

**Summary of  
Dr Beryl Woolford Roa's Thesis  
Wai 898, #O3(a)  
for Te Rohe Pōtae Inquiry (Wai 898)**



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## **Introduction**

**1** This report covers the Crown acquisition of land in the Kopua One block in the north western King Country of Te Rohe Pōtae Inquiry District from 1890 until 1937. It forms part of my PHD thesis, completed in 2008 under the supervision of Profs. Margaret Mutu and Linda Tuhiwai Smith. Kopua One is significant because it was one of the first divisions of Māori land in the King Country that was acquired by the Crown in 1890. Prior to the sale of Kopua One, the Crown had not been successful in buying any considerable interests of Maniapoto land, and the sale of individual interests in this block signaled the collapse of Maniapoto resistance to land sales. Unusually, some of the government documentation concerning the initial acquisition of this land still exists, and gives clear evidence of the Crown intention to defraud Maniapoto hapū of their tribal estate. This documentation also illustrates the Crown's disregard for the economic and social wellbeing of the hapū whose territory they sought to own and control. Kopua One is also unusual because it is one of the few Maniapoto blocks that was not owned by a multitude of hapū. Apart from several Waikato, Apakura and Hikairo individuals, the hapū of Ngaupaka-Te Waha (a branch of Ngāti Te Waha) gained exclusive title to Kopua One from the Native Land Court in 1890. However, this claim is made on behalf of all descendants of the original owners.

### **The Native Land Court - 1886**

**2** Despite the failure of Maniapoto to prevent the Native Land Court from operating within their borders, iwi solidarity was still intact enough to prevent the Crown from alienating tribal lands for four years. But the collusion of Crown and judicial officials acted to subvert traditional structures and relationships, until hapū were finally forced to participate in the Native Land Court process, and Maniapoto autonomy was eventually destroyed. Many of the Crown strategies to achieve this end included tactics to 'divide and rule' in order to isolate iwi and hapū from each other.

### **The first Crown purchases of Maniapoto land – Secret Sales - 1890**

**3** In April 1890, the Crown Purchasing Officer George Wilkinson reported his first purchase of shares in Te Rohe Pōtae from the northwestern Mangauika block. But the shares secretly acquired in the Mangauika Block

were not enough, and Wilkinson needed to gain more owners with substantial amounts of shares in a block before the Crown had enough to apply to the Native Land Court and have their interests partitioned, and thus gain legal title.

Between May and August of 1890, seven members of Ngāti Ngaupaka-Te Waha signed the deed of sale with Wilkinson for their shares in the Kopua One Block, the block that bordered Mangauika. None of the shares had been defined. The surviving documentation about this sale shows that the Crown purchased the shares secretly, against the wishes of most hapū members. When news of the sale became known, Ngaupaka-Te Waha attempted to act strategically in order to position the Crown interests in areas on the block that would cause the least disruption to their lives. This strategy had limited success, because the hapū were unaware of the exact amount of interests the Crown had acquired.

#### **Effects of Crown partitions of Kopua One – Damage Control Strategies**

**4** Documentation from Wilkinson reveals several issues. Firstly, that he was still actively seeking to acquire undefined shares and secondly, that hapū resistance was still strong enough to warrant secret purchasing. Most importantly, when other hapū members became aware of the sale of interests, they contrived for the Crown shares to be awarded on less desirable land. It is obvious that the response of the hapū on becoming aware of some of the clandestine dealings their relations had concluded with Wilkinson, was to activate a plan of damage control. These steps would have been carefully discussed as they represented recognition of the failure of Maniapoto efforts to prevent subdivision of hapū land by Crown intervention, and the danger that other portions of Ngaupaka-Te Waha land could also be lost through the Native Land Court system. Furthermore, as the application to subdivide the block came only days after the sale of the shares, it is quite possible that the subsequent subdivisions were entirely a result of the hapū becoming aware of the Crown purchases.

The owners' failure to admit they had sold all their interests and Wilkinson's failure to disclose the true extent of Crown interests to the Court had major implications for the hapū. All the adults and children of Ngaupaka-Te Waha had been awarded a proportion of shares in the entire block and the hapū

spread the allocation of shares over the proposed twenty subdivisions. The shares of the interests known to have been sold were confined to two specific areas, but as the hapū was unaware that interests in other divisions had also been disposed of, they submitted their proposed subdivisions and attendant lists of owners in ignorance of the fact that the Crown could claim ownership of areas the hapū believed safe. Wilkinson deliberately chose to keep the extent of Crown interests secret, and the Court allowed the Crown access to the subdivision plans without insisting that all Crown interests be declared. Furthermore, as documentation demonstrates, the hapū unknowingly placed their wāhi tapu at risk. Although there were actually two wāhi tapu on the block that the Crown could claim (1C and 1T), Wilkinson did not dare apply for either of the tiny portions as the resulting fury may have seriously curtailed the sale of any further interests throughout Maniapoto.

From the available documentation it would seem the hapū purposely positioned the seller's interests in subdivisions 1Q and 1J, and scattered the rest of their interests in 1T and 1C. 1Q and 1J were to be acquired to satisfy the Crown purchases, but as noted above, 1T and 1C were wāhi tapu. Therefore, it can be assumed that the hapū knew of Crown interests in 1Q and 1J, but were unaware that the subdivisions of 1T and 1C would mean the Crown could claim part ownership. Thus, the secret purchasing of undefined shares was advantageous to the Crown not only to facilitate an initial foothold into a block, but also to allow it access to further subdivisions without hapū being able to manage the process.

### **Effects of Crown partitions of Kopua One– 1,038 acre sale - Kopua 1U**

5 The first partitions of the block were made solely for the purpose of partitioning the Crown interests, and caused severe hardship for the entire hapū by forcing their further participation in the Native Land Court process. The first most obvious effect this had on Ngaupaka-Te Waha was the sale of 1,038 acres to pay survey and court costs.

In October 1890, the subdivisions and boundaries were submitted and passed by the Court. From that point, the surveys could begin. Government surveyors were contracted, and the hapū was eventually presented with two bills of £99-05-00 and £30-09-04. After payment to the Crown for the survey liens, the

Court gave final approval for the plans. However, before deciding on the subdivision of Kopua One, Ngaupaka-Te Waha had taken into account the enormous costs of the operation, and in doing so activated the process of selling a particular portion of land on behalf of the entire hapū – a sale block.<sup>1</sup> The sale of such land was an example of Maniapoto attempts to strategically respond to Crown incursions into their land, “... to minimise their losses and protect as much land as they could.”(Marr 1996:102). Ngaupaka-Te Waha made it clear to the Court that one of the subdivisions, Kopua 1U of 1,038 acres, was to be awarded to four hapū members acting as kaitiaki for the rest to facilitate immediate sale to the Crown.

### The Crown valuation

6 The month following the application for hearing on the Kopua One Block, John Rochfort for the Survey Department completed a thorough valuation of the north-western blocks. The following table is taken from Rochfort’s report 2

Table 1: Rochfort’s Report :

Subdivision	Quality	Forest or open	Value
Mangauika	$\frac{3}{4}$ hilly or mountainous.	Chiefly bush, almost scrub on mountain.	5/-
Ngāmahanga	Flat	Open	20/-
Kopua 1	$\frac{1}{2}$ flat or downs, rest	About $\frac{1}{2}$ bush, pine,	15/-

<sup>1</sup> Ngaupaka-Te Waha still had to pay for their share of the 1888 partition of the Kāwhia-Pirongia-Kopua partition from which Kopua One was cut out.

<sup>2</sup> Rochfort to the Chief Surveyor, 16<sup>th</sup> September 1890. MA 13/78 NLP 90/494.

Subdivision	Quality	Forest or open	Value
	hill	birch, rata [etc?]	
Waiwhakaata	2/3 arable & good land	Half bush, pine, pukatea, tawa [etc?]	20/-

Rochfort's assessment confirmed Wilkinson's opinion that these blocks were particularly suitable for settlement, with Kopua One described as half flatlands or downs and half in hill (the lower slopes of Pirongia mountain), with half the block covered in bush. Of this, the timber considered to be of value included pine, birch and rata. The block was estimated to be worth fifteen shillings an acre, but Wilkinson had already brought shares for three shillings and sixpence an acre, and not included any consideration for the value of timber. The price paid for the 'sale block' of 1,038 acres was four shillings an acre as no reserve was included.

The Native Department had previously relied on Wilkinson's estimations and set a blanket price of three shillings and sixpence for the entire Te Rohe Pōtae – later temporarily increased to five shillings in the face of individual reluctance to sell. Thus, the price was knowingly established at a rate many times less than the true value of the land. Rochfort's professional evaluations of the northwest did not mean that the Crown would offer more per share; instead it merely increased the Crown's profit margins.

### **Kopua One reserves**

7 Marr describes the procedures of the Government towards reserves in Te Rohe Pōtae as a policy '... that might have been expected to provide some protection for Māori owners in the district. However, it seems apparent from official records, that right from the beginning of purchasing, the policy was designed more to assist purchasing than to protect Maori interests.' (1996:87). The Kopua One sale provided an opportunity for the Native Department to

manufacture policy according to the individual circumstances of each purchase because by 1890, parliamentary legislation relating to reserves and restrictions ‘... seem to have been little more than a token attempt to give legislation intended to ensure rapid alienation of Māori land into the hands of settlers the appearance of protective concern ...’ (Williams 1999:269).

By 1890, the Crown’s legal obligations to Māori when purchasing an individual’s entire interests in a block were encapsulated in an amendment to the 1881 Native Lands Frauds Prevention Act (1888) (section 4) that stated the ‘Trust Commissioner to be satisfied that Natives with interests in land being alienated have sufficient land left for their occupation and support.’ (ibid 1999:270-271). There was little likelihood of anyone investigating these matters, and at the time of the first Crown purchases it could be reasonably assumed that individuals had sufficient interests in other Maniapoto blocks to ‘satisfy’ the Court if it bothered to enquire. So it is surprising that Wilkinson was told to include provisions for ten per cent reserves for the first Kopua One purchase because there was no legal obligation to do so. Presumably, reserves were attached to initial purchases as an enticement for Māori to sell.

In asking for advice on how to proceed on this issue, Wilkinson received advice from the Under Secretary which provided the model by which further Crown purchases in the Kopua One Block and the rest of Te Rohe Pōtae would proceed;

... As to ten per cent reserve, that may be considered covered by additional price [of] four shillings instead of three shillings and sixpence an acre. You can prepare a special deed for this division if you find it desirable as it is a special case, but if the ten per cent is only a question a memorandum to show understanding will be sufficient.<sup>3</sup>

The Ngaupaka-Te Waha sellers’ faction had already sold their interests at three shillings and sixpence an acre, and so the first Crown purchases contained reserves. But, the Kopua 1U sale was concluded without any reserves attached, and nearly all subsequent sales in the block also contained the provision that the sale price for each acre had been increased by sixpence as compensation for reserves. Although the hapū agreed to forgo reserves for an

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<sup>3</sup> Lewis to Wilkinson 24<sup>th</sup> February, 1891. MA 13/78 NLP 91/494.

extra sixpence, surely they would not have done so had they had known the true valuation of their land.

The second purchase in Kopua One Block of 1,638 acres followed the same pattern as the first in that an extra sixpence an acre was included in the purchase price to obviate the need for reserves (of which none were made); the price per acre again being four shillings. Thus, from the combined acreage of the first two sales (both included in the same deed of sale) of 3,938 acres, only five reserves were ever created.

These included 1C and 1T (urupā) of 1.01.00 acres and 1 acre, 1J of 20 acres, 1Q of 118 acres and the 1B reserve of 1.01.03 acres; little more than 141 acres. In 1898, the 1J reserve was gazetted as a further Crown acquisition and sold, and the 1Q reserve became a Crown purchase in 1930. By this time, only 3.02.30 acres remained as reserves out of the entire Kopua One Block.

#### Status of reserves in Kopua One

BLOCK	AREA	NZ GAZETTE NOTICE	PRESENT STATUS	REMARKS
1B reserve	1.01.30 acres	26.05.1898	Māori land	Kingi whānau
1C urupā	1.01.00 acres	26.05.1898	Māori land	Te Ākarauti urupā
1J reserve <sup>4</sup>	20 acres	26.05.1898	Private land	Crown purchase
1Q	118 acres	1930	Private land <sup>6</sup>	Crown

<sup>4</sup> From Kopua 1J totalling 200 acres. The sale of the remaining 180 acres to the Crown is contained in the deed 1856.

BLOCK	AREA	NZ GAZETTE NOTICE	PRESENT STATUS	REMARKS
reserve <sup>5</sup>				purchase
1T urupā	1 acre	26.05.1898 NLC order 06.10.1890	Māori land	Parts of Kopua 1S 2B2B2B

Little more than 141 acres were reserved in the original sale to the Crown, and the deed of sale explicitly states that reserves were not to be made in relation to most of the block partitions from A to U. In two instances the Crown subsequently bought reserved land. By 1930, little more than 3 acres remained as reserves. The 1C reserve (Te Ākarauti urupā) was originally designated as two acres in 1890. Despite numerous trips to the Māori Land Court by members of Ngaupaka-Te Waha over the course of several decades, no documentation has emerged to explain how the 1C reserve was whittled down to its present area of one acre.

### Minors' interests in Kopua One

**8** Although the hapū had tried to restrict the sellers' interests to two blocks (1Q and 1J), the proposed 1Q division also included four minors aged between six and thirteen years old, represented by one trustee (figure 1).<sup>7</sup> Therefore, the complete purchase of the Kopua 1Q Block could not be finished until the minors' shares had been obtained. In 1890, the law concerning minor's interests in Māori land states that trustees could only alienate minor's shares with the approval of a Supreme Court judge.<sup>8</sup> Wilkinson had pointed out the situation in regard to finalising the sale of 1Q to his superiors saying, '...

<sup>6</sup> Sold by the Crown to Haywood, CT 208/234.

<sup>5</sup> From Kopua 1Q totalling 1298 acres (including reserve). Purchased for £1118, Deed 4748A, NZ Gazette, 1930, p.7.

<sup>7</sup> There were actually five minors, one being inaccurately listed as an adult.

<sup>8</sup> The Maori Real Estate Management Act. (1888). (Williams 1999:301).

the Crown is entitled to 750 acres – the balance being owned by minors represented by one which will sell at any time the Govt. decides to purchase minor's interests.<sup>9</sup> Wilkinson was instructed to leave the matter alone for present, but the Kopua 1Q deal graphically illustrated several problems in trying to facilitate quick sales in blocks where minors held shares. Accordingly, Wilkinson persisted in pointing out these impediments to the Native Office emphasising the expense, trouble and delays in applying for Supreme Court hearings, and the general reluctance of trustees to part with minors' shares.

In May of 1891, the Native Office sponsored an application to the Supreme Court, but the neat disposal of the children's land was impeded by the subsequent death of one of them. To save the trouble of making another application, Lewis proposed to delay court action until an adult had succeeded to the shares, knowing that the new owner was likely to sell.<sup>10</sup>

The Supreme Court Judge duly adjourned the case until the succession was complete, but meanwhile, another issue concerning minor's shares had arisen. One of the underage owners of Kopua 1Q had been incorrectly listed as an adult in the Native Land Court records. In pointing this out to Lewis, Wilkinson recommended that the purchase of these shares (totalling 150 acres), be postponed until the owner attained his majority in the very near future.<sup>11</sup> In this way, the pesky issue of minors' interests was satisfactorily dealt with and the sale of Kopua 1Q was finally complete.

The Crown purchase of Kopua One Q illustrated two individual instances of difficulties in obtaining minor's shares – difficulties that were easily overcome. But, in further negotiations to purchase Crown land in other Rohe Pōtae blocks, the issue of minor's interests was becoming a major obstacle. As the problem became more apparent, the Native Department put pressure on Government to change the Act, and two years later in 1893, Native Land Court judges were given jurisdiction to approve the sale of minors' land in an amendment to the Maori Real Estate Management Act (1888).

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<sup>9</sup> Wilkinson to the Under Secretary of the Native Department. 20<sup>th</sup> January, 1891. MA 13/78 NLP 91/494.

<sup>10</sup> Lewis to Wilkinson. 3<sup>rd</sup> June, 1891. The successor to the estate of the deceased had already sold all his interests in the Kopua One Block and had indicated his willingness as trustee to sell all the minors' shares as well.

<sup>11</sup> Wilkinson to the Under Secretary of the Native Department 8<sup>th</sup> August, 1891. MA 13/78 NLP 91/494.

## **Solving the minors' shares issue**

**9** The first Kopua One purchase had involved the bothersome business of applying for Supreme Court permission to buy minor's shares, and at that time, Wilkinson had described in detail other associated problems. Wilkinson's concern was not for the welfare of minors, but rather, that trustees could be induced more freely to sell minor's shares if the cash profits were made readily accessible. To achieve this, all that was needed was the cooperation of 'any Judge in Wellington' to bypass the legal necessities.<sup>12</sup>

Wilkinson's suggestion was passed on to Fenton's replacement as Chief Judge of the Native Land Court, Seth Smith. The Chief Judge replied, 'the suggestion that small sums should be paid to Trustees without the intervention of the Public Trustee is a good one. I have embodied it in the Court bill.'<sup>13</sup>

The bill Seth Smith referred to was an amendment to the Māori Real Estate Management Act of 1888, which now gave Native Land Court judges the authority to approve the alienation of minor's land and for Trustees to receive direct payments from sales under £20. (Williams 1999:301) It was passed by Parliament in October 1893, and effectively aided the Crown in dispossessing the next generation of Ngāti Maniapoto of much of their tribal inheritance. Thus the sale of minors' shares in the Kopua One block from 1893 onwards had become a relatively trivial affair for the Crown to achieve.

## **Kopua One sales – 1892-1895**

**10** The initial Crown purchases in the Kopua One Block of subdivisions 1Q, 1J and 1U between 1890 and 1891 were especially significant as they were evidence of the first tangible success of Government's strategy to collapse Maniapoto resistance to the alienation of their lands. From 1892 onwards, further sales of Ngaupaka-Te Waha lands in the Kopua One block quickly occurred, but by this time, the Crown had obtained significant numbers of shares (defined and undefined) in other parts of Te Rohe Pōtae as well.

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<sup>12</sup> Wilkinson to Lewis. 27<sup>th</sup> May, 1891. MA 13/78 NLP 91/494.

<sup>13</sup> Memo from Seth Smith to Lewis. MA 13/78 NLP 91/494.

The purchases of further Kopua One subdivisions took place between 1892 and 1894. They totalled approximately 1,338 acres.<sup>14</sup> In March 1894, Wilkinson made an application to ascertain all Crown interests from the date of their purchases in 1890 onwards. The entire hapū were again forced into the Ōtorohanga Native Land Court incurring further debts. The following year saw repeats of the same performance and by now, the same scenario was being enacted by almost every other hapū in Te Rohe Pōtae.

The impact of further Crown sales caused more devastation for the remaining owners and those who had sold shares but retained interests in other Kopua One blocks. The costs of survey liens and legal fees resulted in additional financial pressures that few could meet. Additionally, the Crown's manoeuvring to ensure their interests were on the most favourable and convenient parcels of land, meant that as more partitions of blocks occurred, Māori were forced onto less productive and isolated parts. Many had lost access to resources such as forest, swamps and rivers and it became more difficult to provide for their families. No state subsidies or loans were readily available to Māori to develop their land for farming, and few banks were willing to loan funds to Māori farmers especially if the holdings contained multiple owners. As not many of the hapū subdivisions were in individual title at this time, the only way the majority of Māori could raise the money necessary for development was to sell more land. (King 2003:245).

### **Legality of original deed of sale**

**11** The first deed of sale states that the purchase is for 'all that parcel of land in the Auckland Land Dist. being called or known by the name of Kopua No 1 & ... containing by admeasurement [sic] nine thousand three hundred & seventy five (9375) acres more or less ...'<sup>15</sup> As the total sales were actually of 4,046 acres, it can be assumed that members of the hapū signed the document (several of them could read and write in English and Māori), and Wilkinson filled in the details later, being optimistic that he could eventually obtain the entire block. As the original deed is flawed and was never corrected (this would have entailed everyone signing again; a process that had already taken

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<sup>14</sup> One more owner of Kopua 1B also sold his remaining interests during this period. These shares were joined with shares sold in the first Kopua One purchase of 1890. The Crown claimed its interests by forcing the partition of Kopua 1B.

<sup>15</sup> Deed of Sale 1856

from 1891 to 1896), the original Kopua One block purchases, as set out in deed 1856 were illegal.

Furthermore, the two attesting witnesses to the deed of sale for the May to August sales (1890) were Wilkinson (acting in his capacity as a Justice of the Peace), and Grace in his capacity as a licensed interpreter. Both men were employed by the Native Department as Crown purchasing agents and there was an obvious conflict of interests. Both the Crown and the Judge of the Ōtorohanga Native Land Court chose to ignore this and allowed Wilkinson and Grace to authenticate the sales. Wilkinson continued to act as a witness to all the transactions contained in Deed 1856.

### **Kopua One sales – 1897-1908**

**12** Between 1897 and 1908, five more Crown sales occurred in Kopua 1F, 1R, 1O and 1N. The sale of 1F and 1R were the last Crown purchases before the removal of Crown pre-emption, and again demonstrate that the Crown paid a tiny fraction of the estimated value of the land.

The sale of 1R in 1897, was the last Crown purchase in the Kopua One block over one thousand acres. The owners represent many Ngaupaka-Te Waha who were also affiliated to the neighbouring Maniapoto hapū of Ngāti Ngāwaero. As more and more land was processed through the Native Land Court during the 1890s and as Crown sales mounted, Maniapoto were forced to sell their hapū holdings in one area to concentrate their efforts and finances in one place. Although Ngāwaero maintained other land in the Kopua One, their main efforts were concentrated in retaining and maintaining their lands in the Kakepuku district on the other side of the Waipā River. The signatures for the sale were collected between July 1895 and September 1897. Over twenty minors' interests (all children aged between three and eleven) were sold, and the Crown paid £642 for an area of 2,140 acres. Wilkinson witnessed all the signatures for the deed in his capacity as a licensed interpreter, but also acted as the Crown Purchasing Agent for the transaction.

However from 1906, even though Crown purchasing continued, owners of Ngaupaka-Te Waha land were (for the first time) paid a reasonable price for their land. This era also saw the first implementation of new policies to oversee the sale and lease of Māori land.

## **New Native land policies**

**13** It is argued that the new Māori land policies were not a benign measure to regulate Māori land administration for the benefit of its owners, but signaled a determination by government to hasten the alienation of land. During this era, other bodies were set up to compliment the work already being done by the Native Land Court and these eventually evolved into Māori Land Boards that lasted until 1953. When it became apparent that few Māori would accept the authority of the land boards (over which Māori had nominal control), astonishing legislation was passed subjecting Māori lands to the control of the new organisations. These compulsory measures saw the introduction of a form of apartheid into New Zealand statutes, as Māori were forced to offer up their freehold land for sale or lease. For much of this period, a Liberal government was in power (1891-1911) who:

‘... were able to acquire so much Maori land so quickly because they passed a range of legislation which locked together like the pieces of a meccano set. It is easy to lose sight of how interconnected this legislation was because it was characterized, like all Liberal legislation, by constant amendment and improvisation – to make it work better.’ (Brooking 1992:89).

To assist the work of the nascent land boards, research was undertaken to assess the extent of remaining Māori landholdings. The Stout-Ngata Commission not only provided the first comprehensive analysis of Māori land alienation, but also gave Ngāti Maniapoto an opportunity to present their ideas on how their lands could be better utilised. Maniapoto leaders stressed that state assistance was needed for Maniapoto to develop their own lands, in the same way it had been extended to Pākehā. These ideas were not implemented until the late 1920s, by which time even less land remained in Maniapoto ownership.

Although from 1900 onwards, Crown purchases of Kopua One slowed considerably, this was because most of the best land had already been acquired. Although statistics relating to the block are not included in the Stout-Ngata report of 1908, it is seems evident from John Ormsby’s (N’ Ngaupaka-Te Waha) active participation in the hearings to the commission,

that the hapū were anxious to develop their remaining land themselves, and were opposed to compulsory alienation.

The sale of Kopua 1O and Kopua 1N in 1906 (275 acres) were the first sales of Ngaupaka-Te Waha land since the establishment of the Māori Land Boards. Therefore the sales were conducted with the approval of the Maniapoto Tūwharetoa District Land Council. As compulsory vesting had not yet come into force, and the Stout Ngata Commission had found that no land in this region had been vested with the Council, these two sales do not seem to have been a result of the new laws. In addition, as there was only one owner involved in both transactions, the new legislation enabling a majority of sellers to alienate land did not apply and this made the sales a relatively straightforward matter for the Crown and the Council to effect.

The purchases of both Kopua 1O and Kopua 1N meant that the Crown now owned a complete block of over five thousand acres uninterrupted by untidy parcels of Māori properties. This increased the potential for development of the land and made it more attractive to Pākehā buyers. But the main difference between these sales and all the previous Crown purchases in the Kopua One Block is that the Crown paid a price that approximated the true valuation of the land.

### **The Native Land Act of 1909**

**14** The next Crown purchases in the Kopua One Block occurred during another period of enormous legislative reform of the Native Land laws. The Stout-Ngata Commission had identified that there were still large areas of land that could be forcibly taken from Māori to be leased or sold to Pākehā. The legislation implemented between 1909 and 1913 was to streamline the process that had begun in 1900. One of the methods undertaken by government to achieve this was to combine the authority of the Native Land Court with the authority of the Māori Land Boards. This period saw the execution of another apartheid-like law that re-introduced Crown pre-emption on Māori land that the Crown wished to purchase. The effects of this strategy had serious implications for the Ngaupaka-Te Waha owners of Kopua 1S whose land was coveted by the state.

The Native Land Act of 1909 saw a revision of the Māori Land Board districts. The Tūwharetoa-Maniapoto Board was abolished with the bulk becoming part of a newly constituted Waikato-Maniapoto Māori Land Board. All three members were Crown appointees with Pepene Eketone as the minority Māori representative. The Act also removed all restrictions on the alienation of Māori land with the provisions that Māori were not to become landless by any sale, that adequate payment be made for sales and that all leases and sales to be confirmed by the local land board. Once again, the legislation included the usual and almost meaningless reference about landlessness with the added injunction that any purchases by Crown agents are confirmed only after 'due inquiry' into other land holdings the seller might have. . (Bennion 1997:08).

A further feature of the new law (section 363) that had particularly serious implications for remaining Ngaupaka-Te Waha land in the Kopua One was the restoration of Crown pre-emption over particular areas for limited periods of time. Whenever it entered or thought of entering into a contract or negotiating for the purchase of native land, the Native Land Purchase Board could recommend to the Governor that an Order in Council be made prohibiting any other alienations of that block for up to one year, but this could be extended by six months as required.' (ibid 1997:08). This meant that owners could not enter into any lease arrangement or mortgage, or sell their own land (except to the Crown) until the prohibition had been lifted. Section 363 provided the government with a powerful weapon with which to coerce Māori into selling, for while the order was in force, the Crown could buy up individual interests (divided or not), and eventually force a partition.

However according to Bennion, the main features of the 1909 Act were the '... provisions allowing for alienation of land by individuals and meetings of owners.' (ibid 1997:02). This meant that all Māori freehold land was distinguished by the number of owners. There were two categories; land with over ten owners and land with less than ten owners. Land with less than ten owners was treated as European land and alienation was merely subject to confirmation by the Land Board. However, the 1909 legislation affecting land with ten or more owners (by far the greater part of remaining Māori land), allowed permanent alienation to proceed more smoothly. Under the provisions of the law, a prospective buyer had to apply to the board for

permission to call a meeting of owners. The board then considered if the proposed sale was in the public or Māori interests. How the board determined what Māori interests were is not known, and given that all representatives on the boards were Crown appointments, it is most likely that almost any sale of Māori land was considered in the public interest. The requirement for the board to even nominally consider Māori interests before calling a meeting of owners was effectively abolished in subsequent 1912 legislative changes. (ibid 1997:4).

The Māori Land Board was in control of the arrangements for meeting of owners. They decided the time and venue and were responsible for sending out official notification of meetings. If any owner (for any reason) did not receive notification, the meeting was still considered valid. (ibid 1997:04). Thus, an owner of land could easily find themselves party to the sale of land without being aware of the proceedings until they were complete. A representative of the board had to be present at any official meeting of assembled owners where a quorum was established if five owners were actually present or if proxy votes had been received. Therefore, an agreement to alienate could be made and endorsed by the board with only one or two owners present. In blocks where ownership could easily number hundreds, the 1909 legislation allowed for the sale of land to be effected by the few. (ibid 1997:04)

### **Legislation - 1913**

**15** The election of the Reform Government in 1912 saw further changes to Māori land law. The Reform Party came to power with heavy support from the farming sector whose interests in acquiring Māori land by sale rather than lease were supported by the Native Land Amendment Act of 1913.

The Act abolished all Māori representation on the land boards and reduced membership to two. The boards and the Native Land Court were now jointly presided over by judges of the Land Court and their registrars. The Native Land Court now had the power to oversee almost every aspect of Māori land, from deciding ownership and partitions to administering leases and sales. In 1900, a large section of Maniapoto had supported the introduction of an administrative system with elected Māori representation to help facilitate

leases for those who wished to participate. Twelve years later, Māori had no representation; vesting of 'surplus and waste' lands had become compulsory and the permanent alienation of land made easier than ever before.

### **Effects of 1909-1913 legislation – Kopua 1S**

**16** Four Crown sales in the Kopua One Block took place in the years following the legislation. Out of all the large subdivisions made in 1890, only one remained almost completely intact and still in Māori communal ownership. Kopua 1S consisted of 2,545 acres in 1890. An 1897 partition to determine the Crown's interests had taken place and a subsequent one to partition an individual's interests had occurred the same year, leaving the residue in the hands of nine owners. One of the features in the study of this particular subdivision is the mysterious disappearance and the occasional reappearance of many acres of land after each partition had taken place. Following the first 1897 partition, the total acreage left to the remaining owners should have been 1,654 acres. Somehow, this was reduced by eighty-one acres to 1,635 acres and named Kopua 1S Section 2. In the second partition of 1897, the missing acres were returned with an extra twenty acres added on. During the next Crown purchase in 1907, over 100 acres again went astray and the original owners were left with 1,035 acres.

As the last large outstanding subdivision in the block, government purchasing agents were most anxious to lay their hands on what was now very valuable real estate most suited for farming by Pākehā. The Crown purchased 50 acres from one of the owners in 1913 leaving 985 acres in the possession of six owners.

But the 1913 partition order was subsequently altered because the Crown had apparently acquired 250 acres of the block two years before.<sup>16</sup> In the crossover and muddle of the responsibilities of the Māori Land Board and the Native Land Court, it would seem that the Board had not notified the Court of the alienation of the land. To further confuse matters, the Certificate of Transfer was not completed until 1917<sup>17</sup>. No Deed of Sale has been found for this Crown purchase, making the sale of the 250 acres extremely suspect.

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<sup>16</sup> This transaction was not an outright sale but an exchange of land. New Zealand Gazette, 1911 p 1232.

<sup>17</sup> Ref # 4031

After apparently agreeing to the exchange of 1911, the majority of owners in Kopua 1S 2B2B were reluctant to sell any further land as the 1913 partition testifies. Therefore, in order to obtain more land in the block, the Crown wielded section 363 of the 1909 Native Land Act and in 1918 placed the first of a series of prohibitions on the entire 750 acres.

The ability of the Crown to coerce the owners of 1S 2B2B to sell was complicated by the death of Teneti Rangiwhakarau in 1917. Teneti was one of the last surviving kuia of Ngaupaka-Te Waha who had been an adult when the first partitions of the Kopua One block had taken place in 1890. Teneti had no surviving children, and her substantial interests in the block were divided amongst sixteen of her nieces and nephews.

### **Kopua 1S 2B2B Teneti's Successors (1917)**

Tamiaho Rangiohu

Pouaka Te Waina (Tame Raiti)

Waitarere Hoani

Wiri Herangi

Hariwhenua Herangi

Tahuna Herangi

Te Pareaute Komanga

Kiripato Omipi

Rapata Omipi

Hone Omipi

Heremaia Omipi

Taare Omipi

Hori Omipi

Pene Omipi

Wiremu Omipi

Aata Omipi

With Teneti's death, the number of owners in the block was almost doubled. The Crown placed the first prohibition order in 1918 between the time of Teneti's death and before succession orders could be filed.

It was a clear message to Teneti's potential successors and the existing owners that the Crown had designs on the block. Therefore, it is quite likely that the hapū agreed to place the sixteen successors in order to try and prevent the Crown from gaining ownership of the land. This tactic was successful because although the new 'assembly of owners' law allowed for the sale of land to be made by a minority of five owners, not enough willing sellers could be found. Thus the Crown continued to apply pressure by re-issuing the prohibition orders every six months for the next two years.

In 1919, one of the major shareholders had his interests partitioned, and this partition was also subject to prohibition orders. In the following year, the Crown was successful in buying the interests of two of Teneti's successors. The residue of the block was now 437 acres, but despite their methods, the Crown had no further success in dissipating the last bastion of Ngaupaka-Te Waha land. Kopua 1S2B2B2B (now known as the Kopua A2) is still held in communal Māori ownership under the Kakepuku Trust. This block represents a rare instance of Ngaupaka-Te Waha success in defeating Crown strategies to appropriate land still in communal hapū ownership.

## **Rates**

**17** From the 1890s until 1904, the Crown and Māori were the biggest landowners in Te Rohe Pōtae and much of the territory was under exemption according to the provisions of successive rating legislation because Crown land was automatically exempt and there were still few public roads to Māori properties. Nonetheless, with the influx of Pākehā settlers pressure mounted on emerging local authorities to build roads, fences and bridges and undertake other public works. Fuelled by the persistent belief that the nation's progress was severely stunted owing to the existence of vast amounts of 'idle' Native lands, the government began to implement policy to force Māori to pay rates.

## Ngāti Ngaupaka-Te Waha response to rating

**18** The introduction of rating legislation has already been documented and presented to the Tribunal and these details are not included in this report. However, Aata Omipi of Ngāti Ngaupaka-Te Waha and an original owner of Kopua One also voiced Maniapoto views in a letter to The New Zealand Truth in 1920. He referred to Ballance's 1885 promises not to impose rates on unproductive land and reminded the public that Maniapoto had not been paid for the railway. Omipi argued that rates taxes were a violation of Article Two of the Treaty, and that Māori were not given the same state assistance to develop farmland as Pākehā:

Successive governments have passed legislation making blocks of land inalienable in order to protect the natives from being landless, and the average amount of land now in [the] possession of the Maori in the North Island, unoccupied, is estimated at 19 acres per head. This would mean that if local bodies are to levy the same it is only a matter of a short period when they (the natives) will become landless and paupers ... the Maoris had given generously to the Church and State, and taking into consideration the fact that the land has been alienated at a very low value, and also confiscated ... it would seem reasonable to say that the natives have done more than their share towards contributing to rates and taxes and should in future be exempt from the same.<sup>18</sup>

Aata Omipi's estimation that Māori (on average) retained only nineteen acres per head is accurate. A report to the Native Department in 1920 estimated that Māori now held approximately 907,278 acres suitable for settlement. The report stated that 'this cannot be regarded as an excessive area for the use of the 47,000 Maoris comprising the population of the North Island and their descendants. It is roughly 19 acres per head.' (Bennion 1997:73). Yet local and county councils continued to demand rates from Māori and insist that Māori were in possession of vast areas of waste, surplus and idle lands.

Another Ngaupaka-Te Waha kaumātua, Te Mokena Patupatu was a signatory to the 1927 petition presented to the King Country Local Councils conference on behalf of Maniapoto. The petition reminded the conference of the

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<sup>18</sup> New Zealand Truth, 25 September 1920.

promises made by government when the railway had begun in 1885. Such was the strength of feeling that the petition was taken to Wellington and delivered to the Prime Minister in the wheelbarrow used in the ceremony to dedicate the railway in 1885.<sup>19</sup> This was done to remind government of the promises made with Ballance in return for opening up Te Rohe Pōtae. The significance of this gesture was undoubtedly lost on most of the Crown representatives. The year 1927 also saw many meetings of Māori groups and local bodies throughout the country presenting similar arguments to government on the same issue and Māori contentions to be exempt from some or all of the provisions of rating laws were ignored.

### **Last Crown purchases - 1937**

**19** The final Crown purchase in the Kopua One Block took place in 1937. Kopua 1K (545 acres) had been portioned in 1897, and 200 acres had been sold to the Crown. It was partitioned in 1930, but still remained in Māori ownership.

The available documentation is not clear as to how the Crown acquired both Kopua 1K section 2A and section 2B, but both partitions had been placed into the hands of the Māori (Native) Trustee. The Māori Trustee then sold the land to the Crown in 1937.<sup>20</sup> It is most likely that the land had been compulsorily taken because of a default in mortgage payments. In 1925, the shares of one of the minors were mortgaged to the Māori Trustee by his trustee. The mortgage was for a term of five years for the sum of £1,400.<sup>21</sup> Under the terms of the Native Land Act of 1909, all owners were liable if one of them defaulted on an individual mortgage. Therefore, it is most likely that all the owners lost their land because of the non-payment of the 1925 mortgage. The Crown purchase of these two blocks is open to question for several reasons.

Firstly, the Native Land Court and the Waikato Maniapoto Māori Land Board had given permission for a minor's land to be mortgaged for a sum far in excess of the value of the minor's interests. Secondly, both blocks had been valued as being worth £943 in 1913.<sup>22</sup> Yet the Crown purchase price of £968

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<sup>19</sup> MA 31/4 NA, DB

<sup>20</sup> Transfer document 290049. Certificate of Title 430/101.

<sup>21</sup> Waikato Maniapoto Māori Land Court files, Hamilton.

<sup>22</sup> Waikato Maniapoto Māori Land Court block files, Hamilton.

was only £25 more than the valuation made twenty-four years earlier. Thus, the last Crown purchase of land in the Kopua One block was as suspect as its first.

## **Conclusion**

**20** The study of the Kopua One Block illustrates the process of Crown strategies and their effects on one hapū, Ngaupaka-Te Waha, as they tried to protect their land from Crown encroachment and preserve economic viability. Documentation concerning this block provides extensive evidence of Crown breaches of Te Tiriti o Waitangi.

Before the Native Land Court began to dismantle Te Rohe Pōtae in 1886, the people in the Kopua One list were owners of the entire area. By 1890, their tribal estate had been reduced to less than ten thousand acres, and in the following decade, the Crown would take half again of that amount. In the succeeding years, many of the children and grandchildren of the minors in the 1890 list would be landless. For numerous Maniapoto, the spiralling descent into economic marginalisation occurred in one generation.

We are the grandchildren and great grandchildren of the original owners of Kopua One. Few of us own any land in block. Many do not own any Māori land at all. If our land cannot be returned to us, we wish to preserve and protect what little remains, in particular as regards Te Ākarauti urupā and Kopua 1S2B2B2B -now known as the Kopua A2. This land represents a total of 123.047 acres, a mere fraction of thousands of acres of dubious Crown purchases. We ask for a small show of justice.

Heoi anō, kāti au i kōnei, tēnā tātou katoa.