exempted more Maori land from rates. They said that under present law ‘difficulties in the collection of rates did exist, but at the same time, rates were imposed upon many areas which should in fairness be exempted from rating or at least some concessions should be made in respect of the amount of rates levied thereon’.¹⁷⁶⁸

Neither the views of Ngata, the recommendation of the Native Rates Committee or the Judges’ suggestions were taken up. Most councils in the inquiry district did not immediately (or even latterly) set about assessing land and applying for exemptions under section 104 of the Rating Act 1925 and the Crown did not act to ensure this happened. This was despite the acknowledgement by the Horowhenua Council Solicitor, Mr Park, that the Council was rating land ‘away up in the ranges in standing bush’ and ‘blocks on hill still in bush’ where no income could be derived. Mr Hudson, the Horowhenua County Clerk, responded to the suggestion made by the Native Rates Committee regarding more use being made of exemption provisions that he was wary, if such land was exempted, of giving publicity to it, believing that it would then make it more difficult to collect rates from Maori who paid. No evidence of any formal exemptions by the Horowhenua County Council have been located at this time or subsequently. Likewise, there have been no instances found where the Oroua County Council, Kairanga County Council and Makara County Council formally exempted any land from rates due to its inability to generate sufficient income.

The exceptions were the Otaki Borough Council and the Rangitikei County Council though it took the Otaki Borough Council until 1953 to exempt just two sections from rates. These sections, totalling nine acres, were described as ‘raw sand dunes with no revenue producing possibilities at all’ and ‘old river bed and worthless in value’. Exemptions made by the Rangitikei County Council were, however, more extensive but not in respect to inquiry district land. Located at the northern most point of the inquiry district, the Council exempted a large area of land from rates (almost 59,000 acres) in 1947 of which 353 acres 1 rood 20 perches was in the inquiry district. Four out of the five blocks exempted were small blocks of

¹⁷⁶⁸ Rating of Native Land, Report of Committee of Enquiry, 1933, AELP 19261 6/90 part 1 Rating of Native land, 1916-1933, Archives New Zealand, Wellington. SW Document Bank, volume 1, p. ; Under Secretary, Native Department to Native Minister, 29 June 1937, ACIH 16036 MA 1/408 20/1/14 Rates – Native Land – Miscellaneous papers, 1924-1927, Archives New Zealand, Wellington. SW Document Bank, volume 1, p.124.

less than two acres of which three were described as ‘under tribal occupation as Native Reserve’. Just one block was of a significant size – the 350-acre Rakautaua No 9 block - described at the Native Land Court as comprising ‘sand and lupin’.¹⁷⁶⁹

While there was provision from 1924 to exempt Maori land from rates due to an owner’s ‘indigent’ circumstances, evidence of Councils exempting land due to indigency under this legislation is also slim. In 1928, the Otaki Borough Council remitted rates on the grounds of indigency but only in three cases (at the same time they had asked for around 90 charging orders) Only half the rates were reduced and it also appeared to be a one-off, which for at least one of the recipients of the remission, was clearly inadequate. The Horowhenua County Council was also unsympathetic to the plight of owners of a small area of land in the 1940s who unusually appeared in Court to describe their financial difficulties. Instead of the rates being remitted a charging order was made against the land and when this was not paid, the Ikaroa Maori Land Board was appointed receiver over the block.

In the mid-1960s, the Hutt County Council produced spreadsheets of those whose rates were to be written off. The spreadsheet included both a number of owners whose rates were written off due to ‘hardship’ (3 cases in 1965 and 11 in 1966) though there is no information on the spreadsheet to indicate whether these related to owners of Maori land. In the 1966 spreadsheet (but not in 1965) there were six instances of rates on Maori land being written off. The names of the blocks were not given but they were in the Makara riding which made it less likely to be in the inquiry district. In the column for owner’s names it was simply recorded as ‘Maoris’ and the reason for the rates being written off was given as ‘multiple ownership’. Similar documents have not been located in respect to the other local authorities in the inquiry district suggesting that it was only the Hutt County Council who considered exemptions in respect to multiply owned land and where owners were not in a position to pay. Certainly, in the 1960s, the Horowhenua County, the Otaki Borough and the Porirua

¹⁷⁶⁹ *New Zealand Gazette* No 43, 7 August 1947, p 961; Tokaanu Maori Land Court Minute Book 28, 12 March 1946, pp. 156-158; Maori Land Online: <http://www.maorilandonline.govt.nz/>. See also Suzanne Woodley Taihape Rangitikei ki Rangipo Inquiry: Maori Land Rating and Landlocked Blocks Report, 1870-2015, 2015, pp. 147-154.

City Council did not ever take such factors into consideration. They instead saw these factors as reasons for such land to be compulsorily sold.¹⁷⁷⁰

It is difficult to know whether the Hutt County Council continued in this vein but their attitude to a sale they initiated in the 1970s indicates that this Council did not always take into consideration the difficulties associated with paying rates on undeveloped multiply owned Maori land. The Council bought the Maori owned Ngarara West B1 No 3B4 block (almost 8 acres) at Paraparaumu in 1974. When this undeveloped land that had only just been given road access was sold to the Council, the Hutt County Council ensured that it secured six years of rates prior to the purchase being finalised thereby securing for itself a reduced purchase price. Four percent of the purchase price was deducted for rates and a further five percent paid to the Maori Trustee for organising the sale. This nine percent deduction was all enabled by the legislation.

The contents of a letter sent in 1983 from the Borough Treasurer of the Kapiti Borough Council to the Hamilton City Council about the remission and postponement of rates reveals something about the Kapiti Borough Council's attitude to exemptions. The Borough Treasurer said that in the previous nine years, no rates had been remitted on the grounds of hardship. He said that applications for postponement were dealt with by the Borough Treasurer and a councillor and the granting of any application involved 'fairly extensive research' and usually included consultation with the Social Welfare Department. He also noted that he carried out a similar exercise that the Hamilton County Council was carrying out (seeking the views and policies of other councils on the remission of rates) and found that 'none of the Local Authorities in the lower half of the North Island had a clearly defined set of guidelines with which could be used in these circumstances'. He said that he had come to the conclusion that 'each individual application must be considered and treated on its merits'.¹⁷⁷¹ This suggests therefore that the bulk of the local authorities in the inquiry district at this time were still not considering the possibility that some Maori and Maori land could not support the payment of rates.

¹⁷⁷⁰ Hutt County Council, Rates to be written off 31 March 1965 & 31 March 1966, 84-223-037/Pt4 Hutt County Council: Records, Rates – General, 1964-1967, Alexander Turnbull Library, Wellington. SW Document Bank, volume 4, pp. 123-127.

¹⁷⁷¹ Borough Treasurer, Kapiti Borough Council to Hamilton City Council, 25 October 1983, Kapiti Borough Council, Series 6A Box 1-1771 6A/48 F170 Rates – policy & general, 1977-1989, parts 1-7, Kapiti Coast District Council, Paraparaumu. SW Document Bank, volume 4, p. 130.

Even where the legislation explicitly exempted urupa and marae from rates, there were difficulties. In the 1930s, Taite Te Tomo was at odds with the Council about the rating of the Te Whakawehe Reserve which contained urupa and a marae. That five acres containing the urupa was exempted from the payment of rates was testament to the perseverance of Mr Te Tomo with the evidence suggesting that the County Clerk was very reluctant to engage on the matter. Also in 1930, Rere Nikitini attempted to exempt three acres of the Raumatangi block from rates as it comprised a cemetery. Mr Nikitini was told that the cost of the survey would not make it worthwhile as the land was not valued high enough to make a saving. The entry on the valuation roll of 1937 indicates that this was when the block was partitioned out and this was also when the three acres was recorded as 'exempt' in the valuation roll (which was seven years since the matter was discussed with the Native Minister).

14.14 Charging orders

Unlike exemptions, rates charging orders were ordered in large volumes in the inquiry district. Charging orders were introduced under the Native Land Rating Act 1924 (later the Rating Act 1925) and were issued by the Native Land Court on the application of a local authority who claimed that rates on a particular block of Maori land had not been paid. Charging orders were often made by the Court in the inquiry district when owners were not in attendance, up to date details of owners were not known and when the presence of urupa or marae had not been considered. Charging orders were also made in respect to land titles that did not exist. Some Councils like Horowhenua and Hutt applied for large amounts of charging orders and some, like Oroua, applied for them once in 1927 (in respect to 55 blocks comprising 1487 acres) and not again until the 1960s and in the interim, took owners to the Magistrates' Court. When an examination is made of these orders, it is clear that again, the blanket rating policy prevailed and that charging orders were made regardless of whether the land was not revenue producing, unoccupied, undeveloped or the owners were not in a position to pay.

Like liens, charging orders made against Maori land remained on the title until paid. There are examples of charging orders being discharged thirty years after they were ordered. This was regardless of whether the land had been revenue producing or the owner in a position to pay at the time the charging order was made. If a lease or sale or any other title change was instigated, payment of the charging order, along with the Maori Trustee's fees if he was

involved, was prioritised and deductions made on any revenue raised from the land. The last charging order application located was from the Horowhenua Council in 1976 with respect to land that was undeveloped and marginal for forestry and farming. Even though the Court was unable to make the order (the legislation by this time precluded charging orders of less than \$6) the fact that the Council applied for the charging order on such land indicates that the Council was still at this time intent on pursuing rates on land that was never going to produce enough revenue to cover the rates.

Like most local authorities in the inquiry district, the Makara County Council had an expectation that rates should be paid on all Maori land. In the 1950s, the minimal provision of services in the Takapuwahia township was justified by the Council because of the non-payment of rates. As a consequence, it was decided that land at Takapuwahia would be taken for housing purposes and that at the same time, improvements would be made (by the government – not the Council) to the ‘Pa area’. Not content with this, and having provided few services to the area, the Council applied for charging orders over Takapuwahia Maori lands that had already been taken under the Public Works Act for housing purposes so that the rates could be deducted from the compensation money. The Council made no pretence about their motives. The Council deemed itself entitled to the compensation money thereby reducing the amount paid to the Maori owners so that it could receive the rates it had levied. Again, the legislation enabled this with the Court making the charging orders and ruling that the amount owed would be deducted from compensation money awarded to the Maori owners.

14.15 Receivership orders

Initially receivership orders were made against a block if charging orders remained unpaid regardless of whether or not the block was capable of being leased. This meant that the Ikaroa Maori Land Board (later the Maori Trustee) or from the mid-1950s the local authority, was appointed receiver so that they could organise a lease to enable rates to be paid. The Council who utilised receivership provisions the most was the Horowhenua County Council (from 1941) though the Otaki Borough Council, Oroua and Hutt County Councils also did to a lesser extent.

The Horowhenua Council applied for receivership orders on the advice of their solicitors who claimed in 1941 that the Court had previously been reluctant to pursue receivership orders but the position had changed. The solicitors also told the Council that receiverships would make a great impression on Maori ‘when they learn that valuable lands will be taken away from them for non- payment of rates’. The solicitors made no mention of exemption provisions.¹⁷⁷²

The Horowhenua Council pursued receivership orders in the same manner as it did charging orders – in bulk with no obvious examination of the land and in the absence of owners. In the 1950s, after 54 receivership orders were made at one hearing, Mr Flowers, who was then working at the Department of Maori Affairs, complained that if any reasonable enquiry had been made by the Council, it would have found those who occupied the lands and collected the rates from them. This, he said, would have saved the time of the Court and officers of the department. He had also found that many of the occupiers had not received their rates demands which again suggests that title information was inadequate and puts into question the way that rates were levied. Maori Affairs officials also thought that receiverships were being sought for ‘comparatively trivial amounts’. Indeed, in many instances the amount owed was less than £5. In addition, officials said that after initial enquiries had been made it was found that ‘no income could be obtained from the land involved so that ... [no one] obtained any benefit from the order’. Consequently, it was suggested to the Court that it should curtail the number ordered but this was not done. The officials did not, however, suggest that the land be exempted. Thus, receiverships were ordered when rates were not paid even in respect to land where rental monies from a lease would not cover the rates or where the land just simply could not be leased.¹⁷⁷³

Long term leases to a Pakeha farmer followed the receiverships made on the application of the Horowhenua County Council of larger blocks such as Aratangata 2A1 and 2A2. In the case of Aratangata 2A2, one acre of the forty-acre block was reserved for the house of one of the owners. Both blocks were leased to the same person who then went on to purchase the neighbouring Aratangata 2A3 and 2A4.

¹⁷⁷² Park & Bertram, Barristers & Solicitors to County Clerk, Horowhenua County Council, 7 April 1941, HDC 00098 1 2 Maori Land, Rate Charging Orders, 1932-1953, Archives Central Feilding. SW Document Bank, volume 9, pp. 12-17.

¹⁷⁷³ Unnamed Head Office official to Mr Blane, Head Office, ACIH 16036 MA1/764 54/21 Maori Trustee - Receivership rate charging orders, 1952-1959, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, p. 100.

The use of receivership orders by the Oroua Council in the early 1960s came about as the solicitors for the Council said that they had exhausted the civil remedies available to them. As well, the Court told the Council solicitor that the Court's preference was for the appointment of receivers when a charging order was not paid. Indeed, seven receiverships were ordered in 1963 whereby the County Clerk, Mr Clark, was appointed receiver to enforce rate charging orders and/or to arrange leases for a period of not more than ten years to satisfy the rates charges in six instances and in one instance for 21 years. Of the seven receiverships, a lease had already been arranged over one of the largest blocks (Reu Reu 1 section 32B2 comprising almost 55 acres) so the receivership was discharged in 1964. Two other receivership orders were discharged in 1964 both of which were in respect to blocks which were over 50 acres in size as the rates had already been paid. Both blocks were already leased. The remaining four blocks ranged from between two roods and ten acres and it would appear that either rates were paid or the receivership not pursued further as there is no reference to any leases over these blocks. Therefore, it is doubtful that these receiverships were even necessary.

The Hutt County Council also applied for a number of receiverships particularly in respect to land that it acknowledged could not ever be revenue producing such as Hongoeka blocks. Unlike the Horowhenua County Council, however, it did not continue to prosecute receivership orders on non-revenue producing Maori land after receivership orders had not resulted in a lease. This appears to have been because much of the land was already occupied by Maori. Also in contrast to other Councils (Horowhenua, Porirua and Otaki), the Hutt County Council did not apply for compulsory vesting orders when the land could not be leased.

14.16 Vesting Orders under section 109 and section 438

As noted above, up until the early 1960s receivership orders were made on the application of many of the local authorities in the inquiry district when charging orders remained unpaid regardless of whether the land could be leased or not. In the early 1960s, if a block, in the opinion of the Court and three of the local authorities in the inquiry district, was unable to be leased, an application was made by the local authority to have the land compulsorily sold. Section 109 of the Rating Act 1925 allowed for land to be vested in the Maori Trustee to be

sold due to non-payment of rates on the application of the local authority. Section 438 of the Maori Affairs Act 1953 (from 1968 this was substituted by section 142 of the Maori Affairs Amendment Act 1967) was utilised in the same way although the County Clerk, rates collector or a solicitor could also be appointed by the Court who could then sell the land. As well, section 438 could be used by a local authority to have Maori land vested for sale when there was no apparent rating issue. Section 109 orders and section 438 orders up until 1967 were made by the Court and approved by the Minister of Maori Affairs. From 1968, such orders no longer required the consent of the Minister of Maori Affairs and only required an order of the Court and the agreement of whom ever the land was being vested in. The three local authorities in the inquiry district who utilised this legislation were the Otaki Borough Council, Horowhenua County Council and Porirua City Council. In total, 89 such vesting orders were made in the inquiry district.

The first section 109 applications made in the inquiry district in the 1960s were by the Otaki Borough Council and the first to be applied for by this Council since 1929. This was because the Minister of Maori Affairs, whose permission was required to make the order, had previously been reluctant to use this provision. Indeed, earlier Ministers such as Coates had described it as ‘not in the interest of the Maori people’ and government officials had compared the provision with confiscation. In the 1980s the Crown acknowledged that it was contrary to the Treaty of Waitangi. In the 1960s, however, the Chief Judge of the Maori Land Court, Judge Prichard, promoted section 109 applications as a solution for unoccupied land that could not be leased and where rates had not been paid. Judge Jeune who also heard these first applications was also a supporter of this stance advising the Otaki Borough Council that if sections could not be leased it was ‘not expedient’ to appoint a receiver and ‘proper’ for a section 109 order to be made. The orders were then sent to the Minister of Maori Affairs for his consent accompanied by a recommendation from officers of the Department of Maori Affairs. In all the section 109 applications and pre-1968 section 438 applications viewed for this report, the Minister simply agreed with the recommendations made by Maori Affairs Department officials which in the majority of instances were to sign the vesting order so that the land could be sold.¹⁷⁷⁴

¹⁷⁷⁴ Minutes entitled ‘Non payment of Native Rates: Deputation to the Prime Minister (Rt. Hon JG Coates) at Wellington’, 6 October 1927 ACIH 16036 MA 1/408 20/1/14 Rates – Native Land – Miscellaneous papers, 1924-1927, Archives New Zealand, Wellington. SW Document Bank, volume 1, pp. 109-123.

In 1962, charging orders were issued over eleven blocks in the Otaki Borough of which ten had been previously vested in the Ikaroa Maori Land Board (later Maori Trustee) in 1929. One year later, applications under section 109 of the Rating Act 1925 were made in respect to six blocks to have the land vested in the Maori Trustee for sale due to non-payment of rates. A total of ten such orders were made on the application of the Otaki Borough Council, and in all cases once the order was signed, the land was sold. The area of land affected totalled 7 acres 7.62 perches.

It is of note that Maori Affairs officials at Head Office did not deem the first applications to have sufficient information asking the District Officer for details of who was occupying the land, where they were living and if they knew of the application. It is also of note that it was the Otaki Borough Council rather than the officials responsible, who provided the response. Therefore, information received from the Council, the body asking for the land to be sold, was relied on and deemed adequate for the order to be submitted to the Minister with the recommendation that it should be approved. The Town Clerk told the Department that owners had been constantly written to though he also admitted that he did not know the addresses of most of the owners who could therefore not be advised. In another case, an owner whose land was vested had died and successors not appointed. One of the questions that remains unanswered from the Maori Affairs and Maori Trustee files is just who the Maori Trustee distributed the purchase money to given that so many of the owner's addresses were said to be unknown and that the interests of many of the owners had not been succeeded to. There was no respite, however, for owners such as those of Makuratawhiti 1H who when they found out about the vesting registered a caveat on the title in an attempt to stop the sale. The section 109 order took precedence, was registered on the title and the land sold.

Rates on unoccupied and undeveloped sections were also pursued by the Porirua City Council in the 1960s. The Council made seven applications under section 109 of the Rating Act 1925. The sections affected ranged from between a quarter of an acre to half an acre in size. Some of the owners were unknown with successors not appointed, some of the sections had no access (and no ability to support sewerage facilities meaning that housing was not an option), and one of the sections was sold directly to the Council. Where owners were known, they attempted to change the Council's stance and reverse the vesting order but because they were unable to pay the rates owing, the orders stood and the land was sold.

The City Council's attitude was reflected in its refusal to pay the special government valuation when it was purchasing one of the sections. The Council was asked by the District Officer to consider not only the owner's circumstances but the fact that the land had never been utilised and the owners had received nothing in return for the rates. It was also pointed out that the lands were 'hereditary ... inherited by people who ... [were] in the lower income brackets ... [who], unless they can make the land income producing, would find it extremely difficult to pay rates in spite of the fact that they own the land'. These arguments were not considered sufficient for the Porirua Borough Council to reconsider paying below the government valuation. In addition, outstanding rates had to be deducted from the purchase price which represented at least 20 percent of the total.

These orders were pursued in bulk by the Horowhenua County Council between 1963 and 1975. Seventy-two known orders of this nature were instigated by the rates collector for the Horowhenua County Council, JH Flowers. The orders vested the land in either the Maori Trustee or Mr Flowers for the purpose of sale. Of the 72 blocks affected, 59 blocks were sold and 13 re-vested back in the owners. Of the 59 sold, just three are known to have been sold to Maori. The 59 blocks comprised 217 acres 1 rood 27.48 perches.

The Horowhenua County Council began their compulsory sale policy with seven section 438 applications where two of the blocks were customary land (which were automatically exempted from rates) and the other five where successors had not been appointed since the 1890s or the owners simply not known to the Council. No attempt was made to have successors appointed. The Council also pursued one of the vestings of customary land despite Maori from nearby marae not wanting it to. Mr Flowers, however, thought that 'something should be done to get ownership' and the land 'somehow be brought into use'. The Court agreed and the land (Paremata 15A9) was sold to the European occupier, a Horowhenua county councillor who 'mistakenly' thought the land was his. Whether or not this was a conflict of interest was not discussed in the records viewed. The vesting orders for adjacent blocks (Paremata 15A1, 2 and 3) where minimal amounts of rates were owed were changed from leases to sales so that they too could be sold to the same European farmer who had been occupying the land 'informally'. Of note was the statement of Mr Flowers that the Council was 'not concerned with the rates so much as having the land used'. This did not stop the Council from ensuring that it had received from the purchase money rates it had levied on Paremata 15A1, 2 and 3 since 1956 and rates it had levied on the previously exempted

customary land (Paremata 15A9) from 1963 (when the Council's vesting application was heard by the Maori Land Court). This could be viewed as opportunistic particularly as in theory, the occupier of the land should have been liable.

Applications under section 109 had no protective measures for the owners. There was no requirement to let all or any of the current owners know of the vestings or to even ensure that rates had been correctly levied on the current owner at the correct address and that the owners received a fair price for their land at the current valuation. There was also no provision once the vesting order was made for sales to be halted if owners were located and had undertaken to pay the rates arrears. It was acknowledged by the Department of Maori Affairs that the whole object of the exercise was:

... in law, to get the rates paid without any concern for the welfare, wishes or interests of the former proprietors of these lands.¹⁷⁷⁵

The aim instead was to recoup the rates for the local authority.

Much of the land affected was small, undeveloped sections with multiple owners. As already noted, in many cases the Council did not have up to date owner and occupier information. Some owners who were located did not have the means to pay the rates or develop the land. Very few of the sections had a dwelling or any sort of building on the land. Many had limited access or were landlocked such as several blocks at Hokio Beach with no access to a legal formed road. As well, the County would not issue building permits for these blocks. The provision of services by the Council would therefore have been limited. Because the rating policy of the Horowhenua County Council was a blanket rating policy (which was allowed under the legislation) these factors or circumstances did not exclude such land from being rated and compulsorily sold.

As with the early section 438 vestings, a number of the subsequent section 109 vestings were in respect to land where succession orders had not been made since the 1890s and early 1900s. Again, no attempt was made to appoint successors and correctly identify current

¹⁷⁷⁵ DM Forsell, Office Solicitor, February 1967 to BE Soutar, Deputy Secretary, Department of Maori Affairs, ACIH 16036 MA1/765 54/22/5 Maori Trustee – Ngarara West A3C Subdivisions and other blocks – vested under section 109, 1964-1970, Te Tumu Paeroa, Wellington. SW Document Bank, volume 8, pp. 61-62.

owners prior to the land being vested for compulsory sale. In respect to Horowhenua 3E1 sub 4B, Mr Flowers said that he had never heard of Kerei Te Panau who he described as the 'main owner'. Kerei Te Panau, however, had died in 1908 and was a well-known rangatira. That he was still on the roll demonstrates just how out of date many of the ownership records were which were used to levy the rates and vest the land for sale. In the case of Hokio Maori Township lot 9 it was simply stated that the owner had died. The rates owing were minimal but the land was still vested and sold to adjoining farmers who were already occupying the land.

Other vestings were made in respect to land where succession orders were more recent but Mr Flowers claimed he could not locate the owners. In the late 1960s, the Maori Trustee admitted that there had been three instances where the owners had only found out about the vestings when the sales were almost completed. As a result, he said, the policy of the District Office was to 'try to keep the owners informed'. This policy was too late for Te Raumoa Baker whose land was vested to be compulsorily sold in August 1964 and whose address, Mr Flowers said at the vesting hearing, could not be located only to be found just as a sale between the Maori Trustee and the Horowhenua County Council was being negotiated. The Council, who wanted the land for the commercial area of Waikanae, did everything it could to ensure that the purchase went through ignoring the owner's promise of payment and request to halt the sale. It was also too late for the owners of Horowhenua A5E who thought that arrangements had been made with their lawyer to pay the rates. It had also transpired that the purchaser of the land was a subsidiary company of the estate agent selling the land (Rod Weir & Co) who then on-sold the land for twice as much as the Maori Trustee had been paid. The Maori Trustee undertook an inquiry but ultimately did nothing to rectify this and the owners were left without their land and half of what they should have received. This also did not stop the Maori Trustee from using Rod Weir & Co for subsequent sales.

The District Officer of the Department of Maori Affairs became alarmed at the number of section 109 applications in April 1968. Concerns were expressed that while legally the Trustee was able to sell the land when vested, 'morally' his actions were problematic. He pointed out that to many people, the sales appeared to be 'something very like confiscation'. The District Officer was also concerned that the Council had not taken 'all reasonable steps' to recover the rates and then had 'mis-represented the sale potential of the land'. Head Office officials were, however unsympathetic, accusing the District Officer of being 'over

scrupulous' with the local authority having the right to ask for orders which, if the Court granted them, had to proceed with a sale. That section 109 offered no protection to the owners was indeed a correct reading of the legislation.

At least 17 of the 72 applications made by the Horowhenua County Council rates collector (Mr Flowers) under section 438 (as substituted by section 142 of the Maori Affairs Amendment Act 1967) had no or tenuous connections to the payment of rates. Fourteen of the blocks had no rates arrears and three had rates arrears of between \$1.29 and \$3.87. As well, several of the blocks were in the Otaki Borough and not the Horowhenua County though this was not acknowledged at the hearing. Orders were made by the Court for all 17. Two of the blocks were customary land and according to the Council, owners were not known or successors not appointed for the other blocks. There was no attempt for ownership to be determined in respect to the customary land, for the appointment of successors prior to the sale or for there to be any other investigation into ownership other than what Mr Flowers had undertaken. According to the District Officer, the applications were made to 'tidy up the title and covered land that previously had no proper title or was Maori customary land'. The District Officer further justified the orders explaining that they 'were not necessarily made because of outstanding rates, but they enabled the local body to levy rates in the future'. This statement assumed therefore that it was perfectly legitimate for a local authority to instigate the sale of Maori customary land, or to sell Maori freehold land where the local authority claimed the owners were unknown, so they could levy rates. Certainly, the legislation did not appear to preclude this from happening. Another aspect to most of these applications was that they assisted the European owners of the surrounding or adjoining land to consolidate their holdings with most of the land sold to them. The neighbouring farmers were also often able to obtain the land for less than the capital value. Therefore, it was they who received the benefit of the Councils' title 'improvements'.¹⁷⁷⁶

Other blocks were vested in Mr Flowers who after he had sold them, claimed some of the purchase money for expenses. The rates notice of one such block, Horowhenua X1B42A6C, was attached to the land by Mr Flowers (or as he described it 'served by affixing to land')

¹⁷⁷⁶ Acting District Officer, Palmerston North to Head Office, Maori and Island Affairs, 26 February 1974 with schedule; Secretary for Maori Affairs to Minister of Tourism, circa March 1974 with schedule, AAVN 869 W3599/106 20/1/1 part 10 Rating of Maori land – General Correspondence 1972-1980, Archives New Zealand, Wellington. SW Document Bank, volume 1, pp. 46-52.

because he could not locate the owners. This was not atypical and at the very least, challenges the concept of adequate notification.¹⁷⁷⁷

Horowhenua 3D6 and 4B were vested in the Maori Trustee in 1973. These were both larger blocks than had usually been targeted (417 and 471 acres respectively) and were located in the Tararua Ranges. Both blocks had very limited (if any) development potential apart from a small proportion that could perhaps be afforested. The actions of the Horowhenua County Council in pursuing rates on land such as Horowhenua 3D6 and 4B that had such limited revenue producing potential is further confirmation of the blanket rating policy under which the Horowhenua County Council operated at this time. Exemption of these blocks from rates under other provisions of the Act was not ever considered. There was also no consideration that Maori may wish to conserve the land as is, without having to make it revenue producing. The emphasis on locating potential purchasers also suggests that the Council considered it preferable for such land not be in the ownership of many Maori but in the hands of the Crown or the adjoining Pakeha owner. The owners, however, once aware of the vestings (they were not at the hearing) were able to arrange for the payment of rates and the vesting order was cancelled.

By 1976, the policy of vesting Maori land in the Maori Trustee or local authority on the application of the Horowhenua County Council for compulsory sale appeared to come to an end. There is also no further evidence of any other counties pursuing this policy. The 12-year policy had seen at least 89 blocks affected by the three councils involved of which 77 had been sold without the permission of the owners. The distress caused by these compulsory sales is still felt by whanau of the owners from whom the land was taken, today.

14.17 District Council Rates Policy

The Manawatu, Horowhenua and Kapiti Coast District Councils all have policies relating to the remission of rates on Maori freehold land. The policies of the Horowhenua and Kapiti Coast acknowledges and supports the ‘relationship of Maori and their culture and traditions with their ancestral lands’ and aims to avoid the alienation of any further Maori land. They also specify that rates can be remitted where there is no occupier or person gaining an

¹⁷⁷⁷ Otaki Minute Book 75, 22 April 1970, p. 97.

economic or financial benefit from the land. The policy of the Manawatu District Council, however, is not to provide for remissions or postponements in relation to Maori freehold land. While it has not been possible to investigate fully the effectiveness of the policies and whether they have impacted positively or otherwise on Maori land in the inquiry district, there have been issues raised by claimants concerning the rating of Maori land by all these Councils. For instance, the Manawatu District Council has sent rates demands to the wrong owners which has caused the recipients concern and has been time consuming to rectify. The Horowhenua District Council continues to levy rates on Maori land that has been exempted from rates since 1999. The land is subject to a covenant between the trustees of the block and the Minister of Conservation. This was so that the land could be retired and the wetlands restored. There is also Maori land within the jurisdiction of the Kapiti Coast District Council which is non-revenue producing yet still levied rates. Pahianui B5A (comprising 1.5 ha with six owners) is zoned industrial and therefore owners are restricted to this use and cannot build homes. The land is also very stony which means it cannot be used for grazing. Owners do not have the means or desire to build for industrial purposes. The land, therefore remains unoccupied and non-revenue producing. It has also remained rateable.

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ADBZ 16163 H1/1360 36 13303 Sanitation of Maori Settlements – General, 1919-1930
ADBZ 16163 H1/1938 121/22 part 2, Maori Health Councils – Kurahaupo, 1926-1935
ADBZ 16163 H1/1997 121/22 part 3, Maori Health Councils – Kurahaupo, 1935-1941
ADBZ 16163 H1/1997 121/22 part 4, Maori Health Councils – Kurahaupo, 1941-1942
ADBZ 16163 H1/1939 121/25 Maori Health Councils – Raukawa, 1920-1935
ADBZ 16163 H1/1939 121/25 Maori Health Councils – Raukawa, 1935-1941

ADSQ: New Zealand Forest Service

ADSQ 17639 F1/8 9/3/6 Section 18 Ngarara West C, Waikanae, 1920-1950

ADXS: Department of Lands and Survey, Wellington District Office

ADXS 19483 LS-W1 133 5412 Tokorangi Number 1 and 2, 1891
ADXS 19483 LS-W1/173 8125 Te Reu Reu Block, 1892-1893
ADXS 19483 LS-W1 42 1829 part 1 Reu Reu Block, 1884-1896
ADXS 19483 LS-W1 42 1829, part 2, Reu Reu Block, 1882-1901
ADXS 19483 LS-W1 43 1829, part 3, Reu Reu Block, 1901-1909
ADXS 19483 LS-W1 43 1829, part 4, Reu Reu Block, 1909-1912
ADXS 19483 LS-W1 43 1829, part 5, Reu Reu Block, 1912-1917
ADXS 19483 LS-W1 43 1829, part 6, Reu Reu Block, 1917-1919
ADXS 19483 LS-W1/353 17326 Beach road, Foxton 1898-1902

ADYY: Maori Councils Department, Head Office

ADYY 18209 MA-MC3/3 Volume of miscellaneous papers relating to the constitution, elections, etc. of Maori Councils, 1901-1909

AECZ: Maori Land Purchase Department

AECZ 18714 MA-MLP1/10/ai 1882/30 From: James Booth, Wanganui Date: 2 February 1882 Subject: Forwards letter from Natives declining to sell the land required for site for Ferryman's residence at Waikanae, 1882
AECZ 18714 MA-MLP1/103/v 1911/133 Horowhenua 11B Section 2L2, 2K and 3G1. Horowhenua 11B 42. Re Purchase by Crown, 1911-1912

AECW: Maori Trust Office

AECW 18683 MA-MT1/13 1890/340 Native Reserves From: Judge Ward, Marton Date: 9 July 1890 Subject: Tokorangi Reserve. Has Public Trust Crown Grant hereof, 1890
AECW 18683 MA-MT1/35 1917/176 Native Reserves – Palmerston North Subdivision, 1913-1917

AECW W5653 5114 Box 147 5/84/5 part 4 Town & Country Planning – Subdivision to Maori Land Court Only. Subdivisions and Particulars. Major District, 1980-1981

AEDK: Maori Affairs, District Office, Whanganui

AEDK 18747 MA-WANGW2140/21 Wh. 352 Tokorangi - 31 January 1881 to 23 April 1954, 1991-1954

AEDK 18740 MA-WANG 7/5/10 Minutes of the Kurahaupo District Maori Council, 27 February 1906 – 27 January 1917

AEFZ: Sir Walter Nash, correspondence

AEFZ 22618 W5727/202 224/0664-0674 Correspondence: to and from Mr Elkington - Takapuwahia Pah, 1955

AELP: Valuation Department

AELP 19261 6/90 part 1 Rating of Native land, 1916-1933

AEWC: New Zealand Transport Agency, Whanganui Office

AEWC 5114 W5653/145 5/84/3/9 Town & Country Planning - Palmerston North District - Oroua County, 1979-1986
5/84/3/25

AEWC 5114 W5653 180 54/16/9/54 Highways - Major District - Limited Access Roads - No 9 District - State Highway 54, 1968-1986

AFIE: Department of Conservation, Whanganui Conservancy Office

AFIE 619/149 20/231 part 1 Sections 382 & 383 - Town of Carnavon (Koputara Trustees), 1982-1984

AFIE 619/149 20/231 part 1 Sections 382 & 383 - Town of Carnavon (Koputara Trustees), 1984-1985

AFHQ: Valuation Department

AFHQ 19340 V-WRolls 151 3/17/ part 1 Valuation rolls Wellington – Manawatu County – Awahou Riding – Roll numbers 1-499, 1939

AFHQ 19340 V-WRolls 151 3/17/ part 1 Valuation rolls Wellington – Manawatu County – Awahou Riding – Roll numbers 1-499, 1939-1952

AFHQ 19340 V-WROLLS/177 3/26 part 2 Valuation rolls Wellington - Horowhenua County - Te Horo Riding - Roll numbers 651-1236, 1951-1954

AFHQ 19340 V-WRolls 166 3/24 part 2 Valuation rolls Wellington – Horowhenua County – Wirokino Riding – Roll numbers 799-1424, 1930-1939

AFHQ 19340 V-WROLLS 178 3/27 Valuation rolls Wellington – Islands of Kapiti, Mana and Somes – Roll numbers 1-42, 1898-1951

AFHQ 19340 V-WROLLS 178 3/27 Valuation rolls Wellington – Islands of Kapiti, Mana and Somes – Roll numbers 25-42, 1898-1951

Maori Land Court Minute Books

Otaki Minute Books
Wellington Minute Books
Whanganui Minute Books
Hawkes Bay Maori Appellate Court Minute Book 8
South Island Minute Book 26

Maori Land Court, Whanganui,

Porirua ki Manawatu Inquiry District Research Assistance Projects: Whanganui Maori Land Court Records (Block Order Files): Document Bank Project. Commissioned by Crown Forestry Rental Trust and prepared by Walghan partners (on CD)

Ngarara West A Block order file, 3/38 Aotea Maori Land Court, Whanganui
Ngarara West A14B1 Alienation file, 3/10112, Aotea Maori Land Court, Whanganui

Te Tumu Paeroa, Wellington: Maori Trustee files

AAMK 869 W3074/1195/b 54/18 Maori Trustee - Land vested in Maori Trustee under Section 438/1953 – Policy, 1963-1977
ACIH 16036 MA1/754 54/18/2 Hokio Block 1 Section 2 - Vested in Maori Trustee under Section 438/53, 1959-1969
ACIH 16036 MA1/756 54/18/26 Maori Trustee - Horowhenua 11B36 No.5 - Vesting under Section 438/53, 1963 [A & P summary]
AAMK 869 W3074/1197/k 54/18/46 Maori Trustee - Paremata 15A1, 15A2 and 15A3 - Vested under Section 438/1953, 1963-1966
AAMK 869 W3074/1197/l 54/18/47 Maori Trustee - Paremata 15A9 - Vested under Section 438/1953, 1963-1965
AAMK 869 W3074/1197/q 54/18/52 Maori Trustee - Horowhenua X1B36 - 2L 1B1 - Vested under Section 438, 1963-1964
ABOG 869 W5004/50 54/19/72 Maori Trustee - Compensation for Land taken For Public Works - Hokio A Block (Child Welfare Institution at Hokio Beach), 1969-1987
ABOG 869 W5004/50 54/21 Maori Trustee - Appointment of Maori Trustee as Receiver - Rate Charging Orders, 1959-1982
ACIH 16036 MA1/764 54/22 Maori Trustee - Vesting under Rating Act, 1925 Section 109 – General, 1966
ACIH 16036 MA1/765 54/22/2 Maori Trustee - Pt. Hanganohaiho 1E Makuratawhiti Subdivisions - Town of Otaki Subdivisions etc. - Vested in Maori Trustee (see 109 Rating Act) Sale, 1963-1965
ACIH 16036 MA1/765 54/22/4 Maori Trustee - Hokio Maori Township, Lot 9. D.P. 1314 Block 2 - Vested under Section 109, 1966
ACIH 16036 MA1/765 54/22/5 Maori Trustee - Ngarara West A3C Subdivisions and other blocks - Vested under Section 109, 1964-1970
ACIH 16036 MA1/765 54/22/9 Ngakaroro 3D3B - Vesting under Rating Act, 109, 1964-1970

ACIH 16036 MA1/765 54/22/11 Otaki 175 and 176A - Vesting under Rating Act 109, 1968-1969

ACIH 16036 MA1/765 54/22/12 Maori Trustee - Horowhenua A5E - Vested under Section 109, Rating Act 1925, 1961-1968

Alexander Turnbull Library, Wellington

73-128-114, Field, William Hughes, 1861-1944: Papers, Local Issues

MS-Group-0054 184-223-037/Pt1 Hutt County Council: Records: Rates – General, 1960-1962

MS-Group-0054 184-223-037/Pt2 Hutt County Council: Records: Rates – General, 1962-1963

MS-Group-0054 184-223-037/Pt3 Hutt County Council: Records: Rates – General, 1963-1964

MS-Group-0054 184-223-037/Pt4 Hutt County Council: Records: Rates – General, 1964-1967

MS-Group-0054 184-223-037/Pt5 Hutt County Council: Records: Rates – General, 1967-1970

MS-Group-0054 184-223-037/Pt6 Hutt County Council: Records: Rates – General, 1970

MS-Group-0054 184-223-037/Pt8 Hutt County Council: Records: Rates – General, 1972-1973

MS-Group-0054 184-223-037/Pt9 Hutt County Council: Records: Rates – General, 1973-1975

MS-Group-0054 184-223-037/Pt10 Hutt County Council: Records: Rates – General, 1974-1976

MS-Group-0054 184-223-037/Pt11 Hutt County Council: Records: Rates – General, 1976-1979

MS-Group-0054 84-223-037/3/Pt 1 Hutt County Council: Records. Rates – Reports, 1970

MS-Group-0054 84-223-037/10/3/Pt1 Hutt County Council: Rating Act, Section 109 - Applications for Pukerua Bay, 1967

Wellington City Council Archives

Makara County Council Minutes

Archives Central, Feilding

HDC: Horowhenua District Council

HDC Series

HDC 00001 : 26 : RS 1033 Subdivision LT 67131: State Highway 1, Manakau, Maori Owners, Subdivide 2 rural Subdivision of Manawatu-Kukutauaki 41 3C1B3. Horowhenua County Council 1988 - 1989

HDC 00001: 33: HOK 9 Subdivision DP 46592: Otereo Rd, J H Flowers, Subdivide 15 residential, Subdivision of Horowhenua XiB42A2B, Horowhenua County Council, 1976 – 1979

HDC 00018 : 86 : 19/4 Regional Planning: Horowhenua County Council District Scheme Review No2 Horowhenua County Council, 1977 - 1982

HDC 00018 : 86 : 19/5 Regional Planning: Correspondence Re Objections reviewed District and Appeals Horowhenua County Council 1966 – 1967
HDC 00018: 88: 19/8/1 Regional Planning: Zoning Enquiries Horowhenua County Council 1969 - 1984
HDC 00018: 90: 19/17 Regional Planning: Changes to Reviewed District Scheme Horowhenua County Council, 1967 – 1975
HDC 00018: 90: 19/22 Regional Planning: Subdivision General - Maori Partitions Horowhenua County Council, 1964 – 1975
HDC 00018: 90: 19/22 Regional Planning: Maori Partitions and Roadways Horowhenua County Council, 1977 – 1985
HDC 00018: 88: 19/8/1 Regional Planning: Zoning Enquiries Horowhenua County Council, 1969 - 1984
HDC 00023 : 0 : 17 Minute Book Volume 17, 12 March 1969 to 10 January 1974
Horowhenua County Council 1969 - 1974

Unaccessioned Horowhenua County Council records (not yet on website catalogue):

HCC: Inwards Correspondence and Working Papers 5002016941 Native Land Court - Problems at Te Horo. Dispute over water garden taken for road 1 Oct 1895
HCC: Inwards Correspondence and Working Papers 5002016941 Order, Native Land Court, Potts Road 17 Aug 1898
HCC: Inwards Correspondence and Working Papers 5002016943 Native Consents. Shannon/Buckloyfoad, 1904-1909
HCC: Inwards Correspondence and Working Papers 5002016946 Notices on Sale or Transfer of Land including District Native Land Board
HCC: Inwards Correspondence and Working Papers 5002016941 Maori owners agreement to land being taken for road, 1896
HCC: Inwards Correspondence and Working Papers 5002016941 Acreage of county and amounts of rates levied, 1896
HCC: Inwards Correspondence and Working Papers 5002016941 Maori Letters, 1897
HCC: Inwards Correspondence and Working Papers 5002016941 Report on Sanitary condition of Otaki and Levin 9 July 1900
HCC: Inwards Correspondence and Working Papers 5002016941 Dispute over contracts Ropata and Hemara. Widening Road, Otaki River to Te Horo Station, 1901
HCC: Inwards Correspondence and Working Papers 5002016941 Sanitary report, Otaki Premise. 1901
HCC: Inwards Correspondence and Working Papers 5002016941 Sanitary Reports - Levin Otaki, 1901
HCC: Inwards Correspondence and Working Papers 5002016942 Hunia Family claims for Royalty - Gravel Pit March 24, 1904
HCC: Inwards Correspondence and Working Papers 5002016943 Rates to 1906 and notes for Chairman, 1906
HCC: Inwards Correspondence and Working Papers 5002016943 Rating amendment Act, 1910
HCC: 5002016396 Subdivision files, 1947-1959

Unprocessed accession A/2012/3 (from web site catalogue)

Agency, box, item, title, date, format, old item #

HCC 22/346 Regional Planning: Change No 3, 1970-1971, File 7563

HCC 22/347 Change No 3 Hearing, 1970 goes with 7653 File 7564
HCC 22/348 Change No 3 Hearing, 1970 goes with 7653 File 7565
HCC 22/349 Change No 3 Hearing, 1970 goes with 7653 File 7566

Horowhenua County Council, un-processed files

HDC 00098 1 1 Maori Land, Rate Charging Orders, 1923-1932
HDC 00098 1 2 Maori Land, Rate Charging Orders, 1932-1953
HDC 00098 1 3 Maori Land, Rate Charging Orders, 1962-1968
HDC 00098 1 4 Maori Land, Rate Charging Orders, 1968-1974
HDC 00098 1 5 Maori Land, Rate Charging Orders, 1974-1977
HDC 00098 2 6 Summary of Maori Rate Collection Charging Orders, 1963-1956
HDC 00098 2 7 Maori Land Rate Charging Order Application Forms, 1962-1964
HDC 00098 2 8 Maori Rates Collection Procedure, circa 1951
HDC 00098 2 9 Maori Rates Collection, General, 1945-1952
HDC 00098 2 10 Maori Rates Collection, General, 1951-1952
HDC 00098 2 11 Maori Rates Collection: Muhunua 3A1E1 No 5B, 1953
HDC 00098 2 12 Maori Rates Collection: Maori, Muhunua 3A1E1 No 10A Blk IV Waiohu Survey District, 1953
HDC 00098 2 13 Maori Rates Collection: HK Whiley, Huhunua land, 1950-1952
HDC 00098 2 14 Maori Rates Collection: Hohepa Jacobs, Otaki Railway, Horowhenua 9A6A Blk II Waitohu Survey District, 1940-1953
HDC 00098 2 15 Maori Rates Collection: Hohepa Jacobs, Otaki Railway, Horowhenua 9A6A Blk II Waitohu Survey District, 1940-1953
HDC 00098 2 16 Maori Land Court Correspondence, 1956-1986
HDC 00098 2 17 Department of Maori Affairs Rates Correspondence, 1963-1975

HRC: Horowhenua United Council

HRC 00054: 6: 41/1 Representation Horowhenua United Council 1977 – 1989

MDC: Manawatu District Council

MDC 00014: 1: 19 Inward Correspondence: E and Engineers Report Oroua County Council 1907 - 1923
MDC 00014: 2: 23 Petitions, Oroua County Council
MDC 00014: 3: 7 Roads - Department of Oroua County Council 1905 - 1922
MDC 00014: 3: 10 Reureu Block, Oroua County Council, 1907 – 1909
MDC 00014:3:15 Sandilands – Barristers & Solicitors, Oroua County Council, 1905-1922
MDC 00014: 4: 6 Valuation Department Oroua County Council 1906 - 1919
MDC 00015: 1: 13 Engineers Reports Oroua County Council 1923 – 1930
MDC 00015: 1: 19 Haggitt and Elliott Oroua County Council 1923 – 1930
MDC 00015: 2: 15 Maori Land Board Oroua County Council 1927 – 1928
MDC 00015: 2: 19 Subject file: N Oroua County Council 1923 - 1930
MDC 00015: 3: 3 Subject file: R Oroua County Council 1924 - 1931
MDC 00015: 3: 6 Roads Oroua County Council 1928 - 1928
MDC 00015: 3: 10 Treasurers Reports Oroua County Council 1923 - 1930
MDC 00016: 2: 2 Haggitt and Elliott - Solicitors Oroua County Council 1931 – 1936
MDC 00016: 2: 16 Subject file: N - O Oroua County Council 1931 – 1936
MDC 00016: 2: 17 Subject file: P, Petitions Oroua County Council 1931 – 1936

MDC 00016: 3: 4 Subject file: R Oroua County Council 1931 – 1936
MDC 00018: 1: 8 Aotea Maori Land Board Oroua County Council 1938 – 1947
MDC 00018: 1: 10 Barltrop and Sons, solicitors Oroua County Council 1955 – 1956
MDC 00018: 1: 19 Health Department and inspectors reports Oroua County Council, 1937 – 1949
MDC 00018: 2: 1 Health Department and inspectors reports Oroua County Council 1950 - 1955
MDC 00018: 3: 2 Maori Affairs Department (see also Aotea Maori Land Board) Oroua County Council, 1948 – 1956
MDC 00019: 1: 11 Plumbing and Drainage - Feilding Oroua County Council 1958 - 1969
MDC 00019: 1: 19 Sanitation - Kiwitea, Oroua, Pohangina Counties Oroua County Council 1961 - 1975
MDC 00020: 2: B2 Solicitors - Barltrop, Cobbe & Lockhard Oroua County Council 1957 – 1959
MDC 00020: 2: B2 Solicitors - Barltrop, Cobbe & Lockhard Oroua County Council 1960 – 1964
MDC 00020: 2: B2 Solicitors - Barltrop, Cobbe & Lockhard Oroua County Council 1965 – 1972
MDC 00020: 12: M12 Maori Affairs, Department Of Oroua County Council 1966 – 1989
MDC 00020: 12: M12 Maori Affairs Oroua County Council 1957 – 1965
MDC 00020: 14: P5 Roads - Reu Reu Extension Oroua County Council 1974 – 1984
MDC 00020: 8 : H6 Housing Corporation Of New Zealand Oroua County Council 1974 – 1989
MDC 00020: 16: R5 Rural Housing Oroua County Council 1985 – 1988
MDC 00020: 16: R5 Rural Housing Loans Contains second folder, Oroua County Council 1966 - 1984
MDC 00020: 19: S9 Council - Special Orders Oroua County Council 1977 - 1979
MDC 00024 : 9 : 8 Council - Circular letters to Ratepayers and Chairman's Reports Manawatu County Council 1948 – 1955
MDC 00024: 9: 9 Council - Chairman's Reports to Ratepayers Manawatu County Council 1970 - 1982
MDC 00024: 9: 12 County Clerk - Special Reports Manawatu County Council 1943 - 1967
MDC 00024 : 14 : 3 Finance - Meeting statements & reports to Council Manawatu County Council 1934 - 1960
MDC 00024: 17: 16 Housing - General Manawatu County Council 1943 - 1952
MDC 00024: 18: 6 Land - Accretion - Papangaio J. Block Manawatu County Council 1962 - 1962
MDC 00024: 18: 7 Land - Accretion - Papangaio J. Block Manawatu County Council 1963 – 1963
MDC 00024: 18: 8 Land - Accretion - Papangaio J. Block & vesting of Foxton Harbour Board Endowment Manawatu County Council 1955 – 1966
MDC 00024: 27: 2 Maori Affairs Manawatu County Council 1949 – 1973
MDC 00024: 37: 4 Reports to Council Manawatu County Council 1909 - 1937
MDC 00024: 37: 5 Reports to Council - Engineer, By-laws, Inspector, County Clerk, Returning Officer, Traffic Inspector Manawatu County Council 1937 - 1955
MDC 00024: 41: 6 Solicitor's - Bergin & Cleary Manawatu County Council 1943 - 1956
MDC 00024: 41: 7 Solicitor's - Bergin & Cleary Manawatu County Council 1958 - 1974
MDC 00024: 41: 8 Solicitor's - Cooper Rapley & CO Manawatu County Council 1945 - 1956
MDC 00024: 41: 9 Solicitor's - Cooper Rapley & CO Manawatu County Council 1956 - 1960
MDC 00024: 41: 10 Solicitor's - Cooper Rapley & CO Manawatu County Council 1960 - 1960

MDC 00024: 41: 11 Solicitor's - Cooper Rapley & CO Manawatu County Council 1960 - 1967

MDC 00024: 41: 12 Solicitor's - Cooper Rapley & CO Manawatu County Council 1968 - 1970

MDC 00024: 41: 13 Solicitor's - Cooper Rapley & CO Manawatu County Council 1970 - 1971

MDC 00024: 42: 1 Solicitor's - Cooper Rapley & CO Manawatu County Council 1971 - 1972

MDC 00024: 42: 2 Solicitor's - Cooper Rapley & CO Manawatu County Council 1972 - 1974

MDC 00024: 42: 3 Solicitor's - Cooper Rapley & CO Manawatu County Council 1974 - 1977

MDC 00024: 42: 4 Solicitor's - Graham & Reed Manawatu County Council 1946 - 1973

MDC 00024: 42: 5 Solicitor's - Haggitt, Elliott, Fawcett & Abraham Manawatu County Council 1956 - 1970

MDC 00024: 42: 6 Solicitor's - Innes Oakley & Laurenson Manawatu County Council 1947 - 1966

MDC 00024: 42: 7 Solicitor's - Jacobs & Grant Manawatu County Council 1950 - 1966

MDC 00024: 42: 8 Solicitor's - McIntyre Taylor & Seddon Manawatu County Council 1964 - 1966

MDC 00024: 42: 9 Solicitor's - Pagan & Cobbe Manawatu County Council 1951 - 1955

MDC 00024: 53: 8 Finance, Rates Manawatu County Council 1975 - 1988

MDC 00024: 55: 5 Legal, General Manawatu County Council 1981 - 1988

MDC 00024: 57: 2 Reports, Secretary-Treasurer / County Manager / County Clerk Manawatu County Council 1975 - 1988

MDC 00024: 59 :11 Finance Rates - Prosecutions Manawatu County Council, 1982 – 1988

MDC 00112 : 2 : 62 Town and Country Planning: Durie Edward Matawha, Taipana Kahu Aurihia Paewai Mahuena Meihana (Est John Mason Durie) Kairanga County Council 1975 - 1975

MDC 00112: 2: 81 Town and Country Planning: Durie Estate Kairanga County Council 1978 – 1978

MDC 00113 : 2 : 266 Subdivision: Camerons Line, Mrs J H Kipa Subdivide Pt Sec 4C I 82 being part Aorangi No 1 Block II Kairanga S D. May not have been approved. Kairanga County Council 1963 – 1963

MDC 00119 : 4 : W51 Subdivision DP 49985: Pryces Line, Est Iwa Karatea Subdivide Reu Reu 1 2B2A 2B1 and accretion thereto into 1 Lot.Oroua County Council 1978 – 1982

MDC 00119: 4: W60 Subdivision: Pryces Line, M Kiriona Subdivide Reu Reu No1 2B2A into Lot 1. Oroua County Council, 1980 – 1980

MDC 00120: 1: 8 Inspections/Licences - Closing/Demolition Oroua County Council, 1969 - 1988

MDC 00120: 2: 7 Inspections/Licences - Water Supply - Complaints Oroua County Council 1981 - 1989

MDC 00120: 2: 14 Inspections/Licences - Pensioner Housing Oroua County Council 1987 - 1987

MDC 00120: 2: 18 Inspections/Licences - Repair Notices Oroua County Council 1971 - 1989

MDC 00122: 1: 2 Solicitors - Haggitt, Elliott & Fawcett Oroua County Council 1954 – 1959

MDC 00315: 1: 1 Oroua County Council Outstanding Rates Book (arrears) (1903-1929), Manchester Road Board Rate Arrears (outstanding) Cash Book (1902-1903) Oroua County Council/Manchester Road Board, 1903 – 1929

MDC 00337: 0: 1 Inward Correspondence: Folder 1 Miscellaneous Manchester Road Board 1885 – 1903

MDC 00499: 1: 1 Marae Consultative Standing Committee Minute Book Includes subject index at the front of the volume. Manawatu District Council [II], 2006 – 2014

Digitised Records:

Manawatu County Council Rates Book, 1914-1915

http://archivescentral.org.nz/documents/0000/0000/0487/MDC_00432_0_20.pdf

Ian Matheson Archives, Palmerston North Library, Palmerston North

PNCC 1/5/2 : 23 : 29 Correspondence - Deputy Native Trustee Palmerston North City Council, Town Clerk's Department, 1933

PNCC 1/5/2 : 62 : 3 Correspondence - Native Department Palmerston North City Council, Town Clerk's Department, 1939

PNCC 1/5/2 : 62 : 4 Correspondence - Native Trust Office Palmerston North City Council, Town Clerk's Department, 1933 - 1934

PNCC 1/5/5 : 0 : 8/27 Pt 1 Correspondence for - Appeals - Maori Battalion War Memorial Fund (Construction of Maori battalion Hall in Cuba Street) Palmerston North City Council, Town Clerk's Department 1957 – 1967

PNCC K3/4/1 : 33: 3 Native Rates (Conference 1934) Kairanga County Council 1935 - 1938

PNCC K3/4/1: 49: 5 Native Trustee Kairanga County Council 1941 - 1943

PNCC K3/4/5: 26 : 7/2 Government Departments M-W: Maori Affairs and Maori Land Court; Mines (Minister of Energy); National Library; Government Printer; Post & Telegraph; Railways; Scientific & Industrial Research; Standards Institute; Transport Department; Valuation Department; Ministry of Work Kairanga County Council, 1959 - 1982

PNCC K3/4/3 : 4 : 9 Oroua River Protection Work Kairanga County Council 1938 – 1941

PNCC K3/4/4 : 6 : 30 Un-Numbered Subject Files, Rates, Subsidy on Rates - Applications to Valuer - General under Section 9 of the Appropriation Act 1916 Kairanga County Council, 1920 – 1953

PNCC K3/4/4 : 7 : 35 Awahuri Bridge Protection (land taken for river protection purposes), Kairanga County Council 1928 – 1938

PNCC K3/4/4 : 6 : 31 Un-Numbered Subject Files, Rates, Hospital Rating - Correspondence (General) Kairanga County Council 1923 – 1943

PNCC K3/4/4 : 6 : 32 Un-Numbered Subject Files, Rates, Hospital Rating - Correspondence (A-L) Kairanga County Council 1938

PNCC K3/4/4 : 7 : 33 Un-Numbered Subject Files, Rates, Hospital Rating - Correspondence (M-Z) (Letters from County Councils throughout New Zealand in response to Kairanga County Council's Circular letter of 6 July 1938) Kairanga County Council, 1938

PNCC K3/4/4 : 7 : 34 Un-Numbered Subject Files, Rates, Hospital Rating - Newspaper Cuttings Kairanga County Council 1936 – 1943

PNCC K3/4/4 : 8 : 36 Taking of Land for Roads and Closing of Roads Kairanga County Council 1930 – 1950

PNCC K3/4/4 : 11 : 49 Town and County Planning Acts and Circulars Kairanga County Council 1926 – 1958

PNCC K3/4/4 : 12 : 51 Town and County Planning Correspondence (A-L) Kairanga County Council 1954 – 1958

PNCC K3/4/4 : 12 : 52 Town and County Planning Correspondence (M-N) Kairanga County Council 1954 – 1958

PNCC K3/4/4 : 12 : 53 Town and County Planning Correspondence (O-Z) Kairanga County Council 1954 – 1958

PNCC K3/4/9: 2 : 4 Maori Housing - Kai Iwi Pa (file kept by County Clerk Kairanga County Council, 1958

PNCC K3/4/9: 2 : 5 Maori Housing - Kai Iwi Pa (file kept by County Clerk) Kairanga County Council, 1960

PNCC K3/26/1 : 1 : 1 County Health Inspector Records - Correspondence and Subject files - General Kairanga County Council, 1955 – 1962

PNCC K3/26/1 : 1 : 2 County Health Inspector Records - Correspondence and Subject files - Maori Housing - Kai Iwi Pa Kairanga County Council 1957 – 1962

PNCC K3/26/1 : 1 : 3 Maori Housing - Kai Iwi Pa (file kept by Department of Health, Palmerston North) Kairanga County Council 1960

Kapiti Coast District Council, Paraparaumu

Horowhenua County Council

Series 1 - Waikanae County Town – Minutes

1/7 May 1968-19 Sep 1969

1/8 Oct 1969-20 Nov 1970

1/9 Dec 1970-2 Apr 1971

Series 2 - Waikanae District Community Council Minutes

1/10 21 May 1971 - 20 Jun 1975

1/11 18 Jul 1975 - 13 Apr 1978

1/12 28 Apr 1978 - 12 Nov 1980

Series 3- Correspondence files [Box 1/103]

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26/17 Waikanae County Town Committee

CF762 9 Mar 1960-11 Jun 1976

CF1281 26 Oct 1966- 9 Nov 1987

CF146830 Oct 1989

3/53 Waikanae commercial area redevelopment scheme

26/21/1A CF 797 - 5 Jan 1973-13 Oct 1976

21/21/1D CF 484 – 3 Dec 1965-9 Jul 1970

26/21/1E CF 487 – 3 Dec 1965 – 20 Feb 1970

26/21/1F CF488 – 3 Dec 1965 – 20 Feb 1970

26/21/1G CF 489 – 6 Apr 1965-28 Jun 1966

26/21/1H CF 490 – 6 Apr 1965-11 Aug 1966

26/21/1I CF 492 – 6 Jun 1969-30 May 1973

26/21/1J CF 501 – 6 Jun 1969-30 May 1963

26/21/1K CF 960 – 21 Jul 1965-16 Jul 1976

26/21/1L CF 507 - 3 Nov 1968-16 Dec 1971

26/21/M CF 508 – 12 Jun 1969-16 Dec 1971

26/21/N CF 509 – 28 May 1970-27 Apr 1971

26/21/P CF 510 – 6 Jan 1970 – 23 Sep 1971

26/21/Q CF 513 – 22 Dec 1969 – 15 Apr 1976

26/21/1R CF 514 – 5 Nov 1971 – 10 Jul 1972

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26/21/10 Waikanae commercial area

CF 836 – 17 Mar 1970-7 Apr 1971

File 4 6 Mar 1977-12 Dec 1986

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26/39 Kapiti & other offshore islands, 1979-1985

Series 4 Block 1/44

4/30

19/9/3 Waikanae Land Company
CF 1067 8 Aug 1972-27 May 1983
CF 2117 14 Jul 1989-8 Aug 1989

4/33

26/7 Waikanae County Town 24 Jan 1968-17 Nov 1964
26/8 Subdivision - Waikanae
26/7 [9?] Waikanae correspondence 21 Jan 1963-21 Jun 1967

Series 9 – Box 1/11 – Town Planning, Waikanae Extension

9/10 Ngarara West A21 13 July – 30 July 1960

Series 13 – Box 1/10

13/3 Waikanae Commercial Area [CF 735] 7 July 1965-12 May 1972

Kapiti Borough Council – Hutt County Council

Series 6 Box 1-102

6/34 37 Rates – general, 1970-1977
6/35/ 37/0/8 Rates – Raumati riding, 1965-1976
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