Maori Reserves from the 1848 Crown Purchase of the Whanganui Block c. 1865-2002 (#A 64)

Summary of Evidence

for Presentation to the Waitangi Tribunal

during the Week 6 - 10 August 2007

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1. This is a summary of the evidence submitted to the Waitangi Tribunal in the 'Maori Reserves from the 1848 Crown Purchase of the Whanganui Block c. 1865-2002' report (Wai 903 A64) written by Heather Bassett and Richard Kay. This summary has been prepared for presentation to the Waitangi Tribunal during the week of 6-10 August 2007 at Putiki Marae, Whanganui.

2. Question 3.9(b) of the Statement of Issues for the Whanganui Inquiry asks: 'What lands reserved in the 1848 purchase were subsequently alienated and in what manner?' Finding out what happened to the 1848 reserves after 1865 was essentially the purpose of the report, and this summary aims to briefly explain how reserved land came to be alienated. In doing so the report had to explain the alienation restrictions which were placed on the reserves, and how those restrictions were removed. As such, this summary addresses some of the questions posed in Part 7 of the Statement of Issues, particularly questions 7.28 to 7.32. The summary concludes with an analysis of the total amount of reserved land alienated and the amount still in Maori ownership.

Part One: Overview of the Reserves 1839-1865

3. The project brief for this report was to examine the Maori reserves created as part of the 1848 Whanganui purchase, and specifically what has happened to those reserves since 1865. The circumstances surrounding the creation of the reserves were researched in more detail by Bruce Stirling in his 'Whanganui Maori and the Crown 1840-1865' (Wai 903 A65) report. We did not conduct any primary research into the pre-1865 period for our report, and as such this summary does not attempt to address any questions in the Statement of Issues relating to the history of the reserves prior to 1865.

4. The purchase of the Whanganui block was not finalised until 1848. This was after a number of years of negotiations and abortive attempts to define and survey reserves. The eventual establishment of the reserves was an ad hoc process of negotiation and hard bargaining between mainly Donald McLean and a selection of Maori owners. The Whanganui purchase deed listed 15 separate reserves and implied that the reserve boundaries had been finalised.

The English version stated that Maori had 'consented to altogether give up our land within the boundaries', with certain 'places made sacred or reserved for ourselves being always excepted'. The deed listed the following 15 Maori reserves which were identified by number, and given vague descriptions:

1. **(Eel Fisheries)** was the 'Eel and Inanga cuts at Wiritoa, Paure, Kaitoke, Okui and Oakura streams' and 'other streams for fishing Eels within the boundaries which have now been given up to the Europeans'.
2. **(Omanaia)** was the 'small wood called "Omanaia" close to the Eastern boundary line' which had been shown to the surveyor by Te Munu.
3. **(Marangai)** was a 'wood' called 'Te Marangai' that contained 'nearly eleven acres' and had been surveyed by Wills 'in the presence of Mr. McLean[,] Abraham [Aperahama Tipae] and Munu of Wangaehu' in 1846 and 1848.
4. **(Waikupa)** was inland of the 'Matarawa stream' and had been shown to Wills by 'Abraham, Munu and John Williams [Hone Wiremu] in the presence of Mr. McLean'. It was noted that the owners were 'allowed to cultivate and use the timber on the wooded hills towards Waikupa'.
5. **(Paure)** was 'One section containing one hundred acres of land on the sea side of the lake Paure' which had been shown to Wills by Paipai.
6. **(Putiki)** was a 'large block of land in the neighbourhood of Putiki Waranui' which had been shown to Wills by Hori Kingi Te Anaua, 'other natives of Putiki', and Te Mawae and contained 1,302 acres.
7. **(Putiki, Kaitoke)** was a 'block adjoining the last mentioned block containing about six hundred (600) acres' which was shown to Wills by 'Kemp sent by Mawae (in the direction pointed out by Kawana Paipai)'.
8. **(Purua)** was a 'piece of land on the Sea side of the Purua stream' the boundaries of which were 'marked by Tahana and others of the Patutokotoko' and surveyed by Wills.
9. **(Mataongaonga)** was the 'burial ground fenced in on the sea side of the Mataongaonga stream.'
10. **(Waipakura)** was on the south side of the Whanganui River and 650 acres in size. It was shown to White by 'Tamihana and others of the Patutokotoko Tribe'.
11. **(Kaiwhaiki)** was Kaiwhaiki and was 100 acres in size and was 'shown to the Natives of Tunuhaere by Mr. White' in 1846.

12. **(Motuhou, Waipuna, Te Korito)** were the 'cultivations on the North side of the Whanganui river' and included land at Kaipua, Waipuna, Motuhou and Matakitaki.

13. **(Ngaturi)** was Ngaturi, which had not been surveyed and the deed required the owners to 'abandon' this cultivation if it 'disturbed' the Europeans.

14. **(Aramoho)** was 'Aramoa' which was 240 acres in size, the boundaries of which had been pointed out to White by 'Natives' in 1846.

15. **(Tutaeheka)** was a 'small patch at Tutaieka namely the burial ground and the spot of ground which was marked in the presence of Mr. McLean by Wiremu Eruera and Hoani Rawenata' and surveyed by Wills.[50]

The deed said that the 'Reserves shall surely and certainly [be] for us for our children and for all our descendants and successors for ever' and they were unable to 'dispose of the said Reserve to the Europeans until the Governor of this island has consented to our doing so.'

5. Although the deed gave boundary descriptions and acreages for most of the reserves, the reality was that the exact location and size of the reserves continued to be a matter of ongoing negotiation between Maori and Crown officials after the deed was signed. On the face of it, the deed appears to legally define the reserves, but Stirling's evidence has shown that Crown officials continued to strive to reduce Maori claims to reserved land, even after the 1848 deed appeared to have guaranteed the reserves for Maori. Over two decades a series of negotiations and a lengthy, and often disputed, survey took place. In addition to failing to properly define the size and location of the reserves, the deed did not state for whom the reserves were intended, either by naming individuals or hapu. The result of the failure to properly define the reserves in the deed, was an ongoing legacy of confusion and uncertainty over most aspects of the location, boundaries and ownership of the Whanganui reserves.

6. The Crown obtained two of the reserves before 1865; the Mataongonga urupa was purchased in 1858, after those recently buried there had been exhumed and taken to Pipiriki, and the eel fisheries reserve was purchased by a deed

signed in 1863. Although the 1848 deed was a legal document supposedly guaranteeing the reserves, the Crown encouraged Maori to abandon claims to some reserve areas. As part of the ongoing negotiations, the Matakitaki cultivation reserve was 'given up'.

7. The Putiki reserve was subdivided into individual sections for the owners to create a so called 'Maori town' on the banks of the Whanganui River opposite the Pakeha town of Wanganui. The layout of the reserve was concluded by Commissioner of Native Reserves John White, in consultation with Hoani Wiremu and other leaders. Overlaying a township on areas of traditional occupation was the source of some dispute, as the topographical system did not always fit with the existing land use and occupation by Maori. Putiki leaders were anxious to arrange the leasing of some of the Putiki sections, but the issue of Crown Grants was continually delayed which meant that legal leases could not be made. The Resident Magistrate felt that Maori could earn a higher rental income if the illegal leases were formalized. The Crown preferred that control of the Whanganui reserves should be vested in the Commissioner of Native Reserves, but Whanganui Maori were adamant that they wished to retain control, particularly over any income which could be earned from the blocks. They also feared that the Native Reserves Act would allow the reserves to be sold.

Part Two: Awarding Ownership of the Reserves 1866-1901

8. By 1865 it had become clear that the Whanganui reserves were not going to be administered as Native Reserves by a Crown official. Crown Grants had not been issued to Maori for the reserves. The first requirement was now to identify the owners of each reserve. The blocks were treated as customary Maori land which could have its legal ownership awarded by the Native Land Court. However, the Native Land Court did not always use its usual criteria of customary rights when awarding ownership of the Whanganui reserves. Instead, evidence about the negotiations with the Crown and for whom the reserves were intended was taken into account. This was particularly true for the Putiki reserves.

9. While this part of the report concerns the proceedings in the Native Land Court, the focus is explaining how ownership of the reserves was decided, both during the negotiations with Crown officials and through Native Land Court hearings in the 1860s and 1901. As such, we have been more concerned with question 3.8(h)(ii) of the Statement of Issues, about the process used by the Crown to discover the proper recipients of the reserves, than with any of the questions posed in the Section 5 of the Statement of Issues about the Native Land Court. This is because we have examined the progress of only the Maori reserves in the Native Land Court, and no other Whanganui blocks, and because the reserves were treated in a distinctive manner, which may not have been the general Native Land Court process in Whanganui.

10. Between 1867 and 1873 a large number of the reserve blocks were brought before the Native Land Court for ownership to be confirmed. During this time the title investigations proceeded with little dispute about who owned each reserve. In most cases the applicant stated that they had surveyed the block and explained their claim to the block, whether by occupation or arrangement, or a combination of both. The surveyor gave evidence about the boundaries and whether he knew of any dispute. The claimant's statement was usually followed by a corroborating witness, and the court made the order as requested. In the Putiki cases, references were frequently made to subdivisions which had been allocated to individuals by Hoani Wiremu and other chiefs at runanga convened by John White, the Commissioner of Native Reserves. In many cases, claims to Putiki were based more on arrangements that had been made between 1848 and 1865 than on any traditional long term rights.

11. An analysis of the title awards shows that almost all the Whanganui reserves were highly individualised. Many blocks were awarded to small groups of two or three owners. The intention, particularly at Putiki, seems to have been to create separate township sections for individuals, in the same manner that Pakeha were allotted land in Wanganui township. In the case of the other Whanganui reserves, they were often vested in one, or a handful, of the prominent rangatira who held the mana of the land for their hapu. The same

names figure prominently in many of the title awards: Te Keepa Rangihiwinui, and his daughter Wikitoria Keepa; Tahana Turoa and his whanau; Te Mawae, and his daughter Ripeka Te Tauri; Waata Wiremu Hipango; Kawana Paipai and his son Hori Kerei Paipai; and Mete Kingi Paetahi and his family. These rangatira had been involved in negotiating the reserves with Donald McLean. One of the Crown's obligations when creating reserves for Maori out of the purchase was to ensure that all Whanganui Maori would be left with sufficient land for their support and maintenance. The result, however, was that most of the land became the legal property of a few individuals, as if McLean had granted reserves for the rangatira alone. In the case of Putiki, those leaders granted permission to other members of the hapu to occupy parts of the land.

12. In 1871 six title investigation applications for Putiki reserves were submitted with plans which included the foreshore of the Whanganui River. The surveyor explained that since the time that the Putiki sections had been laid out in 1863 the river had encroached over the blocks, which meant that the boundary pegs were now below the high tide level. In the case of Ngongohau 1, Kawana Paipai claimed further to the centre of the river. In all these cases the Crown opposed the inclusion of land below the high tide level. The Native Land Court awards for the blocks excluded all the area below the high tide mark. This decision was made on the grounds that the written description of the boundaries referred to the 'Whanganui River', which the court interpreted to mean the high tide mark.

13. Although the earlier title investigations were largely undisputed, in 1888 the Pungaharuru case revealed a fundamental conflict. The case centered around whether the ownership of Putiki derived from customary occupation, or from the subdivision arrangements made by John White and Donald McLean with Hoani Wiremu, Te Mawae and others. The question was whether the 1848 purchase had extinguished Maori customary title. In that case the court found that the Whanganui deed had excluded the reserves from the sale, without affecting customary tenure. However, many of the less disputed Putiki awards were made on the basis of arrangements made after 1848.

14. In the late 1880s and early 1890s the Native Land Court and the Native Department demonstrated confusion about the status of the Whanganui reserves. At first the court refused to hear the Motuhou case, on the understanding that the 1848 purchase had extinguished customary tenure, and that the reserves were really Crown land which had been returned to Maori.

15. The question of whether reserved land was exempted from the sale and remained Maori customary land, or was Crown land which was returned to Maori was to mean that an application to have the beneficial ownership of Waipakura investigated under the Native Equitable Owners Act 1886 could not proceed. The 1848 deed had listed the area of Waipakura as 650 acres. However, when the named boundaries described in the deed came to be surveyed it was discovered that the total area was over 2,000 acres. In 1867 the surveyor Porter had explained the history of the size increase to the court. He said that McLean had been unsuccessful in persuading Tamihana and Tahana to reduce the reserve area, and that Commissioner White had accepted the 2,358 acres as the Waipakura reserve. Porter specifically stated that Waipakura did 'not encroach on any Crown Lands or Lands held under grant from the Crown'.[1]

16. However, when the equitable owners application was brought to the court in 1889 the large increase in the size of the reserve from 650 acres to over 2,300 acres led Judge Ward to conclude that Crown land had later been included in the land awarded to Maori. Therefore, he found that the court had no jurisdiction over Waipakura and could not hear the equitable owners case to allow for wider hapu representation in the ownership of the reserve. The confusion arose through the difference between the numbers (650 acres) and the words of the deed. In its decision the court relied on the acreage stated in the deed, but Maori, surveyors and commissioners had been guided by the written description of the boundaries which named landmarks and other natural features. The inclusion of the extra 1,650 acres was recognition of the boundaries of the reserve as they were described by Maori signing the deed of

[1] Wanganui MB 1, 22 January 1867, p. 131.

purchase. In 1867 the court had been clearly informed that no Crown land had been included. However, the lack of knowledge about the history of the reserve on the part of the Judge and Chief Judge in 1889 meant that, despite indications that further individuals were entitled to be included in the ownership of the reserve, they were denied an opportunity to prove their case.

17. There were very few title investigations of the Whanganui reserves between 1874 and 1900. During 1901 the Native Land Court made 26 title awards for Putiki subdivisions, as well as the Kaitoke, Marangai, Waipuna and Aramoho reserves. This left only a few small areas of the Putiki reserve as customary land. The title investigations which took place in 1901 were often quite different from those which had occurred between 1867 and 1873. At the earlier hearings, the applicants and those giving evidence had usually been directly involved in the runanga of the early 1860s which had subdivided Putiki. By the beginning of the twentieth century, a new generation were leading the title investigation cases, and giving evidence about the actions and intentions of their parents. By this time a split was evident between the descendants of Te Mawae and his hapu, and those who could claim through the ancestral right of Ngati Tumango. As the title investigations of 1901 were more disputed than those cases which passed through the court in the 1860s and 1870s, the minutes of the 1901 Native Land Court hearings reveal more information about the events of the 1840s and the basis of the allocation of land at Putiki.

18. The Putiki title investigations, in particular, reveal a complicated and overlapping pattern of land occupation in the reserve, which had been intended as a Maori town. In many cases representatives from the competing hapu/whanau were all included in the ownership of some of the Putiki reserves. Alternatively, blocks would be subdivided so that each party could be awarded its occupation or cultivation site. Although the entire Putiki reserve was not a particularly large area, it had become densely settled and utilised. It was used by both permanent residents, and also by Whanganui Maori who more usually resided inland. In these circumstances, it is not surprising that by the beginning of the twentieth century the Native Land

Court minutes reveal a complex occupation pattern with numerous overlapping claims, defined by houses, cultivations, fence lines and leases.

Part Three: Alienation of the Reserves 1865-1900

19. All of the Whanganui reserves were declared to be inalienable by the Native Land Court. The only area which was not inalienable was that part of the Te Korito block which lay outside the boundaries of the Whanganui deed. While some Maori specifically stated that the blocks should be made inalienable, the automatic imposition of alienation restrictions did not please the owners of Te Korito and Waikupa, who told the court that the reason they had applied for a title investigation was to be able to finalise the sale of the block.

20. Despite the restrictions against sale, those Maori who wished to sell were able to apply to have the restrictions removed by the Governor. The Governor was to be advised by the Native Minister as to whether or not it was appropriate for the restrictions to be removed. The usual practise was for the application to be referred to a local official for comment. In general, the Crown had to be assured that the vendors of the reserve retained sufficient other land for the maintenance of themselves and their successors, and that the price was fair. In the case of the Whanganui reserves, applications were referred to the Resident Magistrate, Richard Woon. The available evidence suggests that Woon would recommend the removal of restrictions if he knew that the vendors had 'ample' other land, and if he was happy with the price offered.

21. The Whanganui reserves which were permitted to be sold during the 1865-1900 period are shown in the following table:

Block	**Size**
Waikupa	2,272a 0r 00p
Waipuna East	59a 2r 00p
Ngaturi	128a 3r 26p
Te Korito	111a 2r 00p
Total	**2,571a 3r 26p**

22. Waikupa was the largest reserve set aside in the 1848 deed. When the block was awarded to Aperahama Tipae in 1867 he indicated that he intended to sell the reserve. In 1871 Woon recommended the alienation restriction on Waikupa could be removed as all the owners (meaning all the Ngati Apa leaders) had agreed with the sale, the price was fair, and Ngati Apa had not been occupying the block for 'many years' and had an 'abundance of fertile land'.[2] Woon also took steps to oversee the distribution of the £2,000 purchase money. The available documentation relating to the removal of restrictions for the three other reserves is not complete.

23. When considering an application to allow the Manawakoara subdivision of the Putiki reserve to be sold, Woon refused to recommend the sale, even though the vendors were large landholders. Woon recognised that the Putiki reserve had been created with the intention of providing an absolutely inalienable occupation and farming area for Whanganui Maori and their descendants. He knew that it had a history of occupation and a special status for Ngati Tumango and others. Woon also acknowledged that, although individual owners might wish to sell their portion of the block, the wider interests of the hapu and owners had to be taken into account. He suggested that legal provision should be made to ensure that the Putiki leaders were consulted about any proposed sale. Throughout the rest of the nineteenth century Putiki remained intact.

24. While all the Whanganui purchase reserves could not be sold without the consent of the Governor, they could be leased for up to 21 years. While some reserves were specifically made as Maori occupation or cultivations sites, or to protect urupa, others were intended to allow Maori to earn an income. Where Maori land was not under direct Maori occupation, such as kainga or cultivations, Maori were encouraged to lease their reserves to Pakeha. Many of the Whanganui reserves were subject to leases throughout the nineteenth century. A number were made after the title investigation and were confirmed by the Trust Commissioner or Maori Land Court. In addition, there is evidence

[2] Woon to Halse, 15 April 1871, MA-Wang 2/1, ANZ Wellington.

that leasing the reserves before the title was investigated was common. At Putiki, certain rangatira gave Pakeha permission to occupy small areas in much the same way as the leaders had allocated Maori occupation of the reserve. Whanganui Maori also expressed dissatisfaction at the delays in getting title to the reserves, because they had arranged to lease the land. The primary perceived benefit of leasing for Maori was the receipt of a steady rental payment. In addition leasing the reserves could facilitate the development of the land as the Pakeha lessee cleared land, planted grass, and erected fences. Furthermore, leasing provided an income while retaining the freehold in Maori ownership.

Part Four: Administration and Alienation of the Reserves 1900-2002

25. The passing of the Native Land Act 1909 was a watershed in the history of the Whanganui reserves. Before this Act, the reserves' special status as areas of land set aside for Maori by the Crown was recognised in the restrictions against long term leasing and sale. Although those protection mechanisms were not perfect, they had at least signified that the blocks held a special status for their owners. Under the Native Land Act 1909 the Crown unilaterally abolished that special status without any opportunity for the owners of each reserve to insist on the retention of restrictions.

26. While the Native Land Act 1909 did contain provisions designed to prevent Maori from becoming landless, this was not the same protection as the inalienable status previously held by the Whanganui reserves. The mechanisms under the 1909 Act were focused on the protection of individual Maori from landlessness and unfair transactions. The 1909 provisions focused on the circumstances of the owners rather than the block. However, the previous restrictions against alienation of the Whanganui reserves were attached to the land itself. It was recorded on the Native Land Court title orders that the block was a 'Native Reserve'. The restricted titles recognised that those particular pieces of land had been specifically set aside for the future use and benefit of certain Whanganui Maori. The Native Land Act 1909 and

subsequent legislation completely ignored the founding intention regarding the Whanganui reserves.

27. Under the 1909 Act the Aotea District Maori Land Board supervised the alienation of Maori land with more than one owner. If the block had more than ten owners, a meeting of assembled owners had to pass a resolution in favour of the alienation, which then had to be confirmed by the board. Land with ten or less owners could be sold in the normal way by the individual owners, but the lease, sale or mortgage documents had to be confirmed by the board. The alienation files show that the Maori Land Board required the rent or purchase money to be in accordance with a current valuation. Applications for confirmation also had to be accompanied by a list of the other lands held by the vendors. While the board followed the legal requirements to ensure that no Maori was rendered landless by any alienation, there is no evidence that the former status of the blocks as reserves intended for the ongoing support and maintenance of Whanganui Maori was taken into account.

28. The impact of the Native Land Act 1909 is most clearly demonstrated in the history of the Putiki reserve blocks. Before 1900 there were no sales of the Putiki reserves. On the one occasion when an application was made for the restrictions to be removed, (Manawakoara 2), the Crown was clearly informed that Putiki was vitally important to Whanganui Maori and 'The whole of the Whanganui Natives are interested more or less in this Reserve which are the principal chiefs ... earnestly desire and wish to be secured intact, as an inheritance for their descendants, to all time.'[3]

29. Only one acre of Putiki was sold before 1909, which was part of Waitahanui 5. The Aotea District Maori Land Board confirmed the sale in 1904 because the vendors had sufficient other lands and because the section was very damp and unsuitable for building. However, once the Native Land Act 1909 was passed, the Maori Land Board regularly oversaw the sale of Putiki sections. In the first

[3] Woon to Clarke, 9 November 1878, MA-Wang 1/9, ANZ Wellington.

10 years after the Native Land Act 1909 removed the alienation restrictions, 24 of the Putiki reserve sections were sold, totaling 369 acres.

30. To return to the Manawakoara 2 example. In 1878 the Crown had refused to remove the restrictions on the grounds that the Putiki leaders wished the entire Putiki reserve to remain intact. However, in 1911 Manawakoara 2 was sold and the sale was confirmed by the Maori Land Board. At that time the section was owned by six children of Ripeka Te Tauri, who had extensive other lands. The application for confirmation included details of their land holdings in the Tauranga-Taupo block. This demonstrates the difference between the protection mechanisms under the Native Land Act 1909 and the alienation restriction on the title to the reserve blocks. Before 1909 Manawakoara 2 itself was inalienable, and its reserve status had to be taken into account before an alienation could be considered. However, after 1909, it was only the circumstances of the vendors which had to be taken into account. Although the Te Tauri whanau had other land holdings, the ownership of land in the Tauranga-Taupo block had nothing to do with the Putiki reserve, and considering the other land holdings of the vendors paid no attention to the amount of land at Putiki and the intention behind the creation of the Putiki reserve.

31. Section 208 of the Native Land Act 1909 provided that, on the application of a Maori owner, Native land held by a single owner could be declared European land by the Native Appellate Court. Once a block had been declared to have the status of European land, the sole owner was then free to control or alienate the land in the same manner as Pakeha owned European land. Therefore, the requirements and protection mechanisms provided by the Native Land Act, and the oversight of the Native Land Court and Maori Land Board no longer applied. By 1914 Waata Wiremu Hipango was the sole owner of a large number of Putiki sections, nine of which were declared European land. In all, section 208 of the Act was applied to a total of 364 acres of Whanganui reserved land.

32. In 1904 the Crown acquired 60 acres of reserved land at Putiki under the Public Works Act for a rifle range. Compensation for the acquisition was assessed by the Native Land Court. The Maori owners wished to be compensated for both the value of the land taken, and the impact of the acquisition on other land that was left without access. In addition, they argued that the value of their remaining land was lessened by the existence of a rifle range. In two cases the Public Works Department decided it would be better to return small pieces of land to the owners rather than meet the compensation claim for the impact. The compensation awarded by the court recognised that the severances had been severely reduced in value. However, the court also directed that the Crown could acquire the severed land without any further payment. Because the land taken was defined as inalienable, the court ordered that the compensation should be paid to the Public Trustee to be held in trust for the owners. This meant that the compensation money itself was to be treated in the same way as the reserved land, and held as an income generating asset for the future support of the former owners. The former owners protested against their compensation money being held by the Public Trustee.

33. In addition to the 60 acres acquired for the rifle range, a further 78 acres of the Whanganui Maori reserves were acquired for public works, as listed in the table below. The total amount of 1848 reserves which were acquired by the Crown or local authorities was almost 140 acres.

Acquisition	**Area**
Onetere Rifle Range	60a 1r 00p
Kaiwhaiki Quarry	55a 0r 00p
Waipakura Gravel Pit	20a 0r 39p
Ngongohau Motorway	2a 3r 34p
Whakaniwha Slipway	1a 1r 12p
Total	**139a 3r 05p**

34. By the 1950s and 1960s the 42 year leases negotiated earlier in the century were expiring, which resulted in some reserved land being sold to the lessees. In some cases the blocks had been under various leases since before 1900, and

the owners had not been occupying the land. By the 1950s the opportunity of a cash purchase was more attractive than the five percent annual rental. Owners stated that they wanted to sell in order to finance housing loans or their own farming operations elsewhere. The sale of Kaiwhaiki 1C1A to the lessee was not so straightforward. A majority of owners were in favour of the sale, but three owners (representing about one-sixth of the block) insisted on retaining their shares. Although the Maori Land Court had the legal power to enforce the majority decision of the meeting of assembled owners, it was unwilling to do so in this case. The court clearly stated that the interests of the owners had to be the primary consideration and that it would be wrong to compel the three objectors to sell their land.

35. By the late 1960s the Maori Land Court began to view the way that the Kaiwhaiki block had been subdivided over the years as detrimental to the owners. Instead of approving any further subdivisions or alienations, the court directed the Maori Trustee to investigate how the ownership of the block could be re-arranged for the benefit of the owners. Although a meeting of owners was called to approve the land being vested in the Maori Trustee, the impetus for the vesting order and title reorganisation came from the Maori Land Court. In 1972 the Maori Trustee presented the court with a scheme for repartitioning Kaiwhaiki so that most of the land was included in a new large block called Kaiwhaiki A. In the 30 years since the combined partition order was made, the new Kaiwhaiki titles have been subject to numerous further subdivisions, often to create individual housing sections. The large Kaiwhaiki A block has been subject to different leases, and was further subdivided in 1995. The title records of the Maori Land Court indicate that different leases, reservations, subdivisions, and trust arrangements have occurred since 1972, but the land subject to the combined partition has remained in Maori ownership.

36. The status of the Whanganui reserves was to be further affected by legislative changes in 1967. Part 1 of the Maori Affairs Amendment Act 1967 provided that the status of all Maori land with four or less owners would automatically be changed to European land. This was applied to a total of 121 acres of reserve land. While most of the sections were smaller than one acre, the 121

acre total represents a sizeable proportion of the land remaining in Maori ownership at Putiki by this time.

37. Despite Commissioner Spain reporting in 1844 that Whanganui Maori were insistent on retaining their eel fishing waterways, only one such area has remained in Maori ownership. The Kaitoke reserve included Lake Kaitoke and 280 acres of adjoining land. Although the land area was sold to the lessee in 1962, the lake has been retained in Maori freehold ownership. Nevertheless, the ability of the owners to exercise their traditional fishing rights has been hindered by the lake being designated a wildlife reserve and the farming and drainage operations of surrounding land owners.

38. Section 11 of the Statement of Issues contains questions relating to Maori Land Development schemes. Two out of the three development schemes within the Whanganui Inquiry district were implemented on Maori reserve blocks. The Aramoho and Kopuaruru schemes were small individual farming units, which were placed under the control of the Department of Maori Affairs to assist with Maori occupation and land improvement. The department advanced funds for equipment and stock, and to cover the costs of putting unemployed Maori to work clearing and fencing the land. In the short term, the schemes provided some employment assistance to local Maori, cleared some gorse from the land and established pasture, and the owner/occupiers received farm equipment and assistance to purchase stock. However, in the longer term, neither scheme was able to provide sufficient returns to repay the debt to the department for many years. Despite development schemes being designed to facilitate Maori occupation, Aramoho and Kopuaruru were found to be uneconomic as separate farming units and both schemes were eventually leased to Pakeha farmers.

39. Aramoho 8C2 was declared a development scheme in 1938 with the intention of using unemployed Maori to clear the heavy gorse infestation on the block, and establish pasture. It was anticipated that it would become a dairy unit farm within three to four years. However, five years later, in 1943 Maori labour still needed to be fully subsidized to continue clearing gorse, and the scheme was

being used to graze cattle. The grazing income was insufficient to repay the debt and provide a reasonable income for the Maori occupier. In 1945 the occupier was unwell, and could not continue farming. Problems with stock losses, deteriorating fences and gorse infestation saw the Registrar recommend that the property be leased to a Pakeha farmer. He maintained that there no Maori farmers who were capable of generating enough income from the property to repay the debt and have a livable income. In 1946 the scheme was leased for 10 years. The owners received none of the rental payments, which were used to repay the debt. However, the Crown had earlier purchased Aramoho 8C1 from its sole owner for inclusion in the scheme, and that block was eventually transferred to the owners of 8C2 without charge in recognition that they had effectively paid for the block through the foregone rents. When the lease expired in 1956 the Aramoho scheme was wound up and both blocks returned to the control of the owners, 18 years after the scheme was established.

40. The Kopuaruru development scheme was started in 1939, and was used to provide employment for Maori. However, World War Two seems to have interrupted development plans. The owner occupier (and her co-owner) became involved in wartime duties, and a sharemilker was placed on the scheme. By 1944 the Kopuaruru scheme was in trouble, with high debt, gorse problems and no farm implements. The Registrar acknowledged that the problems with the scheme were not the fault of the sharemilker, but he was unwilling to recommend that the department spend any further money on capital improvements while the occupier did not have leasehold tenure. This meant that as long as the land remained in its unimproved state sufficient returns could not be generated to repay the debt. Furthermore the Board would not spend more money on improving the block until a permanent legal occupier could be arranged. As it stood the existing debt on the property was greater than the value of the improvements and stock.

41. After the war, the sole owner took over farming the scheme. In 1946 the Board of Native Affairs approved a further development programme of expenditure. The Board had been informed that Kopuaruru was going to be a difficult

financial proposition because the existing level of debt was beyond the capacity of its 53 acres. The owner did not work full-time on the farm, and in 1948 told the department that her circumstances meant she could no longer farm the property. The owner was not granted any debt write off in 1950 on the grounds that she had neglected the property. However, at least one official recognized that the owner was not solely to blame for the situation, and had not been given adequate support and supervision by the Maori Affairs Department. When it started in 1938 the scheme had an equity of £1,000, but by the time the goal of Maori occupation was abandoned in 1950 after 11 years of department control, the debt was greater than the value of the property. As most of the funds advanced had been spent on stock rather than capital improvements, the debt increase of £1,400 since 1946 had only resulted in improvements worth £103. The Board decided to lease the farm to a Pakeha farmer for 10 years, but because the requested rental was considered too high a lessee could not be found. In 1950 it was decided to lease the block for 21 years in order to receive a higher rental which would be used to repay the debt. The Pakeha lessees also found it to be uneconomic as a single proposition, and the property again deteriorated over the term of the lease. The block was leased for a further five years in 1971. The debt was finally repaid in 1975, after 25 years of leasing, and 37 years after the Board of Maori Affairs took over control.

Reserve Land Still in Maori Freehold Ownership

42. To return to Question 3.9(b) of the Statement of Issues, the following table compares the original size of each reserve block with the amount of land which was listed by the Maori Land Court in 2002 as Maori freehold land. The table shows that approximately 24 percent of the original reserves are still Maori freehold land. Out of the 2,216 acres of remaining Maori freehold land, 75 percent is within the Kaiwhaiki block. It should be noted that the original Kaiwhaiki reserve was only said to be 100 acres, but the block which was brought before the Native Land Court included land to the north of the Whanganui deed boundary. The only blocks which have experienced no reduction in size are the Motuhou and Omanaia reserves, and two small sections of Putiki: Matahiwi and Wharepapa.

43. The land listed as Maori freehold land does not include sections which have been incorporated or declared to have the status of European land under Part 1/1967. This means that there are likely to be more sections which are still in Maori ownership than those included in this table. If the 1,509 acres of Waipakura and Aramoho which are incorporated are added to the Maori freehold land, this gives a total of 3,725 acres still in Maori ownership. This is equivalent to 40 percent of the area of the original reserves, but again is made up largely of the Kaiwhaiki and Waipakura blocks.

Block	Original Size	Maori Freehold 2002
Aramoho	240a 0r 00p	3a 2r 36p[4]
Iwiroa	52a 3r 27p	Nil
Ti Kahu	6a 1r 14p	Nil
Kaiate	48a 0r 22p	Nil
Kaitoke	364a 0r 00p	85a 3r 34p
Kaiwhaiki	1,901a 3r 00p	1,686a 3r 25p
Kirikiri	23a 3r 26p	Nil
Kohipo	164a 0r 00p	Nil
Kopuaruru	57a 0r 32p	55a 3r 12p
Te Korito	111a 2r 00p	Nil
Manawatiare	17a 2r 23p	Nil
Manawakoara	173a 3r 36p	79a 1r 08p
Marangai	14a 0r 12p	Nil
Matahiwi	0a 3r 27p	0a 3r 27p
Matangirei	2a 0r 15p	1a 0r 08p
Matapohe	2a 2r 07p	1a 0r 11p
Matawerohia	38a 2r 19p	Nil
Motuhou	114a 0r 10p	114a 0r 10p
Moutere	16a 1r 15p	2a 0r 35p
Mataongaonga	urupa[5]	Nil

[4] Although only a small area remains as Maori freehold land, 146a 2r 36p has been incorporated.
[5] The size of Mataongaonga was not defined in the deed and it appears that no Crown Grant was issued.

Block	Original Size	Maori Freehold 2002
Ngaparaoa	5a 0r 38p	4a 1r 07p
Ngatarua	84a 0r 33p	1a 2r 13p
Ngaturi	128a 3r 26p	Nil
Ngongohau	18a 2r 02p	6a 0r 07p
Omanaia	5a 0r 32p	5a 0r 32p
Onetere	119a 1r 28p	13a 3r 30p
Te Opearourou	13a 1r 31p	6a 2r 04p
Paranuiamata	66a 2r 19p	7a 2r 30p
Parawaha	1a 0r 16p	Nil
Pariatumaunga	72a 1r 17p	Nil
Paure	100a 0r 00p	Nil
Popangaruru	10a 0r 16p	2a 2r 26p
Pungaharuru	90a 3r 29p	2a 2r 02p
Purua	2a 0r 00p	Nil
Te Riri a Te Hore	168a 3r 20p	106a 0r 01p
Taumatakaroro	21a 0r 31p	12a 0r 16p
Taumatakoro	0a 2r 13p	Nil
Tutaeheka	1a 0r 32p	0a 1r 05p
Waikupa	2,272a 0r 00p	Nil
Waipakura	2,358a 0r 00p	4a 2r 27p[6]
Waipuna	114a 2r 00p	Nil
Waitahanui	174a 2r 27p	4a 0r 14p
Whakamaru	13a 2r 13p	1a 1r 06p
Whakaniwha	13a 3r 37p	5a 0r 37p
Whakapaki	10a 3r 24p	Nil
Wharepapa	0a 3r 29p	0a 3r 29p
Wahataua	4a 0r 37p	Nil
Total	**9,222a 2r 35p**	**2,216a 0r 12p**

[6] Although only a small area remains as Maori freehold land, 1,362a 2r 00p acres remain as part of the Waipakuranui Incorporation.