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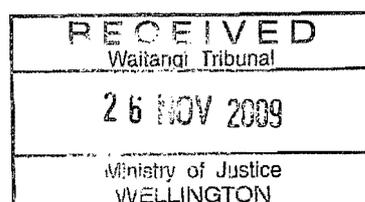
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TURONGO: THE NORTH ISLAND MAIN TRUNK RAILWAY AND THE ROHE POTAE, 1870-2008



A report commissioned by the Waitangi Tribunal for the Te Rohe Potae district inquiry
(Wai 898)

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Philip Cleaver
Jonathan Sarich



The Authors

Philip Cleaver holds a Master of Arts in history from Victoria University of Wellington (1996). Since 1999 he has mostly worked as a commissioned researcher for the Waitangi Tribunal and the Crown Forestry Rental Trust. He has undertaken research for the Hauraki, Gisborne, Urewera, Wairarapa ki Tararua, Whanganui, and Heretaunga-Tamatea districts and has presented evidence to the Tribunal on several occasions. Three of his earlier projects have examined the taking of Maori land for public works purposes – reports concerning the Wairarapa ki Tararua district (co-authored with Cathy Marr and Lecia Schuster), Whanganui district, and Heretaunga-Tamatea district.

Jonathan Sarich holds a Masters of Arts in history from Victoria University of Wellington (2006). He has been employed at the Waitangi Tribunal as a Research Analyst/Inquiry Facilitator since January 2007. In this time he has completed the scoping report Te Whanau o Erana Pera Manene Ripia (Wai 973) for the East Coast district inquiry and worked on the team project Te Rohe Potae Minute Book Database.

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Cover: Turning the first sod of the NIMT, Puniu River, April 1885 (ATL G96175½)

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Abbreviations

AJHR

ANZ

ATL

NZPD

NZJH

Appendices to the Journals of the New Zealand House of Representatives

Archives New Zealand

Alexander Turnbull Library

New Zealand Parliamentary Debates

New Zealand Journal of History

Introduction

This report examines the history of railways in the Te Rohe Potae inquiry district, focussing on issues of importance to Rohe Potae Maori. The North Island Main Trunk railway (NIMT) is of particular significance because the settler Government and Rohe Potae leadership reached a number of agreements and understandings about this railway prior to its construction. This significance is compounded by the key role that the NIMT played in facilitating the European settlement of the district.

For the purposes of this report the NIMT is the section of the line that passes through the Te Rohe Potae inquiry district, from Te Awamutu to Taumarunui. The report also examines the Stratford-Okahukura line, a branch line of the NIMT, which in part lies within the inquiry district (see Figure 1).

Commission Background

This project is part of the Te Rohe Potae casebook research programme. Following the decision of Judge Ambler to proceed to a district inquiry in November 2006, Dr Vincent O'Malley was engaged to prepare a review of the research requirements for the inquiry. A draft research programme was formulated and circulated in May 2007 after consultation with claimants on the potential research outlined by Dr O'Malley. The research casebook programme was finalised at a judicial conference held on 1 October 2007. The research programme contains a number of preliminary and main projects, this being one of the main projects, the fourth in research theme four, which focuses on unique types of land alienation and title issues.

A separate railways project, it should be noted, was included in the casebook as a result of feedback from claimants, who regard railways as an important issue for this inquiry due to the significance of the agreements reached to survey and build the NIMT in the district. It was decided that railways should be examined separately from general public works takings issues, which will be the subject of a separate report.

Due to the importance of the NIMT to the district and the long period of time under examination, this report overlaps with certain other reports commissioned for this inquiry. Effort has been made throughout the report to indentify these overlaps and clearly state the limits of the analysis presented. In particular, this report overlaps significantly with Cathy Marr's

political engagement report, 1865-1913. In regard to the period between 1870 and 1885, both reports discuss the background to the negotiations between the Rohe Potae leadership and the Government, and the negotiations themselves. However, this report focuses on issues relevant to railways, leaving many other significant issues to the comprehensive analysis of Marr's report. Similarly, the nineteenth century land reports also overlaps significantly with this report, particularly in respect of the connection between the NIMT and Government land purchasing.

The 1 October 2007 judicial conference identified a number of priority projects to be commissioned. Although this project was not one of those, it was commissioned at the same time with the understanding that it may help the priority projects proceed as rapidly as possible due to its close links with the political engagement reports. The authors of this report were initially commissioned to prepare a scoping report, which was completed in November 2008. The scoping report helped to set the parameters of the main report, clarifying the issues that it examines.

Commission Questions

The authors have been commissioned to prepare a main report that focuses on the following issues:

- a) Government and hapu and iwi motivations and understandings of agreements made to build the main trunk railway through the district, with particular regard to questions around economic development, settlement, political authority and security;
- b) The extent to which the construction and operation of the railways in this district reflected any understandings and assurances made in the negotiations between the Crown and hapu and iwi in the 1880s, including, for example:
 - Agreed conditions over the construction of the railway and any agreed alterations to these,
 - Compensation payments for lands required for the railway route,
 - Protection of urupa, kainga, wahi tapu and other sites of importance during railway construction,
 - Promises of economic benefits from the railway, including specific promises to Maori communities of work undertaking railway contracts,
 - Assurances to Maori committees, such as the Kawhia committee, that they would be able to manage economic opportunities offered by the railway, including setting rates to be paid for timber and gravel required, and
 - The extent to which standard public works provisions were applied rather than agreements reached through negotiations.

This section should include consideration of any protest by Te Rohe Potae Maori in relation to these issues and Crown responses to such protest;

- c) Whether land and resources acquired for railway purposes in this district were significantly in excess of agreements in the negotiations, or of what was required for the actual railway route, and whether alternatives to taking such as leases for some railway purposes were seriously considered;
- d) Whether adequate compensation for land and resources taken for the railway was provided and whether the compensation that was awarded was properly paid;
- e) The impact on remaining lands of railway takings, such as landlocked land, loss of access to urupa and commercially unusable land between the railway line and roads;
- f) Any issues raised by Maori at the time of construction about the environmental effects of railway construction, for example destruction of mahinga kai, and Crown responses to these;
- g) The relationship between railway development, tourism and the creation and management of native townships in the district;
- h) The impact of the development and operation of the railways on hapu and iwi communities of the district and on their exercise of authority, including the social and economic impact of construction camps on local communities, the role of the railways in enabling liquor to be introduced outside of community control and any changes in settlement patterns, including the relocation of marae and communities;
- i) Benefits Maori communities derived in the Te Rohe Potae district from the arrival and operation of the railway, including economic opportunities, and the extent of any restrictions on opportunities to gain economic benefit from the railway, such as the use of legal monopolies to prevent Maori selling resources such as timber and stone;
- j) The extent and nature of ongoing employment of members of the hapu and iwi of the district on the railway;
- k) Any later developments or agreed changes in understandings over the railway subsequent to the original negotiations, including over whether some land might be given free of charge, later Government and Native/Maori Land Court understandings and determinations about compensation payments for lands, and later inquiries into railways issues and agreements in the district, including the inquiry conducted by Justice Smith in 1946;
- l) Negotiations and agreements over the restructuring of the railways in the 1980s, ownership of the railways corridor and changes in ownership of the railway system, which was privatised in 1993 and returned to state ownership in 2008;
- m) Issues relating to lands taken but never used for railway purposes, leasing by the railways of lands taken but not used for railway purposes, lands taken to fund railways and the return of lands (and railway housing) no longer required for railway purposes; and,
- n) The relationship between the development and operation of the railway and the Crown's land purchasing and land settlement policies.

It should be noted that this report does not comment substantially on intertribal politics within the Rohe Potae, particularly who the recognised leaders represented. This includes those individuals who led the negotiations with the government from the early 1880s. Issues concerning representation are beyond the scope of this report and will be addressed in detail in Marr's nineteenth century political engagement report.

Issues Raised by Claimants

All Statements of Claim that raise issues relevant to the commission questions have been identified and examined during the preparation of this report. As well as examining Statements of Claim, the authors have also familiarised themselves with issues raised by claimants at several research hui held prior to, during, and following the preparation of the scoping report. At these research hui, claimants raised questions and provided feedback in respect of a number of issues. These issues, which to a large extent reflect the commission questions, are briefly detailed here:

- Government strategies and aims for railway construction in the nineteenth century, including the use of railways as a means of imposing Crown authority;
- early surveys of proposed routes for NIMT;
- agreements and understandings reached between Rohe Potae hapu/iwi and the settler Government prior to the construction of the NIMT, and any subsequent agreements;
- the process of taking the land required for the NIMT, including how objections were dealt with, whether or not compensation was paid, and - if compensation was paid - how this was determined;
- the extent to which Maori benefited economically from the railway, including the role Kawhia committee, construction contracts and use of natural resources (timber, gravel);
- the impact of the railway on canoe transport and how this affected the traditional Maori economy;
- social impacts relating to construction workers entering the district and any associated introduction of liquor;
- funding for railway construction, including Crown land purchasing to pay for the NIMT and to create land for European settlement;
- links between the NIMT and changes in Maori settlement patterns, particularly any possible movement of marae to locations near the railway line;

- impact of railway on burial grounds and the creation of ‘landlocked’ areas that had no legal access or were made into small uneconomic parcels;
- connection between the NIMT and the creation of Native Townships;
- issues concerning lands taken for the railway that were not required for the operation of the railway, including any sale of these lands or railway houses;
- land takings for any branch lines, particularly a proposed line to Kawhia;
- any ongoing economic or social benefit (or lack of) from railway employment and housing; and,
- recent events, including issues surrounding the privatisation of railways and repurchase into public ownership, and also the potential use of railway land for Treaty settlement purposes.

Terminology

For ease of expression, throughout this report the term ‘Rohe Potae Maori’ is used to refer to hapu and iwi of the Te Rohe Potae inquiry district. It should be noted that where this term is used in a twentieth century context it may also refer to Maori who were living in the inquiry district who had no affiliation with local hapu and iwi. For example, this could include Maori employed by New Zealand Railways who were transferred into the district from elsewhere.

Report Methodology and Structure

Research for this report has been based largely on English documentary sources, including official Government records, newspapers, and manuscripts. It is acknowledged that the documents offer a limited perspective and it is expected that claimant groups will bring their own knowledge of events and issues raised in this report.

This report has a broadly chronological structure and is divided into six chapters. The first chapter discusses developments between 1870 and 1881. It examines the political and economic forces behind Government public works construction, particularly railways, in colonial New Zealand. It also describes the growing pressure on Rohe Potae Maori to increase political and economic engagement with settler society and their attitudes to public works construction.

Chapter two examines the agreements and understandings reached between Rohe Potae Maori leadership and the Government regarding the NIMT, which was discussed as part of wider

negotiations concerning the future of the district held between 1881 and 1885. The third chapter focuses on the construction of the NIMT and its impact on Rohe Potae Maori. It describes the process of construction and the early stages of European settlement it facilitated, with particular reference to the agreements and understandings reached during the negotiations.

Chapter four discusses a number of issues relating to the acquisition of land for railways in the Te Rohe Potae inquiry district, covering a broad period of time. In particular, it examines the extent to which the Government upheld the agreements that had been reached regarding the land required for the NIMT. The chapter looks at the initial land takings for the NIMT and later, additional takings for railway purposes in the inquiry district. Issues concerning the management of railway land (particularly leasing and disposal) are also discussed up to 1980, when moves to restructure New Zealand Railways began.

Chapter five examines the operation of railways in the Te Rohe Potae inquiry district from 1903 to 1980 – the period between the opening of the NIMT to traffic through the district and restructuring. It looks particularly at how railways served European settlement interests and the extent to which they provided a benefit to Rohe Potae Maori. The final chapter, Chapter six, looks at developments since 1980, a time during which the New Zealand rail system has undergone a number of important changes. Two issues of particular significance to Rohe Potae Maori are discussed: the loss of employment opportunities as a result of major railway staff cuts, and the systematic disposal of surplus railway lands.

Railway focus groups

Owing to a lack of written source material, the authors have used oral history to gather further information about certain issues concerning the period since 1950, particularly Maori employment on the railway and the impact of restructuring. Members of the Rohe Potae Maori community with a close connection to the railway were invited to participate in group discussions, and in April 2009 ‘railway focus group’ hui were held at Hamilton, Te Kuiti, and Taumarunui. Though these hui were attended by a relatively small number of people, most of those present were mostly ex-railway workers or individuals who had had family members work on the railway. The authors of this report put forward questions that mostly focussed on employment experiences, but discussion sometimes also turned to other issues. Audio recordings were made of the three hui and these recordings were then transcribed. In using this material, the authors have been mindful that those who attended the hui were often closely involved with

the railway and their experiences were therefore not necessarily representative of the wider Maori community in the Te Rohe Potae inquiry district.

Supporting Papers

This report includes supporting papers. The supporting papers include most of the unpublished documents used in this report, which the reader may find useful to consult. Where a document is available in the supporting papers, it has been indicated in the footnotes.

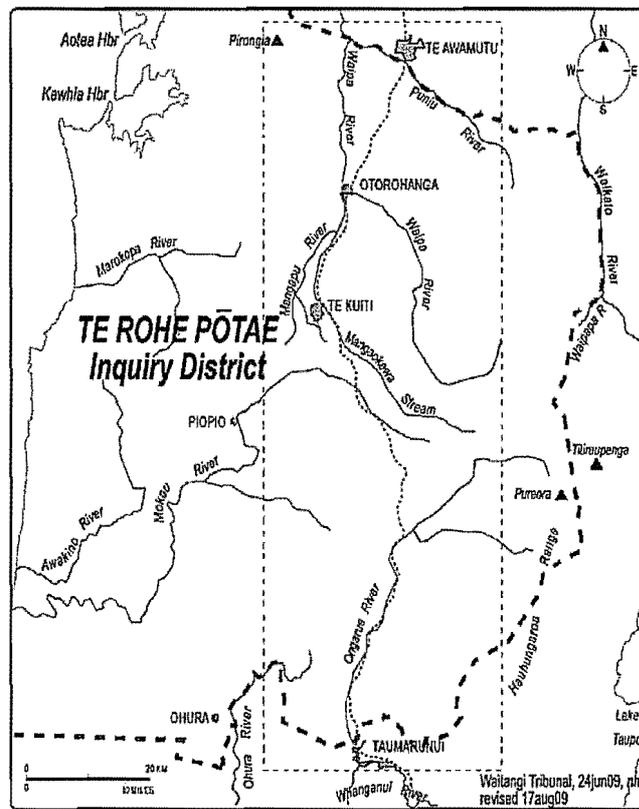
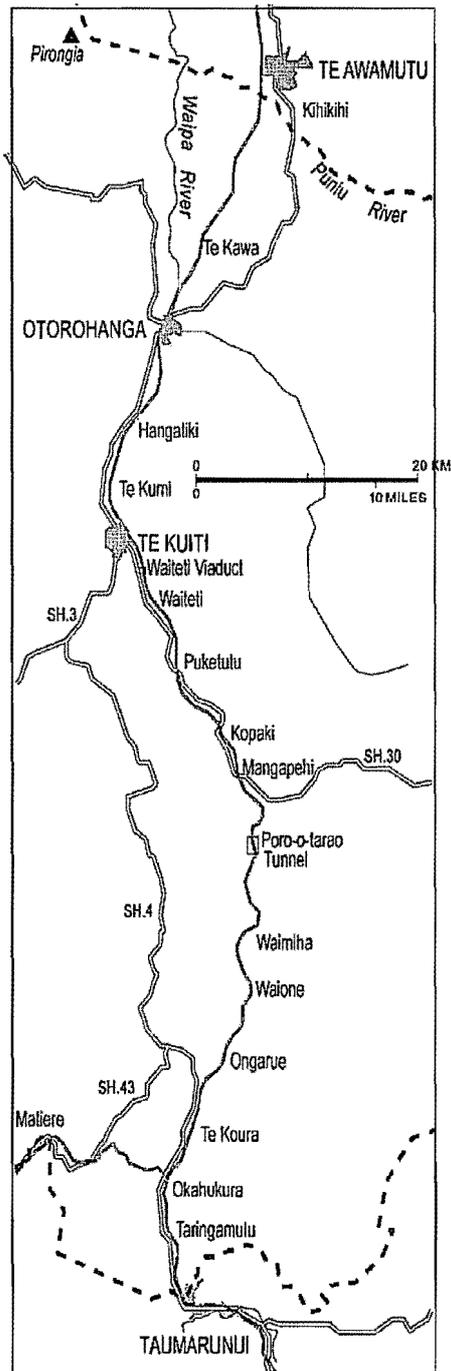


Figure 1: The Te Rohe Pōtae Inquiry District and the NIMT

Chapter One: Railways, Politics and Settlement in the North Island, 1870-1880

Introduction

This chapter establishes the general historical context and immediate background to the opening of negotiations between the Government and Rohe Potae Maori in 1881, which focused in part on the construction of a railway through the district. It describes the development of railways in the North Island and the economic and political forces driving this process, including the relationship between railway construction and colonisation. It traces the major administrative and legislative steps through the 1870s that enabled the central Government to pursue a trunk line policy as well as the motivations of officials and politicians involved. An outline is also provided of the broader changes within settler society that contributed to the growing pressure to open the King Country to European settlement, and which made construction of the NIMT a greater possibility. The chapter also outlines Rohe Potae iwi leadership's responses to the internal and external pressures placed on the district, namely their continued efforts to retain control of their rohe and any European settlement that might occur within it.

It should be noted that throughout the 1870s there were significant efforts to establish and cement peacetime relations after the conflict of the 1860s, involving Kingitanga and iwi leadership and Government officials and politicians.¹ While discussions covered a range of issues important to the Kingitanga, iwi of the district, and the settler government, this chapter does not construct a detailed narrative or a complete examination of Rohe Potae Maori-Government political engagement during the 1870s. Instead, this chapter focuses on the context that is relevant to railway issues. Marr's political engagement report for the period from 1865 to 1913 will provide comprehensive coverage and analysis of this period.

Railways and European Expansion

Railway construction in nineteenth century New Zealand was one small part of a massive global expansion of rail that was closely related to the simultaneous growth of European colonialism.

¹ See for example, Tui Adams, Ngahinaturae Te Uira and Ann Parsonson, "Behold, A Kite Flies Toward You": The Kingitanga and the 'Opening' of the King Country' in *New Zealand Journal of History (NZJH)*, Vol.31, No.1, 1997, pp99-116; Ann Parsonson, 'Te Mana o te Kingitanga Maori: A Study of Waikato-Ngatimaniapoto Relations during the struggle for the King Country, 1878-84', MA Thesis, University of Canterbury, 1972.

In the nineteenth century, European colonial powers harnessed rapid technological change fuelled by the industrial revolution to aid the extension of their authority over vast new areas of the globe. Historian John Darwin notes that by the 1870s steamships, railways and electric telegraph were facilitating the colonisation of 'vast new areas of the world, carving corridors of access into regions where travel had been difficult (and costly) and information scarce....'² On land, railways were the pinnacle of this 'progress', and a vital component in imperial expansion, in what has been called an 'age of railway imperialism.'³ Great railways were built spanning whole continents. Between 1891 and 1904 imperial Russia built the 'Trans-Siberian' railway to bring the vast expanse of Siberia, peoples and resources, firmly under their control, enabling large scale immigration and settlement.⁴ In the mid to late nineteenth century, the United States of America expanded westward across the continent with railways linking the Atlantic and Pacific Oceans, 'winning the west' by opening vast new lands and resources for European settlement.⁵

As the largest industrial and imperial power of the nineteenth century, colonial and imperial Governments of the British Empire, used railways in various ways to expand and support the Empire. In British India, the Raj used rail to help secure internal military control of the subcontinent and to defend the northern frontiers against Russian expansion into Central Asia.⁶ In the settler colonies of Canada, Southern Africa and Australia, settler Governments with imperial support and capital, built railways to expand the frontiers, gaining access to resources and lands for settlement, as well as for political purposes such as unifying disparate parts of the colonies.⁷ Indeed, during the nineteenth century, British capital was not just instrumental in the expansion of railways within the formal Empire, but throughout the world.⁸ For example, in late nineteenth century Argentina, British funded and owned railways opened the pampas to European settlement. These networks increased agricultural production and in turn exports to Great Britain, strengthening Britain's economic power in Argentina.⁹ Indigenous communities

² John Darwin, *After Tamerlane: The Rise and Fall of Global Empires, 1400-2000*, Penguin Books, London, 2007, p300.

³ Darwin, p300.

⁴ Stephen G. Marks, *Road to Power: The Trans-Siberian Railroad and the Colonization of Asian Russia, 1850-1917*, Cornell University Press, USA, 1991, pp1-2.

⁵ Richard White, *It's Your Misfortune and None of My Own': A New History of the American West*, University of Oklahoma Press, United States of America, 1991, pp246-258.

⁶ Ronald E. Robinson, 'Introduction: Railway Imperialism' in Clarence B. Davis and Kenneth E. Wilburn, Jr. *Railway Imperialism*, Greenwood Press, USA, 1991, p2.

⁷ Paul Hastings, *Railroads: An International History*, Ernest Benn, London, 1972, pp91-103; Donald W. Roman 'Railway Imperialism in Canada' in Clarence B. Davis and Kenneth E. Wilburn, Jr. *Railway Imperialism*, Greenwood Press, USA, 1991, pp7-12; Kenneth Wilburn Jr, 'Engines of Empire and Independence: Railways in South Africa, 1863-1916' in Clarence B. Davis and Kenneth E. Wilburn Jr., *Railway Imperialism*, Greenwood Press, USA, 1991, pp25-38

⁸ Eric Hobsbawm, *Industry and Empire*, New Edition, Penguin Books, London, 1999, p93.

⁹ Hastings, p105; William J. Flemming, 'Profits and Visions: British Capital and Railway Construction in Argentina, 1854-1886' in Clarence B. Davis and Kenneth E. Wilburn, Jr. *Railway Imperialism*, Greenwood Press, USA, pp71-73.

often lived on and used the lands that these railways were built through. Although not simple histories of dispossession, railway construction has often had negative consequences for these people, contributing to the loss of land and other resources.¹⁰

The romance associated with rail, its presumed correlation with assured and rapid economic growth, and its general status as a symbol of 'progress' in the nineteenth century European mind compounded the drive for railway construction. As historian James Belich states: "They [railways] also had great symbolic significance: paths of civilisation, bringing order and doom to natives and nature; huge, smoking, iron engines leading the charge of progress."¹¹ In order to understand the symbolic significance held by railways, it is important to fully comprehend the change they had brought since their advent. Railways had essentially shrunk landmasses, and combined with steamships and telegraph, the world. Travel that had once taken weeks or months now took days or even hours.¹² They made possible the large-scale transportation of goods and people overland quickly and efficiently, which was once only possible on rivers and canals. Railways in Britain played a significant role in industrialisation, which fuelled rapid economic growth and in turn imperial expansion.¹³ Two periods of large-scale investment and construction, known as the 'railway mania' of 1835-37 and 1845-47, saw the basic shape of Britain's modern railway network established.¹⁴ For these reasons, railways were perceived to hold almost magical qualities. As Eric Hobsbawm suggests, railways were considered 'revolutionary' and seemed to nineteenth century contemporaries to be several generations ahead of other technology, likening them to the perception of nuclear technology in the 1950s.¹⁵ This enthusiasm led to the building of many miles of uneconomical and redundant track around the world, including in New Zealand.

New Zealand's nineteenth century colonial officials' and politicians' conceptions of railways and their potential use in the colony were formed within this international context. Like elsewhere in the British Empire, successive settler Governments viewed railway construction in New Zealand

¹⁰ See for example the successful pressure applied by railway companies to have the Dawes Act (a process of detribalising land tenure) applied to the Indian Territory in what is now the state of Oklahoma in the late nineteenth century. The application of the Act resulted in the dissolution of the governments of the 'Five Civilized Tribes' and the loss of land and resources to settlers and railway companies. White, pp115-116. Another example includes the Trans-Siberian railways role in opening 18 million acres of nomadic Kazakh land to Russian peasant settlement in the late nineteenth century. In this case, the Russian Government declared their lands 'superfluous' and introduced various legislative measures to 'encourage' Kazakhs to live a 'settled existence'. Marks, p162.

¹¹ James Belich, *Making Peoples, A History of New Zealanders: From Polynesian Settlement to the End of the Nineteenth Century*, Penguin Books, Auckland, 1996, p353.

¹² Darwin, p300.

¹³ Hobsbawm, pp88-89.

¹⁴ Hobsbawm, p88.

¹⁵ Hobsbawm, p89.

as a technological and practical tool that aided colonisation and the spread of European settlement. Rail was seen as a way of opening previously closed or isolated areas of the country, gaining access to new lands, natural resources and establishing communication links to further the expansion of settlement.¹⁶ As Gee comments:

As will be noted from the discussions in Parliament, and from the newspapers, railways in New Zealand were regarded...as vitally essential feature of colonising activity, because they gave communications to scattered centres, provided inland areas with access to markets and ports, and enabled settlers to commence farming on new land with a degree of convenience which the frequently primitive roads of the early days were not able to provide.¹⁷

As described in more detail below, an ideological dimension was closely related to this more practical conception of the role of railways in European settlement. Railways were also considered a means of securing and strengthening European authority over remaining areas of Maori independence. Principally, this was conceived in military terms, particularly the ability of railways to carry troops easily, but also in more subtle ways, namely the spreading of European settlement and 'civilisation', which would help assimilate Maori.¹⁸

Given the importance of railways to the expansion of European settlement, their development in New Zealand has been a potential area of conflict between Government and Maori interests. In some cases the land and resources intended to be 'opened' for settlement by railway construction were in Maori ownership when Government plans were conceived. Understandably, as discussed later in this chapter and Chapter two, Maori often did not oppose railways or public works outright, wishing to engage with the benefits that these innovations offered. Indeed, politicians and officials often attempted to promote railways, and public works more generally, as potentially profitable and as generally beneficial to Maori communities, while underplaying their role in acquisition of land and resources for European settlement. The various Government strategies used to pursue the construction of these lines would depend on the political circumstances of that area. In areas where European settlement was well advanced or where relations with local hapu and iwi were stable, little consideration would be given to Maori interests, with lines being constructed without consultation.¹⁹ In the North Island interior, where the balance of power was

¹⁶ G.W. Heron, 'The Development of Railway Policy in New Zealand and the Growth of the North Island Railway System before 1908', MA Thesis, University of Auckland, 1946, pp12-13; Neil Atkinson, *Trainland: How Railways Made New Zealand*, Random House, Auckland, 2007, p25; Belich, *Making Peoples*, pp351-353.

¹⁷ F.E Gee, 'The North Island Main Trunk Railway, New Zealand: A Study in the Politics of Railway Construction', Thesis, University of Auckland, 1949, p2.

¹⁸ Belich, *Making Peoples*, pp258, 350-351.

¹⁹ See for example the construction of the Wellington-Napier railway through southern Hawkes Bay between 1870 and 1880. Government plans to construct, and the eventual purchase and taking of land (under Public Works legislation) for the railway, were all carried out without consultation.

less decided in the post-war environment, the Government attempted to negotiate construction.²⁰ The construction of the NIMT through the Rohe Potae is perhaps the most prominent example of this clash of European and Maori interests.

Vogel, Public Works, and the 'Native Problem'

During the 1870s the development of New Zealand's infrastructure, particularly roads and railways, became a major focus of the settler Government. As the following section describes, public works became thought of as a panacea to all the colony's problems. From a settler perspective the colony was in a period of stagnation after the wars of the 1860s. The conflict left the economy depressed, immigration rates low and large areas of the North Island, including the King Country, outside of substantive Government authority. Moreover, European settlements were impeded by isolation, with shipping still providing the most effective communication and transport between the provincial centres. Although the South Island provinces had made some progress, North Island settlements were still struggling to provide basic facilities and lacked resources to expand into their hinterlands.²¹ Some colonial politicians began to demand a larger and more centralised policy of public works and immigration to encourage much needed economic growth and development in the colony. Importantly, the development of infrastructure and increased immigration was also seen as an alternative solution to further potential conflict or the 'Native problem'.²² Open warfare had been expensive and not as effective as hoped and some believed that the spread of roads, railways, telegram and ultimately European influence or 'civilisation' would bring an end to any further unrest. Although these ideas were not new, the withdrawal of all imperial troops by 1870 (the main means of warfare) gave these ideas new currency and impetus.²³

It is in this context that in 1870, in his first Financial Statement as Colonial Treasurer, Julius Vogel laid out an ambitious plan for the construction of public works and immigration in New Zealand.²⁴ Vogel believed that the great 'wants' of the Colony at this time were 'public works, in

²⁰ See Kathryn Rose, *The Fenton Agreement and Land Alienation in the Rotorua District in the Nineteenth Century*, An overview report commissioned by Crown Forestry Rental Trust, 2004, pp129-169; and R.C Stone, 'The Thames Valley and Rotorua Railway Company Limited 1882-9: A Study of the Relationship of Business and Government in Nineteenth Century New Zealand' in *New Zealand Journal History*, vol. 8, no. 1, April 1974.

²¹ Cathy Marr, *Public Works Takings of Maori Land, 1840-1981*, Waitangi Tribunal, Rangahaua Whanui Series, 1997, p82.

²² Marr, *Public Works*, p83.

²³ G. Harvey, 'The Place of the Railways in the Transport Problem of the North Island, 1870-1936', Thesis, University of New Zealand, 1937, p43; Marr, *Public Works*, pp82-83.

²⁴ NZPD, Vol.7, p102.

the shape of roads and railways; and immigration.²⁵ To finance the scheme he proposed that the central Government borrow £10,000,000 on the London money market over ten years. He hoped this expenditure would propel the colony out of its economic stagnation.

The rhetoric used by Vogel and his supporters indicate that the ultimate objective of his plan was to revive and complete the colonisation of New Zealand after the wars of the 1860s. He opened his address by stating: ‘...the time has arrived when we must set ourselves the task of actively promoting the settlement of the country.’²⁶ He sensed that the ‘colonizing spirit’ was ‘re-awakening’ after the troubles of the 1860s.²⁷ Similar to Vogel, Premier Fox, in support of the plans, asserted in a flamboyant speech before the House: ‘My deep conviction is that the time has come when we should again recommence the great work of colonizing New Zealand, and the object of the Government’s proposals is, if possible, to re-illuminate that sacred fire [of colonisation].’²⁸ William Gisborne, first Minister of Public Works and historian stated of Vogel’s scheme in his history of 1882:

...[1871] marked the close of the war and commencement again of systematic colonisation... The general government for the first time began to take up its proper position, looking at colonisation as its own primary work...²⁹

The *New Zealand Herald* commented of the proposal frankly: ‘Our business now is to conquer the natives by the arts of peace, by piercing the interior of the country with roads.’³⁰

There was considerable parliamentary and public criticism of the plan. However, it was directed at the scale and application of Vogel’s plan in practice, not the overall objective of injecting capital into immigration and public works in order to expand European settlement, encourage economic growth and reduce the chance of further conflict. The criticism largely focused on the financial implications of borrowing such a vast sum of money and the potential problems for a provincial system of Government that was spread over two islands in markedly different stages of development. Essentially, critics asked how would the money be administered and to whom would it go?³¹

²⁵ NZPD, Vol.7, p102.

²⁶ NZPD, Vol.7, p102.

²⁷ NZPD, Vol.7, p102.

²⁸ NZPD, Vol.7, p395.

²⁹ William Gisborne, *The Colony of New Zealand*, London, 1888, p168.

³⁰ *New Zealand Herald*, 27 July 1870 quoted in Gee, p26.

³¹ Rosslyn Noonan, *By Design: A Brief History of the Public Works Department Ministry of Works, 1870-1970*, Crown copyright, 1975, pp8-9.

Vogel's scheme was embodied in the Immigration and Public Works Act of 1870. While introducing the Bill to the House for its second reading, William Gisborne re-emphasised the driving principle of the Act: 'I entreat you, [do not] reject a measure which, at least, affords a reasonable prospect – not by force of arms, but by the progress of settlement – order and tranquillity throughout the North Island; a prospect of achieving a bloodless conquest of peace. ...'³² Gisborne gave some shape to this overall objective, noting that the Act made provision for the construction of roads first, then railways and finally telegraph of which he stated would 'do more than any instruments which the human mind can devise for the settlement of the country.'³³ The Act included provisions for the taking of land and the construction of works that were of immediate concern to the development of settlement, and in turn, overall economic growth. These works included, railways, the supply of water to gold fields, and the construction of roads, bridges and ferries in the North Island.³⁴ Importantly, the Act also established the Public Works Department, which was accountable for the administration of the Act. This began the process of centralising control and financing of public works in the colonial Government rather than the provincial councils.³⁵

Railways in New Zealand

Railways were the foundation of Vogel's Public Works policy. He is known as the 'father' of New Zealand rail, and was perhaps the most articulate promoter of railways as the vanguard of settlement.³⁶ Rail construction in New Zealand had been slow prior to 1870. The first locomotive to run a regular service in New Zealand only began operation in Christchurch in 1863.³⁷ Vogel hoped to remedy this situation by spending £7.5 million of the proposed £10 million loan on railway construction. He advocated a 'colonial' (not provincial) rail system designed and constructed as a trunk system running the length of both islands. (A trunk line is usually defined as a railway linking two (or more) important, usually distant centres. Branch lines are usually smaller lines that often connect smaller centres to the main trunk, service the locality around an urban centre, or serve a specific purpose, for example, to support extractive industries such as timber, coal or gold). Vogel believed that the 'great colonizing question' must be carried out with the whole colony in mind, rising above the sectional interests of the provincial Governments

³² NZPD, Vol. 9, p185.

³³ NZPD, Vol. 9, p184.

³⁴ Marr, *Public Works*, p83.

³⁵ Tony Ballantyne, 'The State, Politics and Power, 1769-1893' in Giselle Byrnes (ed.), *The New Oxford History of New Zealand*, Oxford University Press, 2009, p117.

³⁶ David Leitch and Bob Stott, *New Zealand Railways: The First 125 Years*, Heinemann Reed, Auckland, 1988, p3.

³⁷ Leitch and Stott, pp1-3; Gee, p6.

which had driven rail construction up to that time.³⁸ He believed this system would both open up land for new immigrants as well as provide additional employment for them in construction and operation, in turn attracting more immigrants as the colony developed.³⁹

Vogel envisioned land, both Maori and general, as playing a key role in paying for this ambitious plan. He asserted that a large 'public estate' should be purchased, the proceeds from which would be used for immigration and railway purposes, stating:⁴⁰

Is it extravagant to suppose that, in one way and another, six million acres of land will be devoted to railway purposes? Two and half millions, we assume, will be directly employed in the way of payments, the other three and half millions would be available in reduction of the capital cost or the yearly interests. Some of this three and half millions of acres will be sold, some to be let, some remain in pastoral occupation until, in course of time, it has acquired position value.⁴¹

Historians have noted the influence of American railways on Vogel's plans, particularly the land grant system used in the contemporary transcontinental railway, in which the federal Government provided contractors with land in order to pay for construction.⁴² Although never implemented as extensively as intended, the idea that land 'opened' by the railway would aid in the payment of construction was common, as described in this and the following chapter.

The Public Works and Immigration Act 1870 allocated an initial £2 million for railway construction. The Act authorised central Government to determine what lines were to be constructed (in consultation with the relevant provincial Governments) and set a uniform gauge for construction.⁴³ Embodying Vogel's plans to pay for railway construction through Maori land, Section 34 and 35 of the Act authorised Land Purchase Department agents to negotiate for Maori land before the Native Land Court had determined title using a £200,000 fund set aside for that purpose. The Railways Act of the same year identified a number of specific lines to be constructed. Over the next decade, under Vogel's public works initiative, public railways grew from just 76 km of open line to 1828 km by 1880.⁴⁴

Through a combination of financial restrictions and political compromise, however, Vogel's original plan of trunk lines in the North and South Islands was frustrated for much of the

³⁸ NZPD, Vol.7, p104.

³⁹ NZPD, Vol.7, pp102-103.

⁴⁰ NZPD, Vol.7, pp102-103.

⁴¹ NZPD, Vol.7, p105.

⁴² Leitch and Stott, p5.

⁴³ Leitch and Stott, p7.

1870s.⁴⁵ Rather than solely concentrating on the construction of trunk systems, numerous branch lines were built with the hope that they would form parts of trunk railways in the future.⁴⁶ Also, the growth initiated by Vogel's scheme was largely limited to the South Island, where by 1880 over three-quarters of New Zealand's rail was in operation (see Figure 2 and 3).⁴⁷ In the early 1870s railway construction in Canterbury and Otago provinces functioned largely as it did before the 1870s legislation. These provinces used local funds to build local branch lines (with central Government approval) until Vogel's loans were realised and central Government could then take over the projects from the provincial Governments.⁴⁸ Moreover, the initial loans raised by the central Government on the London money market were essentially insufficient to begin and complete trunk lines in both islands. The figure of £10 million initially proposed by Vogel for total public works expenditure was reduced to £4 million in the 1870 Act, of which £2 million was allocated to railway construction.⁴⁹ The financial limitations were compounded by the strong provincial interests of members of the House of Representatives, who lobbied aggressively for these new funds to be used for branch lines within their own provinces.⁵⁰ So many applications were made that Vogel exclaimed in 1870 that 'there is scarcely a part of either Island' where an application for a railway had not been received.⁵¹

⁴⁴ W.A Pierre, 'Railways on a Shoestring (1863-1899)' in Gordon Troup (ed), *Steelroads of New Zealand: An Illustrated Survey*, A.H. & A.W. Reed, New Zealand, 1973, p10; Leitch and Stott, p4.

⁴⁵ The South Island Main Trunk was completed in 1878.

⁴⁶ Gee, pp24-30; Harvey, pp47-48.

⁴⁷ Atkinson, p38.

⁴⁸ Letich and Stott, p9.

⁴⁹ Gee, p24.

⁵⁰ Gee, pp33-34.

⁵¹ *NZPD*, Vol. 9, p332.

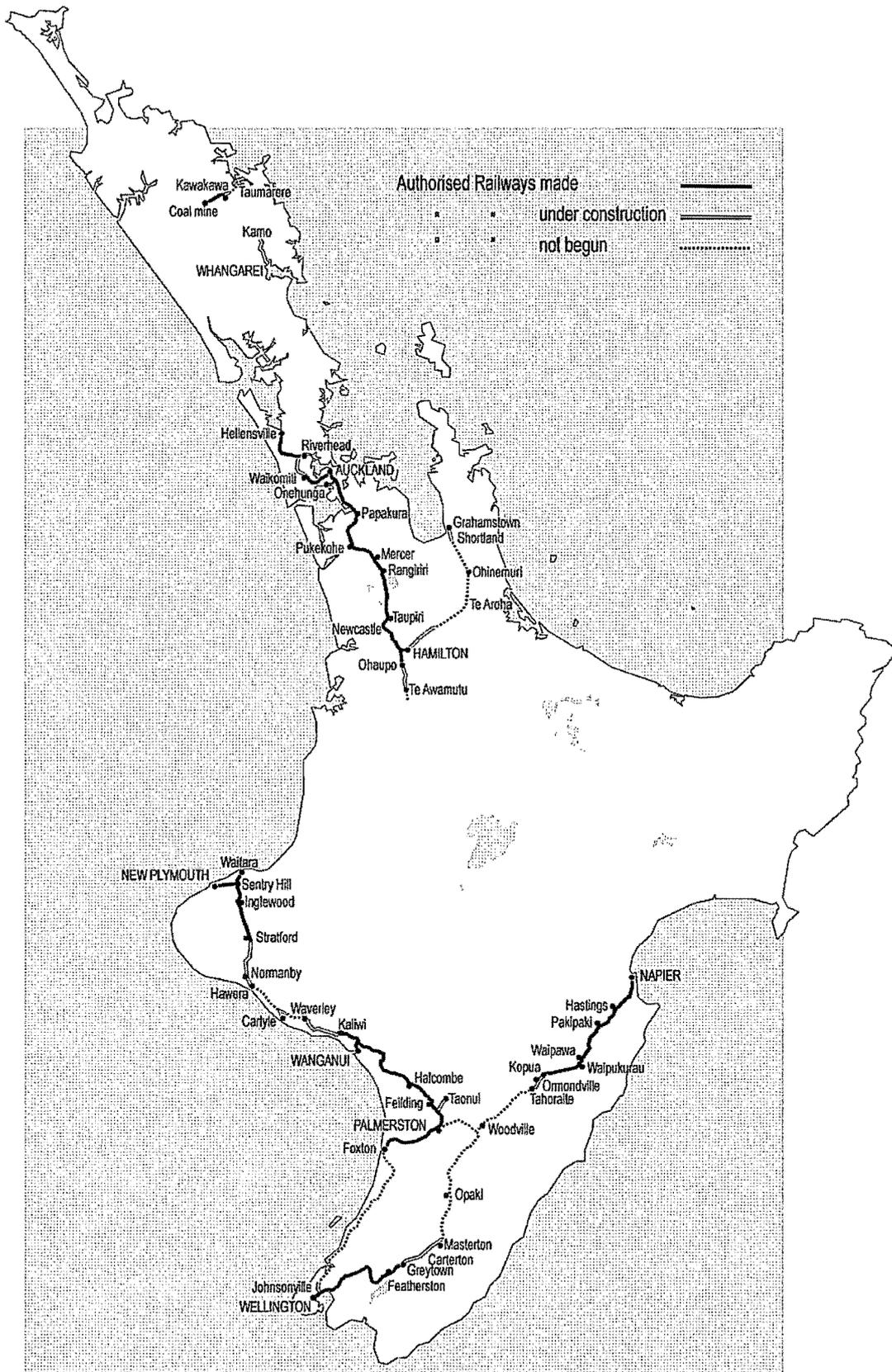


Figure 2: Map of North Island showing railway construction in 1880

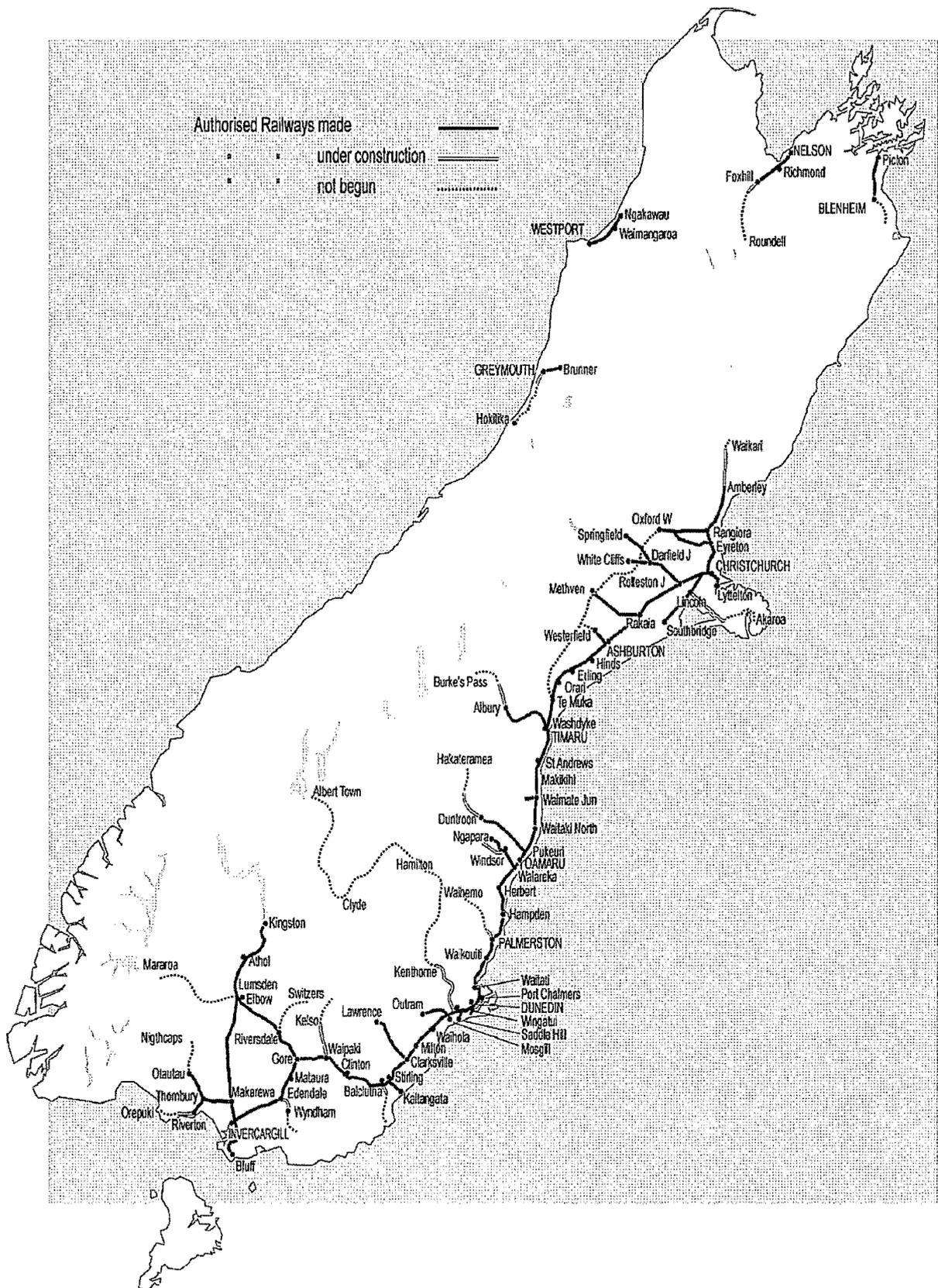


Figure 3: Map of South Island showing railway construction in 1880

In 1870, aside from these financial and political restrictions, a potential North Island main trunk faced the obstacle of a 'King's country' closed to unauthorised European influence. As stated, at the end of the wars of the 1860s much of the interior of the North Island lay largely unexplored and substantively outside of Government authority, closed to the extension of unwanted public works and European settlement generally. Underlining the point in 1872, Native Minister McLean stated of a motion for a line from the Waikato to Waitara (as part of a possible route for a North Island main trunk):

He [McLean] could not promise more than that the Government would not lose sight of the question, because it concerned a part of the country over which the Government had no practical control, and it would only be holding out false hopes if he said that the Government would carry out the object of the resolution, because he thought that some time was likely to elapse before it could do so.⁵²

The following section will focus more specifically on the North Island. It will describe how the situation in the North Island changed in the 1870s from one in which the construction of a North Island trunk line seemed an improbability to one where central Government was able to freely pursue a trunk line policy, and Rohe Potae Maori were willing to negotiate its construction through their territory.

A North Island Main Trunk

In 1863, an anonymous pamphlet was published promoting the concept of a trunk line between Auckland and Wellington. The writer, 'Settler', imagined Waikato and Ngaruawahia as the new capital of New Zealand, laying in the middle of 'The Great Trunk Railway of New Zealand' connecting Auckland and Wellington.⁵³ However, a trunk line seemed fanciful during the war years. The 'Auckland-Drury' line, authorised in 1863 to aid the invasion of the Waikato, was the only attempt at extending rail south from Auckland during the 1860s. In 1868 construction on the line ceased due to engineering and financial difficulties.⁵⁴

The early 1870s witnessed the renewal of central Government interest and activity on a potential North Island main trunk. In 1871, work was renewed on the Auckland-Drury line and construction was authorised to extend the line south to Mercer in 1872 (under the Railways Act

⁵² NZPD, Vol.13, p772.

⁵³ Gee, pp6-7. Two branch lines would also connect Hawkes Bay and Taranaki to this new capital. The line would unify the country ending any talk of the South Island establishing a separate colony, as Wellington was well connected to the south by steamers, thus shortening the lines of communication between Auckland and the south.

⁵⁴ Heron, p41-45.

1872).⁵⁵ In late 1872, pressure from Auckland and Taranaki provincial councils and their members of the House of Representatives began to mount for a line between the two Provinces. On 17 October, member for Egmont, H.A Atkinson, put a motion before the house for the survey of land between Alexandra (Pirongia) and Waitara for the purpose of the eventual construction of a line, believing it was a matter of 'great colonial importance.'⁵⁶ Native Minister McLean's negative response to this motion has already been noted, suggesting much of this land was outside the Government's 'practical control.'⁵⁷ In December of the same year, the Auckland Provincial Council passed a motion by John Sheehan (also an Auckland member of the House of Representatives), which expressed their desire to see a line between the Waikato and Waitara. The motion stated:

...this council is of the opinion that the extension of the railway communication by way of Waikato to connect with Waitara railway in the Province of Taranaki, would have a most beneficial effect in opening up for settlement an immense area of first-class agricultural land, and in providing a good market for the stock and agricultural produce of the districts through which the proposed line would pass.⁵⁸

The motion clearly emphasised the incentive of the line opening land for settlement. Following this increased interest, in 1873 discussion in Government moved toward extension of the line from Mercer to Ngaruawahia.⁵⁹

The Railway Authorisation Act 1873 specified that the line to Mercer should be extended to Ngaruawahia (Newcastle). Demonstrating the gap between construction and authorisation, the Government had approved construction as far as Ngaruawahia but the line was only opened for traffic to Mercer in 1875.⁶⁰ The Act also authorised a survey to ascertain the 'best adapted' route south of Ngaruawahia to the 'City of Wellington'.⁶¹ In 1874, Chief Engineer John Carruthers' findings were reported in the Public Works Statement. Carruthers commented upon four possible routes, three west of Lake Taupo and one to the East (see Figure 4).⁶² The report was of a preliminary nature as none of the lines to the west of Lake Taupo could be physically assessed as these areas were still within the 'King's Country' and closed to Europeans. In conclusion, a route to the east of Taupo was acknowledged as possible but ultimately undesirable due to the considerable length of the line required and the difficult engineering involved in crossing the

⁵⁵ R.S Fletcher, *Single Track: The Construction of the Main Trunk Railway*, Williams Collins Publishers Ltd., Auckland, 1978, p42.

⁵⁶ NZPD, Vol.13, pp771-772.

⁵⁷ NZPD, Vol.13, p772.

⁵⁸ Motion by J. Sheehan carried by the Auckland Provincial Council quoted in Gee, p41.

⁵⁹ Gee, pp41-42.

⁶⁰ Heron, p45.

⁶¹ Gee, p42.

eastern central plateau. Essentially, the Chief Engineer believed that ‘if the country on the West Coast were open to survey’ a western route could be ascertained and would be desirable.⁶³ The survey underlined the fact that no progress on a North Island main trunk could be made until the Government negotiated entry into the King Country, as the most suitable routes passed through that territory.

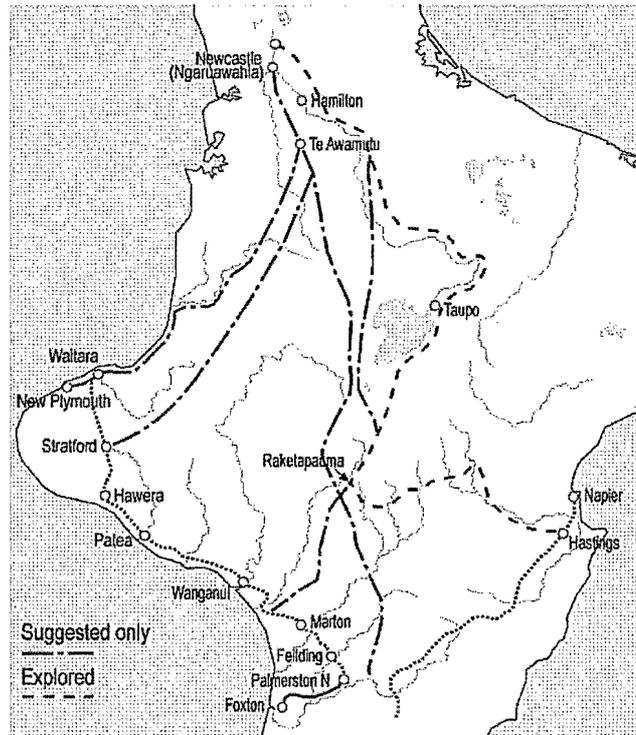


Figure 4: Possible Main Trunk routes described in Chief Engineer’s report 1874 (*AJHR 1874, E3*)

Government road building in the districts surrounding the King Country was also gaining momentum in the early 1870s. The Government emphasised the construction of roads as a way of opening land for settlement, using Maori labour to increase local hapu and iwi exposure to European influence in order to slowly break down hostility. By 1872 a ‘partly made’ road ran south from Mercer following the Waikato as far as Ngaruawahia. At Ngaruawahia, where the Waipa River meets the Waikato, the road split following each river south. The road along the Waipa reached as far south as Pirongia, while the Waikato road extended to Cambridge.⁶⁴ The Armed Constabulary had constructed these roads in the early 1870s, often on the foundation of

⁶² *AJHR 1874, Vol.I, E3, pp58-59.*

⁶³ *AJHR 1874, Vol.I, E3, p59.*

⁶⁴ *AJHR, 1872, E15, Map.*

existing tracks.⁶⁵ The condition of these roads was generally poor south of Ngaruawahia and improvements were made on them over the following years.⁶⁶ For example, by 1876, the Public Works report noted that the Waipa road was passable for wheel traffic from Ngaruawahia to Whatawhata.⁶⁷ To the east of the district, the *Pouakani Report* notes the implementation of the policy in the Taupo region, quoting Major W G Mair attempts in the early 1870s to persuade Ngati Tuwharetoa of the 'mutual advantages' to be had with the construction of roads in through their land.⁶⁸

By the mid 1870s, evidence suggests that Maori in the Raglan and Aotea area were willing to work on roads in the district. As early as 1875 plans began for improving the road (track) to Raglan via Whatawhata and extending this road to the harbour of Aotea and eventually Kawhia (within the aukati).⁶⁹ These harbours were largely isolated from Europeans due to the rugged country between the West Coast and the interior river valleys of the Waipa and Waikato. In 1874 a report from Government official R.S. Bush in Raglan suggested that Maori, both 'Hauhau' and 'friendly', were eager for employment on such road construction.⁷⁰ He added that he believed that '[t]he employment of the Natives on public works, where they are desirous of undertaking road works cannot but prove beneficial to them...'⁷¹ Again in 1875 he added: 'They are anxious to improve the present road to Waipa, and many of them would gladly accept work on it, if it pleased the Government to employ them.'⁷² He also noted some Maori were already employed at Aotea by the Karioi Highway Board to improve the road from there to Raglan over the previous winter.⁷³

After the war, the central Government, in order to maintain the then fragile peace, had taken up a policy of negotiating with Maori over land needed for public works through Donald McLean's Native Department (rather than simply employing the standard legislation for compulsory acquisition). As Marr points out, together with his control over defence and Maori land purchase, this gave him significant scope for co-ordinating the extension of settlement in New Zealand.⁷⁴ When discussing North Island Maori land purchases in 1875, McLean emphasised patience,

⁶⁵ *AJHR*, 1871, D1c, pp3-7.

⁶⁶ *AJHR*, 1873, E2b, p4.

⁶⁷ *AJHR*, 1876, E1, p46.

⁶⁸ Waitangi Tribunal, *The Pouakani Report*, 1993, p57.

⁶⁹ *AJHR*, 1875, E3, p50.

⁷⁰ *AJHR*, 1874, p11.

⁷¹ *AJHR*, 1874, p11.

⁷² *AJHR*, 1875, G1, p9.

⁷³ *AJHR*, 1875, G1, p9.

⁷⁴ Marr, *Public Works*, p91.

stating that 'Lands are now being purchased in districts where a few years ago a European could not show his face.'⁷⁵ He warned that 'undue pressure' would 'endanger' the present 'good understanding' between the Government and Maori.⁷⁶ In the same address he emphasised what was a common incentive used in negotiations: 'Negotiations of this nature can only be carried out with the intelligent assent of the Natives; and this can only be obtained when they have realized the advantages to be gained from having European settlers in their neighbourhood.'⁷⁷ McLean was again repeating the common idea that the spread of European settlement, roads, railway and telegraph, or more generally 'civilisation', would be beneficial to Maori.

Due to King Tawhaio's 1875 invitation and consequent meeting with Native Minister Donald McLean, the Government's hope of a negotiated 'opening' of the King Country increased and with it the possibility of a trunk railway in the North Island.⁷⁸ The Governor's speech at the opening of Parliament in 1875 asserted that an improvement of relations with 'adherents of the Maori King' gave new hope for 'the maintenance of peace' and an end to their 'isolation' indicating a 'desire on their part to participate with the European colonist in the general prosperity'.⁷⁹

During the same year, efforts were made to explore a possible railway route from the Taranaki Province to Waikato via Mokau. T. Kelly, MHR for New Plymouth, put forward a motion to present to the House a report of a survey party's partial exploration of land between 'Mount Egmont and the termination of the Waikato railway'.⁸⁰ The party had attempted to find a 'suitable route for a line of road or railway to the Waikato district'.⁸¹ Taranaki provincial Government had organised the expedition to ascertain a road or railway route and the 'nature of the country that lay between the Egmont district and Waikato'.⁸² According to Kelly, the party started from near the Patea River at the base of Mount Egmont and made about 70 miles of progress before bad weather brought them to a stop, reaching as far as the Mokau River, before returning to the coast via the Mimi River. The group claimed the land appeared unsettled (they did not see a single 'Native' or evidence of fishing or eeling) and that there was 'a large extent of fertile land to the north-east of Mount Egmont.' The exploration also led them to believe a road

⁷⁵ NZPD, Vol.17, p229.

⁷⁶ NZPD, Vol.17, p229.

⁷⁷ NZPD, Vol.17, p229.

⁷⁸ NZPD, Vol.17, p1.

⁷⁹ NZPD, Vol.17, p1.

⁸⁰ NZPD, Vol.17, p314.

⁸¹ NZPD, Vol.17, p314.

⁸² NZPD, Vol.17, p314.

or railway would not be difficult to construct through this territory. Kelly hoped that given that the ‘temper of the Natives in that district had so materially altered’ that exploration could finally be completed.⁸³ McLean responded stating the Government had sent surveyors from the ‘Waipa side’ toward the Mokau River. He believed that only about 25 miles of unexplored territory remained and that the Government would ‘as soon as opportunity offered’ finish the exploration. McLean added that he believed ‘any difficulties’, presumably regarding construction of a road or railway, were to be had on the Taranaki side.⁸⁴

The Government’s optimism for a negotiated opening of the King Country was premature. By the time of McLean’s retirement in 1876, negotiations with Tawhiao had reached a standstill. Tawhiao’s demand for the return of confiscated lands in the Waikato was unable to be met by McLean. Marr’s political engagement report will provide more detailed examination of these negotiations, however, it is sufficient to note that the collapse of these negotiations put an end to any short-term hope of survey for a railway through the King Country.

Growing Pressure

Despite the prospects of a trunk railway in the North Island appearing to have improved little since 1870, momentum began to gather after 1876 as changes in administration, legislation, and settler society increased pressure on the Government to open the central North Island for settlement and to progress plans for the NIMT. In addition, there is also some evidence to suggest that pressure was also developing from within the Rohe Potae, with hapu and iwi increasingly desiring to selectively engage with settler society, particularly economically, in a way that would be advantageous to themselves. Marr’s political engagement report will examine this significant period in detail, this section draws largely on existing research and aims to outline the context which saw the growth of the importance of a potential North Island trunk railway as a political issue in the late 1870s.

Rapid European population growth and economic development facilitated by the ‘Vogel Boom’ of the 1870s gave settler society a growing confidence after the ‘troubles’ of the 1860s. This confidence helped end the lingering ‘war-weariness’ and resulted in the emboldening of Native policy after 1876 (following years of relative caution under McLean). Numerous historians have pointed to the dramatic growth in the settler population between 1860 and 1890 as a significant

⁸³ NZPD, Vol.17, p314.

⁸⁴ NZPD, Vol.17, p315.

factor in the changing balance of power in North Island Maori/settler relations.⁸⁵ The European population doubled from 248,400 in 1870⁸⁶ to 500,910 in 1881.⁸⁷ Significantly, the population of the North Island had increased from just under 100,000 in 1871 to nearly 200,000 in 1881.⁸⁸ At the same time the Maori population had decreased from an estimated 49,800 in 1874 to 46,750 in 1881.⁸⁹ The provinces surrounding the Rohe Potae grew rapidly in settler population in the 1870s. Taranaki's European population nearly tripled between 1871 and 1881 from 4,480 to 14,858.⁹⁰ Auckland Province grew from 62,335 to 99,451, roughly half of the total North Island population.⁹¹ The settler economy had also been reinvigorated after the stagnation of the 1860s, although on the unstable foundation of large-scale borrowing, further increasing settler confidence in the mid 1870s.⁹²

In 1877, reflecting this growing settler confidence, John Sheehan's first address to the house as Native Minister outlined a new, increasingly assertive Native policy. The policy entailed a program of accelerated Government Maori land purchasing, a continuation of the public works policy and a final push to open the King Country.⁹³ Sheehan entered office on the expectation that he would reduce the expenses and staff of the Native Department after the perceived excesses of the McLean era.⁹⁴ His address outlined a policy of action that he believed would ultimately end the need for the department. He claimed that the 'Native' race was dying out and that 'the chances of a Native outbreak are [were] simply *nil*'.⁹⁵ Sheehan advocated the continuation of the public works policy as a way of ensuring peace and end to the 'Native difficulty', of which he stated: 'I feel perfectly certain that, if we continue our present policy, and if, instead of firing powder and ball at the Natives, we spend money in opening up the country, the result will be infinitely more beneficial to the colony.'⁹⁶ He was equally confident in his view of the situation in the King Country. 'We know that the Natives themselves wish to be reconciled

⁸⁵ Philippa Mein Smith, *A Concise History of New Zealand*, Cambridge University Press, Auckland, 2005, pp76-78; Belich, *Making Peoples*, pp249-251.

⁸⁶ M. F. Lloyd Prichard, *An Economic History of New Zealand to 1939*, Collins, Auckland, 1970, p97

⁸⁷ Prichard, p145.

⁸⁸ Jeanine Graham, 'Settler Society' in Geoffrey W. Rice (ed.), *The Oxford History of New Zealand*, 2nd Ed., Oxford University Press, Auckland, 1992, p117.

⁸⁹ Mein Smith, p78.

⁹⁰ Graham, 'Settler Society', p117.

⁹¹ Graham, 'Settler Society', p117.

⁹² W.J Gardner, 'A Colonial Economy' in Geoffrey W. Rice (ed.), *The Oxford History of New Zealand*, 2nd Ed., Oxford University Press, Auckland, 1992, pp70-74.

⁹³ Keith Sinclair, *Kinds of Peace: Maori People after the Wars 1870-1885*, Auckland University Press, Auckland, 1991, p56.

⁹⁴ Ward, p277.

⁹⁵ NZPD, Vol.27, p233.

⁹⁶ NZPD, Vol.27, p233.

to their European friends, and they are desirous of becoming amenable to the law.⁹⁷ Sheehan added that: 'There is another reason why I think we can dismiss from our minds that there is any possibility of a Native outbreak, and that is that the King Country is spilt into two parts. On the one side we have the King and his party, and on the other side we have Rewi and his party...'⁹⁸

At the conclusion of his address, Sheehan returned to the topic of the 'King country', demonstrating its centrality to Native policy. He stated that his office had received an invitation to meet with the King and he believed that it was now 'possible' to 'settle the King difficulty', removing the 'greatest barrier to settlement in the North Island.'⁹⁹ He emphasised that he would not listen to 'demands' that were unreasonable to settler society.¹⁰⁰ He summarised how New Zealand had changed over the last two decades, 'we then had no public works policy' and we were 'few in number' while the 'Native people were numerous... and were capable of fighting', and that now settler society could 'afford to laugh' at a potential war. He added that 'we' had once told 'them' 'we wished only their advancement; that we wished to protect them in the occupation of their land, to educate them, to make them one with the European...'. However, he believed, the time had now come when due to 'our superior strength and population' settler society could, if it thought it the correct action, 'repudiate those promises.'¹⁰¹ Finally concluding, foreseeing an end of the Native Department:

I look forward to the time when special communication with them will be at an end; when the barrier which now exists in the King country will be removed; when the Queen's writ will run, really and truly, from one end of the country to the other; when there will reside in this country two races side by side, speaking the same language, understanding and obeying the same constitutional government; and when over an above all of them the law will "sit empress, crowning good, repressing ill."¹⁰²

Sheehan's address, focused largely on the 'opening' the 'King Country', demonstrated an increased optimism but also reflected a growing pressure to advance settlement in the North Island.

Around this time, a number of legislative steps were taken to enable the central Government to construct a trunk railway if negotiations were successful. In 1875 the provincial system of Government was abolished by act of Parliament and centralised government was fully

⁹⁷ NZPD, Vol.27, p233.

⁹⁸ NZPD, Vol.27, p233.

⁹⁹ NZPD, Vol.27, p239.

¹⁰⁰ NZPD, Vol.27, p240.

¹⁰¹ NZPD, Vol.27, p240.

¹⁰² NZPD, Vol.27, p240.

implemented in November 1876.¹⁰³ Historians have noted that provincial ‘squabbling’ or ‘log-rolling’ over public works funds and resulting inefficiencies were an important factor in the abolition of the provincial system.¹⁰⁴ Although not immediately apparent,¹⁰⁵ the abolition accelerated the already noted trend toward increased power and centralised administration of public works in central Government.¹⁰⁶ In the late 1870s, despite a deteriorating economic climate, the Government continued to borrow large sums of money for the construction of public works, which increased the financial feasibility of construction. The Immigration and Public Works Appropriation Acts and New Zealand Loan Acts of 1876 and 1877 (both acts passed each year) made available £5,000,000. In addition, Public works legislation increased the Government’s legal powers and possible avenues for taking land for railways. The Public Works Amendment Act 1878 enabled the Governor to simply take land for Government railways by proclamation removing protections for owners regarding notice of takings and objections. Any refusal by the owner to surrender possession of land would result in the local Sheriff taking possession by order of the Minister of Public Works (section 8). In addition, section 21 enabled the Minister or local authorities to negotiate purchase for lands required for public works including railways. Meanwhile, by 1877 construction of the line south from Auckland had been opened for traffic to Ngaruawahia adding to the need for action in the King Country.

In the 1878 Public Works statement, Public Works Minister James Macandrew provided specific details regarding a proposed North Island main trunk. He proposed that his ministry would ‘fill the gaps’ in the North Island rail system by completing sections of railway from Wellington to Foxton (via Waikanae), Waitotara River to Upper Patea Crossing, and from Te Awamutu to Inglewood.¹⁰⁷ He concluded that at the completion of these railways there would be ‘an unbroken line from Wellington to Auckland of 476 miles’.¹⁰⁸ Commenting specifically on the ‘line through the Waikato’, Macandrew stated:

The construction of the line through the Waikato country, estimated...to cost £1,115,000, will, it is hoped, be fully warranted by the acquisition of considerable areas of land suitable for settlement. I understand that the line will run through some of the finest land in New Zealand; and, from what has passed between Hon. the Premier, the Hon. the

¹⁰³ W.P. Morrell, *The Provincial System in New Zealand*, 2nd Edition, Whitcombe and Tombs LTD, New Zealand, 1964, pp257.

¹⁰⁴ Morrell, pp207-232, 273-274; Ballantyne, p119.

¹⁰⁵ The abolition did not bring an immediate end to provincial pressure over the distribution of public works funds within the House, continuing to be a strong feature of New Zealand parliamentary politics throughout the 1880s and 1890s, Gee, p48.

¹⁰⁶ Marr, *Public Works*, p105.

¹⁰⁷ *AJHR* 1878, G1, piv.

¹⁰⁸ *AJHR* 1878, G1, piv.

Native Minister, and the Natives concerned, there is good reason to hope that the acquisition of the necessary land will be successfully negotiated.¹⁰⁹

As demonstrated by Macandrew's statements, the North Island trunk was still dependent on the successful negotiations of the Native Department with Rohe Potae Maori. Also, significantly, Macandrew assumed that there would be 'considerable' purchase of land suitable for settlement in order to warrant the large cost of construction. As he continued his statement he outlined what he believed should be key incentives used in the negotiations if they were to be successful, namely increased land value and construction contracts:

If those Natives have a just conception of the vast revenue which will accrue to them after parting with sufficient land whereby to construct this railway, they will not hesitate for a moment to enter heartily into a transaction which is bound to increase the value of the land which will be left to them very many fold. Moreover, they may earn a large amount of money by devoting their labour to the construction of the line, and there is good reason to believe that large numbers of them will gladly accept the useful employment which the construction of this will afford.¹¹⁰

These incentives were to become important in the later negotiations between 1881 and 1885. Macandrew's statements also reveal a tension between Government goals for the railway and the incentives used to promote the railway to Maori. On the one hand he stated that 'considerable' areas of Maori land were to be acquired for settlement. On the other, in seeming contradiction, he asserted that Maori would agree to the railway when they understood that the retention of their land would ensure economic benefit from the line and that they only needed to part with 'sufficient' land for construction of the railway.

In October 1878, the Railways Construction Act authorised the construction of the line from Te Awamutu to New Plymouth, as well as a line from Wellington to Foxton. Thus the North Island trunk running along the West Coast envisaged by Macandrew was incorporated into legislation. Also, the Act applied the general provisions of the 1878 Public Works Amendment Act to specific railways. Section 4 enabled the Governor to purchase or acquire Maori land required for railways scheduled in the Act. The Act was criticised in Parliament as an 'electioneering advertisement' designed to gain support in Auckland and Taranaki. Members seriously questioned the feasibility of a North Island main trunk given that it was wholly reliant on successful negotiations in the King Country (something that had been entirely unsuccessful over the preceding years).¹¹¹

¹⁰⁹ *NZPD*, Vol. 28, pp502-503.

¹¹⁰ *NZPD*, Vol. 28, pp502-503.

The opening of new negotiations increased pressure for the opening of the King Country outside Parliament, particularly in Auckland and Taranaki, where business interests desired both communication and trade links with other provinces (railway) and the economic opportunities that the opening of the region would offer.¹¹² As Boast states: 'Auckland business interests looked forward to the end of the political independence of the King Country and the new opportunities for land settlement and speculation that the opening-up of that vast region would entail.'¹¹³ The large timber resources of the King Country were of particular interest to Auckland businessmen.¹¹⁴ On 27 August 1878, a Memorial of the people of Auckland was published in the *Herald*, which was signed by over 200 people and sent to Wellington.¹¹⁵ The memorial emphasised the desire of residents 'in the city and suburbs of Auckland' to see 'immediate action' to secure the construction of the railway between 'Te Awamutu and Taranaki.' It was believed that this line would form a 'most important part of the North Island trunk line.' The memorial stated that the line passed through 'native land the owners of which have been hostile to the Queen's authority' and a 'great hindrance', but asserted the line would have 'a very important influence for the good on these natives....' It stressed if the line was built huge areas of what remained 'unproductive' would soon support 'a large prosperous European population.' Earlier in 1877, the *Herald* noted a similar petition signed in New Plymouth to complete the line to Hawera, which also advocated that the line be extended in Auckland via the Waikato.¹¹⁶

Between 1877 and 1879, the Grey and Sheehan administration increased road construction efforts in the King Country and Waikato. In 1879, Public Works Minister Macandrew described their policy: 'We lay great stress upon these [roads], both as promoting a solution of the Native difficulty in the North Island, and as fostering permanent settlement of the country in connection with the administration of a liberal land law.'¹¹⁷ The same year, W.H. Grace in his report on the 'Waikato district' outlined his progress with the policy: 'In accordance with instructions received, I have, whenever opportunity offered impressed upon the Natives the great importance of allowing roads to be made through their lands, and have to report that I have met with a large measure of success.'¹¹⁸ Grace emphasised how important he believed employment on these road works was to the permanent establishment of peace and the breakdown of divisions: 'Whilst on

¹¹¹ Gee, pp53-58.

¹¹² Quoted in Gee, p50.

¹¹³ Richard Boast, *Buying the Land, Selling the Land: Governments and Maori Land in the North Island 1865-1921*, Victoria University Press, Wellington, 2008, p153

¹¹⁴ Boast, *Buying the Land, Selling the Land*, p153

¹¹⁵ Gee, p52

¹¹⁶ Gee, p50

¹¹⁷ *AJHR* 1879, E1, pviii.

the subject of roads, I would respectfully suggest the employment of Maoris – Hauhaus if possible – in their construction, which, in my humble opinion, would tend to break down the distinction between Kingites, Queenites, Hauhaus, friendlies, and Europeans.’¹¹⁹

According to Government reports from the Waikato, a number of roads were under construction at this time employing significant numbers of local Maori. Most important were the roads to Raglan from Whatawhata and Kawhia to Pirongia (Alexandra). As Bush stated: ‘Some hundreds of Natives have been employed during the past year on the Raglan and Waipa Road.’¹²⁰ He further noted: ‘Besides the above work, some of the Kawhia and Aotea Natives are employed under myself making a road through the bush from Aotea Harbour to connect with the Waipa Road: this road will eventually be the main road to Kawhia.’¹²¹ Also, at this time, a road was being constructed from Cambridge to Taupo, connecting with the existing road between Tauranga and Taupo at Atiamuri.¹²² However, work on this road appears to have been largely conducted by the Armed Constabulary. Efforts were made to purchase timber from local Maori and employ them to haul this timber from Cambridge further down the road, but according to official reports negotiations collapsed due to ‘intertribal quarrels.’¹²³

This public works drive was carried out in conjunction with a policy of extending Native Land Court activity and land purchases into areas near the boundaries of the aukati. The Court was active in the late 1870s in the Waikato district, sitting in Cambridge just to the north of the aukati, in upper Whanganui lands to the south (particularly the Tuhua lands), and in Taupo to the east.¹²⁴ Historians and the Pouakani Tribunal have interpreted this as a deliberate encroachment in an effort to draw Kingitanga leaders into Court proceedings in order to defend their interests in fringe blocks and eventually into defining their interests in core territories.¹²⁵ Mair described the pull of the Court in 1873, noting in his report from Pirongia (Alexandra) that the blocks ‘Otautahanga, Wharepuhunga and Mangauika’ were before the Court ‘in Hamilton’ and Rewi requested that they be withdrawn as he believed Ngati Maniapoto held interests in these blocks.¹²⁶ The report stated that these blocks were brought forward by Ngati Haua, Ngati

¹¹⁸ *AJHR*, 1879, G1a, p3.

¹¹⁹ *AJHR*, 1879, G1a, p4.

¹²⁰ *AJHR*, 1879, G1, pp16-17.

¹²¹ *AJHR*, 1879, G1, pp16-17.

¹²² *AJHR*, 1878, E1, p27.

¹²³ *AJHR*, 1878, E1, p27.

¹²⁴ Marr, *The Alienation of Maori Land in the Robe Potae (Aotea Block)*, Rangahaua Whanui Series, 1996, p11; Marr, ‘Waimarino’, pp67-99; Waitangi Tribunal, *The Pouakani Report*, 1993, pp67-78.

¹²⁵ Marr, *Robe Potae*, pp9-12; Waitangi Tribunal, *The Pouakani Report*, 1993, pp63-65.

¹²⁶ *AJHR* 1874, G2b, p2.

Raukawa and Hone te One respectively. Mair reported that: 'Rewi agreed to send one of his people to the Court to request that these cases be struck out, and reminded me that this was a great concession on his part, as he had "never in any way recognized the Native Lands Court hitherto!"'¹²⁷ Mair observed the gravity of the Court in 1880: 'influential chiefs of the King party now attend the Court, not to obstruct, but for the purpose of looking after individual interests in various blocks.'¹²⁸ Issues raised by the Native Land Court activity and associated land purchasing will be addressed in detail in Boulton and Husbands' nineteenth century land issues report. Marr's political engagement report will address the political implications of this activity for Rohe Potae leadership. In terms of this report, it is sufficient to note that the progress of the Native Land Court in the surrounding districts was another external pressure applied in order to hasten the opening of the King Country.

After 1876, there is some evidence to suggest that pressures were also intensifying from within the aukati to selectively engage with settler society, in particular to seek new economic opportunities and expand existing enterprises. A detailed analysis of the economic situation within the aukati during the 1870s is beyond the scope of this report, however it is important to recognise the general trends. Keith Sorrenson has noted that the Kingitanga was not living in the 'isolation' that the settler press portrayed at this time and that trade of staple crops was significant across the aukati.¹²⁹ Alan Ward has also noted that in the early 1870s trade in staple crops over the aukati began to increase and with the capital raised cultivation machinery was purchased in an attempt to improve agricultural production.¹³⁰ In order to gain increased access to settler towns for their produce and to occupy better land for cultivation, Ward suggests that there was a general shift of population closer to the northern boundary of the aukati. He also notes that a Government store was opened in Pirongia to encourage the trade.¹³¹

The strong pull of wage labour can also be seen within the aukati, which appeared to be in tension with the staple crop production. In 1874, Government agent R.S Bush commented on the attempts of the 'Aotea tribes' to raise capital through staple crops, but that this was generating insufficient money, hence many were being forced to seek wage labour:

¹²⁷ AJHR 1874, G2b, p2.

¹²⁸ AJHR 1880, G4a, p2.

¹²⁹ Keith Sorrenson, 'The Maori King Movement, 1858-1885' in Robert Chapman and Keith Sinclair (eds), *Studies of a Small Democracy, Essays in Honor of Willis Airey*, Paul's Book Arcade, New Zealand, 1963, pp51-52.

¹³⁰ Ward, Alan, *A show of Justice: Racial 'Amalgamation' in Nineteenth Century New Zealand*, Auckland University Press, Auckland, 1974, p265.

¹³¹ Ward, *A show of Justice*, p265.

I regret to say that a very pernicious system prevails amongst the majority of the Natives here, of selling the greater quantity of their produce as soon as it is ready for market, instead of storing it for the winter: consequently they almost reduce themselves to starvation.

Many Natives prefer cutting green flax for mill-owners at ten shillings a ton, and firewood for the settlers at six-shillings, than working at their plantations.¹³²

In 1880, Major Mair noted that along the banks of the Waipa, particularly around Kopua, 'a large quantity of grain was grown' but that the drop in prices forced a significant number of workers to search for wage labour. He believed that 'fully four hundred Natives' entered the gum-digging industry from Hamilton 'to the shores of the Manukau Harbour' during that year.¹³³ He went on to state that Tawhiao was strongly 'urging' his people 'throughout the King Country' to plant crops and that in Aotea he was trying to raise money to repair a water driven flour mill (for which he had employed European workers). In addition, as already noted, from the mid 1870s, substantial numbers of Maori in and around the aukati desired and were employed in waged labour on road construction around the district. The desire for wage labour can be interpreted as evidence of a changing economic situation within the Rohe Potae, perhaps demonstrating the increasing pressure to seek capital by means other than staple crop agriculture, and the increasing pull of the cash economy outside the aukati.

Perhaps most significantly, it can be interpreted that pressure was growing for Rohe Potae Maori to utilise the economic opportunities offered through their land. As noted the Native Land Court began operating around the boundaries of the Rohe Potae during the 1870s making it increasingly difficult for the hapu and iwi of the Rohe Potae to maintain the Kingitanga boycott of the Court (and therefore associated purchasing) due to the risk of losing interests in fringe block to Court applicants in surrounding districts. Adding to this pressure, as Marr has noted in preliminary research, some recognised that the secure legal title offered by the Court process could possibly be used to protect their land, but also to sell or lease selected land, with leasing in particular appearing to present the best opportunity for long term economic stability.¹³⁴

An essential aspect of these economic opportunities, from a Rohe Potae leadership perspective, was the need to retain control over the process of engagement with settler society, which ever course was taken. In other words, to manage, the increasingly powerful, and seemingly inevitable, process of European settlement, including the public works program but most importantly the

¹³² *AJHR* 1874, G2, p11.

¹³³ *AJHR* 1880, G4a, p1.

¹³⁴ Marr, 'Waimarino', p103.

Native Land Court process.¹³⁵ This was necessary in order to maintain their chiefly authority and to ensure that their communities would benefit from the economic opportunities that engagement with settler society could offer. A failure to retain political control over the process would result in the economic marginalisation in other regions, which Rohe Potae hapu and iwi had witnessed.¹³⁶ As Tawhiao made clear to Grey and Sheehan in 1878 during negotiations held at Hikurangi:

Let the Europeans living on this Island go back to the opposite side of the river. Let them have the management of the other side, and let me and the chiefs of the Natives manage this side... If any person is desirous that roads should be made, I say no, I will not agree. I say let them first come to me, because the decision rests with me. It can only be done by first consulting me. Look to me. Another thing is, if any one wishes Europeans to survey land, I will not agree unless they first come to me, because I have the management. The last thing I have to say is this: If any one leases or sells land now I will not agree. That is what I have to say. Lastly, I will not agree. But what I would like the most is that I should always be first consulted. Let me be recognized as the person who has the power to settle these things. The right rests with me.¹³⁷

Although Tawhiao still insisted on the return of his confiscated lands, one theme of his message to Grey was that he ‘and the chiefs’ were not necessarily against public works, surveys, sales and leases, but unless they retained control over these processes these things would never occur in the district. The ‘power to settle these things’ must remain in the hands of the Rohe Potae leadership.

Grey and Sheehan, Tawhiao and Rewi

It is within this context of growing pressure for the opening of the King Country, including legislation for the completion of a North Island main trunk, a series of meetings involving Sheehan and Sir George Grey and Rohe Potae leadership were held between 1878 and 1879. As with the earlier negotiations with McLean, Marr’s political engagement report will provide a detailed analysis of these negotiations. Significantly, in terms of this report, the railway began to emerge more clearly during these negotiations as an issue for both parties, contributing to the collapse of discussions in 1879.

¹³⁵ Marr, Waimarino, p103.

¹³⁶ Marr, Waimarino, p103.

¹³⁷ *AJHR* 1878, G3, p19.



Figure 5: *Rewi Maniapoto 1879* (ATL F21.4581 ½)

At Hikurangi in May 1878, negotiations opened with Grey and Sheehan offering to return some land to Tawhiao in the Waikato. Following this hui, Grey and Sheehan responded to an invitation to meet Rewi Maniapoto (who had been absent from Hikurangi) separately at Waitara in June 1878.¹³⁸ Although no substantial agreements were made at Waitara, Rewi Maniapoto and Grey emphasised that peace was now possible between the two peoples.¹³⁹ In addition, Rewi, at this time, appears to have become increasing enamoured with the idea of a railway, while still remaining firmly against land selling and the Native Land Court.¹⁴⁰ It was in this context of seemingly rapid progress in the south-west of the district (Mokau) – including the Rewi

¹³⁸ For reports on both meeting see, *AJHR* 1878, G3, pp1-71.

¹³⁹ *AJHR* 1878, G3, pp1-71.

Maniapoto led negotiations, the Jones lease in Mokau Mohakatino block and the opening of the Mokau River to Europeans (the steamer *Maid of Mokau*) – that the 1878 Railway Construction Act was passed in August authorising the western line from Te Awamutu via Mokau and Waitara to Inglewood.¹⁴¹ However, in May 1879, at a meeting at Te Kopua, the negotiations collapsed when Taiwhiao rejected the Government offer by not attending a proposed hui. At the end of the hui, Grey formally withdrew the offer he made to Tawhiao at Hikurangi.¹⁴² Importantly, Rewi's unilateral hui at Waitara and concern that the railway would be constructed without Rohe Potae Maori consent (due to the passing of the Railway Construction Act) were amongst the issues raised.¹⁴³ Grey responded that the Act had been passed 'with the least intention of attempting to make a railway, until the chiefs had agreed to such a thing'.¹⁴⁴

In 1880, due to the failure of negotiations and the deteriorating economic situation, any immediate plans for the completion of a North Island main trunk to Taranaki were abandoned. The new Hall Government formed a commission of enquiry to investigate the economic feasibility of Government proposed railway lines as part of a wider programme of retrenchment. The Te Awamutu-Mokau-Inglewood railway authorised by the Grey Government in 1878 was among the lines which were to be abandoned for the foreseeable future. The commission report stated of the proposed railway: 'As the country through which it has been projected to carry this line is all in the hands of the Natives, and as little or nothing is known of its character from an engineering point of view, we are not prepared to advise that it should be proceeded with.'¹⁴⁵ Despite no planned route for a North Island main trunk, the line south from Auckland was by May 1880 opened for traffic to Te Awamutu close to the Puniu River, the boundary of the aukati.¹⁴⁶

Conclusion

The second half of the nineteenth century witnessed a rapid expansion of railway construction in many parts of the globe, often in aid of European colonisation. New Zealand was no exception. Vogel's program for the development of the colony's infrastructure, with the construction of trunk railways as its backbone, aimed to inject capital into immigration and public works in order

¹⁴⁰ Parsonson, pp49-50.

¹⁴¹ *AJHR* 1878, G3, p46.

¹⁴² *AJHR* 1879, G2, pp1-16.

¹⁴³ *AJHR* 1879, G2, pp12, 15-16. Other issues included the road being constructed to Raglan and suspicion of the integrity of Grey's offer to return land in the Waikato. After the collapse of negotiations with the Kingitanga, Grey and Sheehan continued to pursue Rewi Maniapoto for separate agreement, however the attempt was largely fruitless.

¹⁴⁴ *AJHR* 1879, G2, pp12, 15-16.

¹⁴⁵ *AJHR* 1880, E3, pvii.

to open more land for European settlement, encourage economic growth and reduce the chance of further conflict with Maori through the spread of 'civilisation'. In other words, the program aimed to resume and complete the European settlement of New Zealand (largely the North Island) and reinforce Government authority in areas where their control was still limited (or nonexistent). During this decade of massive spending on infrastructure, Government officials and politicians promoted public works to Maori as beneficial to their communities, while underplaying their role in European settlement.

From its early imaginings, a trunk railway in the North Island was envisioned by settlers, officials and politicians as a means of opening the central North Island's land and resources to European settlement. Between 1870 and 1880 the increasingly centralised control of public works construction, and the growth in North Island population and settlement generally, had placed the Government in a stronger position to construct a North Island trunk railway. During this decade, officials and politicians believed the potential railway was likely to connect Auckland with Taranaki. These same developments had also increased the political pressure to open the interior of the North Island to settlement. At this time the Government appears to have intensified its deliberate policy of public works construction and Native Land Court activity on the fringes of the aukati, a process which will be further explored in Marr's political engagement report. In the face of such pressure, Rohe Potae leadership maintained efforts to control their rohe, including continued rejection of the Court and dialogue with the Government over issues of importance to the district. Although more research is required, some evidence suggests that pressure was increasing within the aukati to seek new forms of economic opportunity, including the possibility of leasing land. However, it was essential, from a Rohe Potae leadership perspective that any economic development through increased engagement with settler society remained firmly under their control. By the end of the decade, the Rohe Potae was still closed to unwanted European influence. In 1880, the railway was opened for traffic from Auckland to Te Awamutu, on the edge of the aukati, a symbol of the significant issue that the construction of a trunk railway in the North Island was emerging into.

¹⁴⁶ Fletcher, pp71-72.

Chapter Two: The Negotiations for the NIMT, 1881-1885

Introduction

Chapter two identifies the specific agreements and understandings reached between Rohe Potae hapu and iwi and the Government regarding the construction and operation of the NIMT. These agreements were reached between 1881 and 1885 in a complex series of negotiations covering a wide range of issues that affected the district. In order to provide context for the close examination of evidence concerning the specific agreements regarding the NIMT, this chapter provides a summary of these wider negotiations. This summary is based largely on existing research, and it is understood that later casebook research will further develop the understanding of the negotiations generally – specifically Marr’s political engagement 1865-1913 report. In other words, this chapter focuses on establishing what agreements were made regarding the railway, leaving later research to provide a comprehensive narrative of the negotiations and an analysis of the broader political issues they involved. As the research commission specifies, one broader political issue examined in some detail is the relationship between the development of the NIMT and the Government’s land purchasing and settlement policies. However, before full conclusions can be drawn on this question, comprehensive research is still required from the various land and political engagement reports yet to be completed for this inquiry.

It should also be noted this chapter is not only concerned with the specific understandings reached regarding how the Government would construct and operate the railway in the district, but also how officials and politicians promoted the railway to Rohe Potae Maori. In particular, it identifies that Government politicians and officials emphasised that the NIMT would provide long term economic benefits. These incentives are significant as they were the foundation upon which the specific agreements regarding construction were reached. An understanding of both the assurances concerning the long term economic benefits and the specific agreements regarding construction is clearly important to considerations of the extent to which the Government fulfilled its obligations concerning the railway, an issue addressed later in the report.



Figure 6: *Te Kuiti Pa* 1884 (ATL 1/2-045724-F)

The reopening of negotiations with the Kingitanga

After the disappointment of Sheehan's efforts as Native Minister and the growing demand for change in Native policy, the Hall Government appointed John Bryce to the role. As with Sheehan before him, expectation was for Bryce to reduce expenditure through staff reductions and the general role of the department, ultimately planning for the eventual closure of what was perceived to be an oversized and decadent Government agency.¹⁴⁷ As Marr notes, Bryce promised to crack down on the growing resistance of Te Whiti in the Taranaki and passed a series of laws in 1879 and 1880 in order to crush the movement.¹⁴⁸ In November 1881 his policy reached its culmination, with Government troops occupying Te Whiti's township of Parihaka, arresting the leaders and dispersing their followers.¹⁴⁹ In line with his overall policy, he also believed a 'firmer' hand was required in the King Country, believing Sheehan and Grey had 'petted them and fondled them [Maori]' and shown Kingitanga leaders too much of 'what has been mistakenly called kindness.'¹⁵⁰ He asserted if more 'firmness and justice' had been

¹⁴⁷ Ward, *Show of Justice*, pp280-281.

¹⁴⁸ Marr, *Public Works*, pp106-107.

¹⁴⁹ Marr, *Public Works*, p107.

¹⁵⁰ NZPD 1879, Vol.32, p358.

demonstrated in the negotiations ‘the results would have been better for the country’, meaning for both Maori and European (from his perspective).¹⁵¹

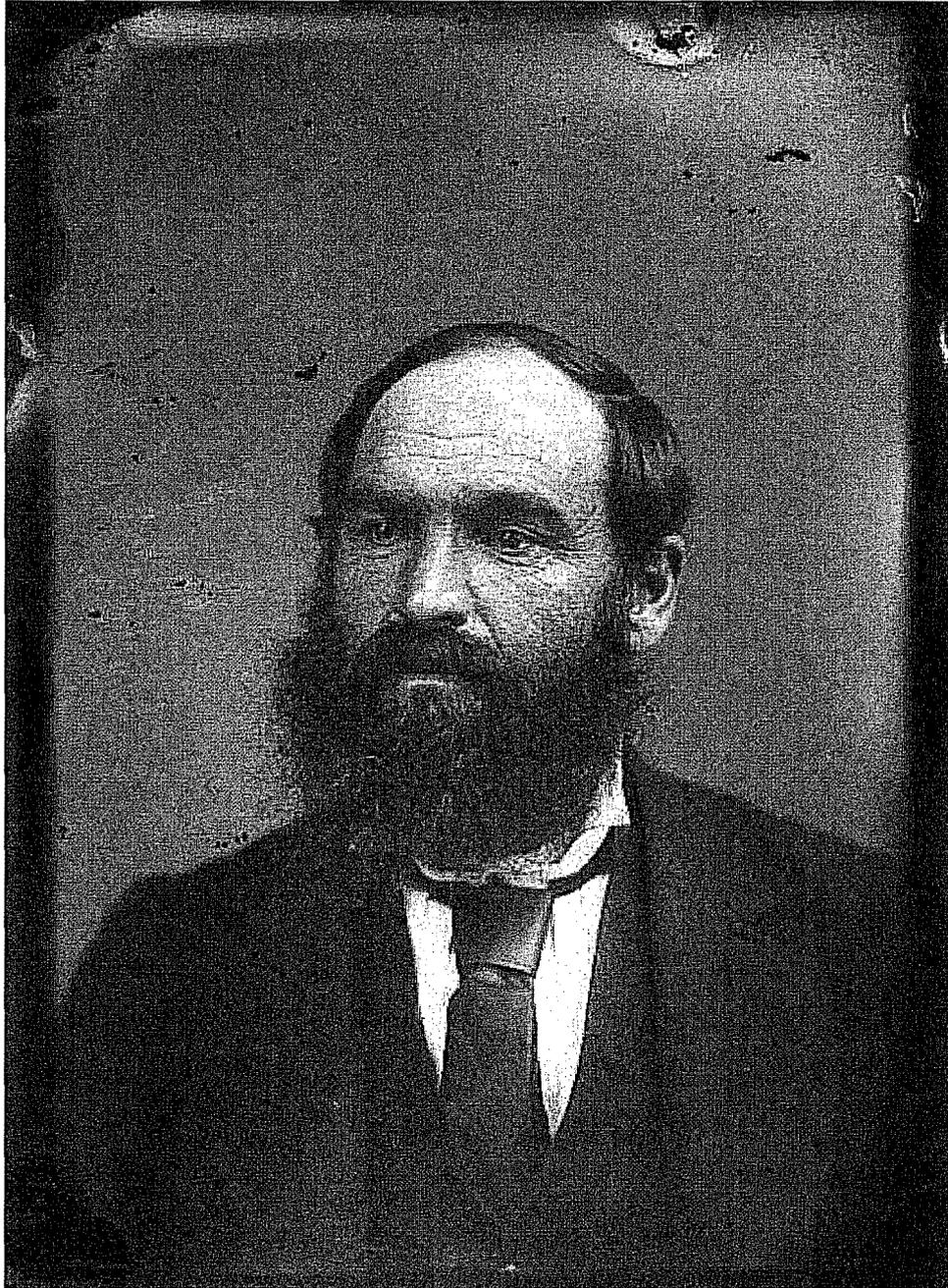


Figure 7: *John Bryce (ATL G6754 1/4)*

¹⁵¹ NZPD 1879, Vol.32, p358.



Figure 8: *Tawhiao c.1884* (ATL PA30184)

Despite the failure of the Grey and Sheehan negotiations, by 1880 it was becoming increasingly clear that the Kingitanga isolation was coming to an end.¹⁵² Between 1880 and 1881, Kingitanga continued to show signs of conciliation (as far as the Government and settlers were concerned). Tawhiao began a tour of the Waikato settlements and while at Alexandra in 1881 he laid down

¹⁵² Marr, *Robe Potae*, p15.

his arms to Mair as a gesture of peace.¹⁵³ In early 1882, Tawhiao made an official visit to Auckland, which was perceived to be a major turning point in relations between the Government and the Kingitanga by the settler press.¹⁵⁴ In May 1882, a large hui was held at Whatiwhatihoe. Marr suggests in preliminary research, that at this meeting Rohe Potae leadership expressed support for Tawhiao's proposal for a halt to the pressures on the King Country described in chapter one – including Native Land Court activity, surveys and road construction – until some form of negotiated agreement had been reached regarding these important issues.¹⁵⁵

Following this hui, the Government undertook several legislative steps toward a North Island Main trunk, again in the hope of successful negotiations in the King Country. Until this point no funds for a North Island trunk had been specifically allocated. In July 1882 the North Island Main Trunk Loan Bill was put before the House of Representatives. The following debate was lengthy and important.¹⁵⁶ By 1882 a potential North Island trunk had become a major political issue due to its general significance for settlement in the North Island, the controversy surrounding the false start of the Railway Construction Act 1878 and the highly publicised failure of the Grey and Sheehan negotiations. The increasingly depressed economic situation and its implications for large-scale borrowing for public works expansion further fuelled the issue. In particular, debate focused on where the limited money available would be allocated (to works in the North or South Island). Hence, the successful authorisation for the raising of a £1,000,000 loan (when necessary) for the construction of a North Island main trunk through the passing of the North Island Main Trunk Loan Act in August 1882 represented a major step toward a trunk railway.

At the same time, the Public Works Act 1882 significantly expanded the Government's power to acquire Maori land for public works purposes, reflecting Bryce's new 'firmer' Native policy. The Act, as described in detail in Chapter four, introduced separate, discriminatory provisions for taking and paying compensation for Maori land. These provisions further added to the powers (retained in the 1882 Act) for taking and purchasing land for Government Railways set out in the 1878 Public Works Act. In addition to the Public Works Act 1882, the Government also passed

¹⁵³ Ann Parsonson, 'Te Mana o te Kingitanga Maori: A Study of Waikato-Ngatimaniapoto Relations during the struggle for the King Country, 1878-84', MA Thesis, University of Canterbury, 1972, pp89-95.

¹⁵⁴ Don Loveridge, 'The Crown and the Opening of the King Country 1882-1885', A Report for the Crown Law Office, 2006, pp16-17.

¹⁵⁵ Marr, 'Waimarino', pp104-105; *AJHR* 1882, G4a, pp1-5.

¹⁵⁶ Gee, pp93-142.

in 1882 the Amnesty Act and Native Reserves Act, which it hoped would further aid negotiations with the Kingitanga.¹⁵⁷

With knowledge of the Kingitanga desire to negotiate expressed at Whatiwhatihoe and equipped with the described legislation, Bryce travelled to the King Country in October 1882 to continue negotiations. As Marr describes, at the first meeting, which had the formal purpose of opening a bridge over the Waipa River, Bryce gave Tawhiao a gold medal that allowed him a lifelong pass for railways in New Zealand.¹⁵⁸ The gesture was perhaps an indication that the Government wanted to secure Rohe Potae consent for the NIMT quickly. Following these introductions, a series of meetings between Bryce, Tawhiao, Wahanui and other leading chiefs of the Rohe Potae were held. At the conclusion of these meetings, Bryce made Tawhiao a personal offer: to return portions of his land; construct him a house; provide a £400 annual pension; and to make him an assessor of the Resident Magistrate's Court, an assessor of the Native Land Court, a Justice of the Peace and a Member of the Legislative Council.¹⁵⁹

Tawhiao and the Kingitanga leadership rejected Bryce's proposals at the following meeting.¹⁶⁰ As Loveridge points out, Bryce was forceful at this meeting, stressing that the offer would be permanently withdrawn if not accepted, and he refused to discuss further issues at any length with Wahanui.¹⁶¹ Significantly, from this time, Tawhiao and the Kingitanga played a limited role in the negotiations regarding the NIMT. After this meeting an 'interior alliance' of chiefs, as Marr defines it, rose to prominence with Ngati Maniapoto's Wahanui as their representative. The following iwi were represented in the alliance, Northern Whanganui, Ngati Maniapoto, Ngati Tuwharetoa, Ngati Hikairo, Raukawa.¹⁶² The political motivations and the implications of this development will be fully explored in Marr's political engagement 1865-1913 report.

¹⁵⁷ Loveridge, pp38-41.

¹⁵⁸ Marr, 'Waimarino', p106.

¹⁵⁹ Loveridge, p46.

¹⁶⁰ Loveridge, pp49-51.

¹⁶¹ Loveridge, pp50-51.

¹⁶² Marr, 'Waimarino', pp107-108.



Figure 9: *Wahanui* 1885 (F91903 ½)

The agreement for preliminary exploration of potential routes for the NIMT

In spite of the breakdown of negotiations, the Government attempted to proceed with preparations for railway construction and the general opening of the district. In December 1882, the Government announced plans for a township and occupation of the Crown lands on the northern side of Kawhia Harbour and also that a block of Crown land in the Mokau region

would be put up for sale.¹⁶³ In early February 1883, Bryce visited Kawhia to observe the progress of the township.¹⁶⁴ At the same time, the Government began to use the Amnesty Act of 1882 to officially pardon selected chiefs. Most prominently, the pardoning included Te Kooti, who had taken refuge in the King Country.¹⁶⁵ Based on the confidence gained by the actions at Kawhia, Bryce also authorised the exploration of a potential railway route via Mokau to Waitara (western route) and triangulation surveys of the King Country.¹⁶⁶ Bryce employed Charles Hursthouse to conduct the railway exploration. In March 1883, newspapers also reported the District Surveyor Lawrence Cussen was on his way to commence a 'Trigonometric' survey of the King Country.¹⁶⁷ In mid March 1883, Hursthouse attempted to travel south from Alexandra up the Waipa, where upon reaching Otorohanga his group was met by a large party of Maniapoto who forced them to turn back.¹⁶⁸

As a consequence of the obstruction of Hursthouse's party, Bryce immediately travelled to Whatiwhatihoe to negotiate their passage. According to the *Waikato Times*, Bryce met with Ngati Maniapoto chiefs, including Wahanui, on 16 March 1883. Bryce explained that the survey was a preliminary exploration of a possible route for the railway and that no actual surveys and construction work would begin until after further consultation. Bryce was reported to have stressed there would be 'plenty of time to discuss these matters' before formal survey, by which time local hapu and iwi 'would have learned to appreciate the advantages which the railway would bring them.'¹⁶⁹ As already noted in chapter one, the idea that the railway would be beneficial to Rohe Potae Maori was a common incentive used by Government officials and politicians throughout the negotiations. The *Waikato Times* reported that the 'agreement with Mr Bryce was put in writing, and signed by the chiefs present.'¹⁷⁰ At later discussions in 1885, the interior chiefs asserted the understanding reached at this meeting was the first stage of the agreement for the NIMT.¹⁷¹

In a letter written to Bryce dated 16 March 1883, Wahanui expressed his concern that Hursthouse's exploration was connected to land issues, including the introduction of the Native Land Court. Wahanui confirmed that he would allow 'your man [Hursthouse]' to conduct a

¹⁶³ Loveridge, pp59-61; *AJHR* 1883, A8, p1.

¹⁶⁴ Loveridge, pp60-61.

¹⁶⁵ *AJHR* 1883, A8, pp1-3.

¹⁶⁶ *AJHR* 1883, A8, p3; Loveridge, p63

¹⁶⁷ Loveridge, p63; *AJHR* 1883, C3, Appendix 'Auckland', p1.

¹⁶⁸ Loveridge, p64.

¹⁶⁹ *Waikato Times*, 17 March 1883, p2.

¹⁷⁰ *Waikato Times*, 17 March 1883, p2.

survey, but warned that he was not to stray from the path specified, suggesting concern that the exploration had wider settlement objectives. Possibly referring to the Native Land Court, he also requested that 'you will not grant applications for surveys within our district' until he had further discussed the matter with his people. He then added that a petition would soon be sent 'praying you and your Parliament to pass a satisfactory law for the lands of the Ngatimaniapoto'.¹⁷² Bryce's reply of the same day emphasised that 'my man [Hursthouse] is only going on one duty namely the exploration of railway routes'. In addition, while reiterating his insistence on the Native Land Court, he stated '[i]n the hope that this will be done shortly, I will keep back minor surveys for a time.' He ended his reply by stating he looked forward to reading the petition and that he would seriously consider it. In this way, it appears Bryce attempted to reassure Wahanui that surveys for the NIMT were not related to other surveys concerning the Court or land generally, a major concern of Rohe Potae Maori.

Over the following months it appears that Wahanui and the interior alliance leadership had consented to the exploration of the western railway route, but still desired other pressures on the King Country to cease until further discussions were held on those issues. These pressures included the planned Trig surveys, public works construction, and Native Land Court activity and associated land speculation. On 20 March 1883, Hursthouse again attempted to move south down the Waipa. On this occasion, the prophet Te Mahuki and his followers took his party captive. After supporters of Wahanui had freed Hursthouse, a private meeting was held on the 29 March between Bryce and Wahanui and other chiefs. At this meeting it appears that the chiefs requested that Bryce's plans for a triangulation survey be halted, which Bryce confirmed was the understanding reached at a later meeting in December 1883.¹⁷³ Soon after, in a letter reportedly written by Wahanui to 'Mr Sherrin' published in the *Whanganui Herald*, he further expressed his desire for the 'government' and 'lawyers' 'bearing toward' the Rohe Potae to stop. He requested that Bryce 'cease, settle yourself down, and let us have time, so that our minds may be settled, and it will be settled.'¹⁷⁴

The 1883 petition and the agreement for the survey of the external boundary

On 26 June 1883, a petition written by leaders representing Ngati Maniapoto, Raukawa, Tuwharetoa and Whanganui iwi was presented to Parliament expressing their desire to negotiate

¹⁷¹ *AJHR* 1885, G1, pp13-14.

¹⁷² Wahanui to Bryce, 16 March 1883, NO 83/1097 MA 23/5 Te Makuhi, ANZ Wellington. Supporting Papers, pp430-432.

¹⁷³ *Waikato Times*, 17 March 1883, p2.

¹⁷⁴ *Whanganui Herald*, 16 April 1883, p2; *Waikato Times*, 17 April 1883, p3.

reforms to Maori land legislation in order to open the King Country in a way that would ensure benefit for their iwi. In terms of the negotiations for a North Island main trunk, the Petition was important as it demonstrated the interior alliance's awareness of the economic benefits possible for European and Maori through the construction of the NIMT (and that the possible benefits continued to be stressed to them by European officials). The petition stated that if any benefits were to be gained from opening the district they were only desirable if land could be retained: 'We are not oblivious of the advantages to be derived from roads, railways, and other desirable works of the Europeans...but our lands are preferable to them all.'¹⁷⁵ The Petition requested fundamental reform to the Native Land Court system: an end to fraudulent behaviour of 'lawyers' and 'speculators (land-swallowers)'; that their land be made inalienable by sale; and that tribal and hapu boundaries as well as individual interests be determined by themselves. If these requests were met the petitioners were willing to open the land for settlement and public works construction:

There is no desire on our part to keep the lands within our boundaries described in this petition locked up from Europeans, or to prevent leasing, or roads from being made therein, or other public works being constructed, but it is our desire that the present practices that are being carried on at the Land Courts should be abolished.¹⁷⁶

The petition made clear that Rohe Potae Maori would not open their lands to selected public works and leasing until they gained the desired reforms to the Native Land Court and its associated legislation. In this way, the interior alliance aimed to maintain control or manage the opening of the district, using concessions on potentially mutually beneficial leasing and road and railway construction, most notably a NIMT, as leverage to gain substantial reform in Maori land administration.

After the petition, negotiations entered a period that concentrated on the broader political demands of the interior alliance. Marr's political engagement report will provide a detailed analysis of Government response to the petition, which included the Native Committees Act 1883 and Native Land Laws Amendment Act 1883. Following the passing of this legislation, in November and December 1883 an important meeting was held where the interior alliance agreed to sign an application for a Native Land Court investigation on the understanding this would begin with a survey of the external boundary of the Rohe Potae.¹⁷⁷ The exact nature of what was agreed to at this meeting is contentious and will be examined by Marr in detail.

¹⁷⁵ *AJHR* 1883, J1, p1.

¹⁷⁶ *AJHR* 1883, J1, p2.

Simultaneously, from mid-1883, apparently on the basis of the March 1883 agreement for Hursthouse's survey of a western railway route, exploration began of a central route, eastern route and an additional western Stratford route (see Figure 10). Engineer-in-Charge of the North Island, John Rochfort, conducted the exploration of the central route, encountering strong resistance. In particular, the local hapu/iwi of the Upper Whanganui and Tuhua lands in the southern part of the Rohe Potae resisted Rochfort's efforts as he attempted to proceed north from Marton through the interior.¹⁷⁸ According to Rochfort's report, the obstruction was particularly strong around Taumarunui, where Wahanui had established several 'aukatis' up to six months prior to his arrival.¹⁷⁹ Rochfort made no further progress until Bryce and Wahanui and the other chiefs had met in November and December 1883 (described above), after which his report stated he was able to complete the exploration.¹⁸⁰

To minimise the risk of further obstruction, Rochfort and other Government officials promoted the potential economic benefit of the railway – while emphasising that they were not surveying the land for European settlement – in order to persuade suspicious local hapu. Rochfort reported that he reassured some chiefs of Manganui-a-te-Ao that his party had 'nothing to do with the land question' and that they 'would be lunatics to stop the railway, which would be of benefit to them.'¹⁸¹ Bryce also drafted a letter dated 15 September 1883 for the survey parties to issue to local chiefs on their journeys, which stressed the mutual benefits:

Parliament and Government have agreed to make a railway through the country so that the fruits of the earth may pass to and fro. This will be of great advantage to both races, but especially to you whose lands will be particularly benefited, therefore my earnest advice to you is to assist in this great work.¹⁸²

Despite Rochfort's assurances that their exploration was not focused on the 'land question', the survey reports also detailed the suitability of the land along the routes for settlement as well as its coal and timber resources.¹⁸³

¹⁷⁷ Loveridge, pp105-117; Marr, 'Waimarino', pp129-140.

¹⁷⁸ *AJHR* 1884, D5, p4.

¹⁷⁹ *AJHR* 1884, D5, p5.

¹⁸⁰ *AJHR* 1884, D5, p5.

¹⁸¹ *AJHR* 1884, D5, p4.

¹⁸² John Bryce to 'the Chiefs of the Maori People', 15 September 1883, NO 83/2912, MA 13 75 43(a) King Country Special File No. 61 – correspondence, reports, compensation, labour and meetings relating to North Island Trunk Railway in Maori and translated, 1883-1885, p122, ANZ Wellington. Supporting Papers, p52.

¹⁸³ *AJHR* 1884, D5, pp1-13.

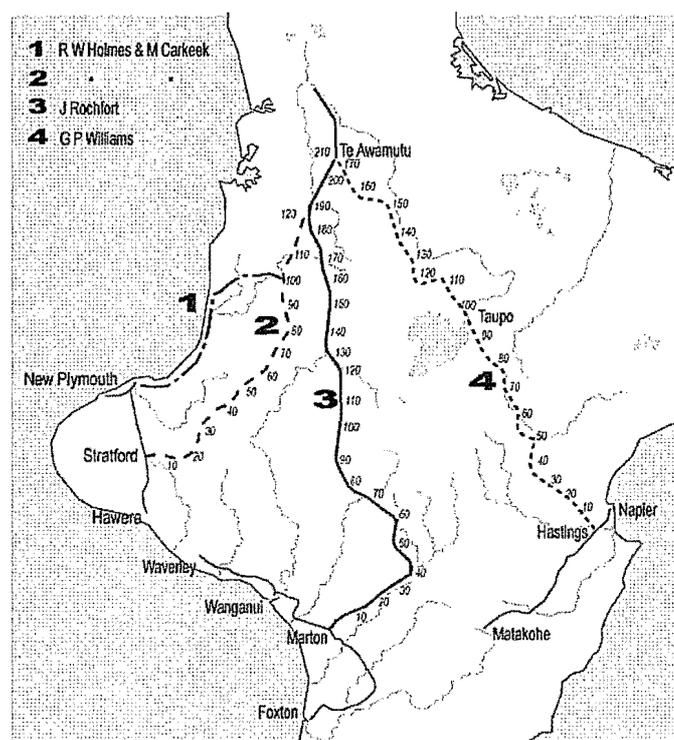


Figure 10: *Explored Routes for NIMT Considered by the Parliamentary Select Committee October 1884. 1 and 2 R.W. Holmes and M. Carkeek, 3. J. Rochfort and 4. G.P. Williams (Plan from AJHR 1884- I6)*

The North Island Main Trunk Railway Committee 1884 and preparations for construction

After the December 1883 agreement to make an application for a Native Land Court investigation to survey the external boundary, events began to unfold rapidly within the district, with the Government pursuing multiple surveys, construction of roads and preparations for the construction of North Island Main trunk. Soon after the application for survey, on December 19 1883, a written agreement for the cost of the survey was reached between the interior alliance and Government (represented by Percy Smith). The signed letter stated that the survey of the external boundary would cost no more than £1600 and that ‘this agreement must not be altered by any other arrangement or by any future government’.¹⁸⁴ At this meeting, Smith took the opportunity to successfully press for the recommencing of the triangulation surveys that Hursthouse had attempted to begin in early 1883. As stated, Rochfort also continued his preliminary exploration of the central route. Construction on the road between Kawhia and Aotea Harbours and Kawhia and Alexandra were also recommenced.¹⁸⁵

¹⁸⁴ *AJHR* 1885, G9.

¹⁸⁵ *AJHR* 1884, G1, p8.

In mid-1884, a new Robert Stout and Vogel led Government was formed, with John Ballance replacing Bryce as Native Minister. Generally Ballance was an advocate of greater state involvement in the purchase and development of land, an idea that was growing in currency at this time. It was believed that state involvement would enable more land to be made available to European 'small settlers' enabling closer settlement of the land, as opposed to private dealing or 'free trade' in lands which appeared to encourage the development of large estates held by single owners.¹⁸⁶ In line with these ideas, Ballance was to continue in the Rohe Potae the previous administration's experiments with regional pre-emption embodied in the Thermal-Spring District Acts of 1881 and 1883.

Based on negotiations between Ngati Whakaue and Judge Fenton, the Thermal-Spring Acts had restricted private alienations over areas of Maori land surrounding Rotorua. Showing some similarities to events in the Rohe Potae, the negotiations and consequent legislation were based on a Ngati Whakaue hope to manage the opening of the district to settlement.¹⁸⁷ Some Maori desired leasing of land rather than sale in order to secure long term economic benefit from European settlement.¹⁸⁸ The legislation gave the Government the role of an intermediary between Maori and settler in the process, aiming to provide a more systematic approach to settlement.¹⁸⁹ The negotiations also included discussions (first private then Government led) that involved ceding land for a railway as well as additional land for settlement to aid in paying for construction.¹⁹⁰ By 1886, the leasing program initiated by the legislation was already showing signs of collapse. In 1889 the Government switched to direct purchasing in the district, which pre-emption enabled, acquiring large areas of land.¹⁹¹ The thermal springs experiment shared some similarities with the events in Rohe Potae, with a large area being placed under pre-emption and Rohe Potae hapu and iwi and Ngati Whakaue sharing some similar aspirations. Also, the re-introduction of Government pre-emption was to result in large scale Government purchase in the Rohe Potae as it did in the Thermal-Spring district, a development that will be described in Chapter three of this report.

In September 1884 a Parliamentary Select Committee (The North Island Main Trunk Railway Committee) was formed to 'consider and report on the best route for the North Island Main

¹⁸⁶ Marr, *Rohe Potae*, pp48-49; See *AJHR* 1885, G1, p2 for example.

¹⁸⁷ Rose, pp125-128.

¹⁸⁸ Rose, pp25-26, 29.

¹⁸⁹ Rose, p126.

¹⁹⁰ Boast, *Buying the Land*, pp169-173; Rose, p129.

¹⁹¹ Boast, *Buying the Land*, p173.

Trunk.' To ensure the 'objectivity' of the decision, the Committee was to consist of only South Island members, and heard evidence concerning the four surveyed lines from a range of informants.¹⁹² Before introducing the findings of the Committee to the House of Representatives, the Chairman Mr E. Richardson (Minister of Public Works) outlined the three main criteria considered by the Committee in the selection of the main trunk:

One point was that the route which should be selected should be one fitted for agricultural carriage, and one that would open up the largest amount of land suitable for that purpose. Another point was that the line constructed should be as direct as possible, and that the grades should be easy as possible, and consequently that it should be a line upon which a fair rate of speed could be maintained. And another point of course, which they had to keep in view was as far as possible to accommodate any settled population which might already be found existing.¹⁹³

As indicated by Richardson, the Committee considered land for settlement a high priority. Reflecting these criteria for selection, those questioned by the Committee included Rochfort and the surveyors of the additional lines, Chief Surveyor Marchant, Under Secretary of the Native Land Purchase Department R.J Gill, Land Purchase Commissioner Major Robert Parris, John Sheehan, John Bryce, Wahanui, a local Rangitikei farmer as well as a miner.

The questioning by the Committee focused on land quality and tenure, extractive resources and engineering difficulties (including estimated costs) of each route.¹⁹⁴ On 13 September and 25 1884 September, the Committee examined Under Secretary Gill of the Native Land Purchase Department. Gill presented schedules of land blocks that had been purchased by the Government (including lists of blocks where transactions were still incomplete) along each route. The Committee asked Gill of the potential impact of the Native Land Laws Amendment Act of 1883 on purchasing activity, in particular the provisions prohibiting transactions prior to Native Land Court title investigation.¹⁹⁵ Gill asserted that the restrictions did not apply to the Government, implicitly suggesting this would not affect negotiations under way and future purchasing activity.¹⁹⁶ Although these listed blocks were outside the inquiry district, the interview with Gill demonstrated that the Committee saw potential Government land purchase as an important factor in their decision on a railway route.

On 17 September 1884, the committee interviewed Wahanui as he was on a formal visit to Wellington to meet and discuss land legislation with Native Minister Ballance. The Committee

¹⁹² *AJHR* 1884, I6, pv.

¹⁹³ *NZPD*, Vol.49, p596.

¹⁹⁴ *AJHR* 1884, I6, pp1-107.

¹⁹⁵ *AJHR* 1884, I6, p3.

began by asking if Wahanui believed there would be any engineering difficulties building a railway through Tuhua country. In reply, Wahanui began by summarising the agreement he had reached with Bryce concerning the railway:

He [Bryce] asked us if we would agree to a line being tried for a railway through that country [Tuhua], and we agreed on this understanding: that, when it was decided what line there would be, our consent would be formally asked to the line being made. We wished that all the final arrangements connected with our lands should be settled first.¹⁹⁷

Wahanui comment clearly shows that final consent to the railway would not be given until he believed the major issues surrounding the administration of their land had been addressed. The committee then proceeded to ask him which route had the best land for 'agricultural settlement', whether any of his tribal land had passed out of Maori ownership and which line he preferred.¹⁹⁸ Wahanui stressed that he could not give his full consent to the railway until he had consulted his people and that he could not speak for other iwi along the planned routes.¹⁹⁹ In reaction to the line of questioning regarding land, he emphasised again that full consent would not be given until Maori land legislation had been substantially reformed. In reply, the Chairman Richardson stated that the Committee could only inquire into the question of the railway route, not the 'other questions.'²⁰⁰ Immediately following this, the Committee continued to ask land focused questions, again asking Wahanui if any of his tribal land on the central route had passed from 'Native tenure.'²⁰¹ The Committee's questions, focused on land tenure, quality of soil as well as other resources, demonstrated the connection between the railway, European settlement and Maori land legislation, which Wahanui correctly recognised, despite the Committee emphasising the separation of those issues. Wahanui concluded his examination by stating that if the 'little matters that I brought down in my calabash' were 'attended to' he would do everything in his 'power to assist the Government in carrying out this matter [railway].' Summing up he stated 'It will not do for me to give way all at once without some concessions on the other side.'²⁰² Wahanui's appearance before the Committee again underlined the consistent position of the interior alliance regarding the railway – there would be no railway until they were guaranteed reform to Maori land administration.

¹⁹⁶ *AJHR* 1884, I6, p3.

¹⁹⁷ *AJHR* 1884, I6, p16.

¹⁹⁸ *AJHR* 1884, I6, p16.

¹⁹⁹ *AJHR* 1884, I6, p16.

²⁰⁰ *AJHR* 1884, I6, p16.

²⁰¹ *AJHR* 1884, I6, p16.

²⁰² *AJHR* 1884, I6, p16.

On 25 September 1884, the Committee examined Bryce. After answering the standard questions on the nature of the land along each line and his personal experience of it, Bryce commented freely on potential Government purchasing or the possibilities of 'getting land from the Maoris', an issue that he stated he had given a 'great deal of thought and concern.'²⁰³ Bryce did not believe that Maori should be treated 'exceptionally' in terms of land legislation and reiterated that the railway would increase Maori land value and therefore it would be reasonable to expect that that land should contribute to the construction of the line. Bryce asserted that: 'I was quite prepared to put that view of the case before the Maoris, as indeed I have done.'²⁰⁴ He went on to comment specifically on Government land purchasing, stating:

As to the purchase of the land by Government, there is an unwillingness on the part of Maoris at the present moment to sell the land, and I suppose that, when the route is determined, the unwillingness will for a time be increased. I do not apprehend, however, that it will last, because, I am rather sorry to say it, the Maoris, in my opinion, are too much disposed to sell their land. I think they can be induced to sell the last inch they have got in places almost as readily as the first inch; and although at present they profess to be unwilling to sell, but prefer leasing, yet I think that will pass away and they will be disposed to sell. I should not like to say that the Government could acquire these lands at once by purchase. Moreover, there is this difficulty: I do not see how they are to go about it until the title has been ascertained... I do think that precautionary measures ought to be taken to prevent speculators getting hold of the land alongside the railway, and moreover the Government ought to make every effort to acquire the land on the neighbourhood of the railway before the works actually commence...²⁰⁵

Judging by his comments, it appears Bryce recommended that the Government 'make every effort' to acquire the land adjacent to the railway, believing that some form of pre-emption should be placed over the land so that it would not be acquired by private interests. When the Committee asked what route he preferred, Bryce concluded that he believed that the central route was the most desirable as it opened the most land for settlement and that could be the 'only qualification for borrowing money for the construction of railways...'.²⁰⁶ The Committee's criteria for selecting the route and consequent questions suggest there was an expectation amongst some politicians and officials that the construction of the NIMT would result in the purchase of Maori land for settlement. Bryce's comments were particularly forthright in this respect.

On 9 October 1884, the Committee recommended the selection of the central route (Te Awamutu to Marton). While addressing the House on the decision, Richardson summarised their

²⁰³ *AJHR* 1884, I6, p68.

²⁰⁴ *AJHR* 1884, I6, p68.

²⁰⁵ *AJHR* 1884, I6, p69.

reasoning for the decision stressing that the central line had the best balance of all the criteria required of a main trunk. The central line was the most direct route, provided fewer engineering difficulties and would result in the opening of more land for settlement than any other line (especially with the potential for branch lines), all justified by a reasonable cost.²⁰⁷ The following debate in the House on the Committee's decision largely focused on the merits of the Stratford route compared with the Central, which was the other route that the Committee had given serious consideration.²⁰⁸ As had been the case with Public Works throughout the 1870s, one thread of the debate focused on which route would provide the best solution to the 'Native difficulty'. Members asserted the railway would spread the Government's authority by dividing and making potentially hostile areas of the country accessible.²⁰⁹ The prospect of the Government acquiring Maori land for both the track and for settlement was also prominent in discussion,²¹⁰ as Richardson concluded after the House had accepted the recommendation of the Committee:

Several honourable members have referred to the question of securing the Native lands. As Chairman of the Committee I understood the feeling of the Committee to be to urge the Government to take steps in that direction. My colleague the Native Minister [Ballance] has on the Order Paper a Bill [Native Land Settlement Bill]...which will be proceeded with immediately, and which will provide for the settlement of this land after it has come into the possession of the Government.²¹¹

On the same day that the Committee decided on the central route, Ballance introduced the Native Land Settlement Bill to the House of Representatives. This Bill was to become the Native Land Alienation Restriction Act 1884. Marr has conducted preliminary research on the genesis of this legislation in her Waimarino Report, and Marr's political engagement report will explore the political impact for the Rohe Potae inquiry. In terms of this report, the Act was important as it laid the foundation for later Government purchase of Maori land within the Te Rohe Potae inquiry district, establishing legislative connection between the construction of the NIMT and Government purchase and settlement policy.

The overall stated objective of the Bill was to facilitate the settlement, as the title suggests, of the North Island in a way that would satisfy both settler and Maori (according to Ballance). The Bill had two major components. Firstly, similarly to the Thermal Springs Acts, the Bill would prohibit

²⁰⁶ *AJHR* 1884, I6, p69.

²⁰⁷ *NZPD*, Vol.49, pp596-598.

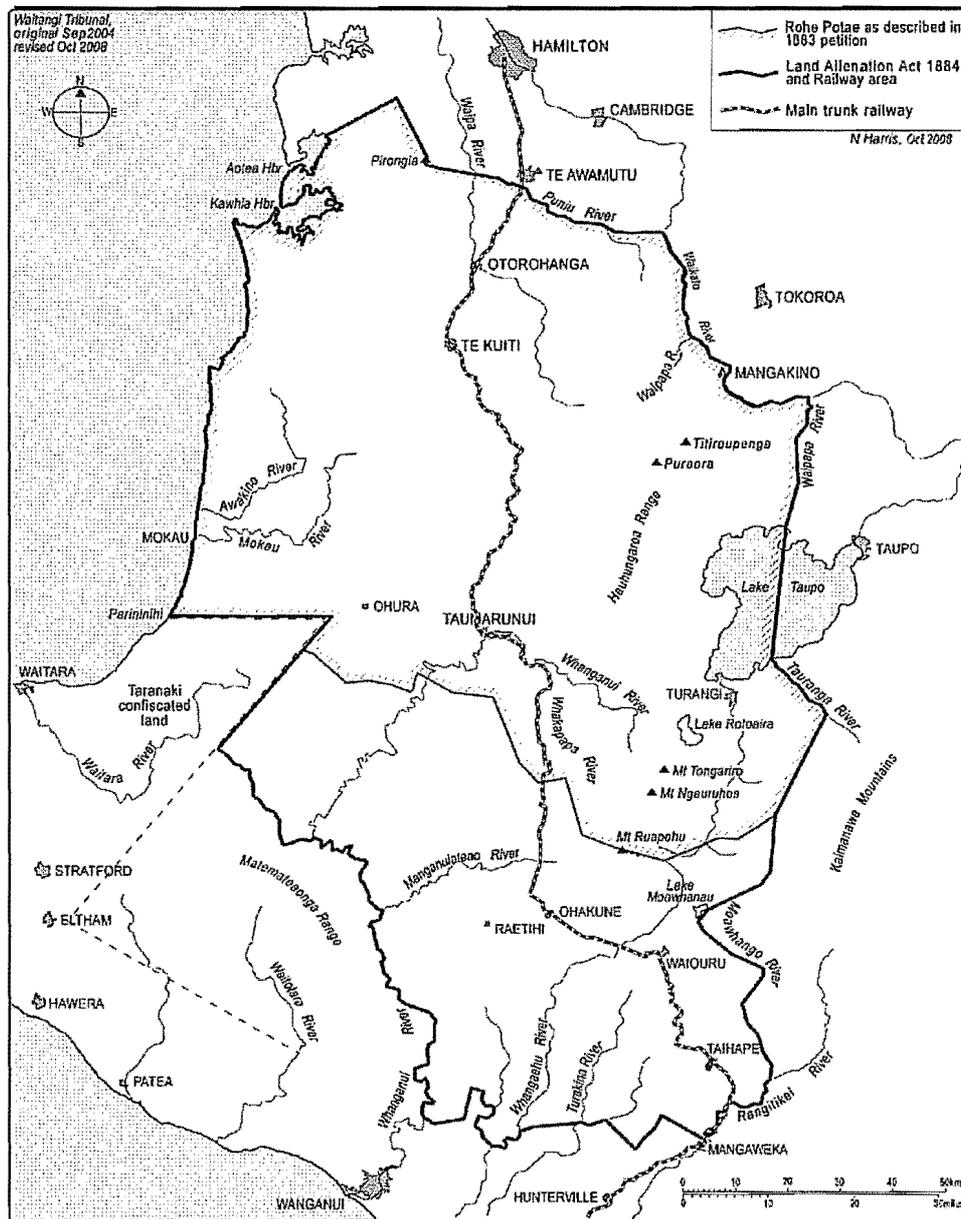
²⁰⁸ *NZPD*, Vol.49, pp598-626; *NZPD*, Vol.50, pp69-77.

²⁰⁹ *NZPD*, Vol.49, pp602, 604, 607; *NZPD*, Vol.50, 71.

²¹⁰ *NZPD*, Vol.50, pp75-77.

²¹¹ *NZPD*, Vol.50, pp75-77.

any transactions involving Maori lands by private interests within a defined territory, reserving this right to the Government. When addressing the House, Ballance first explained this area of land as a narrow stretch along the path of the central route. However, this was then extended by Ballance to cover a large area of the North Island (over 4 million acres) that he asserted would be affected by the construction of the NIMT (see Figure 11). Secondly, the legislation would enable Maori to voluntarily vest their land in Government administration in the form of boards (with Government appointed commissioners and elected Maori representatives), who would then lease or sell the land as the owners desired.²¹²



²¹² NZPD, Vol.50, p313.

Figure 11: *Railway alienation restriction area as defined by the Native Land Alienation Restriction Act 1884*

Wahanui, in his address to the House regarding the proposed legislation, stated he did not approve of the proposed vesting of Maori land under Government administration.²¹³ However, according to Ballance, it appears that Wahanui did not object to the restrictions on private land transactions.²¹⁴ Ballance had emphasised that these measures were designed to protect Maori lands from private speculators. Accordingly, the land administration sections were removed, leaving just the legislation for the restriction area, prompting a change in the title of the Bill to the Native Land Alienation Restriction Bill.²¹⁵ Ballance explained that the removed land administration clauses would be discussed at a later date, as Wahanui and his people desired.²¹⁶

Ballance went on to discuss the future of the land within the alienation restriction area. He acknowledged that there was a possibility of gaining 'large concessions' of Maori land in 'recognition of the value given to their land by the railway', but stressed that no coercion would be used in this regard.²¹⁷ He asserted that 3360 acres would be required for that actual railway and that he believed Maori would 'at once come forward and offer to us the whole of the land required for the line of the railway'.²¹⁸ In regard to wider settlement, Ballance described how he hoped that the removed land administration clauses (to be discussed further with Rohe Potae leadership) would, when implemented, provide the foundation for the opening of the district in a way that would balance Maori and settler interests:²¹⁹

I believe now, if we take them [Maori] into our confidence, and show them that the object of our administration of their lands, which are dearer to them than anything else in the world, is to deal with them fairly and justly, we shall have them co-operating with the Government in the administration of their lands, and that before many years are over we shall see not only railways, but settlement, spread through their country from one end to the other, contributing largely to their own welfare and to the stability and prosperity of the colony.²²⁰

Overall, Ballance's statements suggests that, in the first instance, he believed the restriction clauses were designed to protect Maori land from private speculators, but that in the long term, when a relationship of trust was developed, further settlement of the district was to be achieved through his proposed boards. These would enable Maori to sell or lease land with the

²¹³ NZPD, Vol.50, see appendix.

²¹⁴ NZPD, Vol.50, pp312-313.

²¹⁵ NZPD, Vol.50, p316.

²¹⁶ NZPD, Vol.50, pp316-317.

²¹⁷ NZPD, Vol.50, p316.

²¹⁸ NZPD, Vol.50, p316.

²¹⁹ See all NZPD, Vol.50, pp316-317.

Government acting as an intermediary. Ballance clearly desired European settlement in the Rohe Potae, but hoped that his envisioned boards would provide the mechanism to achieve this in a way acceptable to settlers and Maori.

Importantly, other Members did not necessarily agree with Ballance's proposed Maori land administration clauses or his position on settlement in the King Country generally. Bryce's reply to Ballance's speech made this clear. Bryce was disappointed 'that the Native Minister has apparently not attached more importance to the necessity of making some arrangement with Maoris in regard to the land near the proposed trunk railway'.²²¹ And, as he had emphasised before the North Island Main Trunk Committee, he felt Maori were obligated, given the expected increase in the value of land, to contribute to the construction of the NIMT through that land.²²² However, as the land administration clauses were removed and to be reintroduced to the House at a later date, there was little objection to the creation of an alienation restriction area, prohibiting private purchase over a vast area of the North Island.

Further discussion of the amended Bill by the Legislative Council again described the restriction clauses as designed to protect Maori land within the railway area by prohibiting private land transactions.²²³ Significantly, some members of the Council, saw that the legislation potentially enabled Government monopoly of purchasing over a large area of land, and wary of past Government dealings with Maori land, called for amendments to restrict Government as well as private transactions.²²⁴ These proposed amendments were not implemented and the Bill was passed.

At the same time as this legislative activity, preparations for the construction of the railway were commenced. On the 7 November 1884, as the Legislative Council was discussing the Native Land Alienation Restriction Bill, the Railways Authorisation Act was passed authorising the construction of the North Island Main Trunk along the central route. Significantly, this Act was passed before the Rohe Potae leadership had given full consent to the construction of the railway, a position Wahanui had made clear in his visit to Wellington. Following the passing of the authorising Act preparations for construction began in earnest. The 1885 Public Works Department Report states that following the selection of the central line by Parliament the

²²⁰ *NZPD*, Vol.50, pp316-317.

²²¹ *NZPD*, Vol.50, p321.

²²² *NZPD*, Vol.50, p321.

²²³ *NZPD*, Vol.50, pp431-438.

²²⁴ *NZPD*, Vol.50, pp431-438.

Engineer-in-Chief recruited a large team of surveyors to 'permanently locate the line'. This enabled the Public Works Department to call for the first contract tenders for 15 miles of the northern end and 13 of the southern by February 1885.²²⁵ Demonstrating further preparations, on 20 December 1884 Rochfort wrote to Ballance describing where he believed houses for plate layers were required along the line of the railway.²²⁶ Expressing concern at these developments, on 3 December 1884 Ngati Maniapoto chief Taonui wrote to Ballance:

Friend we are at a loss to know what wrong we and our people have done that you should have ignored us when you commenced Government works in our localities, that is, that you should have commenced the construction of the railway before coming to see us, the owners of the land, and discussing the matter fully with us in accordance with the promise made by Mr Bryce.²²⁷

Native Agent Wilkinson also relayed these concerns to Ballance.²²⁸ Other informants also made clear that concerns were being raised regarding the land required for the railway and the possibility of compensation.²²⁹ It is in this context that in January 1885 Ballance began a tour of the North Island to further discuss potential changes to Maori land administration and negotiate the final consent for the construction of the railway.

The final negotiations for the construction of the NIMT

Ballance began his tour of the North Island on 7 January 1885 in Ranana on the Whanganui River. According to the official record of the meeting, Whanganui leaders Major Kemp, Paori Kurimate, Hakaria, Whakaheirangi, Te Peehi, Winiata and Aperaniko Taiawhao addressed Ballance at this meeting.²³⁰ Ballance made a number of general assurances regarding potential reform to Native land legislation and possible long-term benefits from the construction of the NIMT in upper Whanganui region. In addition, a number of specific agreements were reached regarding construction of the railway. Whilst discussing the potential expansion of Native Committee powers and his plan to introduce boards to administer Maori land transactions, Ballance, as he had in Parliament, stressed that the restriction area was designed to protect Maori land from private purchase which would increase in value due to the construction of the railway.²³¹ He then went on to state that 'I think, therefore, it is better for the interest of the

²²⁵ *AJHR* 1885, D1, p4.

²²⁶ Rochfort to Ballance, 20 December 1884, NO 84/3703, MA 13 75 43(a), p81, ANZ Wellington. Supporting Papers, p46.

²²⁷ Taonui to Ballance, 3 December 1884, NO 84/3668, MA 13 75 43(a), p106, ANZ Wellington. Supporting Papers, p49.

²²⁸ Marr, 'Waimarino', pp165-166.

²²⁹ Marr, 'Waimarino', pp165-166.

²³⁰ *AJHR* 1885, G1, pp1-9.

²³¹ *AJHR* 1885, G1, p3.

people that they should lease their land rather than sell it.²³² Ballance then described how the boards would facilitate whatever use of the land the Maori owners decided: lease or sale.²³³

In regard to land that the Government might acquire during construction, Ballance assured those in attendance that the Government was only interested in a small amount required for the actual line. He began by stating that 'Natives should be very glad to welcome this railway through their land', again, as previous Government politicians and officials had done, emphasising the incentive of economic benefit. 'Land which is worth now not more than five shillings an acre will be worth five pounds an acre when the railway runs through the land.'²³⁴ He explained that the Government would accept gifted land for the railway itself: 'The Government do not ask from you any land. If any of the owners of the land over which the railway passes are willing to give the land which is the site of the railway, two chains wide, the Government of course will receive that land and be thankful for the gift.'²³⁵ However, if gifting of land was not forthcoming, Ballance asserted the Government would treat Maori the same as Europeans, paying a fair price for the land. 'The Government do not wish to take any land – not a single acre of land – without paying the fair value for that land. The only land they [the Government] want is just sufficient for the railway to run upon...'²³⁶ Concluding, Ballance also made clear that construction work or 'small contracts' would be offered to Maori for the section of line that was planned to be commenced at Manganui-a-te-Ao.²³⁷

In summary, Ballance, on the foundation of assurances of prosperity and reform to land legislation, made specific commitments regarding construction. The later included that the Government only sought land required for the railway itself and that a fair price would be paid for this land. In addition, construction contracts for Whanganui Maori were to be offered on the section to be commenced at the headwaters of the Manganui-o-te-ao River.

On 4 February 1885, following several other hui, Ballance arrived at Kihikihi, where he made a number of assurances to Rohe Potae Maori in respect to the construction of the railway in the district. According to the official notes from the meeting, Wahanui, Taonui, Hopa te Rangianini, Hitiri te Pairata, Aporo te Taratutu, Te Hoti Tamehana, Manga Rewi Maniapoto, John Ormsby,

²³² *AJHR* 1885, G1, p4.

²³³ *AJHR* 1885, G1, p4.

²³⁴ *AJHR* 1885, G1, p4.

²³⁵ *AJHR* 1885, G1, p4.

²³⁶ *AJHR* 1885, G1, p4.

²³⁷ *AJHR* 1885, G1, p4.

Te Hauraki, Pineha Tawhaki, James Thomson, Te Rangituatea, Pineaha, Te Herikiekie and Kingi Hori spoke on behalf of Rohe Potae Maori.²³⁸ Wahanui stated during the meeting that Ngati Maniapoto, Ngati Raukawa and Whanganui were present, but that Ngati Tuwharetoa was not.²³⁹

Ballance began the meeting by acknowledging, although he could find no record of it, that Bryce had made a 'promise...that nothing would be done beyond the survey in the matter of the railway until a representative of the Government had appeared amongst you.'²⁴⁰ Wahanui also placed the meeting in the context of previous negotiations with Bryce, stating '[w]hen Mr. Bryce took office he made a compact with me, which was signed, that a search for the railway was to be made, and, if a suitable line was found he was to return and let me know.'²⁴¹ (Wahanui had described this agreement on his recent visit to Wellington also). He went on to detail the 1883 petition and subsequent visit to Wellington, made on the request of his people, to attempt to reform Maori land legislation, adding that the present meeting was a continuation of that discussion.²⁴²

Following Wahanui, Chairman of the Kawhia Native Committee, John Ormsby then gave a presentation of many of the Rohe Potae Maori concerns regarding the district.²⁴³ Ormsby laid out Rohe Potae concerns by way of ten points:

1. The first is the Native Land Court. We object to it, and we have shown our disapproval of it in the petition.
2. The roads and the railway. Our objection to them is the fear that we may be rated in connection with them.
3. We ask for extra powers to be given to the Native Committees; and
4. That it shall not be left for a person to consent or not to take this matter before the Committee, but that it shall be compulsory for him to do so.
5. To adjudicate the lands in favour of hapus, and not individuals.
6. To have a Committee appointed for each hapu.
7. For the Boards to conduct all matters relating to sales or leases, as the case may be... Let them – the Committees or Boards – be independent of the Government or companies.

²³⁸ *AJHR* 1885, G1, pp12-24.

²³⁹ *AJHR* 1885, G1, p21.

²⁴⁰ Marr, 'Waimarino', pp169-170.

²⁴¹ *AJHR* 1885, G1, p14.

²⁴² *AJHR* 1885, G1, p14.

²⁴³ *AJHR* 1885, G1, pp14-16.

8. Do away with all prospecting for gold, coal, iron, or any other minerals...— that is, do not allow prospecting for these things to take place during the present time, not until things are settled.
9. That the number of Maori members of the House be increased...
10. To have the boundary of the prohibition licensing district rectified, and make the prohibition to be enforced in that district very stringent indeed...

In reply to Ormsby, Ballance made a number of assurances regarding possible reform to Maori land legislation and other Government policy. Together, these assurances, if implemented, appeared to offer Rohe Potae leadership the means to retain control of the district and utilise the economic opportunity offered by the railway. This perspective was reinforced and encouraged by Ballance throughout the meeting by presenting the railway as the foundation of future Maori prosperity. Principally, Ballance assured Maori that through his proposed legislation they would retain control of their land, which would greatly increase in value when the railway was constructed. The exact meaning and wider implications of these assurances regarding Maori land administration are beyond the scope of this report and will be comprehensively examined in Marr's political engagement 1865-1913 report. However, and most importantly in respect of this report, securing these assurances from Ballance appears to have been essential for Rohe Potae leadership before they were willing to discuss the specific details and consider their final consent to, the construction of the NIMT.

Ballance proceeded to respond to each of Ormsby's points. As he had in Parliament and at Ranana, he began by emphasising that the purpose of the Native Land Restriction Act was to protect Maori land from private speculators in order that they would not 'enrich themselves from the contemplated approach of the railway'.²⁴⁴ After defending the role of the Native Land Court, Ballance made assurances regarding the value of the land and Maori retention of it. In respect of value, he stated:

They must know that there are large blocks of land in this country which have really no value at all, because there are no roads or railways through them, and if they had to sell this land at the present moment they would not receive more than three or four shillings an acre, whereas if railways or roads were made through it it [sic] would sell for as many pounds an acre.²⁴⁵

Following this, Ballance confirmed Ormsby's request regarding rates on those lands: 'I do not think that land along the line of the railway, or along the roads leading up to the railway, should be proclaimed under the [Lands Rating] Act. When the land has been leased or sold, then the

²⁴⁴ *AJHR* 1885, G1, p16.

²⁴⁵ *AJHR* 1885, G1, p17.

time will have come for putting on rates...²⁴⁶ He reinforced this comment by asking John Ormsby to send a letter for the record which would be 'binding on future Governments.'²⁴⁷ Next Ballance asserted that he planned to expand the power of the Native Committees and that together with his proposed Boards more power would be given to Maori to administer their own land.²⁴⁸ He then commented that prospectors needed the consent of the Native owners and also addressed Rohe Potae grievances regarding the boundary of prohibition in the district.²⁴⁹ Ballance concluded by returning to the restrictions on private purchase, stressing 'that no stronger proof of Government intentions to protect Maori land could be given.'²⁵⁰ He then, significantly, stated that the Government also had no interest in large-scale purchasing of Rohe Potae land if Maori did not wish to sell:

With regard to the Government purchase of Native Land, I am anxious that Government should not purchase land... The Bill that we intend to introduce will prevent the necessity of the Government acquiring lands, the principal object of the Government being to get the land and country settled: and, if the Natives will do that themselves by leasing their lands, the Government will assist them and not otherwise interfere.²⁵¹

Ballance emphasised the possibility of large-scale leasing of Maori land with Government acting as an intermediary in the process. Therefore, through these statements, Ballance had assured Rohe Potae leadership that their land would be secure from unwanted private and Government purchase and that through consequent legislation Maori would retain power to administer their own lands.

After further discussing a number of issues, Ormsby, astutely aware of the importance of the preceding statements by Ballance asked for a written record of these assurances:

People may, perhaps ask, Which [sic], out of all these ten things which have been brought before Mr. Ballance have been really agreed to by him and settled? One thing we are clear has been settled by him – that the Rating Act will not be enforced in this district, because he has promised to answer a letter which we will write to him stating that it will not be done. We, as Maoris, think all the subjects should be included in the letter, not only that one, but the whole of them.²⁵²

In reply to Ormsby, Ballance stated that:

Those answers are contained in my speeches, with the explanations which I have given, and the official report of my speeches will be the very best replies you can get. He will see that most of those questions are proposed legislation, and will be dealt with in the Bill

²⁴⁶ *AJHR* 1885, G1, p17.

²⁴⁷ *AJHR* 1885, G1, p19.

²⁴⁸ *AJHR* 1885, G1, pp17-18.

²⁴⁹ *AJHR* 1885, G1, p18.

²⁵⁰ *AJHR* 1885, G1, p18.

²⁵¹ *AJHR* 1885, G1, p18.

²⁵² *AJHR* 1885, G1, p20.

which we propose to circulate before the session, so that there will be ample time to discuss them amongst yourselves.²⁵³

Although acknowledging that many of his answers to Ormsby's requests would come in later legislation, Ballance's statement clearly confirmed that he considered his comments were an indication of Government intent and something Rohe Potae leadership could trust. Believing that the most important issues had been addressed, Ballance thought the meeting was drawing to a close.²⁵⁴ However, Rewi and Wahanui insisted that there was still additional business to discuss, requesting that Ballance remain for another day.²⁵⁵

Critically, in terms of this report, on 5 February 1885, it appears the Rohe Potae leadership, believing they had reached some understanding regarding the Government's future legislation concerning their land, shifted discussion more specifically to the railway. Wahanui began by stating that he still needed to consult with those who were absent from the meeting before the 'final settlement' could take place.²⁵⁶ Demonstrating that he believed agreement had been reached regarding a number of essential concessions, Wahanui stated '[y]esterday you [Ballance] did not refuse to us the things that have been refused by two or three previous Governments'.

Summarising, Ormsby stated 'What we should like would be to have time to discuss the matter amongst ourselves, finally settle it, and then hand it over to you. We should like you to state to us what your idea is with regard to this railway-line – how much land will be required, and what you want us to do in the matter.'²⁵⁷

Acknowledging Rohe Potae leadership's desire to further discuss 'the question regarding the railway' with those absent, Ballance went on to outline what he believed would be Government policy, making several specific assurances regarding its construction. In terms of the land required for the construction of the line itself, Ballance stated that 'one chain' width would be needed except where cuttings were required, in which case he acknowledged two chains might be needed. He stated stations would generally need 5 acres or 10 acres when situated in areas with the potential for a large settlement. It was stressed that compensation would be paid for this land, with Ballance asserting that Maori would be treated the same as Europeans in this respect. Alluding to the introduction of the Native Land Court, Ballance stated that compensation would

²⁵³ *AJHR* 1885, G1, p20.

²⁵⁴ *AJHR* 1885, G1, p21.

²⁵⁵ *AJHR* 1885, G1, p21.

²⁵⁶ *AJHR* 1885, G1, p21.

²⁵⁷ *AJHR* 1885, G1, p22.

be paid once title and owners were determined.²⁵⁸ In response to a statement by Te Rangituatea regarding his desire to retain his land, Ballance reconfirmed that the Government did not intend to conduct unwanted large-scale purchase in the district. To conclude he stressed: 'All the Government asks is for the land for the railway and roads, and that they shall pay a fair price for it.'²⁵⁹

Ballance made a number of additional specific statements detailing Government intentions concerning the environmental impact of the railway and further immediate economic benefits of construction. In reply to one speaker's concern that important food sources or mahinga kai might be affected by construction, Ballance asserted that care would be taken to avoid any destruction. He stated that 'water courses should not be interfered with... No injury whatever will be done to Native land.'²⁶⁰ In reference to a request for construction to avoid a certain area of bush, Ballance acknowledged that the course of the railway could not be altered as it would make the line unnecessarily long. However, he added that Maori would be paid for timber used in construction, and that the railway would improve access to timber enabling it to be sold for the benefit of Maori owners.²⁶¹ Furthermore, Ballance stated that construction contracts would be offered to local Maori, providing a direct economic benefit from the building of the railway.²⁶²

To conclude the meeting, Ballance returned to the foundation of the more specific statements of policy regarding construction of the NIMT. Namely, that through further consultation and legislative reform, Maori would retain power over their own lands and that the railway would enormously increase the value of that land.²⁶³ In addition, this land, according to Ballance's assurances, was secure from unwanted private and Government purchase.

I have only to say, in conclusion, that not a single Native right will be prejudiced [by the construction of the NIMT and road]. As I said yesterday, greater powers will be placed in the hands of the Natives to deal with their own land, when [sic] their land will be enormously increased in value through the construction of this railway and road.²⁶⁴

Finally, Ballance underlined the notion of economic opportunity through hyperbole: '...let me tell you that the money that will come from the construction of this railway [NIMT] will be worth all the berries in the world, and the eels, too.'²⁶⁵ It was then agreed that a month would be given

²⁵⁸ *AJHR* 1885, G1, pp22-23.

²⁵⁹ *AJHR* 1885, G1, p23.

²⁶⁰ *AJHR* 1885, G1, pp23-24.

²⁶¹ *AJHR* 1885, G1, p23.

²⁶² *AJHR* 1885, G1, p24.

²⁶³ *AJHR* 1885, G1, p24.

²⁶⁴ *AJHR* 1885, G1, p24.

²⁶⁵ *AJHR* 1885, G1, p24.

for further discussion and if nothing was heard from the Rohe Potae leadership the terms agreed at this meeting would stand.

During the remaining weeks of February 1885, it appears that the interior alliance held several hui to reach a final decision on the railway.²⁶⁶ On 27 February 1885, a large hui was held with representatives of Ngati Maniapoto, Ngati Raukawa, Ngati Tuwharetoa and Ngati Hikairo.²⁶⁷ Ormsby and Wilkinson both telegraphed Ballance informing him that the railway had been agreed to under certain conditions.²⁶⁸ Ormsby informed Ballance that the iwi had agreed to a line one chain wide and that this land should be paid for. He also added it was to be fenced on both sides.²⁶⁹ On 4 March, Wahanui sent a letter to Ballance explaining that Rohe Potae Maori agreed to allow the railway to proceed. It also demonstrated the desire for further consultation, stating that they would like the questions of 'the land required for the railway, the land on either side of the railway, and that required for the stations was deferred until your next visit here.'²⁷⁰ He also requested that 'We would like to turn the first sod ourselves'. In addition, the letter also stated that 'the strongest measures' should be taken against illegal prospectors in the district.²⁷¹ In reply, the Government response stated Premier Stout would conduct the ceremony with the aid of Wahanui and the chiefs, and that he would 'shortly proceed to the Waikato for the purpose.' As detailed in Chapter four, soon after the final agreement, on 2 April 1885 action was taken toward acquiring the first sections of land required for the NIMT under the Public Works Act 1882.

On 15 April 1885, on the south side of the Puniu River, the ceremony to turn the first sod for the construction of the NIMT was held. According to official reports, the crowd of Maori and settlers was over 1000 in number.²⁷² The ceremony began with Wahanui turning three sods and Premier Stout pushing the wheelbarrow to the end of a timber-plank path where he tipped it out. After the formalities of the ceremony, Premier Stout made two speeches, one for the settlers and the other to Maori in attendance. In his speech to the Europeans present he emphasised the ceremony as a turning point in New Zealand's Maori-settler relations, a day after which

²⁶⁶ Marr, 'Waimarino', pp187-188.

²⁶⁷ NO 85/692, MA 13 75 43(a), pp30-33, ANZ Wellington. Supporting Papers, pp39-41.

²⁶⁸ Wilkinson to Native Department, 28 February 1885, NO 85/692, MA 13 75 43(a), p31, ANZ Wellington. Supporting Papers, p40. Ormsby to Ballance, 27 February 1885, NO 85/692, MA 13 75 43(a), pp32-33, ANZ Wellington. Supporting Papers, pp41-42.

²⁶⁹ Ormsby to Ballance, 27 February 1885, NO 85/692, MA 13 75 43(a), pp30-33, ANZ Wellington. Supporting Papers, pp41-42.

²⁷⁰ Wahanui to Ballance, 4 March 1885, NO 85/968 [missing cover sheet], MA 13 75 43(a), pp11-12, ANZ Wellington. Supporting Papers, pp37-38.

²⁷¹ Wahanui to Ballance, 4 March 1885, NO 85/968 [missing cover sheet], MA 13 75 43(a), pp11-12, ANZ Wellington. Supporting Papers, pp37-38.

²⁷² *AJHR* 1885, D6, p2.

‘peaceable relations between Europeans and Maoris’ would continue and contribute to ‘our march of progress’.²⁷³ He then reminded the settlers of their duty to ‘educate them, [and] to train them [Maori]’, before he went on to describe the prohibition of liquor in the district.²⁷⁴ Stout then addressed the Maori present. He described that local Maori were already working on the section of line where the ceremony was being conducted. Consistent with Bryce, Ballance and other Government officials, Stout stressed the long term economic benefit the railway would bring, particularly the increased value that the railway would bring to their land, enabling Maori to farm prosperously in the region.²⁷⁵ ‘It will make your land more valuable, and the land that you don’t need, if you wish to lease it you will get more money for it. Besides that, as you get learned in farming, you will raise roots, grain and cattle; and you will get more money for these things if you have a railway.’²⁷⁶

Following Stout several chiefs addressed the Premier and the gathered crowd. Wahanui spoke first, acknowledging that the liquor ban in the district should begin at the Puniu. He then stated that he wished the NIMT should be named ‘Turongo’, stressing that only the chain wide strip would be called this and that land on either side would not be affected.²⁷⁷ Hopa te Rangianini then warned the Government not to take more land than was necessary, particularly not to ‘branch off in the direction of Taupo’.²⁷⁸ Taonui then expressed his desire for continued consultation with Ballance regarding construction and the position of stations.²⁷⁹ To end proceedings, Stout confirmed that ‘this section should be called Turongo’, after which Rewi introduced the Premier to his only child and daughter (see title image).

The Agreements

On the understanding that there would be further discussion with the Government, the Rohe Potae leadership were assured that Maori land legislation would be amended to take their concerns into account. Ultimately, through this proposed legislation, Rohe Potae Maori believed they would be able to retain and utilise their lands, thus enabling them to secure the economic benefit emphasised throughout the negotiations by Government officials and politicians. Marr’s political engagement report will examine the exact nature of these broader assurances, however in terms of this report they are important as they are the foundation upon which the following

²⁷³ *AJHR* 1885, D6, p3.

²⁷⁴ *AJHR* 1885, D6, p3.

²⁷⁵ *AJHR* 1885, D6, p4.

²⁷⁶ *AJHR* 1885, D6, p4.

²⁷⁷ *AJHR* 1885, D6, p4.

²⁷⁸ *AJHR* 1885, D6, pp4-5.

specific assurances were reached regarding the railway:

- The railway would bring economic benefits to Rohe Potae hapu and iwi. Principally, the value of their land would increase due to the construction of the railway, providing access to the land and transportation to markets;
- government pre-emption had been introduced to protect Maori land from private land speculators;
- the Government did not intend to conduct unwanted large-scale land purchase in the district;
- under the proposed legislation, leasing of Maori land would be sufficient for the European settlement of the district;
- Maori land surrounding the railway would not be rated until leased or sold;
- the Government was only interested in acquiring Maori land required for the operation of the railway. This was specified as one chain for the track, except where cuttings were needed, requiring perhaps two chains. Stations would require 5 acres, except where there was the possibility of a large settlement, in which case 10 acres might be needed;
- compensation would be paid in the same manner as Europeans for any land acquired for the construction of the railway. However, in order to do so the Native Land Court would need to ascertain the Maori owners of the land;
- the Government would reserve labour contracts for Rohe Potae Maori to construct the railway in their district;
- watercourses would not be interfered with and adjoining lands would not be damaged
- any timber used in construction would be paid for;
- the NIMT would provide access to commercial timber lands, enabling Rohe Potae Maori to gain long term economic benefit from their sale after construction;
- the track was to be fenced on both sides; and
- the section of the NIMT lying within the district was to be called 'Turongo'.

It should also be noted that several times during the final stages of negotiation Rohe Potae leadership expressed a desire for further consultation regarding the railway and the other issues affecting the district, underlining that continued dialogue was seen to be important. This was an expectation that Ballance had endorsed during the Kihikihi meeting, when he advocated continued visits to Parliament by Wahanui and ongoing discussion regarding proposed land legislation.²⁸⁰ When construction of the railway began, it is clear that Rohe Potae Maori would have expected that they would be consulted about the introduction of any policies that departed from the agreements reached prior to this time.

²⁷⁹ *AJHR* 1885, D6, p5.

²⁸⁰ *AJHR* 1885, G1, pp16, 24.

Conclusion

After over a decade of unsuccessful negotiations with Rohe Potae leadership to open the district to railway construction and settlement, between 1882 and 1885, in several key stages, the Government gained consent for construction of the NIMT. It appears that Rohe Potae leadership consented to the construction on the understanding that they had reached a number of agreements regarding significant reform to the existing Maori land legislation and administration of their district as well as some specific arrangements regarding construction of the line itself. The confirmation of the former was essential before consent was given to the specifics of construction. This reflected Rohe Potae leadership's apparent desire to ensure they maintained control over the process of opening their rohe to European settlement.

The first phase of negotiation began with the reopening of negotiation with Kingitanga leadership in 1882. Based on increased Government confidence that Rohe Potae leadership were willing to negotiate, in August 1882 an important legislative step was taken toward reinitiating plans for the construction of a NIMT. The North Island Main Trunk Loan Act 1882 enabled the Government to raise a loan of up to £1,000,000 for construction. In 1882, equipped with several legislative measures to aid in negotiation, Native Minister Bryce travelled to the King Country to reopen discussions with the Kingitanga. After the collapse of these negotiations, Government emphasis then shifted from Tawhiao and the Kingitanga to discussions with an 'interior alliance' of Rohe Potae Maori, with Ngati Maniapoto chief Wahanui as the principal representative of this collective.

These events were followed by the second phase, centred on an agreement for the exploration of a railway line in March 1883. After the collapse of negotiations with the Kingitanga in 1882, the Government attempted to proceed with exploratory surveys for possible railway routes, the opening of Kawhia, as well as triangulation surveys of the Rohe Potae. However, Rohe Potae Maori resisted an attempted exploratory survey of a western route from Te Awamutu via Mokau to Waitara by Hursthouse, forcing Native Minister Bryce to negotiate their passage. In March 1883, at a meeting with Ngati Maniapoto chiefs, including Wahanui, an agreement was reached in which the survey for preliminary exploration of a Mokau route was allowed. This was agreed on the condition that other surveys were ceased and no detailed surveys for construction or construction work would begin until after further consultation on the railway and other reforms. During this period of negotiation, Government officials and politicians, in order to gain consent for the surveys, emphasised to Rohe Potae Maori that the railway and explorative surveys were

separate issues from the wider land issue (which was of great concern to Rohe Potae Maori). This was despite clear evidence that the survey parties were also examining the general quality of land and availability of resources in the area for settlement. The surveys of three additional routes were completed after this agreement was secured.

The agreement was followed by a period of over a year where negotiations were concentrated on potential reforms to Maori land legislation, which included the Government response to the Rohe Potae petition of June 1883. The Petition was important as it demonstrated the interior alliance's awareness of the economic benefits possible through the construction of the NIMT (and public works generally), but underlined that there would be no agreement regarding the railway until reform to Maori land administration was guaranteed. In 1884, a select committee was appointed to establish the best route for the NIMT. The selection of interviewees and the nature of the questioning (focused on land quality and tenure, extractive resources and engineering difficulties of each route) demonstrated that the Committee believed the acquisition of Maori land for European settlement was an important factor in the selection of the route. The debate of the Committee's decision before the house confirmed that there was a common expectation amongst many officials and politicians that the construction of the NIMT would, through the aid of Government legislation, open vast new areas for European settlement. The 1884 final report selected a central route, which was authorised for construction by the Railways Authorisation Act 1884.

Also passed in 1884, the Native Land Alienation Restriction Act prohibited private land transactions over a large area of land affected by the construction of the proposed NIMT. At the time of its debate before the House, Native Minister Ballance stressed that this measure was designed to protect Maori land from private speculators. Ballance appears to have made this assertion on the understanding that further legislation (originally contained within the Restriction Act) would be passed, and that this legislation would introduce Government controlled boards (with voted Maori representatives) to facilitate the wider settlement of the district. Ballance believed this measure would function for the benefit of Maori and settler. Not all politicians agreed with Ballance's perspective on further settlement, particularly Bryce, who expressed concern that not enough effort was being made to attain Maori land for settlement and to finance the construction of the NIMT. However, because these land administration clauses had been removed from the Act, he had no objection to the restriction on private transactions in the railway area. The reassurance that the Restriction Act was designed to protect Maori land from

private speculators was also emphasised to Wahanui and other Rohe Potae leadership, at this time and in consequent hui. This Act was significant as it laid the foundation for Government monopoly and later large-scale purchase of Maori land in the Rohe Potae, forming a relationship between the construction of the NIMT and Government purchase and settlement policy.

The final stage of negotiation entailed Native Minister Ballance's tour of the Native provinces in early 1885, where over several hui he made assurances regarding potential reform to Maori land legislation and a number specific arrangements regarding the construction of the NIMT.

Preparations for construction were commenced immediately after the passage of the Railways Authorisation Act 1884. As this was contrary to what had been agreed with Bryce, Rohe Potae leadership expressed concern at these developments and wished to meet with Ballance to discuss them. In January and February 1885, at hui held at Ranana and Kihikihi, Ballance assured Rohe Potae leadership that, through the expansion of Native Committee powers and the introduction of his board system, local hapu and iwi would maintain control of their lands. Ballance also made a assurance that Rohe Potae land would be secure from unwanted pressure from private land speculators due to the Native Land Alienation Restriction Act and, significantly, that the Government was not planning to conduct large-scale purchase in the district. As highlighted in this chapter and the previous chapter, Government officials and politicians emphasised throughout the negotiations that the NIMT would bring great economic opportunity to Rohe Potae Maori, based primarily on the idea that the railway would greatly increase the value of their land. In this context, Ballance's statements regarding the retention and administration of land take on prime importance as they appeared to assure Rohe Potae leadership that they would be able to utilise the economic opportunities offered by the railway. A comprehensive analysis of these assurances will be provided by Marr's political engagement 1865-1913 report. However, importantly in terms of this report, these assurances regarding land were essential as they laid the foundation upon which the Rohe Potae leadership were willing to give consent to the railway.

After gaining these concessions, the Rohe Potae leadership moved discussion at the hui to issues directly surrounding the construction of the railway. At this point, Ballance clearly described how the Government would proceed with the construction of the NIMT, making a number of specific statements regarding future policy. Ballance asserted that one chain was required for the line, two chains where cuttings were required, and that 5 to 10 acres would be needed for stations. Once the owners had been ascertained by the Native Land Court compensation would be paid for this land. He also reiterated that Maori land would not be rated in relation to the

railway until sold or leased.²⁸¹ Timber used in construction, Ballance stated, would be paid for and the line would enable Rohe Potae Maori to utilise this resource in the longer term. A general reassurance was made that 'No injury whatever will be done to Native land', in particular that effort would be made to protect mahinga kai. Ballance also stated that construction contracts would be offered to local Maori, providing a direct economic benefit from the building of the railway.

After further consultation with interior iwi, Rohe Potae leadership consented to the construction of the NIMT on the terms specified by Native Minister Ballance at Kihikihi. In the following weeks, Rohe Potae leadership expressed their desire for further consultation with the Government regarding Maori land legislation and railway construction. On 15 April 1885, the 'turning of the first sod' ceremony took place south of Te Awamutu, marking the official beginning of the construction of the NIMT in the Rohe Potae.

²⁸¹ *AJHR* 1885, G1, p23.

Chapter Three: The Construction of the NIMT and Rohe Potae hapu and iwi, 1885-1903

Introduction

Chapter three discusses the construction of the NIMT between 1885 and 1903. It will detail relevant aspects of the construction process and its immediate impact on the district. In particular, the chapter examines the extent to which the agreements reached between Rohe Potae leadership and the Government were upheld during the building of the railway. The key issues examined in the chapter include: the relationship between construction and Government Maori land purchase and settlement policy; Rohe Potae Maori work contracts for building the line; use and payment of timber and stone resources required for construction; impacts on the environment and wahi tapu; fencing of the line; as well as the social impact of the influx of European workers on Rohe Potae Maori. The chapter also looks at whether there was further consultation between the Government and Rohe Potae leadership regarding policy changes relating to the railway.

The construction of the NIMT was a protracted process, taking over 20 years to complete. It was not until 7 September 1908 that the first train completed the journey from Wellington to Auckland.²⁸² In terms of this report, the opening of the line to Taumarunui in 1903 marks the completion of construction within the Te Rohe Potae inquiry district.²⁸³ (Details of the different building stages and the dates that these were completed are provided in the Appendix.) As described in Chapter two, serious preparation for the construction of the railway began before Ballance's final negotiations at Kihikihi in February 1885. After the initial surveys for the 1884 commission, more detailed surveys were commenced to fix the exact course of the central route. Also, the first construction contracts were tendered in early 1885 for the initial 15 miles at the northern end and 13 at the southern end.²⁸⁴ By 1886, work had begun in a number of areas within the district, including south of the Puniu River and at Poro-o-tarao (between Te Kuiti and Taumarunui), where a long tunnel was required.

Government Maori Land Purchase and the construction of the NIMT

A full narrative and analysis of Government land purchase and settlement policy in the district is beyond the scope of this report and will be provided in the nineteenth and twentieth century land

²⁸² *AJHR* 1908, D1, pi

²⁸³ *AJHR* 1903, D1, piv

²⁸⁴ Marr, 'Waimarino', p163.

reports, as well as Marr's political engagement 1865-1913 report. The following section focuses on the construction of the NIMT and its close relationship with Government Maori land purchase and settlement policy in the Rohe Potae between 1885 and 1903. Specifically, this section examines the Parliamentary response to the assurances made by Ballance at Kihikihi, particularly those made in respect of the land surrounding the railway. In doing so, it documents Ballance's rapid move away from those agreements. It then provides an overview of the Government purchasing directly related to the NIMT; that is, purchases that were carried out using funds allocated to the construction of the railway. However, the process of purchasing individual blocks and the subsequent history of these areas after acquisition is not examined. Nor does this section provide a full assessment of what type of land was targeted for purchase and other patterns associated with these acquisitions, including the price that was paid for this land. These issues will be addressed in the land reports commissioned for this inquiry, which will document the wider Government purchase programme, pursued simultaneously to the construction of the railway.

Criticism of Ballance's statements to Rohe Potae Maori

In the first session of Parliament following his tour of the North Island and the reaching of an agreement regarding the construction of the NIMT, Ballance brought his Native Land Disposition Bill before the House (which would be passed as the Native Land Administration Act 1886). This Bill contained revised provisions for the establishment of the board system that Ballance had originally included in the Native Land Alienation Restriction Act of 1885.²⁸⁵ Its stated aim was to facilitate settlement of North Island Maori land, particularly the land surrounding the NIMT, through the boards on-selling or leasing land vested under their authority in a manner that would be in the 'interests of the Government and in the interest of the Natives themselves'.²⁸⁶ This legislation was intended to embody some of Ballance's assurances and Maori desires articulated during his recent tour of the North Island. The full genesis, content and eventual failure of this legislation will be fully examined in Marr's political engagement and Boulton and Husbands' nineteenth century lands reports.

In terms of this report, it is relevant to note that during the debates surrounding this Bill considerable criticism by Members of Parliament was levelled at Ballance's statements made during the recent tour of the North Island, particularly the February hui at Kihikihi. Ballance's

²⁸⁵ NZPD, Vol.52, p390.

²⁸⁶ NZPD, Vol.52, p393; NZPD, Vol.53, p252.

assurances made during the tour regarding Government settlement policy and the Native Land Disposition Bill were the focus of considerable outrage. In short, Opposition members attacked the Government's apparent lack of intent to acquire land for settlement adjacent to the proposed course of the NIMT and Ballance's assurances to Rohe Potae leadership that appeared to suggest this was not an urgent and prime objective of construction. The criticism demonstrated, as Chapters one and two have already illustrated, the Parliamentary (reflecting electoral) pressure exerted on the Government for the speedy opening and settlement of the Rohe Potae. Specifically, there was growing demand for large-scale purchase of Maori land within the Rohe Potae, which the railway was considered to be making possible. Also importantly, the Opposition's attack of Ballance's policy articulated through his statements and assurances made on tour, and his party's defence of them, clearly illustrated that contemporary politicians considered them a statement of Government intent (as had Maori on the tour).

On August 3 1885, during the second reading of the Native Land Disposition Bill, Ormond, an opposition member (for Napier), led the criticism of Ballance. In particular, Ormond found exception with what he perceived to be 'advice' given to Maori on the tour regarding the opening of land adjacent to the railway for settlement. He stated in this regard:

...we understood that the Native Minister and the Government would, in the recess, devote themselves to the acquisition of land in the vicinity of the railway for the purposes of settlement and colonization...²⁸⁷

Instead he found that Ballance had told Rohe Potae Maori something quite different, stating that the Native Minister had 'given to the Natives injurious advice, calculated, I think, to stop the alienation of land by them for the purposes of settlement.'²⁸⁸ After quoting passages relating to Ballance's assurances that the Government did not intend large-scale purchasing and that his proposed legislation (The Native Land Disposition Bill) would suffice for the settlement of the district, Ormond stated that his recollection was that 'we were very anxious to get the land for settlement.'²⁸⁹ More specifically Ormond stressed that he disapproved of Ballance's promotion of a system of leasing:

...according to the reports on the table, [Ballance] informs the Natives that a system of leasing will be satisfactory; but I deny that such an arrangement as that would be highly distasteful to the whole of the European population...²⁹⁰

²⁸⁷ NZPD, Vol.52, p399.

²⁸⁸ NZPD, Vol.52, p400.

²⁸⁹ NZPD, Vol.52, p404.

²⁹⁰ NZPD, Vol.52, p404.

He concluded by stressing that he believed this was not the basis that Parliament had agreed to the construction of the NIMT:

If those are the lines upon which the Government understood that this North Island Main Trunk Railway was to be proceeded with, and upon which, apparently, the Government is carrying it out, they are not the lines which commend themselves to the people of the colony, and they are not the lines on which the House consented to the work being proceeded with.²⁹¹

Importantly, judging from these statements, Ormond assumed that Ballance's assurances during these hui were an indication of Government policy. Ormond concluded that he did not support this policy.²⁹²

Ballance's assurance regarding the rating of land around the railway or roads leading to the railway within the Rohe Potae was also criticised by Ormond and other opposition members.²⁹³ Essentially, Ormond asserted that Ballance's 'promise' was unconstitutional and was a return to the 'personal government' of the Native Department under McLean.²⁹⁴ Ormond believed that no such promise would be binding on future Governments, despite what Ballance had assured Rohe Potae leadership.²⁹⁵ Premier Stout then defended Ballance's statements and his Bill. He pointed out that Ballance was actually under a misapprehension and that no special letter was required for the exclusion from rating was needed, as the land was already exempt under existing legislation.²⁹⁶ When criticising Ballance and Stout's defence of his assurances regarding rates, Bryce stated significantly:

But I take leave, for all that, to think that these utterances of Native Minister meant a great deal, and, unless I am very much mistaken, the colony will yet find, to its cost, that they do mean a great deal. They are promises, I say, that can never be fulfilled, and, as was said by the honourable member for Napier [Ormond], the Native Minister had no more right to make them than any member of this House; and they are promises just as certain to be broken as that we stand in this House to-night. But we shall suffer for it: it will be a reproach to the country that these solemn promises have not been kept, as they will certainly be broken.²⁹⁷

It is not entirely clear from the context of this statement whether it solely applied to rates or more generally to Ballance's statements made on the tour, as he had addressed Ballance's

²⁹¹ NZPD Vol.52, p404.

²⁹² NZPD Vol.52, p404.

²⁹³ NZPD, Vol.52, pp402, 411, 513.

²⁹⁴ NZPD, Vol.52, p402.

²⁹⁵ NZPD, Vol.52, p402.

²⁹⁶ NZPD, Vol.52, p408.

assurance regarding the extension of Native Committee powers in the initial part of his address.²⁹⁸ However, the statement did clearly demonstrate that Bryce too considered Ballance's assurances as significant and an indication of Government intent. The detail and implications of the debate surrounding rates will be further examined in the Local Government and Rates Report commissioned for the Rohe Potae district inquiry.

Pyke, a member for Dunstan, considered Ballance's assurances a matter of great significance, labelling them 'promises', and believed them to be a general condemnation of the Stout-Vogel Government.²⁹⁹ He also believed that Ballance had assured Maori not to sell their land and that the railway would greatly increase its value:

Let the honourable members read this document [the transcript of the meetings] and they will see that a Minister of the Crown goes among the Natives and tells them that they are not to sell their land; that they will have all power to settle civil cases among themselves; that the railway will increase the value of their land; and that he shall give them an official document to show that their land will not be rated... I say such promises cannot be kept.³⁰⁰

At the conclusion of the second reading, it was decided that the Bill should be placed before the Native Affairs Committee.

Wahanui's appearance before Native Affairs Committee, 19 August 1885

On August 19 1885, the Native Affairs Committee questioned Wahanui on Ballance's Native Land Disposition Bill. Wahanui was in Wellington to continue consultation over legislation and potential reform, which Ballance had asserted would follow after the Kihikihi hui. Ormond and Ballance were both on the Committee. Overall the interview was often confused, with Wahanui appearing not to provide the clear answers that the Committee desired. Broadly, Wahanui remained critical of the Bill, believing that too much power over Maori land was being vested in the Government. The fundamental requirement of any proposed legislation, according to Wahanui, was the retention of an element of control or administration of their lands.³⁰¹ Accordingly, Wahanui recommended some amendments to the Bill, which were attached to the minutes of the Committee.³⁰² Importantly, when faced by considerable pressure by Ormond and

²⁹⁷ NZPD, Vol.52, p412.

²⁹⁸ NZPD, Vol.52, pp411-412.

²⁹⁹ NZPD, Vol.52, p440.

³⁰⁰ NZPD, Vol.52, p441.

³⁰¹ AJHR 1885, I2B, pp5-6, para46, para48, para60, para63.

³⁰² AJHR 1885, I2B, title page.

the Committee regarding the acquisition of land for European settlement adjacent to the railway (particularly the cession of land), Wahanui denied that this was the understanding upon which he had consented to the railway and that he was unaware that this was the primary objective of construction.

It appears Ormond's earlier criticisms of Ballance in the House informed his questioning of Wahanui. In particular, as stated, Ormond focused a considerable portion of questioning on the possibility of acquiring land for settlement, both to ascertain if Wahanui believed Ballance's Bill would be sufficient for this purpose and if in addition Maori would be willing to cede land.³⁰³ Wahanui stressed that Maori were 'easy' to deal with if they were not suspicious of Government intent. He provided the example of the Maori initiative to give land required for the track and stations without compensation, even though Ballance had stated at the Kihikihi hui that they were entitled to be treated the same as Europeans (receive compensation).³⁰⁴ (This important change to the original agreement is examined in detail in Chapter four.) However, significantly, Wahanui continued that he did not believe he should be asked to 'state whether the Maoris will give the land along the line'.³⁰⁵

Ormond continued to drive for a direct answer to the question, which Wahanui would not give. He bluntly asked: 'Do you know, Wahanui, that the building of that railway has been agreed to [by Parliament] mainly for the purpose of getting the country settled; entirely for the purpose of getting the country settled?'.³⁰⁶ Wahanui stated he did not know this was the reason, answering in full when asked again if Rohe Potae hapu/iwi would cede land:

I did not know that the railway was to be made with the object or with the understanding that the land was to be settled on each side. I thought it was to connect two places, so far as to enable people to come from one end of the Island to the other. I have now heard for the first time that there is another object in view, and the Europeans look on the land on either side of the railway as having become their own. What I mean is this: I never understood before that the object of Europeans had in consenting to that railway being made was that the Maoris would give or dispose of land on each side of it, or agree to such land being settled, or that the real object was the settlement of the land on each side.³⁰⁷

It is unlikely that Wahanui thought that there would be no European settlement at all within the Rohe Potae after the construction of the railway, as had been made clear in the petition and

³⁰³ *AJHR* 1885, I2B, p8.

³⁰⁴ *AJHR* 1885, I2B, p8, para107.

³⁰⁵ *AJHR* 1885, I2B, p8, para107.

³⁰⁶ *AJHR* 1885, I2B, p8, para114.

throughout negotiations. Yet it is clear from this statement that politicians and Government officials, including most recently Ballance, had not emphasised settlement adjacent to the railway as the primary objective of the NIMT.

Wahanui grew frustrated with the consistent questioning on land for settlement adjacent to the railway. However, Ormond continued this line of questioning, asking, as a way of underlining to Wahanui what he believed to be Maori obligation to provide land for settlement: 'Do you not recognize that the railway will give enormous value to the land beyond its present value to the railway?'³⁰⁸ To which Wahanui replied ambiguously 'I do not know if it would have that effect at all', perhaps to eschew Ormond's argument. Ormond then continued, emphasising what he considered the moral obligation: 'If it would have that effect, would you not think that it would be a fair thing that the Natives should assist in the disposal of their land, so as to obtain settlement along the line?'³⁰⁹ Wahanui then replied in what appeared to be sarcastic manner, recognising that the railway was not really being built for the benefit Maori as Ormond was alluding: 'I like to laugh over that question for a good while before I answer it. If that railway is being made for the benefit of the Maoris, then, I say, it is better to stop it; if it is restricted to the Maoris, then let it be stopped.'³¹⁰ Ormond appeared to be growing irritated by Wahanui's answers, stating: 'But you said just now that you were anxious to assist in the progress of the country and in settlement?' To which Wahanui acknowledged.³¹¹ Ormond then continued to inquire, asking if this was Wahanui's intent would not the cession of land for settlement assist that goal. Wahanui replied: 'You keep asking me about land on either side of this railway. I have given land for the railway, and I have given land for the stations; yet you keep asking me about land on each side.'³¹² He then stressed that he would answer if he were the owner of all the land along the line.³¹³

Reassuring Wahanui that his statements would not be held as promises, Ormond continued to try to pry an answer from him.³¹⁴ Ormond tried narrowing the scope of the question, asking if the present Bill was implemented would Maori be prepared to sell and lease land. To which Wahanui stated, consistent with the expectation for reform of Maori land legislation assured by Ballance,

³⁰⁷ *AJHR* 1885, I2B, p8, par116.

³⁰⁸ *AJHR* 1885, I2B, p8, par117.

³⁰⁹ *AJHR* 1885, I2B, p8, par118.

³¹⁰ *AJHR* 1885, I2B, p8, par118.

³¹¹ *AJHR* 1885, I2B, p8, par119.

³¹² *AJHR* 1885, I2B, p8, par120.

³¹³ *AJHR* 1885, I2B, pp8-9, par120, para121.

³¹⁴ *AJHR* 1885, I2B, p9, par122.

that if a 'unanimous understanding' could be reached between Government and Maori owners 'perhaps' land would be leased and sold.³¹⁵ Ormond then expanded the question to cession of land again: 'Do you think that a satisfactory arrangement might be made between the Governor and the tribes for the cession of the land along the railway rather than by the ordinary machinery of sale?'³¹⁶ Wahanui replied that he could not answer that question as he was not the owner of all the land – both interviewer and interviewee were now repeating the same questions and answers. Finally, Ormond reiterated that he was only interested in the 'big question' not the issue of owners, to which Wahanui concluded, as he had done throughout the interview, he would not commit to saying 'such negotiations should be carried on'.³¹⁷ Questioning then moved on to another topic.

Ballance's response to ongoing opposition criticism

Ormond's critique of Ballance's Native policy was part of wider attack in the House of the Stout-Vogel Government by the Major Atkinson led Opposition. The broader criticisms of the Government were primarily centred on public works expenditure raised by Vogel's financial statement of that year.³¹⁸ In late August 1885, Atkinson moved for a vote of want of confidence.³¹⁹ The purchase of Maori land for settlement around the NIMT was again an issue in the long debate, with Atkinson including in his resolutions that construction should cease until 500,000 acres had been purchased.³²⁰

On August 28 1885, as part of the debate surrounding the Opposition's resolutions, Ormond continued his criticisms of Ballance, restating his argument to the House. Drawing on his recent discussion with Wahanui, he stated of Ballance's assurance that the Government did not intend to purchase in the district:

I have heard it from the greatest chief along that district, Wahanui – that never until I asked him the question had he heard one word from the Government or from anybody that any intention of settlement along that line was entertained.³²¹

Ormond then stated, reiterating what he considered a Maori obligation: 'I venture to tell them [Rohe Potae Maori] that that will come about and that nothing can postpone it, because it is only

³¹⁵ *AJHR* 1885, I2B, p9, par123.

³¹⁶ *AJHR* 1885, I2B, p9, par124.

³¹⁷ *AJHR* 1885, I2B, p9, par12.

³¹⁸ *NZPD*, Vol.53, pp269-277.

³¹⁹ *NZPD*, Vol.53, pp269-277.

³²⁰ *NZPD*, Vol.53, p281; p355. These resolutions are only referred to in the debates. No copy of them has been found in our research.

³²¹ *NZPD*, Vol.53, p338.

fair, and what public policy demands.³²² Ormond generally concluded of the Native tour that Ballance 'went among the Natives asking their permission to carry on this railway... with pleasant talk and soothing words, asking for consent to the construction of the railway' and 'grievously misled the Natives on the subject'.³²³

On the same day, in response to Ormond and other member's criticisms, Ballance outlined the foundation of his Native policy and defended and further defined his settlement policy. Essentially, he believed that a relationship of trust must be formed between Maori and the Government and its institutions before settlement could occur.³²⁴ He placed his assurances made during the tour of the North Island within this context of trust and confidence building. He specifically used this logic to defend his assurances regarding the purchase of land for settlement adjacent to the railway.³²⁵ He began by asserting that his policy had done more to advance settlement than the previous administration by increasing Maori confidence in the Native Land Court, which he stated was the first and essential step in acquiring land for settlement:³²⁶

The first step to induce the Natives to bring that land into Court is to establish a feeling of confidence in their minds; and unless that confidence is established it may be years before there will be any possibility of acquiring any quantity of land for settlement along the course of that line of railway.³²⁷

He detailed how the department had received applications for 1,200,000 acres of Whanganui land and 450,000 in the Taupo region to be adjudicated by the Native Land Court and that several blocks were under negotiation for purchase and would soon be ready for settlement.³²⁸ He also reiterated that the Government now held the right of pre-emption over four and half million acres of Maori land.³²⁹ In reaction to critical comments regarding his advocacy of a leasing system and his assurances to Maori that this system would be sufficient for settlement purposes, Ballance stressed that he believed purchase to be the best form of alienation for settlement. 'I told the House last session, and I do so again, that there is only one safe way of getting land from the Natives along the line, and that is through purchase' (The earlier statement that Ballance referred to here has not been located.)³³⁰ He then went on to state that Atkinson and Ormond's plans for purchase were too conservative, he believed that far more land should be acquired by purchase:

³²² *NZPD*, Vol.53, p338.

³²³ *NZPD*, Vol.53, p338.

³²⁴ *NZPD*, Vol.53, pp354-355.

³²⁵ *NZPD*, Vol.53, pp354-355.

³²⁶ *NZPD*, Vol.53, p354.

³²⁷ *NZPD*, Vol.53, p354.

³²⁸ *NZPD*, Vol.53, p354.

³²⁹ *NZPD*, Vol.53, p354.

³³⁰ *NZPD*, Vol.53, p355.

My idea is this: that, before the railway is completed, in successive stages from time to time we ought to have acquired along that line of the railway nearly two million acres for the purpose of settlement; and I believe that can be easily done.

He qualified this plan by stating that this purchase was not immediately possible, emphasising that NIMT construction should not be dependent on the purchase of 500,000 acres of land for settlement as it would raise ‘suspicion in the minds of the Natives’.³³¹ Rather, as the quote demonstrated, he advocated ‘stages’ of purchase.³³² Again, returning to the basis of his policy, he believed that Maori willingness to sell would increase as they became convinced that the Government was acting ‘honestly and fairly.’³³³ Judging from these statements, Ballance did believe the Government would and should conduct large-scale purchasing within the alienation restriction area, but only when Maori ‘desired’ to sell. He hoped that his board system would provide the machinery to enable and to guarantee this European settlement by mutual consent.³³⁴

Ballance’s statement regarding the intent to and potential scale of Government purchase seems to have been inconsistent with what he had conveyed to Rohe Potae Maori only months earlier when seeking approval for the construction of the NIMT. During the negotiations Ballance had stated that the Government was interested in acquiring some land for settlement but had emphasised that this could be by way of leasing through his proposed boards. However, as just described, Ballance’s subsequent comments in Parliament were firmly in the direction of extensive settlement through the use of purchase in progressive stages. Wahanui’s statements before the Native Affairs Committee suggests that he was not even aware that land for settlement was a primary objective of the NIMT, let alone large-scale purchase in the district. From the evidence examined in this report, it is unclear whether Ballance had always intended that land be purchased on a large-scale or whether he adopted this position in the face of criticism in Parliament. Marr’s political engagement report will comprehensively examine Ballance’s actions and intentions by placing them within the broader context of the negotiations, as a whole, and Government policy generally. Importantly for this report, it is clear that Ballance, soon after making specific assurances to Rohe Potae leadership regarding land for settlement, took significant steps toward negating those agreements.

³³¹ *NZPD*, Vol.53, p355.

³³² *NZPD*, Vol.53, p355.

³³³ *NZPD*, Vol.53, p355.

³³⁴ *NZPD*, Vol.53, p352.

The Native Land Administration Act was passed in August 1886. As Ward points out, during that year the Act was to prove unpopular with Maori and Europeans.³³⁵ Many Maori, as Wahanui demonstrated, did not want to vest their land in Ballance's Commissioners (Government officials appointed to the Boards, who were to sell and lease the land by auction), as they feared they would lose full control of their land.³³⁶ Many Europeans, as the parliamentary pressure described clearly demonstrated, desired land for settlement and considered Ballance's legislation as a potential hindrance to acquisition. The failure of Ballance's policies contributed to the fall of the Stout-Vogel Government in 1887. Atkinson led the new Government and Edwin Mitchelson replaced Ballance as Native Minister.³³⁷ Under this new administration, the Native Land Administration Act was repealed and a system of direct purchase was restored.³³⁸ Significantly, although the Native Land Administration Act 1886 was repealed, the prohibition on private purchase continued, leaving over four and half million acres within the railway alienation restriction area open to Government purchase. (The 1886 Act had replaced the Native Land Alienation Restriction Act 1885 as the legal mechanism for Government pre-emption.)

Move toward large-scale Government purchase

Even before the collapse of the Stout-Vogel Ministry, preparations began for the direct purchase of land within the railway alienation restriction area. In July 1886, Ballance explained that the purpose of an increase of purchase officers, paid by both commission and salary, was to press forward purchase in the railway restriction area. It appears that by this stage, weeks before the passing of the Native Land Administration Act, and a year after his speech declaring his intention to purchase, Ballance and the Government had moved further toward a system of direct purchase of individual interests due to increasing pressure to acquire land for settlement quickly:

Again and again the necessity of acquiring land for the purposes of settlement along this North Island Trunk Railway has been pressed upon the Government, and it is only for this that the commission agents have been appointed, and only for the purpose of purchasing this land that we have increased the number of Land Purchase officers.³³⁹

Ballance stated that the purchasing of Maori land adjacent to the NIMT was of 'very great urgency' and that the 'necessity for acquiring these lands within a reasonable time is a sufficient

³³⁵ Ward, *A Show of Justice*, pp296-297.

³³⁶ Ward, *A Show of Justice*, pp296-297.

³³⁷ Ward, *A Show of Justice*, pp298-299.

³³⁸ Ward, *A Show of Justice*, p298.

³³⁹ NZPD, Vol.56, p33.

justification of what we have done'.³⁴⁰ He added that the purchasing was 'really a public work' to emphasise its priority above standard land purchase elsewhere.³⁴¹

In August 1886, the North Island Main Trunk Railway Loan Application Act was passed. The Act was designed, as Vogel described it, to 'secure the expenditure of the North Island Main Trunk Loan to the purposes for which it was authorised'.³⁴² Importantly, the Act specified that £100,000 of this loan could be used for the purchase of Native land within the boundaries described in the Native Land Alienation Restriction Act 1884. It stated that 2.5 percent of this land should be reserved for 'Education Boards and Hospital and Charitable Aid Boards' with the remainder of the land constituting a 'railway reserve'. The profits from the sale and lease of this reserve would then be used in the construction of 'the said Main Trunk Railway, and of branch railways, tramways, or roads in connection therewith'. According to Vogel's description it was envisioned that this 'endowment' would be used primarily to open up the land and resources adjacent to the main line, paying for tramways and roads to feed the NIMT.³⁴³

However, before Government land purchase could begin using funds from the NIMT loan within the Te Rohe Potae inquiry district the land needed to pass through the Native Land Court. In June 1886, the court began sitting at Kihikihi and later Otorohanga.³⁴⁴ Between 1886 and 1889, while court was sitting, land already passed through the court in the Whanganui, Taupo, Taihape regions within the railway restriction area were the focus of early acquisitions. Meanwhile, by 1889 the progress of the court and NIMT construction in Rohe Potae brought the Government into a position to begin full-scale purchase within the district. In terms of construction, by this time, 34 miles of line were completed to the upper Mokau valley, in addition the Poro-o-tarao section, including tunnel, was nearing completion, leaving just 11 miles to connect the two.³⁴⁵ In 1888, the Native Land Court had begun hearings on the subdivision of the Rohe Potae 'Aotea' block.³⁴⁶ After noting the progress of the court and NIMT construction, Native Land Purchase Officer Wilkinson explained in 1889:

I think, therefore, that the time is now opportune for commencing the purchase of such blocks as are suitable for settlement, and the occupation of which by Europeans would act as a feeder to the railway. With land-purchase once started on a satisfactory basis, I do

³⁴⁰ NZPD, Vol.56, p33.

³⁴¹ NZPD, Vol.56, p33.

³⁴² NZPD, Vol.56, p313.

³⁴³ NZPD, Vol.56, p314.

³⁴⁴ Marr, *Rohe Potae*, p46.

³⁴⁵ *AJHR* 1889, D1, p3.

³⁴⁶ *AJHR* 1889, G3, p3.

not think it will be long before the Crown will have acquired a considerable area of land in the King-country which would be thrown open for settlement.³⁴⁷

By this time, however, most of the initial £100,000 raised from the NIMT loan had already been spent on purchases in the Taihape, Taupo and Whanganui areas within the railway restriction area.³⁴⁸ By 1889, 566,179 acres of land at a total cost of £71,693 had been acquired within the area defined by the Native Land Alienation Restriction Act 1884.³⁴⁹

As a consequence, the Minister of Public works proposed using another £100,000 of the North Island Main Trunk Loan to purchase a 'large area of Native land suitable for settlement... at both ends of the line [NIMT], and within easy reach of it'.³⁵⁰ It was asserted that construction should not continue until this proposed purchasing program was complete.³⁵¹ The original 1886 Act was amended in September 1889 to authorise the increased spending, both to commence new purchases and complete those which remained incomplete. The North Island Main Trunk Loan Application Amendment Act also defined areas within the railway restriction area where new purchasing was to be conducted (Section 3(2) as defined in Schedule Two). Section 5 contained provision for the continuation of the restrictions on alienation by defining all land within the scheduled land as 'Native land' (customary land) as per section 2 of the Native Lands Frauds Prevention Act 1881 Amendment for two years.

Government plans to purchase within the Rohe Potae district inquiry were frustrated however, with many Rohe Potae Maori unwilling to sell. Wilkinson's reports between 1890 and 1891 confirm this reluctance.³⁵² One factor he used to explain Maori unwillingness to sell was easily available wage-labour. For example, in 1890 he stated:

The above position can, however, only be taken by those Maoris who can afford to wait: once let them be really in want of money and then, like many Europeans when placed in the same circumstances, they will sell at almost any price; this will, I think, be the case when their source of revenue from the sale of flax-cutting, also the sale of rabbit-skins and payment for road-making, ceases.³⁵³

The resistance to purchase is consistent with position taken by Rohe Potae leadership throughout negotiations prior to the introduction of the NIMT and the Native Land Court.

³⁴⁷ *AJHR* 1889, G3, pp3-4.

³⁴⁸ *AJHR* 1889, D1, p4; *AJHR* 1889, C6, p11.

³⁴⁹ *AJHR* 1889, C6, p11.

³⁵⁰ *AJHR* 1889, D1, p4.

³⁵¹ *AJHR* 1889, D1, p4.

³⁵² *AJHR* 1890, G2, p4; *AJHR* 1891, G5, p4.

³⁵³ *AJHR* 1890, G2, p4.

From 1889 until early 1897, in the context of continuing national economic depression, construction of the NIMT was almost at a standstill.³⁵⁴ The work at Poro-o-tarao was the most significant work in the district during this period, with the tunnel being completed in 1891.³⁵⁵ In 1892 a Select Committee was formed to reinvestigate the original survey routes for the central line and the estimated total costs, as the actual cost was growing rapidly. The original surveys and the estimates were both found to be incorrect. The new estimate of £2,007,985 provided by the committee was significantly higher than the original £1,293,134.³⁵⁶ In regard to the survey routes for the NIMT, the committee found some errors in respect to the difficulty of the land to be crossed by the central route. The committee remained undecided on whether the main line should pass through Stratford or continue, as planned, with the central route with the addition of a branch line to Taranaki. In conclusion they recommend construction cease until more surveys were conducted and purchase of Maori land was complete.³⁵⁷ Demonstrating the continued connection between rail construction and settlement, a major element in the report's discussion of potential lines was the analysis of the soil, geography and natural resources in order to identify which line would open the best land for farming and extractive industries.³⁵⁸ As the commission recommended, purchasing of Maori land continued within the alienation restriction area.

Purchase activity increases

In 1891, the Ballance led Liberal Party was elected to Government (Richard Seddon led the Party from 1893). Under their authority, between 1892 and 1894 a considerable amount of purchasing within the Rohe Potae was conducted using funds from the NIMT loan. In 1891 a further amendment to the North Island Main Trunk Loan Application Act again extended the restriction on alienation for another year and, similarly, in 1892 for an additional year. Importantly, it should be noted that acquisitions under the NIMT Loan Act were being conducted simultaneously with regular purchasing in the district, thus it formed one part of the wider purchasing programme underway. Table 1 details Maori land blocks purchased by 1894, including acreage acquired and monies spent from the NIMT loan within the Te Rohe Potae inquiry district at that time.

³⁵⁴ *AJHR* 1888, D1, p1.

³⁵⁵ *AJHR* 1891, D1, p9; Heron, p101.

³⁵⁶ *AJHR* 1892, I9, p1.

³⁵⁷ *AJHR* 1892, I9, pp1-2.

³⁵⁸ *AJHR* 1892, I9, pp1-2.

It should be noted Table 1 does not include those purchases conducted using NIMT Loan funds that were still incomplete in 1894, and that the subsequent completion of those purchases would increase the total acreage and monies spent.³⁵⁹ In addition, the blocks listed under the ‘Taupo’ and ‘Whanganui’ districts in the AJHR list from which this table is compiled may also include land blocks within the inquiry, and conversely, blocks listed here may lie outside the inquiry boundary (for example Ohura South).³⁶⁰ However, this table captures the majority of the purchases. The total expenditure included in the table includes funds expended under the Native Land Purchases Act 1892, which were to be reimbursed from the NIMT Loan when the purchasing under the North Island Main Trunk Loan Act and amendments were complete.

Table 1: Completed Government purchases of Maori land using NIMT Loan Act monies within the ‘Waikato’ District in 1894³⁶¹

Land Block	Area (acres)	Expenditure		
		£	s	d
Mangauika A	1901	459	13	5
Mangauika No.1A	685			
Kopua No.1, 1B	28			
Kopua No.1G	250			
Kopua No.1J	200	369	15	0
Kopua No.1P	250			
Kopua No.1Q	1180			
Kopua No.1U	1038			
Whakairoiro No.4	200	35		
Kakepuku No.1A and 5A	86	25	14	8
Maungarangi No.1	166	29	2	4
Ouruwhero No.2	1761	392	19	4
Puketarata No.1A	1			
Puketarata No.2A, No.2	303			
Puketarata No.3A	51			
Puketarata No.4A	979			
Puketarata No.5A	286			
Puketarata No.6A	327			
Puketarata No.7A	744			
Puketarata No.8A	182	1325	2	1
Puketarata No.9A	1157			
Puketarata No.11A	51			
Puketarata No.14A	5			
Puketarata No.15	30			
Puketarata No.17A	45			
Puketarata No.18A	35			
Puketarata No.19A	339			

³⁵⁹ For lists of the ‘partial’ purchases in 1894 see *AJHR* 1894, D1, pp4-8 (this includes all purchases in the North Island). An assessment of the completion of these purchases is difficult as from 1895 the *AJHR* does not include a separate table of NIMT loan purchases. In addition, from 1896 the regular purchases do not record if monies were used from the NIMT loan. Native land blocks listed as partially purchased using NIMT loan monies in 1894 were Hauturu East No.3 and Kakepuku No.3B.

³⁶⁰ Final information regarding the land blocks within the inquiry district was unavailable at the time of writing.

³⁶¹ *AJHR* 1894, G3, pp10-11.

Land Block	Area (acres)	Expenditure		
		£	s	d
Puketarata No.19B	136			
Waikowhitihiti No.1	1	253	2	6
Mangarapa No.3	400	70		
Takotokoraha No.3	549	146	11	7
Turoto A No.1	64	143	10	5
Turoto B No.1	21			
Turoto D No.1	64			
Turoto E No.1	577			
Waiwhakaata No.2	1221	344	10	5
Wharepuhanga No.1	37767	5542	2	11
Mohakatino Parininihi No.1	34945	4401	5	6
Waikaukau	4579	752	16	2
Taurangi	10000	1390	2	6
Taurangi No.1A	5292	741	15	
Taurangi No.2	2500	326	19	
Taurangi No.5	10000	1309	5	
Waiaraia	12360	1560	7	5
Umukaimata No.4	11000	1417	19	10
Umukaimata No.4A	5000	643	18	4
Taorua No.1	1591	238	12	6
Mangakahikatia No.1	9150	1500	5	8
Ratatatomokia No.2A	5626	831	11	9
Ohura South K No.5	10000	1196	0	2
Ohura South L	9730	1703	5	6
Total	184,853	27151	9	0

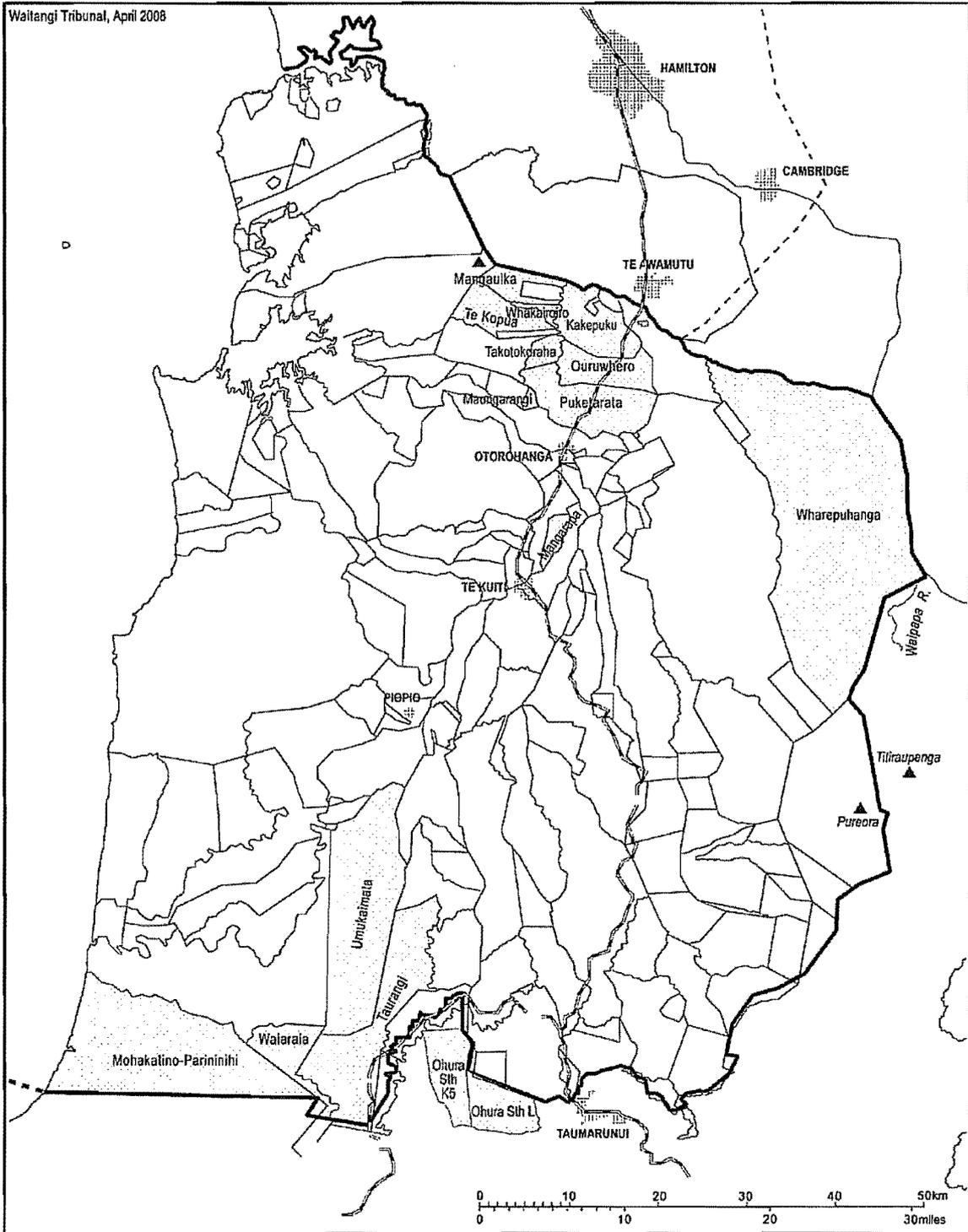


Figure 12: Maori Land 'Parent' Blocks in which purchases were carried out using funds raised under the North Island Main Trunk Loan Application Acts and amendments by 1894

The purchasing occurred in northern blocks of the inquiry district between the Puniu and Waipa Rivers and south to Otorohanga, where the NIMT enters and runs south through the inquiry district. In addition, substantial purchases were made in the south-western boundary of the inquiry district. The above map provides a general indication of the areas in which purchasing occurred, with the parent blocks shaded where the tabled land was purchased. The land purchased in the north of the inquiry district appears to have been particularly valuable for European settlement purposes. Figure 13 shows that this land was served by the railway and was generally flat.

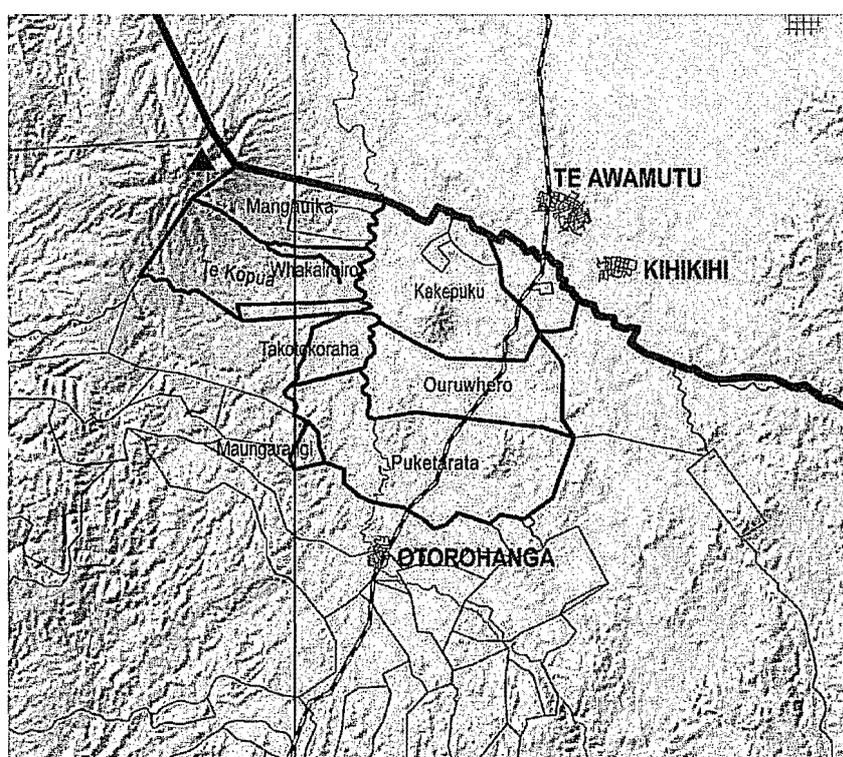


Figure 13: *Topography of Northern Inquiry Boundary*

By 1894, the additional NIMT loan funds allocated for Maori land purchase within the alienation restriction area had been spent. Indeed, the whole loan raised for construction by the North Island Main Trunk Railway Loan Application Act had been exhausted. In regard to the purchase of Maori land the Public Works report of that year stated: 'it [the loan] has...provided us with an estate of 1,137,377 acres of freehold, and 129,148 acres of leasehold land, besides other large areas, which have been partially acquired.'³⁶² Although this appears to have marked the end of purchasing from the NIMT loan, Government purchases continued throughout the district in the

³⁶² *AJHR* 1894, D1, pv.

1890s using funds from the general 'Native Lands Purchase Account'. Marr states in preliminary research that by 1900, 687,769 out of a possible 1,844,780 acres had been purchased within the 'Rohe Potae (or Aotea Block)'.³⁶³ As stated, a full analysis of Government Native Land Court and purchasing activity within the Te Rohe Potae inquiry district will be conducted in Boulton and Husbands' Nineteenth Century Lands report. The issues of fairness of the price paid to Rohe Potae Maori for these lands, as well as the full implications of Government monopoly on purchase in the Rohe Potae, will be addressed in detail in these reports.

While the described Government purchasing was being conducted, construction of the NIMT was still proceeding slowly. The Mokau and Poro-o-tarao tunnel sections were completed and was opened for traffic on 21 December 1896 carrying service goods for further work on the line (it was not officially handed over to the Railways Department until 1901).³⁶⁴ This meant the north end of the railhead now stretched from Auckland to Poro-o-tarao. This progress increased the need for a final decision on the route the NIMT would take. By 1899 detailed (re)surveys were completed for the central route and three possible lines to Taranaki: the Ngaire, Waitara and Awakino routes.³⁶⁵ From this evidence the decision was finally made to proceed with the central route, much like the original 1884 commission had proposed, while recommending the Ngaire route for a future Taranaki branch line.³⁶⁶ After this decision, combined with an improving economic situation, the rate of construction significantly increased. In 1901, another £1,000,000 Public Works loan was taken by the Government largely to complete the NIMT.³⁶⁷ By 1904, regular traffic was running from Auckland to Taumarunui, the boundary of the Te Rohe Potae district inquiry. Four years later the first train ran between Auckland and Wellington. The total cost of construction was estimated to be over £2,500,000.³⁶⁸

Rohe Potae Maori labour contracted for the construction of the NIMT

As described in Chapter two, in 1885 Ballance stated at Kihikihi and Ranana that construction work would be made available to Rohe Potae Maori as a direct economic benefit of construction. At Ranana, Ballance had stated that construction work would be available at the section to be

³⁶³ Marr, 'The Alienation of Maori Land in the Rohe Potae (Aotea Block), 1840-1920', Waitangi Tribunal: Rangahaua Whanui Series, 1996, p128.

³⁶⁴ *AJHR* 1897, D1, pv.

³⁶⁵ *AJHR*, 1899, D1, pp105-117.

³⁶⁶ Heron, pp82-83, 101.

³⁶⁷ *AJHR* 1901, D1, ppi-ii; Christine Johnson, Ruth Larsen and Kevin Ramshaw, *Main Trunk: Portrait of a Railway, A Celebration of 100 Years of North Island Railway History*, Grantham House Publishing in association with Ontrack, 2008, p40.

³⁶⁸ Heron, p104.

commenced at the headwaters of the Manganui-o-te-ao River. At Kihikihi Ballance stated 'The Government proposes to let the contracts in such a way that the Natives may be able to take them. That is to say, that a portion of the line will be let in small contracts, so that the Natives themselves may contract and make the line.'³⁶⁹

As early as December 1884, Wilkinson advised the Under Secretary of the Native Department that he recommend 'reserving certain portions of the work along the line' for local Maori.³⁷⁰ He emphasised that Maori had proven themselves very capable of earthwork and bush clearing labour. He believed that Maori from the Puniu River south to Te Kuiti and across to Kawhia would be 'glad' to take day labour or 'small contracts'. He asserted 'it should be well and politic if a desire of that sort were fostered by the Government [amongst Rohe Potae Maori]' as it would 'serve to make the formation of the line popular with them'.³⁷¹ In addition, the money would also encourage Maori not to 'dispose of their land by taking money advances'.³⁷² In January 1885, Rochfort suggested that Maori work on the line should not be tendered until after Ballance's tour of the North Island.³⁷³

Following Wilkinson's advice, evidence from official sources reveal that Rohe Potae Maori received 'small contract' work on the Puniu and Te Kuiti sections of the NIMT. In April 1885, Premier Stout at the 'turning of the first sod' ceremony noted that Maori had already began to work on the line.³⁷⁴ The 1885 Public Works Statement confirmed Stout's comment, stating that 'Maori resident in the district' were employed through 'small contracts' to work south of the Puniu River on '6 miles of the formation works of the northern section'. It went on to add 'the works are well in hand; and not only this, but the Natives are pressing the department to let them have contracts for further works on the extensions of this line'.³⁷⁵ In addition, 50 Maori were reported to be working on a support road across the Puniu River.³⁷⁶ According to the return of the expenditure on the NIMT loan, by March 1886 £9,519 8s 4d had been spent on 'Native and petty contracts', including £2,080 15s still to be paid. The 1887 Chief Engineer's report indicated

³⁶⁹ *AJHR* 1885, G1, p24.

³⁷⁰ Wilkinson to Under Secretary, Native Department, 2 December 1884, NO 84/3557, MA 13 75 43[b], pp150-151, ANZ, Wellington. Supporting Papers, pp53-54.

³⁷¹ Wilkinson to Under Secretary, Native Department, 2 December 1884, NO 84/3557, MA 13 75 43(b), pp150-151, ANZ Wellington. Supporting Papers, pp53-54.

³⁷² Wilkinson to Under Secretary, Native Department, 2 December 1884, NO 84/3557, MA 13 75 43(b), pp150-151, ANZ Wellington. Supporting Papers, pp53-54.

³⁷³ Morpeth to Under Secretary, Native Department, 9 January 1885, NO 85/65, MA 13 75 43(a), p71, ANZ Wellington. Supporting Papers, p45.

³⁷⁴ *AJHR* 1885, D6, p4.

³⁷⁵ *AJHR* 1885, D1, p4.

³⁷⁶ *AJHR* 1885, D1, p4.

that part of the formation works on the Te Kuiti section, after the good work shown on the Puniu section, was contracted to 120 Maori.³⁷⁷ He noted that 125,000 cubic yards of earthwork were moved for 1s 3d a yard on the Puniu section and 71,000 yards for 1s a yard on the Te Kuiti section.³⁷⁸ As can be seen from these comments, the work offered to Maori largely consisted of heavy labour involved in the formation earthworks for both the track and support roads.

Discussion of the Government's construction contract policy for Maori in Parliament between 1885 and 1886 reveals some details as to how the contracts were administered and also that the policy received some general criticism. In September 1885, Dr Newman (member for Thorndon), questioned the Government as to whether portions of the NIMT presently being made by Maori were offered to Europeans through public tender. The Minister of Public Works Richardson, replied:

...certainly not. Six miles of earthworks on this railway were reserved for competition amongst the Maoris only; and it would be satisfactory to the House to know that the price for which this work had been let to the Maoris was a very fair one compared with the price paid to Europeans, and that the work was being carried on so far in a very satisfactory manner.³⁷⁹

In June 1886, Newman continued to criticise the Government for its policy, believing that it was unfair on the European population to be unable to tend for these contracts in the depressed economic climate.³⁸⁰ He justified this with the common assumption that Maori were wealthy landlords and did not need the additional money, whereas the European population was carrying the weight of interest incurred by the large public work loans:

It seems to be very hard that Maoris, with plenty of land, should have the privilege of obtaining considerable contracts and earning high wages while there are large numbers of Europeans unemployed.³⁸¹

Newman placed a motion before the House that these contracts should be offered to both European and Maori, which he was sure, if passed, would result in European success in the tender process.³⁸² Richardson stated in defence: 'the letting of these works was matter of policy, as it facilitated the carrying of the line through what was called the King-country, and it induced the Maoris not throw obstacles in the way of the acquisition of the land required.'³⁸³ He emphasised that Europeans still conducted the majority of the works and those Maori tenders

³⁷⁷ *AJHR* 1887, D1, p33.

³⁷⁸ *AJHR* 1887, D1, p33.

³⁷⁹ *NZPD*, Vol.53, p405.

³⁸⁰ *NZPD*, Vol.54, pp354-355.

³⁸¹ *NZPD*, Vol.54, p355.

³⁸² *NZPD*, Vol.54, p354.

³⁸³ *NZPD*, Vol.54, p355.

that were too high were refused and re-tendered to Europeans.³⁸⁴ The motion only just failed 39 votes to 37, demonstrating that the policy was controversial and did not have widespread support.

By 1888, after the completion of the Puniu and Te Kuiti sections, the policy of reserving formation work for Rohe Potae iwi and hapu seems likely to have ceased.³⁸⁵ As stated, in mid-1887 the initiators of the policy, the Stout-Vogel Government collapsed. Mitchelson replaced Richardson as Minister of Public Works and appears to have ended the policy, as no further mention was made in later Public Works Statements or Chief-Engineer's reports. In addition, by this time, construction was well underway perhaps negating the logic of 'inducing' the complicity of Rohe Potae Maori in the construction of the NIMT, which Richardson had used to defend the policy. From the evidence examined for this report, no consultation appears to have been undertaken in regard to this change of policy.

The end of an official policy did not necessarily mean the end of work for Maori in construction on the line, however after this point contracts were no longer reserved for Rohe Potae hapu and whanau groups specifically, as Ballance had assured Rohe Potae Maori. Maori gangs may have still tendered for and won contracts, yet this seems unlikely, given the absence of any evidence of such in the official record. On the other hand, individual Maori were possibly members of mixed, European-organised labour gangs.

The 'co-operative' contract system introduced in 1891, under which the majority of NIMT construction was completed, may have further reduced the number of Maori workers. The new system attempted to eliminate the 'inefficiencies' of the older system that contracted large firms, sometimes overseas-based, to construct railways. The new system aimed to 'cut out the middleman' by eliminating subcontracting or 'petty contracts' which the large firms would tender for labour.³⁸⁶ These 'petty contracts' were those likely to be tendered for by Maori groups. Under the co-operative system the Public Works Department directly employed gangs for these labour intensive tasks, while retaining the services of the larger firms for the more technical works.³⁸⁷ Historian Peter Gibbons analysis suggests that a large proportion of these 'co-operative' workers,

³⁸⁴ NZPD, Vol.54, pp354-355.

³⁸⁵ *AJHR* 1888, D1, p32.

³⁸⁶ Heron, p136.

³⁸⁷ Heron, pp131-132.

especially during the height of NIMT construction after 1900, were recent immigrants and other settlers in need of employment.³⁸⁸

Use of timber and stone resources

This section discusses the use of Maori-owned timber and stone resources during the construction of the NIMT through the Te Rohe Potae inquiry district. In particular, it examines the extent to which the Government fulfilled its obligations to Rohe Potae Maori in respect of the agreements reached prior to construction regarding the use of these resources. It looks at whether contractors and the Public Works Department negotiated with Maori for the use of timber and stone resources and adhered to any arrangements that were reached.

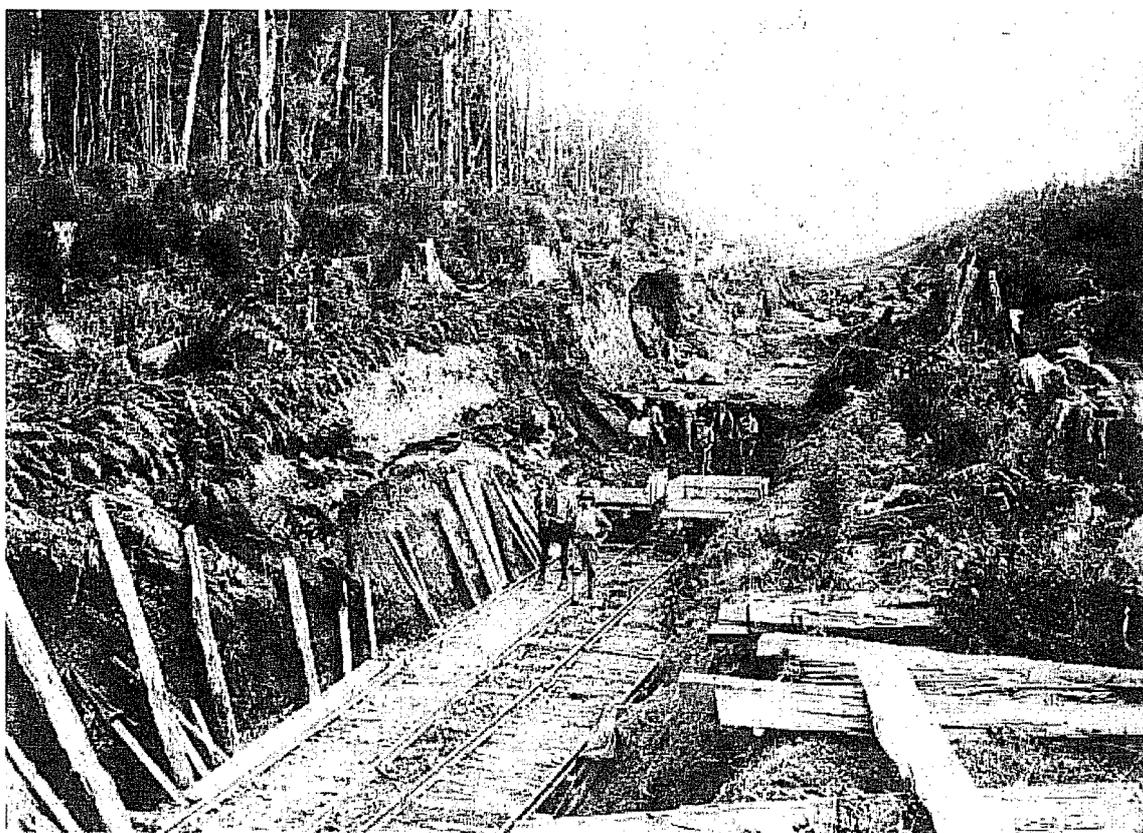


Figure 14: *Laying the track, (ATL 1/2-041830-F)*

Along with construction work, the supply of timber and stone resources provided an opportunity for Maori to derive an immediate economic benefit from the NIMT – one that was consistent with Ballance’s statements regarding the general economic benefit that Rohe Potae Maori would enjoy from the railway. Though the use of stone resources was not specifically mentioned during

³⁸⁸ Peter Gibbons, ‘Some New Zealand Navvies: Co-Operative Workers, 1891-1912’ in *NZJH*, vol.11, no.1, 1977,

the negotiations, the use of timber was discussed. Speaking at Kihikihi on 4 February 1885, Aporo Taratutu expressed concern about trees being damaged by the railway and stated that Maori should be paid for trees that were cut down, noting that matai might be used for sleepers.³⁸⁹ In response, Ballance stated that Maori would be compensated for any bush damaged and would be paid the value of the timber cut down.³⁹⁰ It appears that Rohe Potae Maori later waived any claim for trees that lay in the path of the track.³⁹¹

Timber and stone resources were used extensively by the contractors and the Public Works Department during the building of the NIMT. Timber was used for a range of purposes, including sleepers, culvert and bridge structures, buildings, fences, and firewood for the construction workers. Some of this timber was sourced locally from Maori, while other timber came from outside the district, including much of the large amount of wood required for sleepers. Stone resources were needed principally for ballast – the broken stone or gravel that was packed under the rails and around the sleepers. Most of the ballast used during the construction of the line through the inquiry district was sourced locally from lands held by Maori. Ballast was also needed after construction finished. As sections of line were opened to traffic, the Railways Department required significant quantities of ballast for the ongoing maintenance of the track.

During the first stage of construction of the NIMT, carried out between 1885 and 1889, the Kawhia Native Committee secured payment for the use of timber and stone resources held by Maori. As Chairman, John Ormsby played a prominent role in the work of the Kawhia Committee, which was established under the Native Committees Act 1883. Rohe Potae leaders envisaged a role for the Committee that would enable Maori to retain significant control of their affairs, particularly in respect of land. During 1885, the Kawhia Committee increasingly began to take over the management of the district's affairs.³⁹² Wilkinson reported that from October to December 1885 the Committee had dealt with a number of matters, including fixing prices for different classes of timber.³⁹³ The Native Agent noted that a considerable quantity of timber was being used by railway and other contractors.

pp55-57.

³⁸⁹ *AJHR* 1885, G-1, p23.

³⁹⁰ *AJHR* 1885, G-1, p23.

³⁹¹ In a letter written to Ballance on 28 September 1886, Wahanui referred to a meeting held at Kihikihi, where the Native Minister was told that Maori would give one chain for the track and, where the line passed through forested areas, allow trees to be felled within a limited distance of the track. Wahanui to Ballance, 28 September 1886, translation, R 3 W2278 216 1910/3916/1 part 1, Fencing in main trunk railway, 1880-1907, ANZ Wellington.

³⁹² Marr, 'Waimarino', p215. Supporting Papers, p206.

³⁹³ Wilkinson to Under Secretary, Native Department, 25 May 1886, *AJHR* 1886, G-1, p4.

Initially, the Committee was strongly criticised for the royalties it charged, with settlers and contractors claiming that the rates were unreasonable and excessive. This criticism seems to have reflected an intolerance of Maori managing and profiting from resources, but may also have been due to the charges being out of step with standard rates. On 7 November 1885, the *Waikato Times* reported that the Committee was charging railway contractors for timber, the use of paddocks, and for earth required to fill the line.³⁹⁴ The *Times* described the charges as 'exorbitant', but stated that Ballance had arranged with the Committee that ordinary market rates were to be charged for timber and the use of paddocks, while a fixed price per acre would be paid for earth. It had also been agreed that, in the future, the Government and the Committee would arrange such issues by arbitration.

On 17 November 1885, the *Times* again complained of the timber charges that contractors were expected to pay, stating that Maori were becoming 'more extortionate than ever', the Committee having decided that 1s 6d per foot should be paid for all timber cut.³⁹⁵ In a second report printed on 17 November 1885, the *Times* expressed further disapproval at Maori charging a toll for wagons and horsemen crossing the Puniu River and charging for gravel taken from the riverbed.³⁹⁶ While the toll charge was believed to have ceased, a royalty of 1s per cubic yard was being charged for gravel. It was noted that this rate was being paid by Isaac Coates, who held the contract to build the first section of the railway. Highly critical of the charges, the *Times* suggested that the colony might require the return of Native Minister Bryce and his methods, so that Maori did not 'rob people in this way'.

Though the *Times* had reported that it had been agreed that the Government would play a role in setting future charges by arbitration, there is no evidence that this ever happened. Instead, it seems that the Kawhia Committee continued to negotiate directly with contractors over charges for resources. It is likely that the Committee was mindful that charges that were seen by contractors to be unreasonable would give rise to protest and settler demands for Government intervention. Ballance seems to have been convinced that the Kawhia Committee would listen to reason if their charges were considered excessive.

³⁹⁴ *Waikato Times*, 7 November 1885, p2.

³⁹⁵ *Waikato Times*, 17 November 1885, p2.

³⁹⁶ *Waikato Times*, 17 November 1885, p2.

The Committee was sometimes required to be assertive to ensure that contractors paid royalties for local resources used during the initial phase of building the NIMT. For example, sometime after J.J. O'Brien had been awarded the contract for building Poro-o-tarao Tunnel in August 1885, Maori tied up a boat belonging to the contractor because they wanted payment for firewood.³⁹⁷ Later, on 18 March 1886, Ormsby wrote to O'Brien, advising him that the Committee had agreed on the charges to be paid for timber required outside the railway line for railway purposes.³⁹⁸ The charges were for whole trees, with £3 to be paid for totara and £1 10s for matai, rimu, kahikatea, tuwai, and toatoa. Charges for other types of timber were to be arranged with local Maori, though the rate was not to exceed 10s per tree. These charges appear to be considerably lower than the rates that had drawn criticism from the *Waikato Times* in November 1885.³⁹⁹ Ormsby advised O'Brien that Te Hurinui of Waimiha had been appointed to assess what timber was taken and collect the royalty on behalf of the Committee for the Maori owners.⁴⁰⁰ No evidence concerning the amount of money paid for timber by O'Brien to the Committee has been located.

The Committee was similarly assertive in demanding payment for stone resources. As detailed above, a royalty of 1s per cubic yard was being paid by Coates for gravel taken from the bed of Puniu River. Sometime after this, the Committee fixed the price of gravel at 1s per yard for quantities up to 100 yard and 3d per yard for large quantities, such as required for ballasting.⁴⁰¹ However, it appears that the site where gravel was extracted from the Puniu River was taken under the Public Works Act when the first proclamation to take land for the NIMT in the inquiry district was signed on 29 April 1886.⁴⁰² The land taken by this proclamation included a quarry of eight acres located at the confluence of the Puniu River and Mangahana Stream. It is possible that the taking of the area was a result of pressure from Coates and settlers, though no evidence to confirm this has been located. It appears, however, that Coates may not have extracted much gravel from the Puniu River site. In his autobiography, Coates recalled that he initially acquired ballast for the line from a quarry near Te Awamutu Station and, as the line progressed south, from the Waipa River.⁴⁰³

³⁹⁷ Fletcher, p136.

³⁹⁸ Ormsby to O'Brien, 18 March 1886, John Ormsby Letterbook, 1884-1905, Otorohanga Historical Society Courthouse Museum. Supporting Papers, p427.

³⁹⁹ On 7 November 1885, it was reported that the Committee had raised timber charges after Taonui had sold a rimu for £5. *Waikato Times*, 7 November 1885, p2.

⁴⁰⁰ Ormsby to Te Hurinui, 18 March 1886, John Ormsby Letterbook, 1884-1905, Otorohanga Historical Society Courthouse Museum. Supporting Papers, p428.

⁴⁰¹ *Waikato Times*, 16 April 1887, p2.

⁴⁰² *New Zealand Gazette*, 1886, p596. L2125, Railway Plan Book 12, Ontrack.

⁴⁰³ Coates, Isaac, *On Record*, Paul's Book Arcade, Hamilton, 1962 p115, pp121-124.

In April 1887, when Coates sought to acquire ballast from the Waipa River, a dispute arose before the Kawhia Committee once more negotiated for a royalty to be paid.⁴⁰⁴ After beginning work on the second construction contract, Coates sought a source of ballast that was closer to the work than the quarry near Te Awamutu Station. He looked to acquire ballast from a location on the Waipa River and negotiated and paid a lump sum to a Maori woman, who claimed to be the owner of the land, for access to the site and all the sand, gravel, and ballast that might be required for the work.⁴⁰⁵ Upon learning of the arrangement, a number of Maori visited the site and demanded that work be stopped. Ormsby stated that it was illegal to deal with a single individual and claimed that the contractors had two options – deal with the Maori through the Committee or apply to the Government to have the land proclaimed under the Public Works Act.⁴⁰⁶ A scuffle appears to have then taken place at the quarry, after which the Maori asked Wilkinson to contact the Government and the police.

After police had occupied the quarry and Ormsby had visited Auckland to get legal advice, the dispute was resolved at a meeting held on 14 April 1887 at Mahaoanui. The meeting was attended by Wilkinson, a police constable, Coates and some men under him, and a number of Maori, including Ormsby, Wahanui, and Taonui. The *Waikato Times* reported that the Maori speakers stated that they were willing to come to reasonable terms with the contractors, but were determined to uphold their rights by force and seize the pit.⁴⁰⁷ After the contractors accepted that the woman they had dealt with had no right to the land, it was agreed that 1s 6d per truck should be paid for material taken, which equated to 3d per cubic yard. The money that the contractors had paid to the women was accepted as an advance on royalty payments. Ormsby told the meeting that the Government should take a lesson from the dispute and in the future play a role in making arrangements in similar cases. He also stated that contractors in the future should deal only with authorities recognised by the Government, claiming that dealing with individuals was unlawful, regardless of whether or not ownership of the land had been determined.

⁴⁰⁴ Coates, pp121-124. *Waikato Times*, 16 April 1887, p2.

⁴⁰⁵ The two accounts of the dispute provide different details as to the woman's name and the amount she was paid. Coates recalls that he paid £40 to a woman called Parihaka, while the *Waikato Times* stated that £15 was received by a woman named Ngaonewhero. Coates, p121. *Waikato Times*, 16 April 1887, p2.

⁴⁰⁶ *Waikato Times*, 16 April 1887, p2.

⁴⁰⁷ *Ibid.*

When construction moved further south, the Kawhia Committee also reached an agreement in respect of the gravel required by the contractors who were building the Waitete section, J. and A. Anderson. The contractors appear to have understood that they should deal with the Committee and no dispute seems to have arisen. In spite of Ballance's earlier assurances and Ormsby's comments during the Waipu River dispute, there is no evidence that the Government was involved in the discussions. During the negotiations, the contractors requested that the royalty for taking gravel from the Mangaokewa River be set at 2d per cubic yard rather than 3d. On 19 March 1888, Ormsby wrote to the contract manager, advising that it had been agreed that a royalty of 2d could be paid on the 15,000 or 18,000 cubic yards of gravel that the contractors wished to take for ballast.⁴⁰⁸ It is unclear how much money the Committee received from Coates and the Andersons for gravel. In the case of the Andersons, the Committee would have received £125 if 15,000 cubic yards of gravel had been extracted.

While the Kawhia Committee negotiated and reached agreements with the contractors who were involved in the first stage of construction of the NIMT until 1889, it seems that few such arrangements were reached with Maori when the Public Works Department carried out the second stage of construction from late 1896. This was partly because, by this time, a recognised body representing collective tribal interests no longer existed. In June 1888, Wilkinson reported that the Native Committees that had been elected in the Waikato District were languishing and were expected to collapse altogether.⁴⁰⁹ The Native Agent thought this decline resulted primarily from the activities of the Court, which inclined individual Maori to manage their own affairs rather than look to the Committee. While the Kawhia Committee appears to have played a role in determining hapu interests in land, this became seriously undermined when the Government began purchasing individual interests from 1890.⁴¹⁰ From this time there appears to have been little consultation with Rohe Potae Maori regarding the use of timber and stone resources in the district.

It is notable that payment for timber and stone resources lessened at roughly the same time as construction work contracts reserved for Rohe Potae Maori. These sources of cash income had been identified by Wilkinson as a factor in the slow progress of Government land purchase in the

⁴⁰⁸ Ormsby to Robertson, 19 March 1888, John Ormsby Letterbook, 1884-1905, Otorohanga Historical Society Courthouse Museum. Supporting Papers, p429.

⁴⁰⁹ Wilkinson to Under Secretary, Native Department, 2 June 1888, *AJHR*, 1888, G-5, p4.

⁴¹⁰ Vincent O'Malley, *Agents of Autonomy: Maori Committees in the Nineteenth Century*, Huia, Wellington, 1998, p189. The Native Committee Act 1883 was repealed in 1902, though according to O'Malley it had been 'a virtual dead letter' for most of the preceding decade. *Ibid*, p287.

district. Along with the breakdown of the Kawhia Committee, the decline of this income by 1889 may have contributed to the increase in speed and volume of land purchasing from this time.

During the second stage of construction, the Public Works Department did contract a small number of individual Maori to supply sleepers from locations within the inquiry district. However, most sleepers were provided by European sawmillers who held timber cutting licenses over Maori land in the inquiry district. Owners were paid a royalty for timber cut from their land and therefore indirectly received an economic benefit from the demand for sleepers. The provision of sleepers for the NIMT appears to have been important to the establishment of a number of sawmilling operations in the district. The significance of the NIMT to the development of the sawmilling industry and the extent to which Maori benefited from this industry is examined in Chapter five.

Lists of the Public Works Department's sleeper contracts, published annually, show that no sleepers were sourced from within the Te Rohe Potae inquiry district until 1898.⁴¹¹ From 1898 to 1904, however, several contracts were recorded. Sleepers were supplied from locations in the south of the inquiry district, reflecting construction progress and the availability of suitable areas of forest. Details of the contracts held by Maori are presented in Table 2.

Table 2: Public Works Department sleeper contracts held by Maori in the Te Rohe Potae inquiry district

Date of contract	Name	Address	Sleepers (totara) contracted for	Sleepers supplied
12 July 1898	Tutahanga	Pororo-tarao	319	319
5 August 1898	Tahi	Pororo-tarao	109	109
7 April 1899	Tutahanga	Pororo-tarao	1000	1000
27 April 1899	Olsen and Teko	Pororo-tarao	2000	523
25 April 1900	Tutahanga	Pororo-tarao	2000	2085
2 December 1902	Tutahanga	Ongarue	839	839

Officials insisted that Maori who held sleeper contracts should only use timber sourced from land that had passed through the Court. In a letter written on 18 August 1900, Wilkinson advised Sheridan, the Under Secretary of the Land Purchase Department, that Maori were cutting railway sleepers from bush near Ongarue, on land the title to which had yet to be decided by the

⁴¹¹ The annual lists were published in the Public Works Department's annual report. See *AJHR*, D-1, appendix D.

Court.⁴¹² Wilkinson had been informed that payment for the sleepers was being held back until the owners of the land were known. In response, Sheridan stated that, though his Department was not particularly concerned, the Maori involved should be made aware that the activity was a serious breach of the law.⁴¹³

Another significant obstacle faced by Maori who wished to supply sleepers was the need to raise sufficient capital to set up a mill. While the Kawhia Committee had earlier arranged to be paid for whole trees, sleeper contracts required that timber be milled and cut to specified dimensions. Evidence of only one Maori-owned sawmill has been located. In October 1900, the *Auckland Weekly News* noted that Maori at Ongarue had recently erected a steam sawmill near the railway station.⁴¹⁴ Delivered to the railway terminus at Poro-o-tarao, the mill had been transported to Ongarue using a team of bullocks.⁴¹⁵ However, the mill does not appear to have been financially successful and after a few years was eventually leased and then sold to European mill operators.

The quantity of sleepers supplied by Maori and most of the European contractors operating in the inquiry district was relatively small. One firm, Ellis and Burnard, was by far the greatest supplier of sleepers, fulfilling contracts between 1900 and 1904 to provide 38,000 sleepers, which were delivered to Mangapehi and Ongarue. As discussed in Chapter five, Ellis and Burnard held timber cutting licences over Maori land. The amount of money that Maori earned through sleeper contracts in the southern part of the inquiry district – directly and through royalty payments – is unclear, but may not have been insignificant. Sleepers were last supplied from within the Te Rohe Potae inquiry district in 1904. At this time, construction of the line was progressing south of the inquiry district, and the Public Works Department appears to have sought sleepers from forest areas closer to where the work was being carried out.

In respect of the stone resources used by the Public Works Department during the second stage of construction, it appears that the Department extracted metal from certain lands held by Maori without negotiating with the owners or paying royalties for the material. At least two quarries were worked by the Public Works Department during the second stage of construction: a pumice sand pit at Waimiha (an area of about 11 acres) and a rhyolite quarry at Maramataha (an area of

⁴¹² Wilkinson to Sheridan, 18 August 1900, MA-MLP 1900/150, cited in Paula Berghan, 'Te Rohe Potae Inquiry District Research Assistance Projects – Block Research Narratives: Title Investigations & Land Purchasing', a report commissioned for the Crown Forestry Rental Trust, October 2008, p379.

⁴¹³ Sheridan to Wilkinson, 24 August 1900, MA-MLP 1900/150, cited in Berghan, p380.

⁴¹⁴ Lyndsay McMillan and Audrey Walker, *Ongarue: A Place of Heart, A District History*, Ongarue School Centenary Committee, undated, p260.

about 5 acres).⁴¹⁶ The Department appears to have started using these areas after construction of the Ohinemoa section (between the Poro-o-tarao Tunnel and Ongarue) began in 1896.⁴¹⁷

The Department's taking of stone at Waimiha and Maramataha without paying a royalty to the owners appears to have prompted a complaint from Maori. The issue was raised in October 1901, when a deputation led by John Ormsby waited on the Minister of Railways, Sir Joseph Ward. (As discussed below, the deputation also raised concerns about the lack of fencing along the railway south of Mokau/Puketutu Station.) Ormsby told the Minister that in the past Maori had received 3d a yard for material taken from quarries, but that this was now not being paid to them.⁴¹⁸ Inquiries into this claim were then made by the Public Works Department. The District Engineer reported that he was unaware of any arrangement having ever been made.⁴¹⁹ The Engineer-in-Chief similarly had no knowledge of royalties having been paid to Maori, either by the Department or the private contractors involved in the first stage of construction.⁴²⁰

In December 1903, the Waimiha and Maramataha quarries were taken under the Public Works Act 1894 for railway purposes. By this time, the sites appear to have been largely worked out. In June 1904, when the Native Land Court assessed compensation for the takings, the Public Works Department's Resident Engineer, John Louch, told the Court that all of the pumice sand in the Waimiha pit had been used, while some rock remained in the Maramataha quarry.⁴²¹ During cross-examination by Ormsby, Louch told the Court that he had not been involved in any transactions concerning royalties and was unaware that up to 3d a cubic yard had been paid by contractors in some parts of the district.⁴²²

⁴¹⁵ Ibid, p261.

⁴¹⁶ Otorohanga minute book 42, 20 June 1904, p208. Supporting Papers, p88.

⁴¹⁷ McMillan and Walker, *Ongarue*, p35.

⁴¹⁸ Blow to Ormsby, 7 November 1901, R 3 W2278 216 1910/3916/1 part 1, ANZ Wellington. Supporting Papers, p213. Record of deputation to Sir Joseph Ward, 8 October 1901, R 3 W2278 216 1910/3916/1 part 1, ANZ Wellington. Supporting Papers, p211.

⁴¹⁹ District Engineer to Under Secretary, Public Works, 19 November 1901, R 3 W2278 216 1910/3916/1 part 1, ANZ Wellington. Supporting Papers, p214.

⁴²⁰ Engineer-in-Chief, 23 November 1901, minute on District Engineer to Under Secretary, Public Works, 19 November 1901, R 3 W2278 216 1910/3916/1 part 1, ANZ Wellington. Supporting Papers, p214. The Engineer-in-Chief stated, incorrectly, that all the ballast used by Coates had been obtained from the Railway pit near Te Awamutu. He also stated that gravel from the Mangaokewa River near Te Kuiti had been obtained without payment by J and A Anderson, the contractors who had built the Waitete section, and by the Public Works Department co-operative workers who ballasted the line between Mokau Station and Poro-o-tarao Tunnel. As detailed above, it appears that the Kawhia Committee had entered into an arrangement with the Anderson's in respect of the gravel that they required for the construction of the Waitete section.

⁴²¹ Otorohanga minute book 42, 20 June 1904, p208. Supporting Papers, p88.

⁴²² Otorohanga minute book 42, 20 June 1904, pp207-209. Supporting Papers, pp87-89.

Rather than negotiate with Maori owners and pay a royalty, the Railways Department also secured permanent rights to the areas from which it extracted ballast for the ongoing maintenance of the railway. In order to meet its ballasting requirements, the Department took four areas of land in the Te Rohe Potae inquiry district under the compulsory provisions of public works legislation. Maori owned all of these areas. The first area taken by the Railways Department included part of the bed of the Mangaokewa River and appears to be the site in respect of which the Kawhia Committee had reached an agreement with the contractors who built the Waitete section. The land, an area of about 24 acres, was taken in September 1895 under the Public Works Act 1894.⁴²³ In April 1889, when inspecting the recently completed section, the Railways Department's Resident Engineer had observed that the contractors had taken ballast from the bed of the Mangaokewa River and suggested that immediate steps should be taken to obtain the right to take ballast from the site.⁴²⁴ The Resident Engineer noted that the shingle was of a good quality and that there was no ballast reserve between the Mangaokewa River site and Te Awamutu, a distance of about 100 miles.

The Railways Department took further lands for the supply of ballast in 1905, 1907, and 1912. In April 1905, an area of about 14 acres adjacent to Te Koura Station was taken for a quarry under the Public Works Act 1894.⁴²⁵ In August 1907 and January 1912, a total area of about 62 acres was acquired in two takings that were respectively carried out under the Public Works Act 1905 and the Public Works Act 1908. This land was adjacent to the area that had been taken in 1895 and contained large deposits of limestone that would be crushed for use as ballast.

The land takings mentioned here are examined further in Chapter four, which focuses on the taking of land for railway purposes in the Te Rohe Potae inquiry district. In discussing the process by which land was taken, Chapter four examines issues concerning how compensation was determined and paid to owners. In respect of the areas that were taken for quarry sites, it is notable that the Native Land Court's compensation awards recognised only the surface value of the taken land and not the material that it was acquired for.

⁴²³ See PWD W000 17474. Otorohanga minute book 34, 18 February 1899, pp254-257, 260. Supporting Papers, pp76-80.

⁴²⁴ Resident Engineer to Engineer, 30 April 1889, R 3 W2278 53 1903/1989 part 1, Extension of North Island Main Trunk Line, 1887-1908, ANZ Wellington. Supporting Papers, pp194-198.

⁴²⁵ *New Zealand Gazette*, 1905, pp919-920.

Environmental issues and mahinga kai

Before Rohe Potae Maori agreed to the construction of the railway, some individuals raised concerns about the impact that the railway would have on the physical environment, particularly in respect of mahinga kai gathered from waterways and forest areas. This section describes these concerns, which were addressed by Ballance at the meeting held at Kihikihi on 4 February 1885. It briefly examines the extent to which Maori interests were accommodated during construction, but does not attempt to provide a detailed assessment of the environmental impact of the railway, which is beyond the scope of the report and expertise of the authors.

The earliest correspondence concerning the issue of the environmental impact of the railway dates from March 1884, before the central route had even been selected. In a letter written to Wilkinson on 13 March 1884, Tanu, who lived at Te Kumi, expressed concern regarding trees at Maungawhero, Mangipo, and Poporo.⁴²⁶ He requested that the railway run outside of the bush, which he feared would be destroyed by fire. Commenting on Tanu's letter, the Native Minister, Bryce, noted that the railway line was by no means fixed.⁴²⁷

In January 1885, after the central route had been selected and steps towards construction advanced, Rochfort telegraphed the Public Works Department (possibly at the request of Maori), advising that some eel weirs in the Te Kawa swamp would be injured by the construction works.⁴²⁸ Rochfort stated that there were many eel weirs in the swamp, which the local Maori set much value upon and depended upon for food. He suggested that action should be taken to shift the weirs to a suitable location. Wilkinson was requested to look into the issue, and on 15 January 1885 reported that he had met with Rochfort and Maori at Te Kawa Swamp and that a satisfactory arrangement had been reached.⁴²⁹ In order to prevent eel weirs being destroyed or becoming useless, two additional drains would be provided.

The potential impact of the railway on mahinga kai was raised at the meeting held at Kihikihi on 4 February 1885. One speaker, Hopa Te Rangianini, questioned how the railway would affect waterways and his ability to harvest eels.⁴³⁰ Referring possibly to Te Kawa swamp, Te Rangianini

⁴²⁶ Taru to Wilkinson, translation, 13 March 1884, NO 84/1237, MA 13 75 43(b), ANZ Wellington, p181.

⁴²⁷ Bryce, undated minute on CS 84.1237, NO 84/1237, MA 13 75 43(b), ANZ Wellington, p180.

⁴²⁸ Morpeth to Wilkinson, 13 January 1885, NO 85/65, MA 13 75 43(a), ANZ Wellington, p64. Supporting Papers, p44.

⁴²⁹ Wilkinson to Under Secretary, Native Department, 15 January 1885, NO 85/176, MA 13 75 43(a), ANZ Wellington, p61. Supporting Papers, p43.

⁴³⁰ *AJHR* 1885, G1, p23.

stated that the railway was to pass over a swamp from which he took eels, his principal food source in summer. He suggested that a viaduct could be built over the swamp, instead of filling it. Concerns about how areas of forest would be damaged by the railway were also expressed at Kihikihi on 4 February 1885. Aporo Taratutu told the meeting that forest areas should be preserved, noting particularly a large area that extended from Mangawhare to Te Kumi.⁴³¹ He expressed a particular desire to retain kahikatea trees from which he collected berries for food. As noted above, Taratutu also asserted that Maori should be paid for any trees cut down.

Ballance was eager to reassure those present that the physical environment would not be adversely affected by the railway, stating clearly that 'No injury whatever will be done to Native land.'⁴³² At the same time, however, he belittled Maori concerns about mahinga kai when he exaggerated that the money they would earn through the construction of the railway would 'be worth all the berries in the world, and the eels, too.' In response to concerns about the impact that the railway would have on waterways, Ballance agreed that watercourses should not be interfered with and stated that bridges and culverts would be built for the sake of the line itself. In respect of bush areas, he was less reassuring, stating that he thought the railway should be taken by the best route, having been informed by the engineer that it would be very much worse if it were taken round the bush.⁴³³

Ballance's statement that waterways would not be interfered with was soon proved incorrect. The formation of the railway across the Te Kawa swamp in 1886 involved considerable modification of the existing environment, something that Rochfort's communications in January 1885 had pointed towards. An embankment 60 chains in length was formed across the swamp, using some 125,000 cubic yards of earth.⁴³⁴ The extent to which this embankment affected the habitat of the eels that lived in the swamp is unclear, though culverts appear to have been placed in the embankment, possibly in accordance with the discussions that had taken place between Rochfort, Wilkinson, and local Maori. In 1890, the owners of Ouruwhero block (in which the Te Kawa swamp was located) discussed the matter of eel weirs with a representative of the Public Works Department, a Mr Cheeseman, who was making arrangements to compensate the owners of lands taken for the NIMT. The owners asked Cheeseman to ask the Railway Department to

⁴³¹ *AJHR* 1885, G1, p23.

⁴³² *AJHR* 1885, G1, p24.

⁴³³ *AJHR* 1885, G1, p23.

⁴³⁴ Dick Craig, *Land of the Maniapoto*, p50.

permit the use of eel weirs in culverts on the condition that the weirs would not affect the flow of water.⁴³⁵

The extent to which Maori concerns about forest areas were accommodated during the building of the line is unclear. Research has identified one instance where, at the request of Maori, an alteration was made to the original line in order to avoid an area of forest. During the first year of construction, the course of the railway near Otorohanga was moved from the line surveyed by Rochfort in order to prevent damage to what the *Waikato Times* described as an extensive area of kahikatea.⁴³⁶ The *Times* stated that the course had been changed when Maori had objected to the prospect of the trees being destroyed to cut the line. (Assuming that the trees would some day be milled, the paper believed that this was very short-sighted because it meant that the cost of transporting the timber would be greater.) It is unclear whether, as construction progressed south, Rohe Potae Maori made further requests regarding the course of the line and, if so, the Public Works Department was responsive to these demands.

Wahi tapu

This section briefly examines issues concerning the impact of the railway on wahi tapu, a subject about which little documentary evidence has been located. Records of the meetings held between Rohe Potae Maori and Ballance prior to the construction of the NIMT contain no reference to wahi tapu. It seems that at these meetings Maori did not raise the issue of the railway's potential impact on wahi tapu or demand that the line should avoid sites of significance. However, at some point during the protracted course of negotiation, it appears that there was communication about the possibility of human remains being disturbed during construction. This is suggested by a circular letter sent, probably around the beginning of construction, to several chiefs (Rewi, Tawhiao, Te Ngakau, Wahanui, Taonui, and Hopa Te Rangianini), advising that they would be contacted immediately if any human remains or ornaments were found during construction.⁴³⁷ It is likely that Rohe Potae Maori had requested this, indicating that they were concerned about the railway's potential impact on wahi tapu and, in the event of a site being disturbed, that they wished to ensure that the situation was handled appropriately.

⁴³⁵ Otorohanga minute book 10, 10 December 1890, p295. Supporting Papers, p69.

⁴³⁶ *Waikato Times*, 26 October 1886, p3.

⁴³⁷ Record of correspondence in PW 84/6339, under CS 84/3585, MA 13 75 43(b), ANZ Wellington.

It is unclear whether, in accordance with the circular letter, Maori were contacted during construction of the NIMT in the event of human remains or ornaments being disturbed. As with other assurances that had been made to Rohe Potae Maori, it seems likely that the Public Works Departments' awareness of this undertaking would have faded over the years that the line was built. While the number of wahi tapu damaged or destroyed during the construction of the railway has not been established, it appears that the railway was formed through some sites of significance. Where the NIMT leaves the southern end of the Puniu bridge, for example, it cuts through the ramparts of Haere-awatea, an ancient pa that was once the stronghold of Ngati Maniapoto chief Pehi Tukorehu.⁴³⁸ Claimants have indicated during discussions that the NIMT also caused significant damage to wahi tapu at Waiteti, south of Te Kuiti.⁴³⁹ Further south, at Ongarue, claimants state that the railway was built over part of an urupa that was eventually dug up and moved to the other side of the Ongarue River.⁴⁴⁰ It appears that land taken for the railway from Te Kumi block also included an urupa. In December 1890, when the Native Land Court assessed compensation, one owner, Raurau, told the Court she wished to remove her claim because she had learnt that the area included a burial ground.⁴⁴¹ It is unclear whether this urupa had been disturbed during construction. Tangata Whenua evidence presented to the Waitangi Tribunal for the Te Rohe Potae district inquiry should provide more detail of the destruction or disturbance of wahi tapu during construction.

Fencing of the line

As noted in Chapter two, Rohe Potae Maori requested that fences be erected along the NIMT when they consented to the line being built. In his telegram to the Native Minister of 27 February 1885, John Ormsby advised that Rohe Potae Maori agreed to the construction of the railway upon the conditions that the line 'be paid for and be one chain wide & fenced at once on both sides'.⁴⁴² Ormsby indicated that these conditions had been discussed at the meeting attended by Ballance at Kihikihi on 4 and 5 February 1885. On 28 February 1885, Wilkinson also advised Ballance that Rohe Potae Maori had consented to the construction of the railway, noting the same conditions that had been detailed by Ormsby, including that the line should be

⁴³⁸ L.G. Kelly, 'The Opening of the King Country to Railway Traffic', *New Zealand Railways Magazine*, 1 January 1934, vol 8, issue 9, p39.

⁴³⁹ This was stated by claimants during a site visit following the Te Kuiti Railway Focus Group meeting.

⁴⁴⁰ Railway Focus Group, Taumarunui Hui, pm, transcript, pp27-28.

⁴⁴¹ Otorohanga minute book 10, 22 December 1890, p345. Supporting Papers, p74.

⁴⁴² Ormsby to Ballance, 27 February 1885, telegram, NO 85/692, MA 13 75 43(a), ANZ Wellington, pp32-33. Supporting Papers, pp41-42.

fenced.⁴⁴³ On 4 March 1885, Wahanui similarly informed Ballance that Rohe Maori had agreed to the railway, though he did not mention fencing of the line and stated that certain questions concerning the land required for the line remained to be settled.⁴⁴⁴ Nevertheless, it is clear from the Ormsby and Wilkinson communications that Rohe Potae Maori expected fences to be built along the railway – a condition that was not disputed by the Government at the time it was discussed.

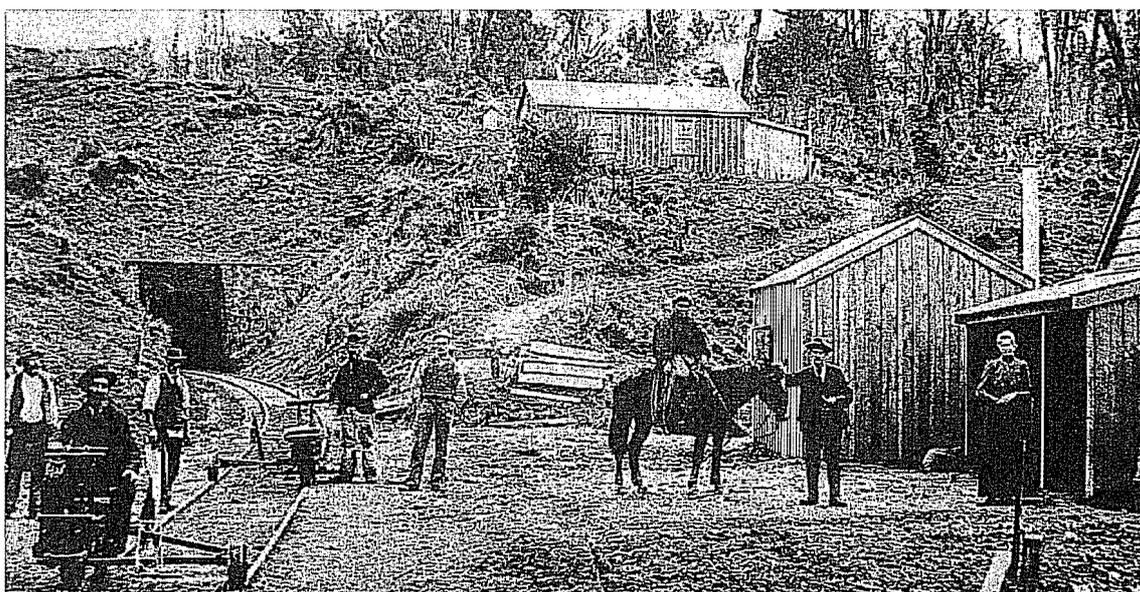


Figure 15: *Poro-o-tarao tunnel southend 1900* (McMillan and Walker, *Ongarue*, p34)

During the first stage of the construction of the NIMT, which lasted from 1885 to 1889, the Public Works Department erected fences along both sides of the track from Te Awamutu to Mokau/Puketutu Station. It seems that plans to fence the line were made before Maori had agreed to the railway being constructed. On 25 February 1885, the Engineer-in-Chief of the Public Works Department advised the Minister of Public Works that he proposed to fence in all the railway land along the line.⁴⁴⁵ Accordingly, the early construction contracts appear to have required that the line be fenced, with specifications as to the type of fence that was to be built.⁴⁴⁶ However, when construction of the NIMT resumed from early 1897, fences were not erected

⁴⁴³ Wilkinson to Ballance, 28 February 1885, telegram, NO 85/692, MA 13 75 43(a), ANZ Wellington, p31. Supporting Papers, p40.

⁴⁴⁴ Wahanui to Ballance, 4 March 1885, translation, MA-13-043-017 [missing cover sheet], MA 13 75 43(a), ANZ Wellington, pp11-12. Supporting Papers, pp37-38.

⁴⁴⁵ Blackett to Minister of Public Works, 25 February 1885, R 3 W2278 216 1910/3916/1 part 1, ANZ Wellington. Supporting Papers, p204.

⁴⁴⁶ In April 1889, after inspecting the recently completed Waitete section, which stretched from Te Kuiti to Mokau station, the Resident Engineer noted in his report that the line was fenced throughout with an eight-wire, totara-post

and, when the line was completed to Taumarunui in 1903, the whole length of line from Mokau/Puketutu Station to Taumarunui remained unfenced. From the evidence examined in this report, it appears the decision to leave the line unfenced was undertaken without consultation with Rohe Potae Maori. This situation caused difficulties for both Maori and Europeans who lived along the railway and had stock and horses that wandered onto the line and were killed by trains.

From 1900, numerous requests were made for the remainder of the line to be fenced, first by Maori and then later also by Europeans who settled in the district. The earliest letter concerning the issue, signed by Taonui Kaha and 31 others, was written to Native Minister James Carroll in April 1900.⁴⁴⁷ The writers asked that the line be fenced between Mokau/Puketutu Station and Poro-o-tarao, explaining that since the train had started running they had lost many stock, 'as we have but little stock the loss is a very serious one to us'. The writers explained that Ngati Maniapoto had arranged with Native Minister Ballance that the line be fenced throughout the Rohe Potae. Reporting on the matter, the Department of Public Works' Assistant Engineer at Poro-o-tarao confirmed that animals had been killed and provided an estimate of the cost of erecting a fence between Mokau/Puketutu Station and Poro-o-tarao.⁴⁴⁸ However, it was decided that no steps to erect fences should be taken at this time. On 4 October 1900, the Under Secretary of Public Works wrote to Taonui Kaha and others, advising that fencing the line between Mokau/Puketutu Station and Poro-o-tarao would be considered when further progress was made with extending the railway southwards.⁴⁴⁹

A year later, in October 1901, the issue of fencing the line south of Mokau/Puketutu Station was raised again when a deputation led by John Ormsby waited on the Minister of Railways, Sir Joseph Ward.⁴⁵⁰ Ormsby requested that fences be erected along the line, explaining that Maori had gifted certain lands on the understanding that the line would be fenced. (As discussed above, Ormsby also raised at this meeting the issue of royalty payments for gravel taken for the railway.) The Public Works Department and Railways Department looked into Ormsby's claim, but

fence. Resident Engineer to Engineer, Working Railways, 30 April 1889, R 3 W2278 53 1903/1989 part 1, Extension of North Island Main Trunk Line, 1887-1908, ANZ Wellington. Supporting Papers, pp194-198.

⁴⁴⁷ Kaha and others to Carroll, April 1900, R 3 W2278 216 1910/3916/1 part 1, ANZ Wellington. Supporting Papers, p208.

⁴⁴⁸ Louch to District Engineer, 14 September 1900, R 3 W2278 216 1910/3916/1 part 1, ANZ Wellington. Supporting Papers, p209.

⁴⁴⁹ Under Secretary, Public Works, to Kaha and others, 4 October 1900, R 3 W2278 216 1910/3916/1 part 1, ANZ Wellington. Supporting Papers, p210.

⁴⁵⁰ Record of deputation to Sir Joseph Ward, 8 October 1901, R 3 W2278 216 1910/3916/1 part 1, ANZ Wellington. Supporting Papers, p211.

officials were unable to locate any written evidence to confirm the existence of a previous understanding to fence the line.⁴⁵¹ The Under-Secretary of Public Works advised Ormsby that no reference had been found to confirm that the gifting of land was conditional upon the line being fenced.⁴⁵² The Under Secretary expressed doubt that such an agreement would have been made, pointing out that the considerable cost of erecting a fence would not have been offset significantly by the saving that resulted from any gifting of land.

The Public Works Department and Railways Department took no action at this time and the problem of animals being killed by trains remained. In spite of ongoing complaints and requests for the line to be fenced, definite steps towards fencing the line were not taken until 1907. In September 1904, the General Manager of Railways expressed the view that the line should have been fenced when it was built and that the lack of fences should have been noted when the Department took over the line from the Public Works Department.⁴⁵³ Railways' officials clearly wanted fences to be erected along the line, though seem to have believed that the Public Works Department should bear the cost of the work. Writing to the Under Secretary of Public Works on 26 March 1906, the General Manager of Railways stated that if the fencing was not erected in the near future it was likely that the Railways Department would undertake the work.⁴⁵⁴ Until the fences were built, he warned, there was a risk of serious rail accident as a result of animals straying on the line. He also noted that the Railways Department might be seen as liable for claims relating to stock killed on the railway.

In spite of pressure from the Railways Department, the Public Works Department was slow to move on the issue of the unfenced line, partly because of concerns about the likely cost of the work and reservations as to whether fences were necessary.⁴⁵⁵ Public Works' officials looked further into the question of whether there had been an agreement to fence the line. While no written evidence of an agreement was located, the Engineer-in-Chief recalled in January 1905 that when construction began Maori owners offered to give the land required for the railway and the

⁴⁵¹ Ronayne to Minister of Railways, minute, 10 October 1901, R 3 W2278 216 1910/3916/1 part 1, ANZ Wellington. Supporting Papers, p211. Blow to Minister of Public Works, 1 November 1901, R 3 W2278 216 1910/3916/1 part 1, ANZ Wellington. Supporting Papers, p212.

⁴⁵² Under Secretary, Public Works, to Ormsby, 7 November 1901, R 3 W2278 216 1910/3916/1 part 1, ANZ Wellington. Supporting Papers, p213.

⁴⁵³ General Manager, Railways, to Engineer-in-Chief, 26 September 1904, minute on Engineer-in-Chief to General Manager, Railways, 22 September 1904, R 3 W2278 216 1910/3916/1 part 1, ANZ Wellington. Supporting Papers, p218.

⁴⁵⁴ General Manager, Railways, to Under Secretary, Public Works, 26 March 1906, R 3 W2278 216 1910/3916/1 part 1, ANZ Wellington. Supporting Papers, p242.

⁴⁵⁵ See, for example, District Engineer to Under Secretary, Public Works, 27 January 1905, R 3 W2278 216 1910/3916/1 part 1, ANZ Wellington. Supporting Papers, pp222-223.

Government undertook to fence the line.⁴⁵⁶ Public Works officials initially accepted this position, but later changed their stance, denying that an agreement had existed.⁴⁵⁷ Writing to the General Manager of Railways on 28 April 1906, for example, the Under Secretary of Public Works stated that he was unaware of an agreement relating to the fencing of the line and that no evidence relating to such an agreement had been found in the Department's records.⁴⁵⁸ The General Manager questioned this, expressing the view that, though nothing was put in writing, Maori were led to believe the line would be fenced.⁴⁵⁹

Before steps were taken to fence the line, the Railways Department's stance towards individuals and communities whose animals were being killed was decidedly unsympathetic. The Department appears to have threatened legal proceedings against a number of individuals. In a letter written to Railways' Minister Ward on 2 October 1904, Ngahiwi Te Wakatoroa stated that he had received a letter from an official in Auckland, advising that he would be summonsed for his cattle trespassing on the railway line.⁴⁶⁰ Te Wakatoroa had written previously to Ward, asking that a fence be erected between Mokau/Puketutu Station and Horangapai.⁴⁶¹ While the threat of legal action was made against individuals whose stock trespassed on the line, it does not appear to have been carried out. Proceedings to sue two Europeans for trespass of stock, scheduled to be heard at Te Kuiti on 29 March 1906, were withdrawn after John Ormsby wrote to Native Minister James Carroll, explaining that it had been agreed that the line should be fenced.⁴⁶² Ormsby commented that: 'The case is highly important to Ngati Maniapoto because, if it is upheld, and enforced, the Native owners of the land adjoining the railway would greatly suffer.' On 23 March 1906, the General Manager of Railways' requested that the proceedings be stayed.⁴⁶³

⁴⁵⁶ Engineer-in-Chief to Under Secretary, Public Works, 7 January 1905, R 3 W2278 216 1910/3916/1 part 1, ANZ Wellington. Supporting Papers, p221.

⁴⁵⁷ Blow to General Manager, Railways, 14 April 1905, R 3 W2278 216 1910/3916/1 part 1, ANZ Wellington. Supporting Papers, p224.

⁴⁵⁸ Under Secretary, Public Works, to General Manager, Railways, 28 April 1906, R 3 W2278 216 1910/3916/1 part 1, ANZ Wellington. Supporting Papers, p243.

⁴⁵⁹ General Manager, Railways, to Under Secretary, Public Works, 19 October 1906, R 3 W2278 216 1910/3916/1 part 1, ANZ Wellington. Supporting Papers, p245.

⁴⁶⁰ Te Wakatoroa to Ward, translation, 2 October 1904, R 3 W2278 216 1910/3916/1 part 1, ANZ Wellington. Supporting Papers, p219.

⁴⁶¹ Te Wakatoroa to Ward, translation, 15 August 1904, R 3 W2278 216 1910/3916/1 part 1, ANZ Wellington.

⁴⁶² Ormsby to Carroll, 12 March 1906, R 3 W2278 216 1910/3916/1 part 1, ANZ Wellington. Supporting Papers, pp238-239.

⁴⁶³ Ronayne to Railway Engineer, 23 March 1906, telegram, R 3 W2278 216 1910/3916/1 part 1, ANZ Wellington. Supporting Papers, p241.

It seems that the Railways Department exercised powers to issue fines to individuals whose stock trespassed on the line. While there is no evidence that Maori were fined, it appears that some Europeans living at Poro-o-tarao did receive fines for trespass of stock. This was claimed in a letter written by L.R. Hill to the Minister of Railways on 4 December 2004.⁴⁶⁴ Hill, who appears to have been one of a number of Europeans living at Poro-o-tarao, explained that the settlers there were all men who had worked on the construction of the railway. A number of these settlers had recently taken up land in the Ohura district and, while waiting to clear bush from their sections, they kept their cattle on land owned by Maori at Poro-o-tarao, paying a fixed price per head for the right of grazing. Hill complained that the absence of fences along the railway meant they were unable to keep their cattle from getting on the line and, when this happened, the owner was fined and made to pay heavy costs. Hill claimed that the Railways' Inspector and Ganger's actions were 'decidedly in the direction of hounding us away' and that, unless one was employed by the Railways' Department, it was becoming increasingly difficult to live at Poro-o-tarao.

Hill's letter suggests that the fines faced by the European settlers created a burden that threatened their ability to continue grazing the land at Poro-o-tarao. The fines thereby had the potential to indirectly impact on the Maori land owners who benefited from the presence of the European settlers. As indicated in Hill's letter, it appears that an uneasy relationship existed between the Railways' employees and the local community along the unfenced section of line. In September 1905, George Wilkinson wrote to the Under Secretary of the Justice Department, stating that Wehi Te Ringitanga of Mangapehi had complained that railway officials – the Ganger of platelayers, Wilkinson presumed – had stated that pigs found on the line would be shot.⁴⁶⁵ Reporting on the matter to the General Manager of Railways, the Chief Engineer questioned whether the Ganger ever threatened to shoot the pigs, but indicated that if such a threat was made it was unlikely to be carried out.⁴⁶⁶

The many letters written by Maori and Europeans regarding the unfenced section of line provide details of significant stock losses. Writing to Wilkinson on 18 September 1905, Wehi Te Ringitangi stated that: 'I have been living four years at Mangapehi, and . . . month by month the

⁴⁶⁴ Hill to Ward, 7 December 1904, R 3 W2278 216 1910/3916/1 part 1, ANZ Wellington. Supporting Papers, p220.

⁴⁶⁵ Wilkinson to Under Secretary, Justice, 23 September 1905, R 3 W2278 216 1910/3916/1 part 1, ANZ Wellington. Supporting Papers, p227.

⁴⁶⁶ Chief Engineer to General Manager, 27 October 1905, R 3 W2278 216 1910/3916/1 part 1, ANZ Wellington. Supporting Papers, p231.

train strikes some stock belonging to us Maoris.⁴⁶⁷ In a letter signed by Makere Te Uruweherua and 21 others, written on 14 October 1905, stock losses between Taumarunui Station and Taringamotu Station were detailed: 'Fifteen horses have been killed, eight cows, and five pigs; these are what have actually been seen by us; the bulk of our live stock are found in the Ongarue river, and in the Whanganui river.'⁴⁶⁸ On 28 February 1906, Carroll wrote to the Acting Minister of Railways, advising that the local member of the House of Representatives, W.T. Jennings, had met deputations of Maori at Mangapehi, Ongarue, and Taringamutu, all complaining of stock losses to both Maori and Europeans.⁴⁶⁹ One hapu alone claimed to have lost £260 in stock in a few years.

In the face of these stock losses, the Railways Department did not offer to compensate the owners. As noted above, the General Manager (in his 26 March 1906 letter to the Under Secretary of Public Works) expressed concern that Railways might be seen as liable for claims relating to animals killed by trains.⁴⁷⁰ However, it seems the Department believed that there were no legal grounds to support the view that the Department would be liable in such cases. When responding to complaints about the absence of fencing, the Department consistently refused to admit any liability. For example, writing to Te Uruweherua on 4 November 1905, the General Manager firmly stated that the duty of keeping animals off the line lay with the owners and that the Railway Department was under no obligation to fence the line.⁴⁷¹

With a shared frustration at the lack of fencing between Mokau/Puketutu Station and Taumarunui, some communications on the matter conveyed the views of Maori and European settlers. In a letter to the local member of the House of Representatives, Jennings, Alex Bell (Senior) claimed to write on behalf of his own family and local Maori.⁴⁷² Bell requested that the line be fenced between Taringamotu and Taumarunui, claiming that his family was unable to use any of the land it held in the area because the railway was not fenced. 'Last week two valuable bullocks were killed, a few weeks ago two horses were caught on the bridge and cut to pieces,

⁴⁶⁷ Te Ringitangi to Wilkinson, 18 September 1905, R 3 W2278 216 1910/3916/1 part 1, ANZ Wellington. Supporting Papers, p226.

⁴⁶⁸ Te Uruweherua and others, 14 October 1905, R 3 W2278 216 1910/3916/1 part 1, ANZ Wellington. Supporting Papers, p228.

⁴⁶⁹ Carroll to Acting Minister of Railways, 28 February 1906, R 3 W2278 216 1910/3916/1 part 1, ANZ Wellington. Supporting Papers, p237.

⁴⁷⁰ General Manager, Railways, to Under Secretary, Public Works, 26 March 1906, R 3 W2278 216 1910/3916/1 part 1, ANZ Wellington. Supporting Papers, p242.

⁴⁷¹ General Manager, Railways, to Te Uruweherua, 4 November 1905, R 3 W2278 216 1910/3916/1 part 1, ANZ Wellington. Supporting Papers, p232.

⁴⁷² Bell to Jennings, undated (probably January 1906), R 3 W2278 216 1910/3916/1 part 1, ANZ Wellington. Supporting Papers, pp233-236.

over sixty animals have been killed or maimed within the last eighteen months.' In September 1906, a petition in the name of M.H. Laird and others was sent to the House of Representatives, calling for the line to be fenced in light of the large number of animals being killed by trains.⁴⁷³ The petitioners identified themselves to be 'settlers both European and Natives, residing between Puketutu and Taumarunui'.

Steps to fence the line were taken as the construction of the NIMT neared completion. The Railways Department had wanted the fences erected before this time, but did not act, seeing the work as the responsibility of the Public Works Department. In September 1905, responding to suggestions that the line should be fenced, the Minister of Public Works, Hall-Jones, stated that no action was to be taken until the line was further advanced.⁴⁷⁴ It appears that the Minister saw the fencing as a matter of urgency only when the line was completed and began to be used by greater volumes of traffic. In August 1907, Cabinet approved funding of £9020 for the erection of fences along the NIMT between Mokau/Puketutu Station and Taumarunui.⁴⁷⁵ The money came out of the Public Works budget, but the work was to be carried out by the Railways Department. In March 1909 it was recorded that the fencing had almost been completed.⁴⁷⁶

The social impact of European construction workers on Rohe Potae Maori

Construction workers on the NIMT were the first large body of Europeans to enter the district and interact with the Rohe Potae Maori after the negotiations. An exact figure for the total number of workers at the northern railhead during the first stage of construction ending in 1889 has been difficult to verify, but is likely to have been in the hundreds. In 1894, during the lull in construction, once the co-operative system had been introduced, the Public Works Report stated that there were 101 workers on the northern railhead.⁴⁷⁷ By 1900, nearing the end of construction within the district, 900 were working on the northern end alone.⁴⁷⁸ Although some material survives of the lives of the worker gangs, written source material on the impact of these workers on Rohe Potae Maori is relatively scarce. As a consequence this section relies on a limited

⁴⁷³ Laird and others to Speaker and Members of the House of Representatives, September 1906, R 3 W2278 216 1910/3916/1 part 1, ANZ Wellington. Supporting Papers, p244.

⁴⁷⁴ Hall-Jones, 2 September 1905, minute, R 3 W2278 216 1910/3916/1 part 1, ANZ Wellington. Supporting Papers, p225.

⁴⁷⁵ Under Secretary, Public Works, to General Manager, Railways, 14 August 1907, R 3 W2278 216 1910/3916/1 part 2, ANZ Wellington. Supporting Papers, p246.

⁴⁷⁶ Chief Engineer to General Manager, 29 March 1909, R 3 W2278 216 1910/3916/1 part 2, ANZ Wellington. Supporting Papers, p247.

⁴⁷⁷ *AJHR 1894*, D1, p34.

⁴⁷⁸ Gibbons, p55.

number of eyewitness accounts, newspaper reports and local histories and other secondary sources.



Figure 16: *Workers employed on the Ohinemoa section between Poro-o-tarao and Ongarue c.1901 (McMillan and Walker, Ongarue, p33)*

Construction workers concentrated in camps and generally moved south through the district as different sections of the line were contracted and completed. Although the best examples lay outside the district, these tent ‘camps’ often developed into small townships with schools and post offices – especially as the number of workers grew after 1900.⁴⁷⁹ When construction moved on these ‘towns’ were often abandoned – what could be packed down was taken to the next location. Sometimes these camps formed the basis of townships that exist today.⁴⁸⁰ One example within inquiry district includes Te Kuiti, which began life as a construction camp located near an existing Maori settlement [Tokangamutu]. It then grew into a supply depot for construction further south.⁴⁸¹ Other examples of camps within the inquiry district include ‘Carson City’ near

⁴⁷⁹ Johnson, Larsen and Ramshaw, pp48-50.

⁴⁸⁰ Although outside the district a detailed study of the transition of Raurimu from construction camp to permanent township has been conducted by Kate Hill in her *Raurimu Frontier Town 1900-1925: A Social Archaeological Perspective*, Research in Anthropology and Linguistics, Department of Anthropology, University of Auckland, No.3, 2000.

⁴⁸¹ See AAVK W3180 2 PUB 1/8 part 2, North Island Main Trunk Railway, 1958-1960, ANZ Wellington.

Waimiha, where construction workers on the Ohinemoa section between Poro-o-tarao and Ongarue lived and worked over the years 1897 to 1902.⁴⁸² A similar camp was founded at the southern end of the Poro-o-tarao tunnel and eventually had a blacksmith, a boarding house, Post Office and school (which was moved to Ongarue in 1902). A *New Zealand Herald* reporter summed up these camps well when he described Ongarue as: 'One of those collections of hastily and cheaply constructed buildings, such as previously existed at Poro-o-tarao and which keeps pace with the progress of the railway works, being extended stage by stage, as various sections of the line are completed.'⁴⁸³ It appears that some construction workers remained in the district after the construction work ended and established economic relationships with Rohe Potae Maori, leasing Maori land while waiting to purchase sections of land.⁴⁸⁴

These camps and workers had a reputation for being rough and were considered an archetype of the 'frontier' lifestyle, with living conditions and work being extremely hard.⁴⁸⁵ Gibbons analysis of available source material reveals that the standard of accommodation for co-operative workers was 'shockingly inadequate.'⁴⁸⁶ Injury during construction was common, many gangs being ill-equipped for the work and ill-prepared for the resulting serious injuries.⁴⁸⁷ His analysis of population statistics in the main districts where these construction camps were located suggests that the 'sex proportions were grotesque' with the camps being predominately single males.⁴⁸⁸ For example, in 1906 at the Raurimu earthworks there were 1190 males and only 256 females. It was official policy for co-operative workers to be able to bring their wives, however, woman were often unofficially discouraged.⁴⁸⁹ Resent research suggests that, although not large in number, woman played an important role in construction camps.⁴⁹⁰

⁴⁸² McMillan and Walker, pp34-35; *AJHR* 1897, D1, pv; *AJHR* 1902, D1, pv.

⁴⁸³ *New Zealand Herald*, 11 February 1903, quoted in McMillan and Walker, p42.

⁴⁸⁴ See, for example, Hill to Ward, 7 December 1904, R 3 W2278 216 1910/3916/1 part 1, ANZ Wellington. Supporting Papers, p221.

⁴⁸⁵ Gibbons, pp58-62.

⁴⁸⁶ Gibbons, p62.

⁴⁸⁷ Gibbons, pp60-61.

⁴⁸⁸ Gibbons, p62.

⁴⁸⁹ Gibbons, pp62-63.

⁴⁹⁰ Kate Hill, pp39-40.



Figure 17: 'Carson City' between *Waimiha* and *Paraketu* (Walker and Cooke, *Waimiha*, p25)

One major impact on Rohe Potae Maori compounded by the influx of these workers into the district was 'sly-grogging' or the illegal smuggling of alcohol. Alcohol was prohibited in the King Country in accordance with a request made by Maori during the negotiations between 1882-1885 that led to the opening of the district. In 1884, the first proclamation under section 25 of the Licensing Act of 1881 made the northern part of inquiry district 'dry' in what was known as the Kawhia Licensing Area (Ngati Maniapoto). A second proclamation was made in 1887, covering an area known as the Whanganui Licensing Area.⁴⁹¹ Due to the prominence of prohibition in the district as a political issue into twentieth century, there is abundant evidence relating to 'sly-grogging' in the Rohe Potae.⁴⁹² However, much of it remains anecdotal and was produced by groups with a vested interest in the debate surrounding prohibition. In the course of writing this report it became evident that a detailed analysis of the body of evidence between 1885 and 1954[?] was a task too large for this report. The many issues surrounding prohibition in the Rohe Potae will be examined in nineteenth and the twentieth century political engagement reports. The following paragraphs concentrate on the period of construction between 1885 and 1908 and the relationship between 'slog-grogging', construction workers and Rohe Potae Maori.

⁴⁹¹ Kate Hill, p4.

⁴⁹² An excellent compilation and analysis of this evidence can be found in Peter J. L. Skerman, 'The Dry Era: A History of Prohibition in the King Country 1884-1954', MA Thesis, University of Auckland, 1972. Also see Report of the Royal Commission on Licensing, *AJHR* 1946 H-38; *Liquor and the King Country, An Examination* by Dr. A. H. McLintock Parliamentary Historian, of the Facts Concerning a Sacred or Solemn Pact, Covenant, Pledge, or Treaty said to have been made between the Treaty said to have been made between the Government of New Zealand and the Maori Chiefs of the King Country, *AJHR* 1953, H-25.



Figure 18: *Boundaries of the King Country Licensing Area* (Source: Peter J. L. Skerman, *The Dry Era: A History of Prohibition in the King Country 1884-1954*, MA Thesis, University of Auckland, 1972)

Evidence is clear that alcohol was brought into the district to supply the construction gangs on the NIMT. Their drinking habits are well documented, contributing to the 'lawless' and negative

reputation of the camps.⁴⁹³ Historian Peter Skerman suggests that by the mid-1890s an illegal trade of alcohol was flourishing in the district.⁴⁹⁴ Trains running on the NIMT were a source of transportation for the trade. For example, Isaac Coates stated that when work was being carried on in the vicinity of Te Kuiti, the settlement was ‘a great place for sly grog selling’, with large quantities of beer and spirits brought in on the ballast trains.⁴⁹⁵ In 1887, Wilkinson noted that ‘the large influx of European navvies and others’ created a demand for liquor in the district and Europeans and Maori were both ‘sly-grogging’ and consuming alcohol.⁴⁹⁶ In 1900, Apirana Ngata, based on a three-week tour of the district, gave evidence before an inquiry into a public petition to abolish prohibition in the King Country.⁴⁹⁷ When asked for the localities of the trade, Ngata stated: ‘Between Mokau [Station]⁴⁹⁸ and Otorohanga. Just along the railway-line and a little off it. That is where most of it exists.’⁴⁹⁹ Ngata’s comment suggests that the railway was important to the trade.

Although many European and Maori observations of Maori consumption of alcohol in the district were written by prohibitionists and clearly laden with a strong paternalism and Christian moral standards, the impact of alcoholism on Rohe Potae Maori was evident. Skerman details evidence of Maori involvement in the sly-grog trade and consumption of alcohol at Maori settlements and large meetings, especially Native Land Court hearings.⁵⁰⁰ In 1898, much evidence was given before the Royal Commission on the Police Force of New Zealand regarding sly-grogging within the King-Country. The following quote from a letter presented to the commission highlights Te Kuiti as having a particular problem as well as the traffic’s impact on the Maori community:

We believe we are well within the mark when we say that there are often a score of people drunk and disorderly in Te Kuiti, and fights and other disturbances are frequent occurrence. This state of affairs leads to gross immorality, as the drink is supplied indiscriminately to men and women, and drunken Maori women and girls are a common sight there; and the results generally, so far as regards the Maori population, are most deplorable.⁵⁰¹

Ngata also commented on the Rohe Potae Maori consumption of alcohol, recounting a number of particular examples, then stating generally: ‘As to the amount of drinking that goes on, I

⁴⁹³ Gibbons, pp63-64; Skerman, pp62-67; Kate Hill, pp43-46.

⁴⁹⁴ Skerman, p69.

⁴⁹⁵ Coates, p125.

⁴⁹⁶ *AJHR* 1887, G1, p6.

⁴⁹⁷ *AJHR* 1900, I-1A, p2.

⁴⁹⁸ Located between Waiteti and Mangapehi.

⁴⁹⁹ *AJHR* 1900, I-1A, p2.

⁵⁰⁰ Skerman, pp81-83.

⁵⁰¹ *AJHR* 1898, H2, p1137.

believe that amongst the Maori tribes of North Island the Ngatimaniapoto are the most drunken of them all.⁵⁰² Even if Ngata's statement was an exaggeration (which seems likely), alcoholism appeared to be a problem in the district.

From the limited analysis of the evidence presented here it seems clear that the construction of the NIMT facilitated the illegal traffic of alcohol in the district. It both brought an influx of European workers who desired alcohol into a 'dry area' and created a major form of transportation to traffic it through a still largely isolated district. In this way, Rohe Potae Maori, having limited control of these factors, may have lost some ability to manage the consumption of alcohol in their communities. Although Rohe Potae Maori leadership strategies to deal with the problem of sly-grogging and alcohol consumption in their communities differed, between 1885 and 1908, it was clear that attempts were made to manage the problem. One group, led by Wahanui, advocated the introduction of a licensed hotel in order to more effectively manage and control the flow of alcohol in the community, to both European and Maori. In other words, to control the quantity and flow of alcohol into the district through legitimate means. While other Maori, supported by many European prohibitionist groups that were growing in power during the 1890s and 1900s, advocated more stringent enforcement and legislation to eliminate the illegal trade.⁵⁰³ As stated, a full analysis of these issues will be provided in the political engagement reports.

Apart from the noted disputes over paying for stone and timber resources and fencing the NIMT, little evidence has been found of Rohe Potae Maori resistance to the construction of the NIMT or the influx of navvies. In his history of the King Country, Craig Dick draws on reminiscences of two children of a construction worker, John and Jake Cain, who recalled that local Maori did not welcome the 'invasion' of their lands, but seldom opposed the work unless they had been drinking, in which case there might be a 'vicious fight'.⁵⁰⁴ Evidence was presented to the Waitangi Tribunal for the Whanganui district inquiry regarding the resistance of a Ngati Rangatahi rangatira, Tukuteihu Te Ngarupiki, who in 1907 burnt himself alive in his whare in protest to the construction of the railway through Wharauoa Marae in Taumarunui.⁵⁰⁵ A memorial to commemorate his death is located near the marae. The statement also suggests that

⁵⁰² *AJHR* 1900, I-1A, p2.

⁵⁰³ Skerman, pp83-88.

⁵⁰⁴ Dick Craig, *King Country: New Zealand's last frontier*, Te Awamutu Couriers NZ Ltd, 1990, p122.

⁵⁰⁵ Statement of Evidence of Rodger Puhia Hapeta (Herbert) on Behalf of Ngati Rangatahi (WAI 1064), 6 October 2008 (WAI 903 ROI, doc #J7), pp4-5.

the Ngati Rangatahi actively resisted construction, lifting rail sleepers and tracks at night as a form of protest.⁵⁰⁶

Evidence from the railway focus groups suggests some marae were moved closer to the NIMT once construction was complete. As Tiwha Bell explained regarding Te Tokanganui-a-noho Marae.

In the end this area is called Pukunui and this is where the majority of the people stayed in the old days from Waiteti backwards. The river is right here, and if you talk about the railways and the moving of our marae down here. In the old days when the railways came through our pa down below here, Te Tokanganui-a-noho used to be on the other side where the meatworks is. Across, if you have a look at the flap there, that was all ripo, there was swamp, there was eel weirs there, all of those things, they were down there.

And they used to go over or take people that were on the koneke or, you know, or canoes past them, but there was places you could go, eh, go through on a koneke which was like a sled but higher, and there were tracks there for that. But when the railways came and the old fellas in their wisdom they turned around and moved the pa down to here in close proximity to the railways because of the through traffic. Instead they wanted to go over the pa, they'd have to go over the swamp and plus then over to it. So they moved the pa and that's how it got down here.⁵⁰⁷

At the Taumarunui hui, two marae were known to have been moved, one closer to the NIMT and the other away.⁵⁰⁸ Although no written evidence has been found regarding movement of Rohe Potae Maori within the inquiry district after the construction of the NIMT, it is likely the influx of workers and eventual development of towns would have encouraged movement in order to engage with the new economic opportunities offered by the NIMT and settlement generally.

Consultation

As noted in Chapter two, during the negotiations that preceded the construction of the NIMT, Rohe Potae leadership made clear their desire for continued consultation regarding the railway. The evidence presented in this chapter suggests that, once construction had begun, the Government made new policies and departed from the agreements that had been reached without seeking the consent of Rohe Potae Maori. For example, no consultation appears to have been undertaken in regard to the decision not to fence the line south of Mokau (Puketutu) station or the decision to end the policy of reserving construction contracts for Rohe Potae Maori. Also,

⁵⁰⁶ Statement of Evidence of Rodger Puhia Hapeta (Herbert) on Behalf of Ngati Rangatahi (WAI 1064), p7.

⁵⁰⁷ Railway Focus Group, Te Kuiti Hui, am, transcript pp16-17.

after the decline of the Kawhia Committee, there is little evidence of further consultation concerning the use of timber and stone resources in the district. Given that agreements relating to these matters had been reached prior to construction, it seems that the Government had an obligation to consult with Rohe Potae Maori before introducing new policy.

On April 14 1888, the *Te Aroha News* published a report of a hui held on April 12 1888 at Otorohanga, which demonstrated Rohe Potae leadership's desire to further discuss issues concerning the railway. According to the article, Native Minister Mitchelson and other officials met 'Rewi Maniapoto, Wahanui, Taonui, Wetere of Mokau and Ormsby' to discuss a range of issues.⁵⁰⁹ Significantly, one issue raised by the Rohe Potae leadership was the desire to appoint a Maori stationmaster and that Maori names of railway stations located along the railway be corrected.⁵¹⁰ The article said of Mitchelson's reply:

He believed in retaining the native name for all railway stations and the natives be consulted in the matter. Still, as the guards of trains would be Europeans it would be desirable that they should be as easily pronounced as possible. He did not see that a stationmaster could be appointed here by the natives unless they would undertake the drilling and instruction of the person, as it was a very responsible position. If they wished for a native stationmaster, he would have to be sent to the railway authorities to be trained.⁵¹¹

No evidence has been found regarding the outcome of the requests made at this hui. Related to the issue of naming stations, it appears from the evidence examined for this report that the NIMT within the inquiry district was never officially named 'Turongo' as requested by the Rohe Potae leadership.

Conclusion

This chapter has looked at issues surrounding the construction of the NIMT, which in the Te Rohe Potae inquiry district was carried out over almost 20 years. In particular, the chapter has examined the extent to which the understandings and agreements reached between the settler Government and Rohe Potae Maori prior to construction were upheld. Several issues have been discussed in this light: land policy, contract work, payments for timber, impacts on the physical environment and wahi tapu, and fencing of the line. The chapter has also looked at the extent to which Maori interests were protected in respect of certain matters that had not been discussed

⁵⁰⁸ Railway Focus Group, Taumarunui Hui, am, transcript p13.

⁵⁰⁹ *Te Aroha News*, 14 April 1888, p3

⁵¹⁰ *Te Aroha News*, 14 April 1888, p3

⁵¹¹ *Te Aroha News*, 14 April 1888, p3

during the negotiations that preceded construction, specifically the use of stone resources and the social impacts associated with an influx of European workers.

As Chapters one and two have shown, many in the general settler population and many Government politicians and officials had considered a North Island main trunk as a means of opening land for European settlement through the largely 'unsettled' interior of the North Island. Government officials and politicians often discussed the construction of the NIMT and purchasing of Maori land as related issues in statements prior to and during construction, demonstrating the clear relationship between the NIMT and Government purchasing and settlement policy. During the years of construction the Government purchased Maori land in the Te Rohe Potae inquiry district and the much larger railway alienation restriction area, implementing this long held intention. This report has provided an overview of a significant portion of purchases within the inquiry district funded from the NIMT Loan Act and amendments, totalling at least 184,853 acres. The majority of these purchases occurred in the north and south of the district between 1892 and 1894. Lands purchased using these funds were to be on-sold to settlers at a profit to aid the construction of the NIMT, branch lines and roads to further the settlement of the Rohe Potae. Boulton and Husbands' nineteenth century land report will address issues of fairness of the price paid for these lands and any other patterns of purchase associated with these acquisitions, as well as the full implications of Government monopoly on purchase for Rohe Potae Maori. These reports will also provide a full analysis of the wider purchase programme conducted simultaneously to the NIMT Loan acquisitions.

The Government's move towards purchasing Maori land during the building of the NIMT stood in contrast to the assurances made during the negotiations that preceded construction. As the 1883 petition demonstrated, Rohe Potae leadership had hoped to remain in control of the process of settlement in their rohe primarily through reform of Maori land legislation. While still convinced of the role of the Native Land Court and committed to the European settlement of the Rohe Potae, Native Minister Ballance had hoped that his proposed board system (implemented in the Native Land Administration Act 1886) would facilitate the settlement of the district in a way that would satisfy the interests of both European and Maori. In this context, in order to gain approval for the NIMT, as Chapter two has shown, Ballance assured Rohe Potae leadership that his legislation would enable them to retain significant control of their lands and that these lands would be safe from unwanted sale. He went as far as to assure them that he was 'anxious that Government should not purchase land' and that a system of leasing would be

sufficient for the settlement of the district.⁵¹² In addition, Ballance and other officials consistently emphasised during the negotiations that the NIMT would increase the value of Rohe Potae Maori land and thus, through the retention of their land, Rohe Potae Maori would be able to derive long-term economic benefit from the railway.

On his return to Parliament, Ballance and his party came under considerable criticism for these assurances and the tour generally. Opposition members attacked the Government's apparent lack of intent to acquire land for settlement adjacent to the proposed course of the NIMT and believed Ballance's assurances suggested that this was not an urgent and prime objective of construction. The criticism demonstrated that many contemporary politicians interpreted Ballance's comments on his recent tour as statements of Government intent, as Rohe Potae Maori had, in some cases even labelling them 'solemn promises.' The response to the Ballance's tour also illustrated the Parliamentary (reflecting electoral) pressure exerted on the Government for the speedy opening and settlement of the Rohe Potae, particularly via purchase. In response, on August 28 1885, Ballance told Parliament that his Government did intend to conduct large-scale purchasing in the district, which he believed would be made easy when a relationship of trust had been formed between Maori and the Government.

Ballance's comments in Parliament diverged from what he assured Rohe Potae Maori in two important ways. Firstly, purchase was not emphasised as a prime method of possible alienation. During the negotiations, Ballance emphasised that leasing would be sufficient for the settlement of the district. Secondly, the scale and importance of the intended settlement had not been fully disclosed. Wahanui's comments before the Native Affairs Committee underline that European settlement in general had not been emphasised by Ballance as the prime motivation for the NIMT, let alone large-scale Government land purchase in the railway alienation restriction area. In addition, in the months before the introduction of the Native Land Administration Act August 1886, Ballance took steps to better resource Government land purchase agents in order to speed-up and increase the scale of direct purchase within the railway alienation restriction area. In effect, he moved further away from his stated policy of the proposed boards/commissioners facilitating settlement in the district. From the evidence examined here, it is unclear whether Ballance had always intended that land be purchased on a large-scale or whether he adopted this position later, after the negotiations, in the face of criticism in Parliament. This issue will be fully explored in the comprehensive examination of the agreements that will be provided in Marr's

⁵¹² *AJHR* 1885, G1, p18.

political engagement 1865-1913 report. However, and critically for this report, it is clear that Ballance made statements regarding land – upon which Rohe Potae Maori had based their decision to consent to the NIMT – that were soon overlooked.

In the negotiations prior to construction, Ballance had also made specific assurances regarding how the building of the NIMT would provide an immediate economic benefit to Rohe Potae Maori. These included the provision of construction contracts and the payment for timber resources used in construction. In regard to the promise of work, it appears that this commitment was kept only during the first phase of construction that ended in 1889. Rohe Potae Maori were reserved ‘small contract’ work on the Puniu and Te Kuiti sections of the NIMT in the belief that it would ‘serve to make the formation of the line popular with them’.

⁵¹³ By 1888, the Puniu and Te Kuiti sections were complete and the policy of reserving work for Rohe Potae iwi and hapu ceased. It appears that no consultation was undertaken in respect of this departure from the agreements. In mid-1887 the initiators of the policy, the Stout-Vogel Government, collapsed. From this time, the Public Works Statements and Chief-Engineer’s reports contain no further evidence of Rohe Potae labour on the NIMT. Even in its short life, the policy received criticism in Parliament.

Rohe Potae Maori also sought to derive an economic benefit from the timber and stone resources required for the railway. While they had been assured that payment would be made for timber used during construction, no such assurance had been made in respect of stone resources. However, during the first stage of construction, the Kawhia Committee successfully charged contractors royalties for both timber and stone. In doing so, the Committee overcame early settler criticism of its charges and was assertive in demanding payment from contractors, negotiating rates that appear to have been seen as fair. However, under the pressure of Court and land purchase activity, the Committee’s influence seems to have declined around 1890, and during the second stage of construction it seems that Rohe Potae Maori were less able to derive a benefit from the resources they held. This second stage of construction was characterised by a diminishing level of consultation in regard to the use of timber and stone resources in the district. Between 1898 and 1904, Rohe Potae Maori did receive some income – directly and through timber cutting licences held by European sawmillers – from contracts to supply sleepers. However, in respect of stone resources, the Public Works Department denied any knowledge of

earlier royalty payments to Maori and moved to take land under public works legislation for quarry purposes. The Railways Department also took land for the ongoing supply of ballast. These takings will be examined further in Chapter four of this report.

While Rohe Potae Maori sought to earn revenue from timber and stone resources, it is also evident that some individuals wished to protect certain resources from physical damage caused by the railway, particularly areas of forest and waterways that were sources of mahinga kai. At Kihikihi, Ballance assured those present that waterways would not be interfered with, though was less reassuring about the damage to forest areas. The Native Minister's assurance concerning waterways seems to have been hastily made, because a major embankment was built through the Te Kawa swamp early in the construction process. However, in spite of this, it appears that initially some effort was made to address Maori concerns about the impact of the railway on the physical environment. It is unclear whether similar respect for such concerns was shown later on, though it seems unlikely given that awareness of the interests of Rohe Potae Maori and the understandings that had been reached prior to construction seem to have lessened as construction progressed.

As well as the railway's impact on the physical environment, Rohe Potae Maori also appear to have held concerns about its potential impact on wahi tapu. Though there is no reference to this in the records of meetings held with the Native Minister prior to construction, certain chiefs were advised that they would be contacted immediately if human remains or ornaments were disturbed. The extent to which this promise was fulfilled is unclear. As with other assurances, it seems likely that the Public Works Departments' awareness of this undertaking would have faded during the period that the line was built. While the number of wahi tapu damaged or destroyed during construction has not been established, it appears that the railway was formed through some sites of significance.

The fencing of the NIMT is another aspect of the construction of the railway where initial Maori expectations were not fulfilled. When Rohe Potae Maori agreed to the railway, they requested that the line be fenced through the whole district. However, as with the provision of construction contracts and payment for stone resources, fences were erected along the NIMT only during the first stage of construction, which carried the line to Mokau/Puketutu Station. No fences were built south of this point when construction work recommenced in 1896. This

⁵¹³ Wilkinson to Under Secretary, Native Department, 2 December 1884, NO 84/3557, MA 13 75 43(a), pp150-151,

Government decision appears to have been made without consultation with Rohe Potae leadership, even though an agreement had been reached prior to construction on this matter. Despite significant stock losses and ongoing complaint by Maori and Europeans, the Railways Department and Public Works Department were slow to take steps to rectify the situation. Unable to locate any evidence that Rohe Potae Maori had agreed to the NIMT on the condition that the line was to be fenced, neither department was willing to accept responsibility for the fencing, both being reluctant to face the costs involved. Evidence suggests that the Railways Department went as far as threatening legal action against those whose stock 'trespassed' on the railway line. Following several years of protest, it appears that the NIMT was not fully fenced until 1909.

Little written evidence has been located on the social impact of the European construction workers on the Rohe Potae Maori. Despite the lack of evidence it is clear that this initial group of European's who entered the district had a significant impact. However, much further research is required. The political engagement reports as well as the socio-economic report should shed more light on some of the issues raised here. The construction of the NIMT clearly facilitated the illegal traffic of alcohol in the district. Its construction brought an influx of European workers who desired alcohol in a 'dry area' and created a major form of transportation to traffic it through the isolated district. Rohe Potae Maori had limited control of the workers and NIMT and as a result may have lost some ability to manage the consumption of alcohol in their communities. Rohe Potae Maori leadership strategies to deal with the problem of sly-grogging and alcohol consumption in their communities differed, but it was clear that attempts were made to deal with the problem between 1885 and 1903. Apart from the noted disputes over paying for stone and timber resources and fencing the NIMT and the protests noted around Taumarunui, little evidence has been found of Rohe Potae Maori resistance to construction. Evidence from the railway focus groups suggests some marae were moved closer to the NIMT once construction was complete in order to engage with the opportunities offered by the railway.

This chapter has shown that during the construction of the NIMT, the Government did not uphold most of the understandings and agreements that had been reached with Rohe Potae Maori during the negotiations that preceded the building of the line. It has also shown that concern for wider Maori interests in the railway lessened as construction progressed. The Government's failure to act in accordance with the assurances made to Rohe Potae Maori casts

some doubt on whether the negotiations were undertaken with a genuine commitment to fulfil the promises made. In respect of land policy, it is unclear whether Ballance deliberately misinformed Rohe Potae Maori during negotiations or whether his position subsequently changed as a result of political pressure. In some instances, Ballance seems to have made statements without thoroughly considering the matter in question. This seems to have been the case with his hasty assurance that the railway would cause no interference to waterways.

A lack of commitment to upholding the understandings and agreements reached with Rohe Potae Maori also seems evident in the fact that, following the negotiations, the understandings and agreements do not appear to have been clearly and deliberately communicated to the Public Works Department, which was responsible for building the line. Such communication would have helped to ensure that the Government's obligations to Rohe Potae Maori were fulfilled during the construction process. Instead, it appears that the Public Works Department had a relatively limited knowledge of the understandings and agreements, an awareness that diminished over the long period during which the line was built. This clearly appears to have been an important reason why, during the second stage of construction, the line was not immediately fenced.

Changes in Government also seem to be important in explaining why assurances made to Rohe Potae during construction were not upheld. In particular, the collapse of the Stout-Vogel Government, which had negotiated with Rohe Potae leadership to construct the NIMT, resulted in the change of certain policies, most notably the provision of construction contracts. It appears that the new administration did not feel bound by the negotiations undertaken by Ballance and may have been unaware of some aspects of the agreements and understandings reached with Rohe Potae Maori.

The Government's failure to uphold the assurances made to Rohe Potae Maori and protect their wider interests in the railway throughout the whole construction process also seems to reflect that, as settlement objectives were gradually fulfilled, consideration of the interests of Rohe Potae Maori generally lessened. When construction began and the Rohe Potae was first 'opened', Maori retained a measure of power in the district, something that the Public Works Department and contractors were no doubt mindful of. The Kawhia Committee provided a unified Maori voice at this time, representing Rohe Potae Maori in negotiations, including, for example, setting royalties for the use of the stone resources required for the railway. During the second stage of

construction, however, the situation had changed markedly and, with land purchase advancing and the Kawhia Committee no longer in existence, it was clearly easier for the Public Works Department, Railways Department, and the Government to overlook and neglect the interests of Rohe Potae Maori.

Chapter Four: Land Takings for Railway Purposes

Introduction

This chapter discusses a number of issues relating to the acquisition of Maori land for railways in the Te Rohe Potae inquiry district, covering a broad period of time. Its thematic focus departs from the generally chronological structure of the report. The first section of the chapter examines the agreements that were reached between Rohe Potae Maori and the Government in respect of the land required for the NIMT. Understandings relating to this matter were finalised after construction of the line began in 1885. The chapter then looks at the process of taking land for the NIMT and establishes that almost 1100 acres of Maori land was initially taken for the railway up until mid-1903, when construction of the line through the inquiry district was completed. The next section discusses the extent to which understandings concerning compensation were upheld in regard to the initial land takings. The chapter then looks at additional railway takings, which from mid-1903 to 1990 involved some 192 acres of Maori land. This land was acquired for a range of purposes, including a branch line between Okahukura and Stratford. A discussion is provided of the process by which the additional takings were carried out, including issues concerning compensation. The chapter then briefly examines the leasing of railway land in the inquiry district, a practice that perhaps indicates that the area of land taken for the railway exceeded operational requirements at the time of taking. The final section looks at issues concerning the disposal of small areas of railway land in the inquiry district up until 1982, when the New Zealand Railways Corporation was established.

It is important to note here that the land acquisitions examined in this chapter are takings carried out under public works legislation, a type of land alienation that differs from land purchase. During research hui, claimants have suggested that land was taken along the routes of proposed railway lines that were never built. However, the authors have located no evidence of any takings under public works legislation (either compulsorily or with the agreement of owners) for proposed railways that were never constructed. However, land may have been acquired along these routes through ordinary land purchase, possibly involving funds made available by the North Island Main Trunk Loan Acts, discussed earlier in Chapter three.

Understandings regarding the land required for the NIMT

As detailed in Chapter two, the settler Government sought the consent of Rohe Potae Maori before constructing the NIMT, even though central Government had possessed statutory

powers to acquire land compulsorily for public works purposes for about 20 years. (The Public Works Lands Act 1864 provided the first specific legislative authority for central Government to take Maori land, whether Crown granted or customary.⁵¹⁴) The proposed railway was discussed alongside a range of issues that focussed on the Government's Maori land policy and how this should apply to the lands of Rohe Potae Maori. Faced with a district that was closed to unwanted European influence, the Government was not in a position to compulsorily acquire land for the railway without consultation.

The issue of the land required for the NIMT had, as detailed in Chapter two, been discussed on a number of occasions before Rohe Potae Maori agreed to the railway. On 1 November 1884, Ballance told the House (during the second reading of the Native Lands Settlement Bill) that Maori leaders, including Wahanui, had indicated that they would gift the land required for the line of the NIMT.⁵¹⁵ The Native Minister believed that there would 'be no difficulty in getting a reasonable amount of land for the site of the railway' and stated that, of the area subject to the Native Land Alienation Restriction Act, a two-chain strip comprising some 3,360 acres would be needed for the central route of the NIMT.

Ballance encouraged Whanganui Maori to gift land for the railway during a meeting held at Ranana on 7 January 1885. After asserting that Maori land along the railway would increase significantly in value, Ballance stated that the Government would gratefully accept a gift of land for the railway.⁵¹⁶ However, if the owners did not wish to gift the required land, Ballance assured those present that the Government would not take any land without paying the fair value of that land. He stated that the Maori owners would be treated the same as Europeans. Ballance explained that the land would be taken under 'the Act' (referring presumably to the Public Works Act) and that, after title was ascertained, the value of the land would be determined by arbitration and the money paid to the owners. As to the area of land required, Ballance stated that the Government was only interested in the small amount of land required for the line, 'two chains, or three or four chains, or it sometimes may be a little more when it has to pass through cuttings &c.'

On 4 February 1885, Ballance made further statements about the land required for the railway at the meeting held at Kihikihi. Ballance stated that the engineer had determined that only one

⁵¹⁴ Marr, *Public Works*, pp55-57.

⁵¹⁵ *NZPD*, vol. 50, p316.

⁵¹⁶ *AJHR*, 1885, G-1, p4.

chain was required for the line, except where it was to run along the side of hills where cuttings would be made, requiring perhaps two chains.⁵¹⁷ Ballance also told the meeting that either five acres or, where there was likely to be a large settlement, ten acres would be required for stations. The Native Minister does not appear to have suggested at Kihikihi that the land required for the railway should be gifted. Instead, he assured those present that compensation would be paid for land taken for the railway, emphasising that the Maori owners would be dealt with in the same manner as Europeans. However, in order to receive compensation, Ballance emphasised that title to the land would have to be determined:

We have considered that principle that, if we take land for public purposes such as railway, we have the right to pay for it. When, therefore, the owners are found and the title is determined, the matter will go to arbitration, and the owners will be paid for the amount of land taken for the railway. When the payment is made will entirely depend upon yourselves – that is to say, when you are prepared to go and prove your title to the land.⁵¹⁸

As detailed in Chapter two, Rohe Potae Maori agreed to the construction of the NIMT at a meeting held at Kihikihi on 27 February 1885. Speakers at this meeting appear to have discussed at some length the issue of whether the land required for the line should be paid for.⁵¹⁹ The *Waikato Times* reported that speakers argued for and against receiving payment for the land, with some proposing that the land be leased. John Ormsby suggested that the compensation money should not be paid to individuals but instead should be put towards paying the £1600 debt owed to the Government for the boundary survey. Noting that the Government would not be able to pay compensation to the owners until ownership of the land had been determined by the Court, the *Times* observed that ‘many of the natives are by no means anxious to have their lands adjudicated up’.⁵²⁰

Certain issues regarding the land required for the NIMT appear to have remained unresolved when Rohe Potae Maori agreed to the railway at the Kihikihi meeting. On 27 February 1885, John Ormsby advised Ballance by telegram that consent to the railway had been given and that the line was to be one chain wide, paid for, and fenced on both sides.⁵²¹ (In a telegram sent the following day, Wilkinson also informed Ballance that the railway had been approved with these

⁵¹⁷ *AJHR*, 1885, G-1, p22.

⁵¹⁸ *AJHR*, 1885, G-1, pp22-23.

⁵¹⁹ *Waikato Times*, 28 February 1885, p3.

⁵²⁰ *Ibid.*

⁵²¹ Ormsby to Ballance, 27 February 1885, telegram, NO 85/692, MA 13 75 43(a), ANZ Wellington, pp32-33. Supporting Papers, pp41-42.

conditions.⁵²²) Writing to Ballance on 4 March 1885, Wahanui similarly stated that the iwi represented at the Kihikihi meeting had agreed to the construction of the railway and that one chain could be taken. However, Wahanui advised that ‘consideration of the question of the land required for the railway, the land on either side of the railway and that required for stations’ had been deferred until the Native Minister’s next visit.⁵²³

Though Rohe Potae leaders clearly communicated that only one chain should be taken for the track, this condition was not recognised by the Government when, some five weeks after Rohe Potae Maori agreed to the construction of the line, it began the process of taking and transferring the required land into Crown ownership. This process, which is discussed in detail below, began when the Governor signed an Order in Council on 2 April 1885 under the Public Works Act 1882.⁵²⁴ The Order in Council specified that an average width of three chains, not one chain, would be required for the railway. It is unclear whether Rohe Potae Maori were aware of the 2 April 1885 Order in Council and no evidence of a response to it has been located.

After agreeing to the construction of the NIMT, Rohe Potae leaders changed their position regarding the payment of compensation for the land required for the railway. As noted above, Ormsby had stated in his telegram of 27 February 1885 that the land required for the line was to be paid for. However, on 15 August 1885, as detailed in Chapter three, Wahanui told the Native Affairs Committee that Rohe Potae Maori had decided to give land for the track and stations without compensation. It is unclear when the decision to gift land for the railway was made, though one source indicates that it may have been communicated to Government representatives at the ceremony marking the turning of the first sod, held on the banks of the Puniu River on 15 April 1885.

In 1905, Ngati Tuwharetoa leader Te Heuheu Tukino spoke of the gifting of land for the NIMT when appearing before the Native Affairs Committee in response to a petition by Te Wherowhero Tawhiao and others regarding the Maori Land Councils Bill.⁵²⁵ Te Heuheu stated that at the sod-turning ceremony he had witnessed Wahanui and Rewi Maniapoto tell Sir Robert Stout that no payment would be required for the land:

⁵²² Wilkinson to Ballance, 28 February 1885, telegram, NO 85/692, MA 13 75 43(a), ANZ Wellington, p31. Supporting Papers, p40.

⁵²³ Wahanui to Ballance, 4 March 1885, translation, MA-13-043-017 [missing cover sheet], MA 13 75 43(a), ANZ Wellington, pp11-12. Supporting Papers, pp37-38.

⁵²⁴ *New Zealand Gazette*, 1885, no. 21, pp407-408.

I saw myself, and personally heard what was said by my own *matuas* at Haereawatea when Sir Robert Stout went up there, and I heard Manga [Rewi Maniapoto] and Wahanui saying there to Sir Robert Stout, “The backbone of our ancestor Turongo – that is, the Main Trunk Railway route – we will give to you for running the train-wheels on, right through the Ngatimaniapoto district. We will not ask for any payment; we will not ask for any tax or consideration at all; there it is; we give it to you for nothing; take it.”⁵²⁶

Other accounts of the sod turning contain no details of the gifting and it appears that the matter was not mentioned in the speeches made during the ceremony. Te Heuheu’s recollection indicates that Wahanui and Rewi spoke of the gifting only in respect of the Ngati Maniapoto territory. However, it is apparent from later evidence, detailed below, that the gifting came to be supported by all of the iwi of the Rohe Potae interior alliance.

Further details concerning the gifting of land for the NIMT are provided in correspondence and records of meetings held in 1886 and 1887. Several months after Wahanui’s appearance before the Native Affairs Committee, John Ormsby provided details of the gifting in a letter written to Wilkinson on 4 March 1886.⁵²⁷ In this letter, Ormsby confirmed a statement that Wahanui had allegedly made to the Under-Secretary of the Department of Native Affairs, advising that a limited area of land would be gifted for the railway – one chain for the track, one acre for each small station, and three acres for each large station. Ormsby stated that all lands taken outside these limits were to be paid for, as were any damage to lands. At the conclusion of his letter, Ormsby, who was Chairman of the Kawhia Native Committee, noted that the Committee wanted someone appointed to fix the value of the additional lands that were outside the gifted areas.

In mid-April 1886, during a meeting with Ballance at Kopua, Ormsby again acknowledged that Maori had agreed to gift a limited area of land.⁵²⁸ (Some 60 Maori were reported to have attended this meeting, including Wahanui.) Ormsby raised the issue of payment for areas that had been taken in excess of the land that had been gifted, asking when and how money would be paid. He stated that the Government had done nothing in return for the land. A request was made for the Government to appoint an officer to work with a Maori representative to assess

⁵²⁵ *AJHR*, 1905, I-3B, p 17. Tukino spoke in support of the petition, claiming that he was representing the views of Ngati Maniapoto and Ngati Tuwharetoa.

⁵²⁶ *Ibid.* Te Heuheu viewed the gifting as an example of the willingness of Maori to cooperate with and help the Government, contrasting it with the Government’s actions toward Maori.

⁵²⁷ Ormsby to Wilkinson, translation, 4 March 1886, R 3 W2278 box 216 part 1 1910/3916/1, part 1, ANZ Wellington. Supporting Papers, p205.

⁵²⁸ *Waikato Times*, 15 April 1886.

the value of the land taken in excess what had been gifted.⁵²⁹ Ballance, in response, reassured the meeting that there was no reason why there should be a delay in paying the owners for the land taken outside the gifted areas, though he thought it would be difficult to find the owners to pay them.⁵³⁰ Ballance stated that he would be glad if the Native Committee would assist the Government in this.

Further evidence concerning the gifting of an area of land for the NIMT is provided in a telegram that Wahanui sent to Ballance on 28 September 1886.⁵³¹ Wahanui appears to have sent the telegram specifically to confirm the arrangements that had been made in respect of the land required for the railway. He advised Ballance that he had ‘received a word’ on these arrangements from the five Rohe Potae iwi – Ngati Maniapoto, Ngati Raukawa, Ngati Tuwharetoa, Whanganui, and Ngati Hikairo. Wahanui stated that at ‘the Kihikihi meeting’ (possibly a little-documented meeting held November 1885) Ballance had been told that the land needed for the railway was to be gifted, with the area to be taken for the track fixed at one chain, commencing from Haereawatea and extending to Te Rerenga-o-Toa Kohuru. (Though the wording is somewhat confusing, Wahanui also seems to have suggested that Ballance had been advised at Kihikihi that bush could be cleared from limited areas outside the one chain strip for the track.) Wahanui claimed that following the Kihikihi meeting a letter had later been sent to Ballance, advising him that three acres would be gifted for principal stations, two acres for smaller stations, and one acre for the smallest stations.

Wahanui’s telegram of 28 September 1886 made no mention of lands that might be taken in excess of the one-chain strip for the track and specified areas for stations. Responding to Wahanui on 1 October 1886, Ballance accepted the ‘generous proposal’ to gift land for the railway, but – referring to earlier discussions – stated that he had made it clear that if more land was required for the railway the excess would be paid for.⁵³² In January 1887, at a meeting held at Kihikihi, Ballance stated that it had been agreed that compensation would be paid only for land required outside one chain for the track and three acres for stations.⁵³³

⁵²⁹ *AJHR*, 1886, G-1, p7.

⁵³⁰ *Waikato Times*, 15 April 1886.

⁵³¹ Wahanui to Ballance, translation of telegram, 28 September 1886, R 3 W2278 216 part 1 1910/3916/1, ANZ Wellington. Supporting Papers, p206.

⁵³² Ballance to Wahanui, 1 October 1886, R 3 W2278 box 216 part 1 1910/3916/1, ANZ Wellington. Supporting Papers, p207.

⁵³³ *New Zealand Herald*, 27 January 1887.

There appears to have been two motivations underpinning the decision of Rohe Potae leaders to gift land for the railway. First, it is likely to have been linked to Rohe Potae leaders' concerns over Government land policies, specifically their opposition to the Native Land Court. It is possible that land was gifted for the railway as part of wider efforts to prevent the Court from operating in the district. During negotiations, Rohe Potae Maori were advised that, if the Government was to pay for the land required for the railway, compensation would be assessed only after ownership of the lands had been determined.⁵³⁴ In the absence of an alternative means of investigating title, Rohe Potae leaders may have feared that a desire to recover compensation monies would encourage some owners to apply to the Court for title determination. While this remained a possibility in respect of the lands taken outside the gifted areas, it might have been assumed that only small areas of 'extra' land would be taken, providing owners with little incentive to recover compensation. Rohe Potae leaders may have limited the area of gifted land to encourage the Government to take only what Ballance had stated was needed for the railway.

As well as issues concerning the Native Land Court, the decision of Rohe Potae Maori to gift land for the NIMT may have been motivated by a desire to make a lasting contribution to the railway – a symbolic gesture that conveyed that they accepted and supported the statements made by Government representatives as to the benefits that the NIMT would bring. In this light, the gifting increased the Government's obligation to act in good faith and deliver on its promises, not only in respect of the railway, but also with regard to land policy matters that were being discussed at the same time. On at least one occasion, the meeting held at Ranana in January 1885, Ballance encouraged Maori to give land for the railway line, emphasising the benefits that the railway would bring.⁵³⁵ Some 20 years later, when recounting the offer of the gift made at the sod-turning ceremony on the banks of the Puniu River, Te Heuheu Tukino contrasted the generosity of the gift with subsequent Government actions. After providing details of the offer to gift land for the railway, he stated that:

We having considered you people, and been generous to your people, you are not generous to us in return. I must say this, that your pakeha *rangatiras* are *tutuas*; that is proof of it. Wahanui and Manga said to Sir Robert Stout, "Do not bring in the land

⁵³⁴ This position was communicated at meetings with Rohe Potae Maori and also in correspondence. For example, in response to a letter written by Henare Tikini and others on 9 December 1884, enquiring as to whether compensation would be paid for the lands required for the railway, Ballance approved a response that advised that the Government intended to pay the owners, but that payment could not be made until ownership had been decided. Tikini and others to Native Minister, 9 December 1884, NO84/3686, MA 13 75 43(a), ANZ Wellington, p93. Supporting Papers, p48. Lewis, minute, 23 December 1884, on NO84/3686, MA 13 75 43(a), ANZ, p91. Supporting Papers, p47. Ballance, minute, 24 December 1884, on NO84/3686, MA 13 75 43(a), ANZ Wellington, p91. Supporting Papers, p47.

⁵³⁵ Notes of Native Meetings, *AJHR*, 1885, G-1, p4.

purchase system within the Rohe Potae,” and Sir Robert Stout said, “Yes, we will undertake that your lands will be absolutely protected and not interfered with, but give your lands to be investigated by the Court”; and the Maori *rangatiras* thought the pakeha *rangatiras* were the same as they, and the Court was allowed to sit there, and as soon as the Court sat there in came the Government Land Purchase Officer. That was the way we were treated. We kept our part of the bargain, but that is the way those professed pakeha *rangatiras* kept their word.⁵³⁶

In evidence presented to the Tribunal’s Whanganui inquiry, R. Hayes has argued that following the introduction of the Native Land Court regime it was not possible for a chief to gift land.⁵³⁷ Under the legislation, land could only be transferred from Maori ownership after the owners had been determined by the Court. In light of this, Hayes comments that ‘a chief such as Wahanui could no longer gift what he did not own’.⁵³⁸ However, this legalistic view does not recognise that Rohe Potae leaders, regardless of the statutory regime, continued to possess authority to make and communicate decisions relating to the interests of their people. It is also relevant to note that, at the time the gift was made, the land was still held under customary tenure and the Native Land Court had not begun operating in the district. Wahanui’s telegram of 28 September 1886 indicates that, following consultation, the iwi of the interior alliance all agreed to the gifting. Ballance, the Government’s representative, acknowledged and accepted the proposal. The gift was given effect when, as detailed below, the Public Works Department transferred the land required for the railway into Crown ownership using the compulsory land taking provisions of public works legislation. This method of transferring gifted land also appears to have been used when the Government took possession of lands required for native schools.⁵³⁹

Knowledge of the gift was retained by at least some Rohe Potae Maori and was recalled in later years. For example, John Ormsby alluded to the gift of land for the railway in a letter written in March 1906 to Native Minister James Carroll regarding fencing of the NIMT.⁵⁴⁰ In June 1988, more than a century after the gifting, MP Koro Wetere noted that his ancestors had given land for the railway during a speech made at Te Kuiti upon the running of a special train to mark the completion of the NIMT electrification project.⁵⁴¹

⁵³⁶ *AJHR*, 1905, I-3B, p 17.

⁵³⁷ R. Hayes, ‘Brief of evidence of R. Hayes’, Crown Law Office brief of evidence for Whanganui district inquiry (Wai 903, Doc# M2), 6 April 2009, p94.

⁵³⁸ *Ibid*.

⁵³⁹ See, for example, Philip Cleaver, ‘The Taking of Maori Land for Public Works in the Whanganui Inquiry District, 1850-2000’, a report commissioned by the Waitangi Tribunal, September 2004, pp157-163.

⁵⁴⁰ Ormsby to Carroll, 12 March 1906, R 3 W2278 216 part 1 1910/3916/1, ANZ Wellington. Supporting Papers, pp238-239.

⁵⁴¹ *Rails*, August 1988, p5.

Initial takings for the NIMT, 1886-1902

The Public Works Department used the compulsory land taking provisions of public works legislation to transfer the land required for the NIMT into Crown ownership. The compulsory taking provisions offered a simple and convenient mechanism of transfer the land, providing secure title upon which the railway could be operated. This section provides details of the initial takings of Maori land for the NIMT within the Te Rohe Potae inquiry district – those carried out during the construction of the railway, which was completed in the inquiry district in mid-1903, when the line reached Taumarunui. The takings examined here concern only the portion of the NIMT that lies south of the Puniu River.⁵⁴²

The initial takings for the NIMT were carried out under the Public Works Act 1882 and then later under the Public Works Act 1894. The 1882 Act introduced separate provisions for the taking of Maori land and also included provisions that specifically concerned land required for railway purposes. In effect, two taking procedures had to be followed when Maori land was taken for railway purposes under the 1882 Act. This situation ended in 1887, when it became necessary only to follow the provisions relating to railways when taking Maori land for railway purposes.⁵⁴³

The procedure for taking Maori land under the 1882 Act was set out in sections 23 to 26. Before any Maori land could be taken for any purpose, section 24 required the Governor to issue an Order in Council that specified the work that was to be carried out. Section 25 allowed the Governor to enter upon and take the required Maori land two months after the gazetting of the Order in Council. Marr observes that these provisions, reflecting a growing intolerance to Maori concerns about public works legislation, did not include standard protections such as those relating to notification of owners and the ability of owners to formally object to a taking. (These protections, in contrast, were included in the provisions for taking general lands for general taking purposes.) Some of the harshest measures of the 1882 Act were soon modified, but the Act established a long-term pattern of separate provisions for Maori land in general public works legislation, which lasted well into the twentieth century.⁵⁴⁴

⁵⁴² The land required for the section of the NIMT that lies north of the Puniu River, built earlier, was not taken from Maori for railway purposes. This land lay within the area that had been confiscated under the New Zealand Settlement Act 1863.

⁵⁴³ Section 13(3) Public Works Acts Amendment Act 1887.

⁵⁴⁴ Marr, *Public Works*, pp107-110.

Provisions concerning the acquisition of land for railway purposes, which applied to both Maori and general land, were set out in Part VI of the 1882 Act and, later, Part VII the Public Works Act 1894. These provisions were largely the same in both Acts. They required that every railway was to be made under the authority of a special Act that described the line of the railway and the two termini. (The empowering Act for the NIMT was the Railways Authorisation Act 1884.⁵⁴⁵) Construction work could not proceed until the Governor issued a proclamation that defined the middle line of the railway or any section thereof. After the middle-line had been proclaimed, the Minister of Public Works was able to occupy land required for the construction of the railway and proceed with formation work. Following the deposit of plans, the Governor could take land for the railway by proclamation. At any time before or after the issuing of the proclamation, the Minister of Public Works was to give notice to owners and occupiers, as far as they could be ascertained, advising of the intention to take land or that the land had been taken. A failure to provide such notice would not invalidate the taking. In the case of Maori land held by multiple owners, the lack of compulsion in these notification procedures may have encouraged the taking authorities not to bother to identify and notify some or all of the owners. In order to overcome this problem, the powers of the Native Committees could have been expanded to enable the Committees to act as agents to help the Government notify Maori owners.

The separate provisions for railway takings did not include certain standard protections for land owners that featured in the provisions that applied to general takings. It is notable that notices served on owners did not have to be served before land was taken and that there was no requirement for public notification of the intention to take land. Also, importantly, no provision existed for owners to formally object to proposed takings for railway purposes. The absence of these standard protections in the separate provisions for railway takings perhaps reflected the importance with which railways were regarded in the nineteenth century, a belief that individual interests should in every case give way to the perceived common good provided by railways. It possibly also reflected the engineering realities of railway construction, whereby – compared, for example, to roads – there was less flexibility as to the course of the line, meaning that it would often be difficult to accommodate the objections of affected land owners.

As noted above, the Governor signed an Order in Council on 2 April 1885, specifying the land required for the NIMT. Though not stated, the Order in Council appears to have been an order

⁵⁴⁵ The 1884 Act listed the NIMT among others in its schedule, defining its route to be ‘from a point at or near Marton to Te Awamutu via Murimotu, Taumarunui and the Ongarue River Valley’.

made under section 24 of the 1882 Act, relating specifically to the taking of Maori land. It detailed that:

. . . a railway, having an average width of three hundred links [three chains], extending from a point on the right bank of the Puniu River, in the Provincial District of Auckland, to a point at the intersection of the railway-line from Foxton to New Plymouth . . . shall be constructed on or through all lands held or occupied by Native owners; the total length being two hundred and ten miles or thereabouts . . .⁵⁴⁶

Steps were also taken to legalise the line in accordance with the provisions of Part VI of the 1882 Act and, later, the equivalent provisions of Part VII the Public Works Act 1894. On 2 April 1885, the Governor signed three proclamations that defined some 30 miles of the middle line of the NIMT.⁵⁴⁷ Proclamations defining further portions of the middle line were issued as construction of the railway progressed. After sections of the line were completed and accurate land surveys made, areas of land required for the railway were proclaimed to be taken. File evidence concerning the taking process has not been located, and it is unclear whether notice was served on the owners.

Table 3: Initial land takings for NIMT in the Te Rohe Potae inquiry district (south of Puniu River)

Date of proclamation	New Zealand Gazette reference	Description	Area
29 April 1886	1886, p 596	Native land in Puniu, Mangaorongo, and Orahiri Survey Districts	167a 3r 38p
2 March 1888	1888, p 455	Native land in Otake and Pakaumanu Survey Districts (Waiteti section)	154a 3r 23p
23 March 1888	1888, pp 386-387	Native land in Orahiri and Otake SDs (Te Kuiti section)	122a 2r 31p
23 March 1888	1888, p 386	Native land in Orahiri SD (Otorohanga Station)	3r 4p
19 November 1888	1888, p 1281	Native land in Otake SD (Waiteti section)	2r 28p
18 September 1895	1895, p 1448	Land in Otake SD – Te Kuiti and Pukenui Blocks	24a 1r 36p
3 June 1899	1898, p 1121	Land in Mapara Survey District – Rangitoto Tuhua Block (Mokau and Poro-o-tarao sections)	206a 1r 00p
31 October 1902	1902, pp 2420-2421	Land in Mapara, Tangitu, Rangi, Tuhua, Piopotea SDs) – Rangitoto Tuhua Block (Ohinemoa and Ongruhe sections)	417a 3r 37.5p
29 November 1902	1902, p 2618	Land in Tangitu SD – Rangitoto Tuhua Block	1r 37p
Total			1096a 0r 34.5p

Table 3 details the initial takings for the track and stations of the NIMT in the Te Rohe Potae inquiry district. These takings involved about 1100 acres and it appears that almost all of this

⁵⁴⁶ Ibid.

⁵⁴⁷ *New Zealand Gazette*, 1885, no. 21, pp401-402.

land was in Maori ownership at the time of taking. All of the proclamations before 1890 explicitly stated that the lands being taken were 'native lands'. Though Crown land purchase activity was gaining momentum, the proclamations that date from 1890 also seem to have involved land that was entirely in Maori ownership. The sizeable takings from the Rangitoto Tuhua block in 1899 and 1902 appear to have been carried out before any significant Crown purchase activity in this large block.⁵⁴⁸

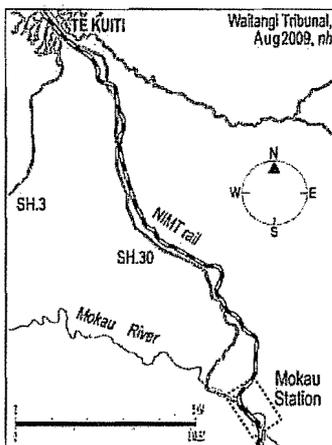
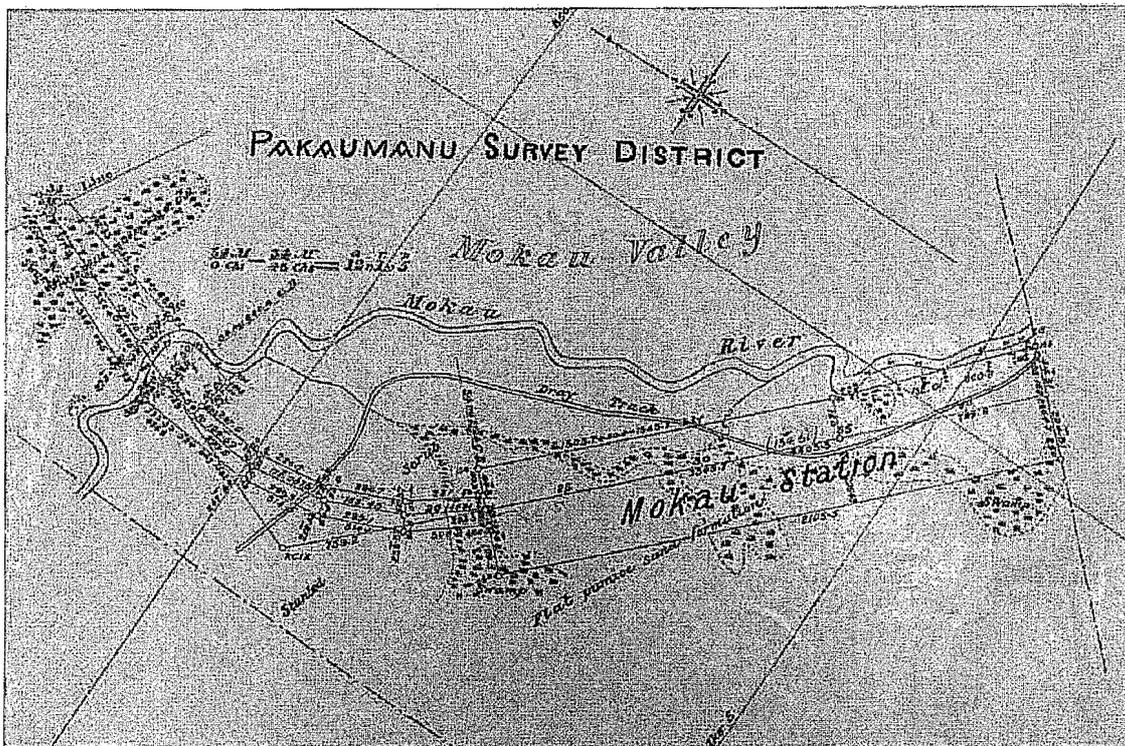


Figure 19: Plan of Mokau (Puketutu) Station (PWD W000 15579, ANZ Wellington)

⁵⁴⁸ Berghan, pp377-402.

It is evident that the initial takings for the NIMT exceeded the limited area that Ballance had stated would be required for the railway at the Kihikihi meeting of 4 February 1885 and clearly involved more land than Maori had agreed to gift. (As detailed above, Ballance had stated at the Kihikihi meeting that one chain would be required for the track except where cuttings were required and that five or ten acres were required for each station.) An examination of the proclamation plans held at Archives New Zealand show that the width of the track was often greater than one chain.⁵⁴⁹ It is also evident that the areas taken for at least some of the stations exceeded both what Ballance had stated would be required and what Maori had agreed to gift. In the case of Mokau/Puketutu Station, for example, which did not serve an existing settlement and perhaps needed to be only a small station, an area of 12 acres 1 rood 5 perches was taken.⁵⁵⁰ Figure 19 shows the plan of this land that was prepared during the taking process.

It is also notable that the initial takings included lands that were acquired, not for the track or stations, but for quarries. The taking of these areas clearly prevented Maori from receiving an ongoing economic benefit from the stone resources they contained – an economic opportunity that was in keeping with Ballance’s statements concerning how the NIMT would be of general economic benefit to Rohe Potae Maori. All of the area taken by the proclamation dated 18 September 1895, a little over 24 acres, was taken for a quarry.⁵⁵¹ This land included part of the bed of the Mangaokewa River, which contained significant shingle deposits. As detailed in Chapter three, the Native Committee negotiated with contractors in 1888 for a royalty to be paid for gravel extracted from the Mangaokewa River. In a report to the Engineer of the Railways Department dated 30 April 1889, the Resident Engineer had noted that shingle for ballast was being extracted from the Mangaokewa River.⁵⁵² He detailed that the shingle was of good quality and that there was no ballast reserve between the place where shingle was obtained from the Mangaokewa River and Te Awamutu. The Resident Engineer suggested that immediate steps should be taken to obtain the right to take the Mangaokewa ballast, as well as land for a railway siding to the point where the shingle was extracted.

⁵⁴⁹ Many of the land plans that were prepared in connection with the initial takings for the track and stations of the NIMT are held at the Wellington office of Archives New Zealand. See PWD W000 13652 (proclamation of 29 April 1886), PWD W000 15579 (proclamation of 2 March 1888), PWD W000 17474 (proclamation of 18 September 1895), PWD W000 18463 (proclamation of 3 June 1899), and PWD W000 20036 (proclamation of 31 October 1902).

⁵⁵⁰ ABWN 8117 W5280 130 part 2, ANZ, p109. See PWD W000 15579, sheet 35, ANZ Wellington.

⁵⁵¹ See PWD W000 17474. Otorohanga minute book 34, 18 February 1899, pp254-257, p260. Supporting Papers, pp76-80.

⁵⁵² Resident Engineer to Engineer, Working Railways, 30 April 1889, R 3 W2278 53 1903/1989 part 1, Extension of North Island Main Trunk Line, 1887-1908, ANZ Wellington. Supporting Papers, pp194-198.

At least three other quarries – located at Otorohanga, Te Kumi, and at the confluence of the Puniu River and Mangahana Stream – were among the initial takings.⁵⁵³ The quarry at the confluence of the Puniu River and Mangahana Stream, included in the taking of 29 April 1886, comprised an area of about eight acres. As discussed in Chapter three, this may have been the area that Coates had extracted gravel from, subject to a royalty fixed by the Kawhia Committee. It is possible that the taking of the area was a result of pressure from Coates and settlers, though no evidence to confirm this has been located.

The possibility of land being taken for a purpose other than the track and stations does not appear to have been raised with Rohe Potae Maori before they agreed to the construction of the railway. No evidence has been located to indicate that owners were consulted about the taking of the quarry areas in the initial takings. As noted above, the statutory provisions by which the land was taken did not require that the notification of the takings be given or provide owners with the opportunity to object. The Waitangi Tribunal has commented that the compulsory acquisition of Maori land for public works, justifiable only ‘as a last resort in the national interest’, should not proceed without consultation with the Maori owners.⁵⁵⁴ It has found that a failure to consult with the owners is a clear breach of the Treaty.⁵⁵⁵

Proposed gifting of land at Te Kumi

In March 1899, Maori owners of Te Kumi block sought to gift further land for the enlargement of Te Kumi Station, indicating continuing support for the railway among the individuals concerned, who considered the station area to be insufficient. The matter was raised in the Native Land Court when the Crown’s interest in Te Kumi block was defined and, in accordance with the owners’ wishes, the Court awarded an additional area of one acre to the Crown.⁵⁵⁶ The Court’s order provided that the land was to be known as Te Kumi 14 and was to comprise two half-acre areas on each side of the station. However, no action appears to have been taken to give effect to the gifting, the land having never been surveyed off from the Maori award and

⁵⁵³ Details of these ballast pits were presented to the Native Land Court in December 1890 when compensation was assessed for some of the initial takings. Otorohanga minute book 10, 2 December 1890, p264. Supporting Papers, p65. Otorohanga minute book 10, 9 December 1890, p294. Supporting Papers, p68. Otorohanga minute book 10, 10 December 1890, p295. Supporting Papers, p69.

⁵⁵⁴ Waitangi Tribunal, *Turangi Township Report 1995*, Wellington, 1995, p285, pp287-288. Waitangi Tribunal, *Ngai Tahu Ancillary Claims Report*, Wellington, 1995, pp10-11.

⁵⁵⁵ Waitangi Tribunal, *Mohaka River Report 1992*, Wellington, 1992, p70.

⁵⁵⁶ Wilkinson to Sheridan, 30 March 1899, MA-MLP 1 61 NLP 1901/66, Te Kumi Block, ANZ Wellington. Supporting Papers, p63.

added to the station.⁵⁵⁷ It is unclear whether the Railways Department was made aware of the proposal.

The case indicates that Maori were willing to make further gifts of land to assist the railway and that, if consultation was undertaken with owners, the Government might have been able to obtain additional lands required for the railway without the unilateral use of compulsory taking provisions.

Land severances

An issue that arises out of the initial takings for the track of the NIMT concerns how the line severed Maori land, creating areas that have no legal access. Claimants have stated that this is a problem for some Maori lands that lie between the NIMT and the Ongarue River.⁵⁵⁸ The railway follows the Ongarue River for a considerable distance, from Taumarunui to the Poro-o-tarao Tunnel. For most of this distance, there is no road between the railway and the river.

Statutory provisions offered some protection to land owners whose access was affected by the construction of a railway. Section 172 of the Public Works Act 1894, for example, provided that the Government was to make crossings in cases where a railway cut off access by road. Upon demand by the landowner, one crossing would be provided for each mile of frontage for any property, but no additional crossing would be provided for subdivisions made after the railway had been built. This provision offered limited protection to Maori owners whose lands had not been extensively subdivided prior to the construction of a railway – as was the case with the Rangitoto Tuhua block through which the NIMT passed as it ran along the Ongarue River.

Claimants state that the Railways Department was often unwilling to provide crossings to Maori land between the railway line and the Ongarue River, but appeared to be more responsive where a crossing was requested by a European land owner.⁵⁵⁹ No documentary evidence relating to this issue has been located.

⁵⁵⁷ See L3928, Railway Plan Book 11, Ontrack, Wellington. A plan of Te Kumi block, dated 23 January 1900, does not show a subdivision named Te Kumi 14. See ML 6689, South Auckland land district.

⁵⁵⁸ Railway Focus Group, Hamiton Hui, am, transcript p11. Railway Focus Group, Taumarunui Hui, am, transcript p27.

⁵⁵⁹ Railway Focus Group, Hamiton Hui, am, transcript p11.

Compensation for initial land takings for NIMT

As detailed above, it is evident that the initial land takings for the NIMT involved more land than what Rohe Potae Maori gifted for the railway. This section examines whether, in accordance with the expectations of Rohe Potae Maori, compensation was paid for these areas.

In his letter to Ballance dated 4 March 1886, John Ormsby, Chairman of the Kawhia Native Committee, requested that someone be appointed to fix the value of the lands that had been taken for the NIMT in excess of the gifted area.⁵⁶⁰ The following month, at the meeting held at Kopua in mid-April 1886, it was requested that the Government appoint an officer to work with a Maori representative to assess the value of the excess land.⁵⁶¹ In response, Ballance stated that he thought it would be difficult to find the owners to pay them, but said that he would be pleased if the Native Committee would assist the Government in this.⁵⁶² It appears that Ormsby and other Rohe Potae leaders wanted compensation to be assessed outside the Native Land Court, the operation of which they hoped to limit.

As an alternative to the Court, Ormsby, Wahanui, and others proposed that the powers of native committees be modified and extended in a manner that would help to protect Maori ownership of land. However, as discussed in Chapter three, the changes that were made to the committees under the Native Land Administration Act, passed in August 1886, proved to be unpopular to both Maori and European. It is notable that the powers of native committees could have been extended to enable them to play an active role during the acquisition of land for public works – a role that would have helped to protect the interests of Maori owners. Committees could have assisted in notifying and consulting with owners about proposed takings as well as distributing compensation monies.

Under the Public Works Act 1882, compensation for land taken for public works was determined differently depending on whether the taking involved customary land or land with a Crown derived title. (Rohe Potae land remained customary land when Ormsby wrote to Ballance on 4 March 1886 and when the meeting was held at Kopua in mid-April 1886.) In the case of customary land, the 1882 Act provided that the Minister could apply to the Native Land

⁵⁶⁰ Ormsby to Wilkinson, translation, 4 March 1886, R 3 W2278 box 216 part 1 1910/3916/1, ANZ Wellington. Supporting Papers, p205.

⁵⁶¹ *AJHR*, 1886, G-1, p7.

⁵⁶² *Waikato Times*, 15 April 1886.

Court for an assessment of compensation.⁵⁶³ Where taken Maori land had a Crown derived title, compensation was to be determined in the same manner as for general land takings, which were set out in Part III of the 1882 Act.⁵⁶⁴ This required owners to make a claim to the Minister, which would be heard in the Compensation Court. The different procedures for customary land and land with Crown granted title were removed with the passage of the Public Works Acts Amendment Act 1887, which made takings of all Maori land subject to the Native Land Court for the determination of compensation.⁵⁶⁵ The making of an application to the Court remained at the Minister's discretion.

It appears that no steps were taken to reach a compensation settlement along the lines suggested by Ormsby in his letter of 4 March 1886 and at the meeting held the following month at Kopua. On 2 December 1890, the Native Land Court began hearing an application from the Minister of Public Works to determine the compensation payable for lands taken for the NIMT.⁵⁶⁶ (By this time, the Court had been operating for some time in the district. As detailed above, it began sitting in June 1886 to determine the boundaries of the Aotea block, and by 1888 had begun hearings on internal subdivisions within the block.⁵⁶⁷) At the hearing, the Minister of Public Works was represented by a Mr Cheeseman, who told the Court that Maori had originally agreed to give a one chain strip for the track and three acres for each station. Copies of correspondence relating to this arrangement were produced before the Court. Cheeseman advised the Court that some owners had stated that they were not bound by the agreement, while others admitted that it was binding. He stated that he had estimated the value of the land taken 'on a liberal scale' and had tried to reach settlements outside the Court.

On 2, 8, 10, and 16 December 1890, the Court made orders that confirmed compensation settlements reached between Cheeseman and the owners of 11 blocks through which the NIMT passed: Hauturu East, Kakepuku, Otorohanga, Orahiri, Ouruwhero, Pukeroa-Hangatiki, Puketarata 2, Pokuru, Tahaia, Te Kumi, and Waikowhitiwhiti.⁵⁶⁸ These blocks were located in

⁵⁶³ Subsection 26(1)(a), Public Works Act 1882.

⁵⁶⁴ Subsection 26(2), Public Works Act 1882.

⁵⁶⁵ Section 14, Public Works Acts Amendment Act 1887.

⁵⁶⁶ Otorohanga minute book 10, 2 December 1890, pp263-264. Supporting Papers, pp64-65.

⁵⁶⁷ Cathy Marr, *Robe Potae*, p46.

⁵⁶⁸ Otorohanga minute book 10, 2 December 1890, pp263-264. Supporting Papers, pp64-65. Otorohanga minute book 10, 9 December 1890, pp292-294. Supporting Papers, pp66-68. Otorohanga minute book 10, 10 December 1890, pp295-297. Supporting Papers, pp69-71. Otorohanga minute book 10, 16 December 1890, p325. Supporting Papers, p72. Owners of five of the blocks were present in Court to confirm the settlements reached by Cheeseman.

the north of the inquiry district, between the Puniu River and Te Kuiti.⁵⁶⁹ The settlements confirmed by the Court reflected the owners' attitudes towards Rohe Potae leaders' decision to gift a limited area of land for the NIMT. It appears that the owners generally agreed with and felt bound by the gift, which indicates that there continued to be ongoing support for the railway and perhaps optimism that it would bring the prosperity that Government representatives had spoken of. The owners of at least three of the blocks wished to adhere to the terms of the gifting, while the owners of five other blocks did not wish to be paid any compensation, even where land had been taken in excess of the gift. The owners of only one block refused to gift land for the railway and were awarded compensation for all areas taken.

The compensation awards made by the Court in December 1890 are discussed in a 1946 report by the Chairman of the Royal Commission on Licensing, Justice Smith.⁵⁷⁰ This report focuses on questions concerning the sale of liquor in the King Country and whether an agreement on this matter had been reached between Rohe Potae Maori and the settler Government prior to the construction of the railway and the opening of the district. The understandings that were reached in respect of the land required for the railway, and the extent to which these were upheld, are discussed in this context. Smith, whose discussion is based on limited evidence, incorrectly states that there was no agreement to gift land and that Rohe Potae Maori expected to be paid for all the land taken for the NIMT.⁵⁷¹

In regard to the compensation settlements of December 1890, Smith provides details from a Public Works file that appears to have since been destroyed.⁵⁷² He notes that those owners who wished to be paid compensation were awarded compensation amounting to 'the small total' of £123 10s.⁵⁷³ The Public Works Department appears to have sought the assistance of the Native Department to distribute the money to owners. Smith notes a memorandum written to the Native Minister on 15 April 1891, in which the Under-Secretary of Native Affairs, Lewis, discusses the Public Works Department's actions. Lewis stated that he thought it would have been better if the Public Works Department had not moved to compensate the owners.⁵⁷⁴ This view seems to have been based on a belief that Rohe Potae Maori had agreed to gift all the land

⁵⁶⁹ For the location of these blocks, see Berghan, 'Block Research Narratives', Appendix II, Map 4, pp581-582. The location of Waikowhitiwhiti block is not shown on this map, nor is a narrative of this block provided.

⁵⁷⁰ Justice Smith, 'King Country: Report by the Chairman of the Royal Commission on Licensing', *AJHR*, 1946, H-38, Appendix C, pp374-375.

⁵⁷¹ Smith, 'King Country', *AJHR*, 1946, H-38, Appendix C, p373.

⁵⁷² The file reference noted by Smith is PW 19/521. Smith, 'King Country', *AJHR*, 1946, H-38, Appendix C, p374.

⁵⁷³ Smith, 'King Country', *AJHR*, 1946, H-38, Appendix C, p374.

for the railway, Lewis claiming that ‘the land was in the first place given by the Natives’. The Under-Secretary suggested that he write to Wilkinson to ascertain whether the Native Agent could, ‘without interference with his more important land purchase duties’, pay the compensation. The Minister approved this recommendation.⁵⁷⁵

Smith details that most of the compensation money remained unpaid, with Wilkinson unable to make ‘satisfactory arrangements’ for payment.⁵⁷⁶ Smith explains that this was because there were many owners and the amounts involved were small, circumstances that appear to have deterred the Native Agent from ensuring that the money was properly distributed. Citing correspondence from Wilkinson, Smith notes that some of the owners wanted the compensation monies put towards paying survey fees.⁵⁷⁷ It seems that compensation money was used for paying survey fees in at least one case – almost all of the sum of £60 awarded in respect of Pokuru block was directed towards paying fees associated with the survey of that block.⁵⁷⁸

Following the December 1890 hearing, no further efforts were made through the Native Land Court to compensate Maori land owners for the initial land takings for the NIMT. However, in 1899 the owners of Pukenui 2 block received a form of compensation outside the Court process for lands taken in 1888 and 1895 for the track and the Mangaokewa River quarry – a total area of about 106 acres. On 18 February 1899, when the Court defined the Crown’s interest in Pukenui 2, the land awarded to the Crown (Pukenui 2A North and Pukenui 2B) was 106 acres less than the area purchased.⁵⁷⁹ The Court’s orders reflected an agreement that had been reached between Wilkinson and John Ormsby on behalf of the owners, which recognised that compensation had not been paid for the lands taken for the railway.⁵⁸⁰ Wilkinson noted that the arrangement avoided the necessity of a ‘compensation court’. It is unclear whether Wilkinson acted with authority from the Public Works Department, though it seems that the Department was made aware of the arrangement, a proclamation register recording that compensation for the 1895 quarry taking was not payable as the taken lands had been included in the area purchased by the

⁵⁷⁴ Lewis to Native Minister, 15 April 1891, PW 19/521, cited Smith, ‘King Country’, *AJHR*, 1946, H-38, Appendix C, p374.

⁵⁷⁵ Smith, ‘King Country’, *AJHR*, 1946, H-38, Appendix C, p374.

⁵⁷⁶ Smith, ‘King Country’, *AJHR*, 1946, H-38, Appendix C, p374.

⁵⁷⁷ Smith, ‘King Country’, *AJHR*, 1946, H-38, Appendix C, p375.

⁵⁷⁸ Otorohanga minute book 33, 6 July 1898, pp268-272, 276-278. Supporting Papers, p75. It was the owners of this block who had refused to accept the gifting and demanded compensation for all lands taken.

⁵⁷⁹ Otorohanga minute book 34, 18 February 1899, pp254-257, p260. Supporting Papers, p76.

⁵⁸⁰ It appears that some owners disputed the agreement, believing that it did not appropriately reflect the value of the land taken for the ballast pit.

Government.⁵⁸¹ No evidence has been located to suggest that similar arrangements were reached in respect of any of the other initial land takings for the NIMT.

It appears that the Public Works Department's awareness of its obligation to compensate the Maori owners diminished during the 1890s. On 1 August 1903, the Resident Engineer at Ongarue wrote to the District Engineer in Auckland, relating a conversation he had with Wilkinson, who had told the Resident Engineer that compensation for the land taken for the railway south of Te Kuiti had not been paid to Maori.⁵⁸² The Resident Engineer stated that Wilkinson thought that the matter should be gone into without further delay because the value of the land was increasing each year. He also stated that Wilkinson believed that Maori had given a verbal promise to gift one chain for the railway, with all additional land taken be paid for, though he was unsure whether the promise still had effect.

The District Engineer forwarded the Resident Engineer's letter to the Under Secretary of Public Works, who initiated inquiries into the matter.⁵⁸³ An official within the Public Works Department reported that Maori had agreed to gift a strip of one chain for the track, with the excess to be paid for.⁵⁸⁴ It was noted that the concession had been made 'by a chief named Wahanui', though it was unclear how far south Wahanui's influence extended. The Under Secretary requested a further report on how much land had been paid for and whether an application had been made to the Court to assess compensation for any land that had not been paid for.⁵⁸⁵ If an application had not been made, the Under Secretary believed that an application should be submitted to the Court in the usual manner. The file evidence at this point becomes silent, and it is not until 26 May 1905 that a Public Works Department official noted, in

⁵⁸¹ ABWN 8117 W5280 130 part 2, Proclamation Register, 1883-1902, ANZ Wellington, p180. As detailed in Table 4.1, the land taken for the ballast pit in 1895 included a portion of Te Kuiti block. The register entry indicates that a similar arrangement may have been reached in respect of this land.

⁵⁸² Louch to District Engineer, Auckland, 1 August 1903, R 3 W2278 box 216 part 1 1910/3916/1, ANZ Wellington. Supporting Papers, p215.

⁵⁸³ District Engineer to Under Secretary, Public Works, 5 August 1903, R 3 W2278 box 216 part 1 1910/3916/1, ANZ Wellington. Supporting Papers, p216. Blow to Thompson, 8 August 1903, minute on coversheet above District Engineer to Under Secretary, Public Works, 5 August 1903, R 3 W2278 box 216 part 1 1910/3916/1, ANZ Wellington. Supporting Papers, p217.

⁵⁸⁴ Thomson to Under Secretary, Public Works, 19 August 1903, minute on coversheet above District Engineer to Under Secretary, Public Works, 5 August 1903, R 3 W2278 box 216 part 1 1910/3916/1, ANZ Wellington. Supporting Papers, p217.

⁵⁸⁵ Blow to Thompson, 20 August 1903, minute on coversheet above District Engineer to Under Secretary, Public Works, 5 August 1903, R 3 W2278 box 216 part 1 1910/3916/1, ANZ Wellington. Supporting Papers, p217.

a final minute on the subject, that it had been decided not to refer the matter to the Native Land Court.⁵⁸⁶

Justice Smith's 1946 report sheds light on the reason why the Department did not apply to the Court for an assessment of compensation for the lands lying south of Te Kuiti. Drawing on file evidence that seems to have since been destroyed, Smith records that in 1903 the Department asked the Solicitor General to advise whether it was liable to pay any compensation for the land taken for the railway.⁵⁸⁷ Smith reports that the Solicitor General advised that there had been no statutory requirement for compensation to be paid at the time that the Order in Council had been issued directing the construction of the railway. It appears that the Solicitor General was referring to the Order in Council signed by the Governor on 2 April 1885, which seems to have been issued under section 24 of the 1882 Act.

Efforts to locate a copy of an opinion by the Solicitor General that directly addresses the question of whether the Government had a statutory requirement to pay compensation for the land taken for the NIMT have not been successful. However, a copy of an opinion by the Solicitor General regarding the date of taking, dated 4 December 1903, has been located.⁵⁸⁸ Though it does not deal directly with the issue of compensation, it may have been this opinion that Smith was referring to. The date of taking is clearly an important question when considering what compensation provisions were applicable to the lands acquired for the NIMT. In the opinion dated 4 December 1903, it is asserted with complex legal argument that the land was taken by the 1885 Order in Council issued under the 1882 Act, even though this did not demark the areas acquired.

On the basis of this opinion, the Public Works Department or Solicitor General (in another opinion) may have reached the conclusion that there was no statutory obligation to pay compensation under the provisions of the 1882 Act. As detailed earlier, the 1882 Act provided that where customary land was taken the Minister could apply to the Native Land Court for an assessment of compensation.⁵⁸⁹ The application was at the discretion of the Minister, with the wording of the Act being that the Minister 'may' apply to the Court. The opinion that a

⁵⁸⁶ Thompson, 26 May 1905, minute on coversheet above District Engineer to Under Secretary, Public Works, 5 August 1903, R 3 W2278 box 216 part 1 1910/3916/1, ANZ Wellington. Supporting Papers, p217.

⁵⁸⁷ Smith, 'King Country', *AJHR*, 1946, H-38, Appendix C, p379. These details may have been drawn from PW 19/521, referred to elsewhere in Smith's report.

⁵⁸⁸ Untitled Memo Book 1878-1905, pp 626-628, Box 1, Crown Law Office. Supporting Papers, pp368-370.

⁵⁸⁹ Subsection 26(1)(a), Public Works Act 1882.

statutory requirement to pay compensation did not exist may have been based on the Minister's discretionary powers. Without contravening the legislation, the Minister could overlook to make an application or deliberately choose not to apply to the Court.

Alternatively, the opinion that there was no statutory requirement for compensation to be paid at the time that the Order in Council was issued may have been based on an interpretation of legislative provisions that enabled the Crown to take up to five percent of Maori land for road and railway purposes without compensation. These provisions, which applied between 1862 and 1927, had arisen out of a general measure that sought to provide infrastructure for settlement.⁵⁹⁰ This enabled the Government, when selling Crown land in sparsely settled areas, to retain a right to take a certain percentage of such land for a limited time to provide for future roading (and later rail) needs. It was not considered necessary to determine and pay full compensation for each taking, but a more general form of compensation was provided – for example, Crown land was often sold at a reduced purchase price to take account of the right to take roads.

When the Government created the Native Land Court it took the opportunity to extend the 'five percent rule' to Crown-granted Maori land.⁵⁹¹ A complicated and confusing set of legislative provisions were subsequently introduced and remained in place until the rule was finally abolished in 1927.⁵⁹² Among the important developments, section 106 of the Native Land Act 1873 extended the rule to land required for railways, while subsection 91(2) of the Public Works Act 1894 saw it applied also to customary land.⁵⁹³ Marr comments that the five percent rule was discriminatory in the way that it was applied to Maori land.⁵⁹⁴ For instance, the right to take a percentage of Maori land without compensation for roads was extended to ten years and then fifteen years after title determination, while the rule generally remained at five years for general land taken up by settlers.⁵⁹⁵ The Waitangi Tribunal has made a number of specific findings concerning how the five percent rule discriminated against Maori.⁵⁹⁶

That the land taken for the NIMT was customary land at the time that the Order in Council was issued casts doubt on whether the Public Works Department or Solicitor General would have

⁵⁹⁰ Marr, *Public Works*, pp63-64.

⁵⁹¹ *Ibid*, pp66-67.

⁵⁹² *Ibid*, pp68-79.

⁵⁹³ *Ibid*, pp69-70.

⁵⁹⁴ *Ibid*, p72.

⁵⁹⁵ *Ibid*, p67, p69.

⁵⁹⁶ Waitangi Tribunal, *He Maunga Rongo: Report on Central North Island Claims, Stage One, Volume 2*, Legislation Direct, Wellington, 2008, p853.

viewed the five percent rule to have been applicable. As noted, the rule could not be applied to customary land until 1894, something which both the Public Works Department and Solicitor General would have been aware of.

Regardless of which legislative provisions were seen to justify the opinion that there was no statutory requirement to pay compensation for the land taken for the NIMT, the Public Works Department's decision not to compensate the owners was clearly at odds with the assurances that had been made by Government representatives in 1885 before Rohe Potae Maori agreed to the construction of the NIMT. During the negotiations, Rohe Potae Maori were encouraged to gift land for the railway, but were assured that if they did not they would receive full compensation. In the end, Rohe Potae Maori agreed to gift a limited area for the railway, but expected to be paid for any extra land taken – terms that were accepted by Ballance and, as a matter of good faith, should have been upheld. It seems possible that the Public Works Department simply wished to avoid the difficulty of having to distribute money to a large number of owners, something that had proved difficult when settlements had been reached in December 1890.

Justice Smith reports that later claims for compensation were made in 1911 and 1923 and that in both cases the Public Works Department maintained the position that it was not liable to make any payment.⁵⁹⁷ No evidence relating to these claims has been located.

Additional takings, mid-1903-1990

As well as the initial takings carried out while the NIMT was being built, there were numerous later takings of Maori land in the Te Rohe Potae inquiry district for railway purposes. These additional takings saw land acquired for several purposes, including quarries, the extension of yard facilities, sites for houses to accommodate railway workers, and realignments of the line. Small areas of Maori land were also taken for a branch line between Okakukura and Stratford, which is discussed further in Chapter five. The section of the branch that runs between Okakukura and Ohura is situated within the boundaries of the Te Rohe Potae inquiry district. It appears that most of the land required for this part of the line had passed out of Maori ownership when it was taken for the railway.

⁵⁹⁷ *AJHR*, 1946, H-38, Appendix C, p379.

Table 4: *Additional takings of Maori land for railway purposes in the Te Robe Potae inquiry district, mid-1903 to 1990*

Date of notice	<i>New Zealand Gazette</i> reference	Description	Area	Purpose of taking	Compensation
18 December 1903	1904, p 2	Rangitoto Tuhua block	11a 0r 6p 5a 1r 39p	Quarry (Waimiha) Quarry (Maramataha)	On 21 June 1904, the Native Land Court ordered that compensation of £33 6s 8d and £16 13s 4d be paid for the two areas. ⁵⁹⁸
7 April 1905	1905, pp 919-920	Rangitoto Tuhua block	14a 1r 31p 2a 1r 3p	Quarry (Te Koura) Deviation	No details of compensation located. ⁵⁹⁹
16 August 1907	1907, p 2618	Pukenui 2M Pukenui 2D4	14a 2r 17p 0a 0r 25.5p	Quarry	On 14 August 1908, the Native Land Court ordered that the Maori owners be paid compensation of £52 for the two areas taken, from which £15 was to be deducted for costs awarded to the Railway Department. Compensation of £225 was awarded to the European leaseholder of Pukenui 2M, with costs of £60 to be deducted. ⁶⁰⁰
25 March 1911	1911, pp 1193-1194	Land in Otaunake Survey District, Te Kuiti Borough – Sections 1, 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 23 of Block XV, and Sections 1 and 2 of Block XX.	3a 0r 32.5p		Compensation of £2567 paid for the interests of the Maori owners, mostly to the Waikato-Maniapoto District Maori Land Board. Some compensation also paid to three European leaseholders. ⁶⁰¹
4 January 1912	1912, p 7	Pukeroa-Hangatiki 1A	0a 3r 39p		No details of compensation located.
28 March 1912	1912, p 1216	Pukenui 2M	48a 0r 00p	Quarry	On 20 November 1912, the Native Land Court confirmed an agreement for compensation of £240 to be paid to the Maori owners. ⁶⁰² Compensation of £1100 was paid to the European leaseholder. ⁶⁰³
3 December 1913	1913, p 3627	Rangitoto Tuhua 68F3 Rangitoto Tuhua 68M Rangitoto Tuhua 68G.	1a 0r 31.5p 1a 1r 27.2p 8a 1r 33.8p		On 6 July 1915, the Native Land Court ordered that compensation totalling £57 be paid for the three areas. ⁶⁰⁴
30 January 1915	1915, p 465	Pukenui 2D4A Pukenui 2D4B	0a 3r 1.1p 0a 0p 25.7p		A total sum of £50 was paid as compensation for these two areas. ⁶⁰⁵ The money was paid to Waikohika Keretu and others for the land taken from Pukenui 2D4A and to Te Pukuti Te Pouaka and others for the land taken from Pukenui 2D4B.

⁵⁹⁸ Otorohanga minute book 42, 21 June 1904, pp216-217. Supporting Papers, pp97-98. ABWN 8117 W5280 132 part 4, Proclamation Register, 1902-1912, p30.

⁵⁹⁹ ABWN 8117 W5280 132 part 4, p42.

⁶⁰⁰ Otorohanga minute book 49, 4 August 1908, p196, five typescript pages. Supporting Papers, p150. ABWN 8115 W5280 166 part 2, Register of Lands Acquired for Railway Purposes, 1901-1919 record, no. 431.

⁶⁰¹ ABWN 8115 W5280 166 part 2, record no. 542.

⁶⁰² Otorohanga minute book 53, 20 November 1912, p160. Supporting Papers, p156.

⁶⁰³ ABWN 8115 W5280 166 part 2, record no. 578.

⁶⁰⁴ Otorohanga minute book 57, 6 July 1915, pp225-226. Supporting Papers, pp157-158. ABWN 8115 W5280 166 part 2, record no. 657.

⁶⁰⁵ L1990, Railway Plan Book 11, Ontrack. Land Register record 712, Ontrack.

Date of notice	<i>New Zealand Gazette</i> reference	Description	Area	Purpose of taking	Compensation
20 March 1920	1920, pp 939-940.	Sub 1 Sec 3 of Whatitokarua Block Sub 2 Sec 3 of Whatitokarua Block	27a 1r 8p 13a 3r 10.8p	Stratford-Okakukura railway (Matiere section) and road diversions	On 5 October 1921, the Native Land Court ordered that compensation of £50 be paid to the Maori owners of Subdivision 1 of Section 2 of Whatitokarua Block. ⁶⁰⁶ No record of compensation for the area taken from Subdivision 2 of Section 3 of Whatitokarua Block has been located.
11 March 1925	1925, p 828	Sub 2 Sec 3 of Whatitokarua Block	1a 3r 2.8p	Stratford-Okakukura railway (Matiere section) and road diversions	On 27 January 1926, the Native Land Court ordered that compensation of £1 be paid for 12.87 perches taken from Subdivision 2 of Section 3 of Whatitokarua Block by the proclamation dated 11 March 1925. ⁶⁰⁷ This did not comprise all the land taken from the subdivision.
20 October 1938	1938, p 2295	Rangitoto Tuhua 68M 2B 3B	3a 2r 20.7p		No details of compensation located.
10 October 1939	1939, p 2718	Pukenui 2D4A	0a 2r 26.2p		This land appears to have been taken in exchange for an area (1a 3r 23.8p) of adjacent railway land, subject to section 99 of the Public Works Act 1928. ⁶⁰⁸
28 August 1944	1944, p 1087	Rangitoto Tuhua 68G 2C	7a 1r 00p		Compensation of £125 paid to the Maori owners. ⁶⁰⁹
16 April 1946	1946, p 517	Rangitoto Tuhua 68G 2A1	1a 1r 32.2p		No details of compensation located. ⁶¹⁰
7 April 1948	1948, p 392	Rangitoto Tuhua 68G 2A1 Rangitoto Tuhua 68G 2D 2B1 Rangitoto Tuhua 68G 2D2	0a 0r 36.9p 1a 0r 33.1p 0a 2r 14p		No details of compensation located. ⁶¹¹
7 February 1949	1949, p 572	Orahiri 11 Orahiri 11A	5a 0r 13p 2a 0r 00p		Compensation of £1150 was paid for this land, owned by Mary Anne Wairingiringi Ormond and the Native Trustee in equal shares. ⁶¹²
16 February 1953	1953, p 221	Rangitoto Tuhua 68H 2B 2C	0a 1r 21.5p		Compensation of 10s paid to the Maori owners. ⁶¹³
14 July 1976	1976, p 1698	Rangitoto Tuhua 55B 2B 1A	1a 1r 8.3p		Compensation of \$50 paid to the Kotahitanga Church Building Society. ⁶¹⁴
19 September 1980	1980, p 2844	Rangitoto Tuhua 55B 2B2	0a 3r 3p		Compensation of \$32 paid to Areka Phillips. ⁶¹⁵
20 April 1983	1983, p 1328	Onaueke 2	0a 0r 3.7p		Compensation of \$20 paid for this land, owned by Tawarau Farms Limited. ⁶¹⁶
20 April 1983	1983, p 1327	Pukeroa Hangatiki A50	0a 1r 21.4p		Compensation of \$500 paid to the Maori owners of this land. ⁶¹⁷

⁶⁰⁶ Otorohanga minute book 63, 5 October 1921, p131. Supporting Papers, p161. ABWN 8117 W5280 133 part 5, Proclamation Register, 1913-1920, pp240-242.

⁶⁰⁷ Otorohanga minute book 66, 27 January 1926, p115. Supporting Papers, p162. ABWN 8117 W5280 134 part 6, Proclamation Register, 1920-1926, p157.

⁶⁰⁸ Authority for the exchange was signed by Minister of Railways, D.G. Sullivan, on 2 December 1940. Sullivan, 2 December 1940, BAOB 1542 1496b 9/25 part 8, Main Trunk Railway Line, 1940-1942, Auckland. Supporting Papers, p1.

⁶⁰⁹ L2821, Railway Plan Book 11, Ontrack. Land Register record 1835, Ontrack.

⁶¹⁰ L3909, Railway Plan Book 11, Ontrack. Land Register record 2338, Ontrack.

⁶¹¹ L2821, Railway Plan Book 11, Ontrack. Land Register record 2010, Ontrack.

⁶¹² ABWN 8115 W5280 168 part 4, Register of Lands Acquired for Railway Purposes, 1938-1951, record no. 2056.

⁶¹³ ABWN 8115 W5280 169 part 5, Register of Lands Acquired for Railway Purposes, 1951-1961, record no. 2338. L3909, Railway Plan Book 11, Ontrack. Land Register record 2328, Ontrack.

⁶¹⁴ L3200, Railway Plan Book 10, Ontrack. Land Register record 3995, Ontrack.

⁶¹⁵ L3200, Railway Plan Book 10, Ontrack. Land Register record 4354, Ontrack.

⁶¹⁶ L3929, Railway Plan Book 11, Ontrack. Land Register record 4836, Ontrack.

Date of notice	<i>New Zealand Gazette</i> reference	Description	Area	Purpose of taking	Compensation
20 April 1983	1983, pp 1327-1328	Pukeroa Hangatiki A52 A2	0a 0r 6.1p		Compensation of \$10 paid to the owners of this land, M.M.W. Haereiti, K.J. Muraahi, and N.H. McSweeney. ⁶¹⁸
24 August 1984	1984, p 3527	Ranigitoto Tuhua 68K1 Ranigitoto Tuhua 68K5A Ranigitoto Tuhua 68K5B	0a 0r 28.9p 0a 0r 6.3p 0a 1r 20.8p		Areas of European land were taken at the same time. Compensation of \$390 was paid for all of the taken areas. ⁶¹⁹
27 March 1985	1985, p 1516	Part Ranigitoto Tuhua 68I 2A 2B3 Part Ranigitoto Tuhua 68I 2A 2B4 Part Ranigitoto Tuhua 68I 2A 2A	1a 1r 4.9p 0a 0r 12.8p 0a 0r 29.1p		Compensation details not established for this land, owned by Muri Aroha Farms Limited. ⁶²⁰
15 May 1985	1985, p 2248	Ranigitoto Tuhua 68K1	0a 0r 1.1p		Compensation details not established for this land, owned by Tame Ngahiwi Paiwaha Kawe. ⁶²¹
23 June 1986	1986, p 2835	Te Kumi A10	0a 2r 35.2p		Compensation of \$222.51 paid to the owners of this land, K.L. Moerua and others. ⁶²²
23 July 1986	1986, p 3193	Ranigitoto Tuhua 68C 1A Ranigitoto Tuhua 68C 1B Part Sec 40, Blk VIII, Otanake SD Part Mokau River Bed	5a 1r 28.1p 0a 1r 36.5p 0a 1r 3.5p 0a 0r 10.6p	Deviation of approach to Puketutu Station.	Land appears to have been exchanged in lieu of compensation for this land, owned by Puketutu Farms Limited. ⁶²³
16 June 1987	1987, p 2655	Pukeroa Hangatiki A5 B2	1a 0r 19.5p		Compensation of \$2,600 paid to A.T. Totorewa and others. ⁶²⁴
1 May 1990	1990, p 1506	Part Whenuatupu Ohinemoa 1	1a 3r 3.7p		Land exchanged in lieu of compensation. ⁶²⁵
Total			192a 0r 15p		

⁶¹⁷ L2873, Railway Plan Book 12, Ontrack. Land Register record 4833, Ontrack.

⁶¹⁸ L2873, Railway Plan Book 12, Ontrack. Land Register record 4832, Ontrack.

⁶¹⁹ L3906, Railway Plan Book 11, Ontrack. Land Register record 5125, Ontrack.

⁶²⁰ L3908, Railway Plan Book 11, Ontrack. Land Register record 5242, Ontrack.

⁶²¹ L3908, Railway Plan Book 11, Ontrack. Land Register record 5239, Ontrack.

⁶²² L3929, Railway Plan Book 11, Ontrack. Land Register record 5333, Ontrack.

⁶²³ L3920, Railway Plan Book 11, Ontrack.

⁶²⁴ L2877, Railway Plan Book 12, Ontrack. Land Register record 5403, Ontrack.

⁶²⁵ L3222, Railway Plan Book 10, Ontrack. Land Register record 5565, Ontrack.

Table 4 provides details of the additional takings of Maori land for railway purposes within the Te Rohe Potae inquiry district up until 1990, which involved at least 192 acres. Takings carried out after 1990 have not been established, though it is assumed that little land has been acquired since this time, there having been no major developments to rail infrastructure in the inquiry district. (The last significant work was the electrification of the NIMT carried out in the 1980s. This required numerous realignments of the line and involved a number of takings of Maori land.) A range of sources has been consulted to ensure that the details present in Table 4 are as accurate and complete as possible.⁶²⁶ The takings were variously carried out by the Railways Department, the Public Works Department, and its successor, the Ministry of Works and Development.

While the additional takings involved considerably less land than the initial takings, it is likely that the impact of these takings was not insignificant. The additional takings were carried out as Maori land holdings diminished as a result of land sales, and it is therefore possible that the remaining areas were of particular importance to the owners. It also appears that some of the additional takings involved land that seems to have had particular economic value, containing stone resources or being located in or near urban areas.

In carrying out the additional takings, which lay outside what Ballance had stated would be required for the NIMT, the taking authorities clearly appear to have had an obligation to consult with the affected Maori owners. With consultation, taking authorities and the owners could have explored alternatives to the acquisition of full title. However, the statutory process for taking land for railway purposes did not require consultation with owners. As discussed earlier, there were separate provisions for takings for railway purposes, which did not contain standard protections for notification and objection, a situation that continued for much of the twentieth century. Separate provisions for railway takings were included in Part VII of the Public Works Act 1908 and Part VII of the Public Works Act 1928, the principal public works statute for over fifty years. Change was introduced in the Public Works Act 1981, which does not include separate provisions for taking land for railway purposes and also places greater emphasis on negotiating agreements with Maori over land required for public works purposes.

⁶²⁶ The following sources were consulted: *New Zealand Gazette* (up to 1920); Otorohanga minute book; relevant Public Works Department registers (ABWN 8115 W5280 165-170 parts 1-6, Registers of Lands Acquired for Railway Purposes, 1890-1972, ANZ Wellington, and ABWN 8117 W5280 12-140 parts 4-12, Proclamation Registers, 1902-1952, ANZ Wellington); and Railway Plan Books and Land Register records held at Ontrack, Wellington.

Little evidence has been located concerning the additional takings identified in Table 4. Public Works and Railways' files relating to these takings appear to have largely been lost or destroyed. However, some material has been located concerning the takings for quarries, which were carried out in 1903, 1905, 1907, and 1912. In terms of land area, these were the most significant of the additional takings, together involving about 93 acres. The taking of these lands is also significant because, as discussed in Chapter three, Maori expected to be paid for stone extracted from their land for the railway. The acquisition of the quarry lands therefore prevented Maori from deriving an ongoing economic benefit from their stone resources.

The quarry takings shed some light on the extent to which owners were consulted over the additional takings, at least at the beginning of the twentieth century. In the case of the 1912 taking (the largest of the additional takings, involving 48 acres), it seems that the Railways Department decided to take the land after consulting the European leaseholder, without any discussion with the owners. The case suggests that Maori owners were generally not consulted, during the first two decades of the twentieth century at least. It is unclear whether European land owners were consulted before their lands were taken for railway purposes. If the Department was less inclined to consult with Maori owners, this may have been partly due to the difficulty of having to deal with often large numbers of owners.⁶²⁷ As well as the issue of consultation, the quarry takings also shed light on the system of determining compensation in the Native Land Court.

Quarry takings

Table 4 details that additional takings included the following areas taken for quarry purposes:

- 1903 – 11a 0r 6p from Rangitoto Tuhua block for a gravel pit and 5a 1r 39p for a quarry at Maramataha;
- 1905 – 14a 1r 35p from Rangitoto Tuhua block for a ballast pit at Te Koura;
- 1907 – 14a 2r 17p from Pukenui 2M and 25.5p from Pukenui 2D4 for a limestone quarry at Waiteti; and
- 1912 – 48a 0r 0p for a limestone quarry at Waiteti.

The two areas taken in 1903 are shown in Figure 21. The lands taken in 1907 and 1912 adjoined the quarry land taken in 1895, discussed earlier. These lands are shown in Figure 22.

⁶²⁷ In 1974 legislative provision was made to enable taking authorities to more easily negotiate with Maori owners for the purchase of their land as an alternative to compulsory acquisition. Marr, *Public Works*, p138.



Figure 20: *Workers at the Maramataha quarry, 1901* (McMillan and Walker, *Ongarue*, p35)

1903 takings

As discussed in Chapter three, the two quarry areas taken from Rangitoto Tuhua block in December 1903 appear to have both been worked for some time before being taken. In June 1904, when the Native Land Court assessed compensation for the taken areas, the Public Works Department's Resident Engineer, John Louch, told the Court that all of the pumice sand in the Waimiha pit had been used, while some rock remained in the Maramataha quarry.⁶²⁸ It appears that no royalty was paid to the owners when the material was extracted from the two sites. The two areas appear to have been taken after an individual, Te Papanui, took steps to reach a settlement with the Government. During the compensation hearing, Te Papanui told the Court that before the land was taken he had visited Wellington with Tutahanga and Te Rauaherua to reach an arrangement concerning the quarries and other matters.⁶²⁹ Te Papanui stated that he discussed the quarry lands with the Minister of Native Affairs, who referred the matter to the Minister of Public Works. Upon returning home, Te Papanui stated that he received a telegram from the Minister of Railways, advising that the quarries would be paid for. The land was then

⁶²⁸ Otorohanga minute book 42, 20 June 1904, p208. Supporting Papers, p89.

⁶²⁹ Otorohanga minute book 42, 13 June 1904, pp191-192. Supporting Papers, pp82-83.

taken. It is unclear if the option of paying royalties for the material extracted and retaining the land in Maori ownership was considered.

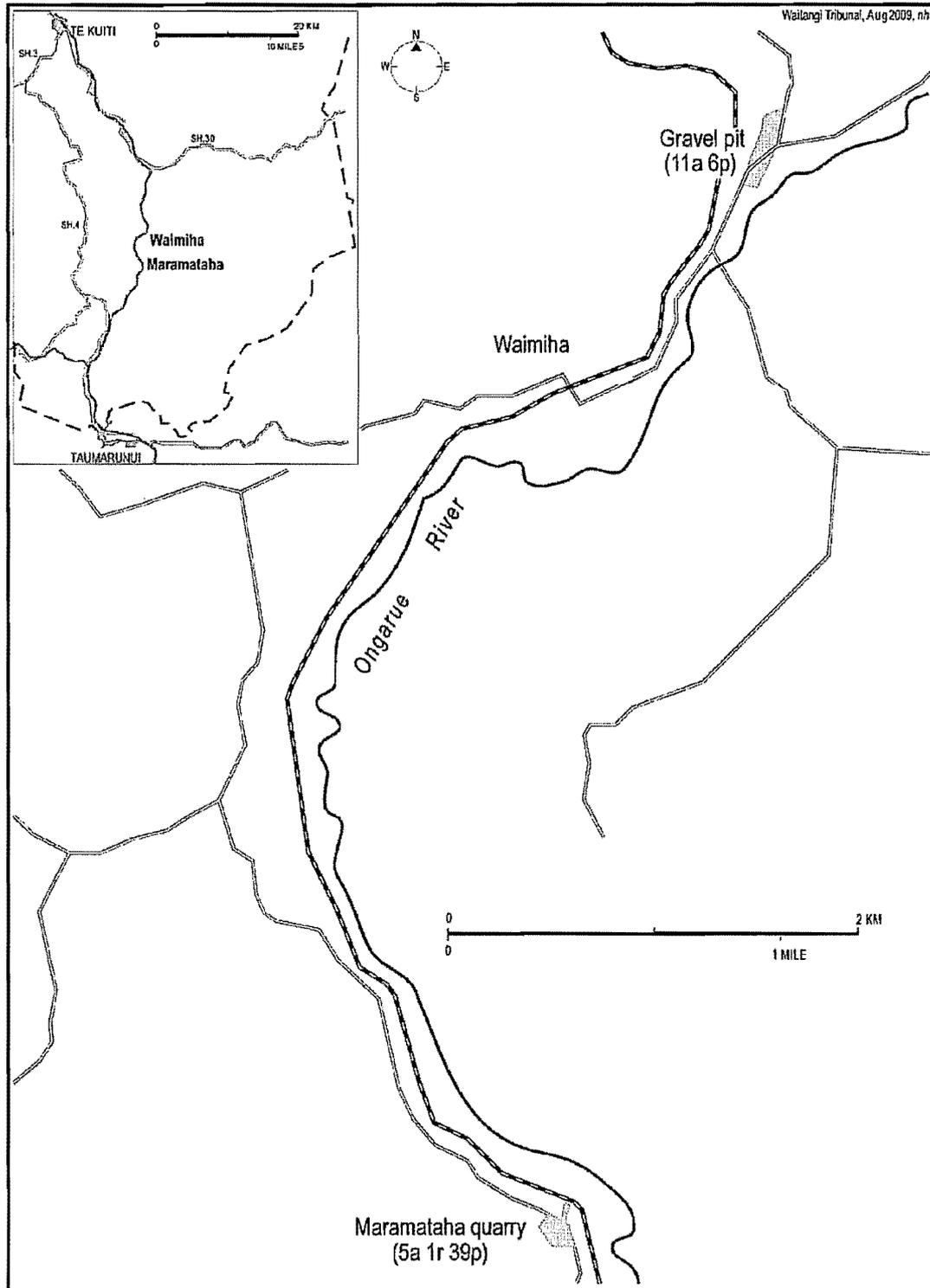


Figure 21: Lands taken for Maramataha quarry and Waimiha gravel pit, 1903

The Resident Engineer, Louch, told the Court that after the land was taken he had reached an agreement with Te Papanui, whom he understood acted for the owners.⁶³⁰ It was agreed that £50 would be paid for the taken areas. However, the Court heard evidence from a number of witnesses before making an award for the areas taken in 1903. Some owners claimed that Te Papanui had no authority to negotiate an agreement with the Resident Engineer and that £50 was insufficient compensation. In the end, the Court accepted witness statements that the material extracted from the taken areas was easily obtainable on other lands in the district and, with reference to the value of the quarry land taken from Pukenui and Te Kuiti blocks in 1895, confirmed that £50 should be paid for the land.⁶³¹ The Court believed that the Government, in agreeing to this sum, 'did not act ungenerously towards the Native owners'.⁶³²

1905 taking

No evidence has been located about the events that preceded the taking in April 1905 of a further area of Rangitoto Tuhua block for a quarry. Details concerning compensation for this taking have also not been located. The Native Land Court does not appear to have assessed compensation for the taken area, and it is possible either that steps to determine compensation were not taken as required or that the five percent rule was applied. The absence of any documentation concerning the application of the rule means that it is difficult to conclusively establish cases where it was applied.

1907 taking

Almost all of the area taken in August 1907 for a quarry was located within one block, Pukenui 2M, which contained significant deposits of limestone. The block was leased for 21 years from 1 July 1906, with a right of renewal for 21 years.⁶³³ As well as an annual rental payment of £13 10s, the terms of the lease required that the owners be paid one penny per cubic yard of material removed from the land.⁶³⁴ At the time of the 1907 taking, the lease was held by William Lovett. In August 1908, when the Native Land Court assessed compensation for the land taken in 1907, Lovett stated that he thought the royalty rate was 'cheap'.⁶³⁵ Lovett crushed the limestone for supply to local bodies, but had not extracted any material from the area that was taken in 1907,

⁶³⁰ Otorohanga minute book 42, 13 June 1904, pp191. Supporting Papers, p82.

⁶³¹ Otorohanga minute book 42, 21 June 1904, pp216-217. Supporting Papers, pp97-98.

⁶³² Otorohanga minute book 42, 21 June 1904, p217. Supporting Papers, p98.

⁶³³ Otorohanga minute book 49, 4 August 1908, p146. Supporting Papers, p101.

⁶³⁴ Otorohanga minute book 49, 4 August 1908, p146. Supporting Papers, p101. Otorohanga minute book 49, 6 August 1908, p188. Supporting Papers, p145.

⁶³⁵ Otorohanga minute book 49, 4 August 1908, p149. Supporting Papers, p104.

which was estimated to contain some one and a quarter million cubic yards of limestone.⁶³⁶ At the August 1908 compensation hearing, Tama Kawe, the father and trustee of minors who were owners of Pukenui 2M, stated that in the preceding two years royalties of £15 to £16 had been paid to the owners.⁶³⁷

The Court heard a considerable amount of evidence when it assessed compensation for the land acquired from Pukenui 2M.⁶³⁸ (No evidence was heard in respect of the small area taken from Pukenui 2D4, the Court confirming an out-of-Court agreement that had been reached in respect of the taken land.) The Maori owners of Pukenui 2M and the European leaseholder were both represented in Court when compensation was determined. The Maori owners, the Court heard, wished to be paid compensation of £5,250, which equated to the royalty payable on the estimated quantity of limestone within the taken area, some one and a quarter million cubic yards.⁶³⁹

In response to the owners' claim, the Railway Department's representative, Mr Prendergast, contended that the five percent rule was applicable and that compensation did not have to be paid for all the land taken from Pukenui 2M.⁶⁴⁰ Prendergast explained that section 92 of the Public Works Act 1905 allowed up to one twentieth of a Maori land block to be taken for road and railway purposes within 15 years of title investigation without a requirement for compensation to be paid. He detailed that the taking from Pukenui 2M had been carried out before the 15 year period elapsed – title was awarded on 9 January 1893 and the land was taken on 16 August 1907. Prendergast calculated that, as the total area of Pukenui 2M was 180 acres, compensation did not have to be paid for nine acres of the taken land.

The Court accepted Prendergast's argument, determining that compensation had to be paid only for an area of 5 acres 2 roods and 17 perches.⁶⁴¹ The Court found that compensation was payable for the loss of land and a water spring, but not for the stone resource because of the abundance of limestone in the Te Kuiti district and an apparent lack of profitability in Lovett's operation. The Court's order of the compensation monies payable for the land taken from Pukenui 2M is set out in Table 5. Commenting on the amount awarded to the Maori owners for

⁶³⁶ Otorohanga minute book 49, 4 August 1908, pp149-150. Supporting Papers, pp101-102.

⁶³⁷ Otorohanga minute book 49, 6 August 1908, p188. Supporting Papers, p145.

⁶³⁸ Otorohanga minute book 49, 4 and 6 August 1908, pp145-195. Supporting Papers, pp100-149.

⁶³⁹ Otorohanga minute book 49, 4 August 1908, p146. Supporting Papers, p101.

⁶⁴⁰ Otorohanga minute book 49, 6 August 1908, p192. Supporting Papers, p146.

⁶⁴¹ Otorohanga minute book 49, 14 August 1908, typed pages inserted at page 196. Supporting Papers, p150.

the loss of land, the Court noted that the sum appeared to be small, but argued that the owners had reduced their freehold interest significantly by leasing the property for a long term at a low rental.

Table 5: Native Land Court order for compensation monies payable for 1907 taking from Pukenui 2M

Court order	Award to Maori owners	Award to leaseholder (Lovett)
Loss of land	£25	£90
Loss of water right (spring)	£25	£75
Removing of building and fence		£60
Deduction of costs awarded to Railway Department	£15	£60
Total compensation payable	£35	£165

1912 taking

As noted above, the 48 acres taken from Pukenui 2M in March 1912 was adjacent to the area taken in 1907. The Railways Department erected a ballast crushing plant on the land it acquired in 1907, but by 1911 it considered this area to be insufficient and it moved to take further land from Pukenui 2M.⁶⁴² By this time, Lovett's lease had been acquired by a Mr Wilson, who had a metal crushing and lime burning works at Te Kumi, north of Te Kuiti, which was served by a private siding.⁶⁴³ (Limestone was burnt to create a product that was applied to pasture.⁶⁴⁴) In July 1911, the General Manager of Railways, Chief Engineer, and District Engineer met with the Manager of Wilson's Lime Works at Ohakune to discuss the proposed taking.⁶⁴⁵ After discussion, it was agreed that the land would be taken by proclamation. A land exchange involving three acres was proposed, but not carried out. It appears that the Railways Department served notice on Wilson before the 1912 taking was carried out.⁶⁴⁶ It is unclear whether notice was similarly served upon the Maori owners of Pukenui 2M.

⁶⁴² Chief Engineer to General Manager, 6 February 1914, R 3 W2278 231 1911/1294 part 1, Land at Te Kuiti – Removal of Stone, 1911-1919, ANZ Wellington. Supporting Papers, pp253-255. Chief Engineer to General Manager, 29 January 1913, R 3 W2278 231 1911/1294 part 1, ANZ Wellington. Supporting Papers, pp250-252.

⁶⁴³ Chief Engineer to General Manager, 6 February 1914, R 3 W2278 231 1911/1294 part 1, ANZ Wellington. Supporting Papers, pp253-255.

⁶⁴⁴ The value of limestone in the Te Kuiti area for agriculture had been recognised years earlier. In October 1890, the Secretary of the Waikato Farmers Club had suggested that the Government acquire Maori land at Te Kumi and Waiteti, claiming that this land contained 'large deposits of the very best lime'. He believed that limestone was 'one of the chief constituents wanting in soil of the Waikato & Waipa Valleys'. Secretary, Waikato Farmers Club, to Mitchelson, 13 October 1890, MA-MLP 1 61 NLP 1901/66, ANZ Wellington. Supporting Papers, pp61-62.

⁶⁴⁵ Memorandum of Chief Engineer, note of communication or interview, 13 July 1911, R 3 W2278 231 1911/1294 part 1, ANZ Wellington. Supporting Papers, pp248-249.

In November 1912, the Native Land Court confirmed an out-of-Court settlement reached between the Railways Department and the owners of Pukenui 2M, which provided that the owners would receive £240 for the taken area.⁶⁴⁷

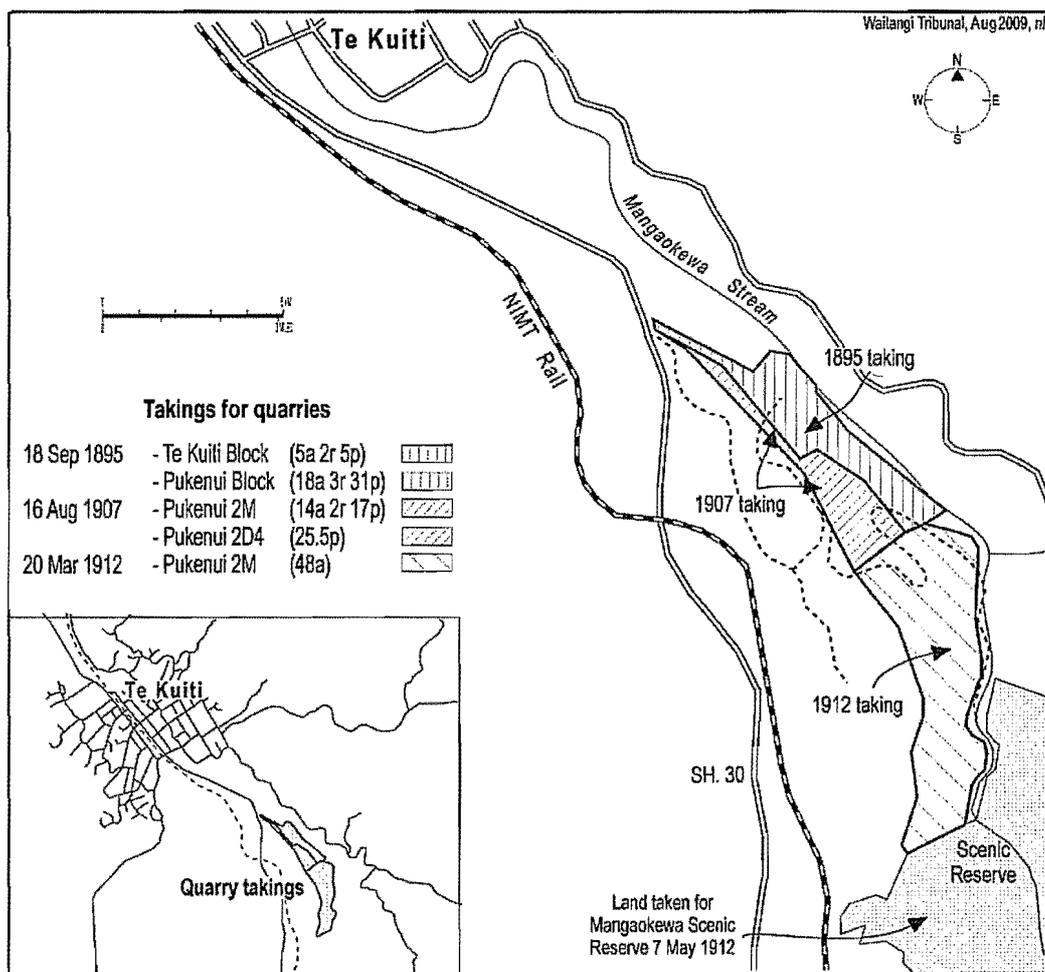


Figure 22: Waiteti quarry takings, 1895, 1907 and 1912

Native Land Court and compensation

Table 4 provides details of compensation awards for most of the Maori land taken for railway purposes from mid-1903. Compensation was determined by the Native Land Court until 1962, when claims were removed to the Land Valuation Court and the Maori Trustee was required to negotiate claims on behalf of owners of Maori land held in multiple ownership.⁶⁴⁸ No record of compensation has been located for some of the additional takings, and it is possible that the five

⁶⁴⁶ Chief Engineer to General Manager, 29 January 1913, R 3 W2278 231 1911/1294 part 1, ANZ Wellington. Supporting Papers, pp250-252.

⁶⁴⁷ Otorohanga minute book 53, 20 November 1912, p160. Supporting Papers, p156.

⁶⁴⁸ Marr, *Public Works*, pp142-143.

percent rule was applied in the cases of takings carried out before the abolition of the rule in 1927. As detailed above, the rule was definitely applied in the case of the August 1907 taking from Pukenui 2M, and it may also have been applied in the cases of the April 1905 taking from Rangitoto Tuhua block and the January 1912 taking from Pukeroa-Hangatiki 1A. Following the abolition of the five percent rule in 1927, Apirana Ngata commented in a letter to Peter Buck that, in employing the rule, 'the railways have been notorious offenders'.⁶⁴⁹

In the cases where compensation was assessed by the Native Land Court, the Court's award sometimes confirmed an out-of-Court settlement reached between the taking authority and the owners. The Court's order in respect of the land taken from Pukenui 2M in 1912, noted above, is an example of this.⁶⁵⁰ In other cases, where no agreement existed, the Court heard evidence of the value of the taken lands and made an award on the basis of this evidence. Where the owners and/or leaseholders were represented, considerable evidence was sometimes presented to the Court, often involving numerous witnesses. As detailed above, the Court heard a large amount of evidence from multiple witnesses in the compensation cases for the 1903 quarry taking from Rangitoto Tuhua block and the 1907 quarry taking from Pukenui 2M.

Where owners and/or leaseholders were not represented, the Court was required to make an award solely on the basis of evidence provided by the taking authority's representative. In the absence of owner and/or leaseholder representation, this was often simply a brief statement of the value of the taken land, which the Court's award usually reflected. This was the case in October 1921, when the Court heard an application for an assessment of compensation for the land taken from Subdivision 1 Section 3 of Whatitokarua block in March 1920.⁶⁵¹ The Public Works Department's representative told the Court that he had accepted the leaseholder's view that the land had an unimproved value of £100 and that, in respect of this unimproved value, the leaseholder should receive compensation of £54 and the Maori owners £46. With no representative of the owners present, the Court showed some concern for the owners' interests by questioning the District Valuer before ordering that compensation of £50 be paid to the owners.⁶⁵²

⁶⁴⁹ Ngata to Buck, 9 February 1928, in MPK Sorrenson (ed.), *Na To Hoa Aroha, From Your Dear Friend: the correspondence between Sir Apirana Ngata and Sir Peter Buck, 1925-1950*, volume one, Auckland University Press, 1986, p69.

⁶⁵⁰ Otorohanga minute book 53, 20 November 1912, p160. Supporting Papers, p156.

⁶⁵¹ Otorohanga minute book 63, 5 October 1921, pp127-128. Supporting Papers, pp159-160.

⁶⁵² Otorohanga minute book 63, 5 October 1921, p131. Supporting Papers, p161.

An absence of owner representation may sometimes have been due to owners being unaware that applications for an assessment of compensation had been made (the responsibility for making applications resting with the Minster) or even that land had been taken (the taking provisions not requiring that owners be notified). In other cases, where large numbers of owners were involved, organising representation may have proved difficult, particularly where the amount of compensation that would be distributed to individual owners was likely to be small and the effort of arranging representation may therefore have not seemed worthwhile. It is also possible that, in some cases, an absence of owner representation reflected disillusionment with the Court process, a belief that representation in Court would not ensure that compensation would be awarded in a fair and equitable manner.

In assessing compensation, it is evident that the Native Land Court was often required to make difficult decisions and that the complexities of some of these cases were perhaps beyond what the Court may have reasonably been expected to consider. As noted above, the Court sometimes had to weigh up a large amount of conflicting evidence or, when owners were not represented, rely on limited information. Where land was leased, the Court had to determine how compensation was to be allocated between the owners and leaseholder and, in cases where the taken area contained natural resources, decide upon the value of these resources and the extent to which this value should be reflected in the compensation award. These considerations are illustrated in the compensation cases detailed above. The case of the 1907 taking, in particular, casts doubt on the Court's decision-making abilities and the extent to which the interests of owners were protected, at least in the early part of the twentieth century.

In its judgement concerning the 1907 taking, the Court ascribed no value to the limestone within the taken area, even though the Railways Department had taken the land with the specific purpose of obtaining this resource and the owners had been receiving an (albeit small) royalty for limestone extracted by the European who leased Pukenui 2M. Also, after deciding that the five percent rule was applicable and that compensation had to be paid for only part of the taken land, the Court allocated most of the compensation for the loss of land and a water right to the European leaseholder. The Court considered that the owners had diminished their freehold interest because the terms of the lease were unfavourable, but the owners clearly held the greatest interest in the land and would have resumed full ownership when the lease eventually expired. It seems likely that the owners had decided to lease rather than sell the land specifically because they wished to retain ownership.

It is difficult to establish that the compensation awarded by the Court was in every case paid and, where payments were made, that the money was distributed to all owners in accordance with their relative interests in the land.⁶⁵³ Registers of lands taken for railway purposes provide evidence that at least some payments were made.⁶⁵⁴ These registers, which appear to have been kept by the Railways Department, provide details of several of the takings recorded in Table 4, including some details of compensation. They record that compensation was paid for the takings, noting the date that payment was made. However, they provide limited details as to whom the money was paid. Where land was multiply owned, the registers sometimes noted that money was paid to one named owner 'and others'.⁶⁵⁵ In one case, it is recorded simply that the compensation was paid to the 'native owners'.⁶⁵⁶ It is unclear whether payment was distributed to each owner or whether, for example, the money was given to one owner with the expectation that it would be appropriately divided up and passed on. In the case of the March 1911 taking, it is recorded that compensation was paid to the Waikato-District Maori Land Board for distribution to the owners.⁶⁵⁷ The taken land was part of Te Kuiti Native Township, which was vested in the Board.

Issues concerning the role of the Native Land Court in assessing compensation for public works takings and the payment of compensation monies will be examined more closely in David Alexander's report on public works takings.

Takings carried out after 1970

Table 4 details that from 1976 to 1990 there were 12 takings of Maori land for railway purposes in the Te Rohe Potae inquiry district. These takings, which in some cases affected more than one block, involved a total area of about 15 acres. The land appears to have been required principally for line realignments associated with the electrification of the NIMT. The taking that involved the largest area of land, dated July 1986, saw land acquired for a new approach to Mokau/Puketutu station.

⁶⁵³ When a compensation award was made by the Court, it appears that it was expected that it was to be paid to the owners in accordance with their relative interests in the land. This was sometime stated explicitly, as in the case of the award made in October 1921 in respect of Subdivision 1 Section 3 of Whatitokarua block. Otorohanga minute book 63, 5 October 1921, p131. Supporting Papers, p161.

⁶⁵⁴ ABWN 8115 W5280 165-170 parts 1-6, ANZ Wellington.

⁶⁵⁵ ABWN 8115 W5280 166 part 2, record no. 431.

⁶⁵⁶ ABWN 8115 W5280 166 part 2, record no. 651.

⁶⁵⁷ ABWN 8115 W5280 166 part 2, record no. 542.

The additional takings carried out after 1970 reflect a shift in attitudes regarding the compulsory acquisition of land for public works and a new legislative framework. From around the mid-twentieth century, central Government increasingly began to see compulsory taking as unacceptable and looked instead to negotiating and entering agreements with owners of land required for public works.⁶⁵⁸ However, in the case of Maori land, it was not until the mid-1970s that legislation was introduced to overcome some of the obstacles to reaching agreements where there were multiple owners.⁶⁵⁹ During the 1970s, concerns relating to the compulsory acquisition of Maori land heightened, particularly following the 1975 Land March and the Raglan Golf Course and Bastion Point protests. The Public Works Act 1981, as noted above, places greater emphasis on securing agreements to purchase required land, rather than relying on compulsory takings. The 1981 Act provides that Maori land has to be acquired under the supervision of the Maori Land Court. As noted earlier, the Act ended the tradition of including separate provisions for the taking of land for railway purposes.

These changes are apparent in the additional takings carried out after 1970. Though file evidence relating to these takings has not been examined, some details of the takings are provided in the notices published in the *New Zealand Gazette*. All of the notices record that the lands were acquired subject to agreements, even the acquisitions of 1976 and 1980, which preceded the 1981 Act. It is notable that in two cases the agreements involved land exchanges.

Leasing of railway lands

During the twentieth century, numerous areas of railway land in the Te Rohe Potae inquiry district were leased to private interests, providing a source of revenue for the Railways Department. As noted earlier, during the hui of Rohe Potae Maori held at Kihikihi on 27 February 1885, some speakers suggested that the land required for the line should be leased to the Government.⁶⁶⁰ However, this proposal does not seem to have gained much support, and it is unclear how the Government would have responded to the idea. If Rohe Potae Maori had been able to lease to the Government the land required for the NIMT outside the gifted area, this would have provided an ongoing source of revenue to the owners that was consistent with Ballance's statements about the economic benefits that would flow from the NIMT. As events turned out, it was the Railways Department that enjoyed an economic benefit from leasing.

⁶⁵⁸ Marr, *Public Works*, pp189-192.

⁶⁵⁹ Part IX of the 1974 Maori Affairs Amendment Act empowered the Maori Land Court to appoint an agent or agents to act on behalf of the owners of multiply owned Maori land.

⁶⁶⁰ *Ibid*.

The Department's leasing of railway land to private interests indicates that the amount of land taken for railways in the Te Rohe Potae inquiry district was greater than what was required for immediate operational requirements, something that appears to have been standard practice. In an article that appeared in *New Zealand Railways Magazine* in 1927, the Railways' Land Office explained that the amount of land taken for a railway was determined by an assessment of the area required to meet existing demand and an estimate of what would be required to meet future increases in traffic.⁶⁶¹ Additional land would sometimes also be taken upstream of railway bridges, enabling the Department to protect these structures. Ballast pits, it was noted, were acquired to meet future supply needs and, where a line severed a property, the severance might sometimes be acquired to avoid a claim for damages.

As well as the practice of acquiring more land than was needed for immediate requirements, it also seems possible that some of the land leased by the Railways Department may have become surplus to operating needs as a result of technological change, particularly the shift from steam to diesel engines that took place during the mid-twentieth century.⁶⁶² The NIMT had been built for steam engines, which required greater servicing facilities than the diesel engines that replaced them. Yard areas that were used to provision steam engines with a regular supply of coal and water may have become surplus to requirements.

In order to generate revenue from the areas of land for which it had no immediate use, the Railways Department began leasing suitable areas at the end of the nineteenth century. By 1895, some 656 leases had been arranged by the Department nationwide, mostly involving small areas along the railway.⁶⁶³ Around this time, efforts to lease land increased when the Premier suggested that a great deal of idle railway land could be leased to employees or adjacent settlers.⁶⁶⁴ Notices were posted in all stations where it was desired that surplus lands be leased, resulting in many additional leases being applied for and granted.⁶⁶⁵

⁶⁶¹ 'Railway lands – their control and use', *New Zealand Railways Magazine*, 1 June 1927, volume 2, issue 2, p19.

⁶⁶² Leitch and Stott, pp 103-116.

⁶⁶³ Chief Engineer, Railways, to Under Secretary, Railways, 29 January 1895, R 3 W2381 43 1915/3935 part 1, Leasing Railway Land, 1895-1956, ANZ Wellington. Supporting Papers, pp164-166.

⁶⁶⁴ Under Secretary, Railways, to Chief Engineer, Railways, 25 January 1895, R 3 W2381 43 1915/3935 part 1, ANZ Wellington. Supporting Papers, p163.

⁶⁶⁵ Under Secretary, Railways, to Minister of Railways, 21 August 1895, R 3 W2381 43 1915/3935 part 1, 1895-1956, ANZ Wellington. Supporting Papers, p168.

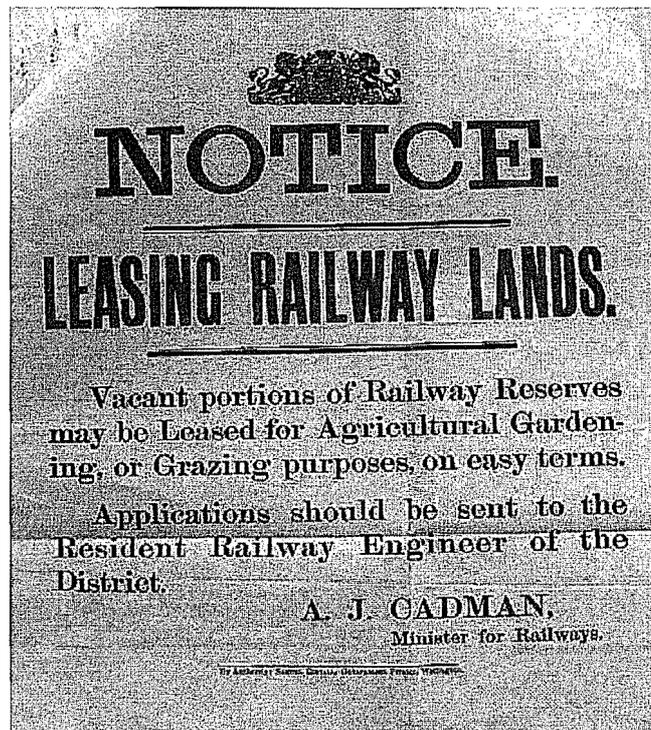


Figure 23: Poster advertising railway land for lease, 1895 (R 3 W2381 43 1915/3935 part 1, ANZ)

The Railways' Land Office commented on the leasing of railway land in the 1927 *Railways Magazine* article.⁶⁶⁶ It noted that while portions of land believed to be of no future use were sometimes sold, the bulk of the Department's spare land was leased. A lease would be arranged whenever any person wanted to lease a portion of railway land and it was convenient and profitable to do so. Urban lands were among the areas leased. Where it was considered that spare land originally acquired for station purposes was not likely to be required, the land would be subdivided for business purposes and leased for long terms. By 1926, there were nationally 6434 leases and grants of railway land, earning the Department annual rental of almost £57,832.

In May 1949, the General Manager of Railways commented that, while it might be sometimes argued that the Department held too much land, Railways' constantly expanding service meant it was better to lease land than to be faced with a costly programme of having to repurchase lands.⁶⁶⁷ By 1953, this policy seems to have changed somewhat in respect of rural land. In a report prepared for the New Zealand Railways Commission, it was noted that surplus rural land was generally sold because such property was of no advantage to the Department and tended to

⁶⁶⁶ 'Railway lands – their control and use', *New Zealand Railways Magazine*, 1 June 1927, volume 2, issue 2, p20.

⁶⁶⁷ General Manager to Secretary, Land Committee, Office of Public Service Commission, 27 May 1949, R 3 W2381 43 1915/3935 part 1, ANZ Wellington. Supporting Papers, pp 169-172.

deteriorate rapidly, even when leased.⁶⁶⁸ The report recorded that in 1953 there were nationally 8419 leases of railway land, which earned revenue of about £108,000 annually. In 1968, the total area of railway land leased was over 19,000 acres, in respect of which annual rent of \$645,800 was paid.⁶⁶⁹

In the Te Rohe Potae inquiry district, at least 75 areas of railway land were leased during the twentieth century. This figure is based on an assessment of files held by Archives New Zealand that relate to individual leases of railway land in the inquiry district.⁶⁷⁰ It is possible that these files do not represent all of the leases in the inquiry district. An examination of the files shows that rural and urban land was leased. It appears that little rural land was disposed of from the 1950s in accordance with the policy noted in the report of the New Zealand Railways Commission. As detailed below, few areas of railway land in the inquiry district were sold before the 1980s, when extensive land disposal was undertaken in accordance with the major restructuring policies introduced at that time. The lease files include examples of rural lands that were leased up to the 1980s. Small areas of land at Kopaki, for example, were leased from 1919 until at least the mid-1980s.⁶⁷¹

Another area of railway land that was leased was the limestone quarry at Waiteti, south of Te Kuiti, which comprised areas taken from Maori in 1895, 1907, and 1912. (The taking of these lands is discussed above.) It appears that during the 1920s the Railways Department stopped working the quarry after it was decided that limestone was not suitable for ballast.⁶⁷² Instead, the Department began using river shingle obtained at Otorohanga, Taumarunui, and Karikari. On 1 April 1923, an area of about 10 acres was leased, and on 17 June 1931 a second area of about 44 acres was leased.⁶⁷³ The terms of these leases provided that the Department would receive a royalty for material extracted. The lease that concerned the 44 acres area also included a provision that enabled the Department to access limestone ballast extracted from the land. (In 1933, the District Engineer noted that the Department might again be forced to use limestone

⁶⁶⁸ The leasing of railway property (report for the New Zealand Railways Commission), received 28 September 1953, R 3 W2381 43 1915/3935 part 1, ANZ Wellington. Supporting Papers, pp173-176.

⁶⁶⁹ CCE, Wellington, to Thomas, 28 February 1968, AAEB W3439 17521, Leasing and Disposal of Railway Land, 1897-1978, ANZ Wellington. Supporting Papers, p287.

⁶⁷⁰ The agency, series, and accession references for these files are ABJQ 17005 W5448. The files are held by Archives New Zealand in Wellington.

⁶⁷¹ New Zealand Railways Lease Roll, issued 12 April 1978, ABJQ 17005 W5448 2 L12485, Dean JM – Agricultural Site: Kopaki, 1956-1983, ANZ Wellington. Property Officer to TA and CM Murphy, 15 December 1982, ABJQ 17005 W5448 2 L12485, ANZ Wellington.

⁶⁷² Acting Land Officer to Chief Engineer, 7 January 1933, AAEB W3293 38 9867, Te Kuiti Quarry, 1915-1947, ANZ Wellington. Supporting Papers, pp285-286.

⁶⁷³ Ibid.

ballast if difficulties arose with the supply of river shingle it obtained at Otorohanga and Taumarunui.⁶⁷⁴) The quarry land at Waiteti remained leased until it was disposed of in 1993 in accordance with restructuring policies. Issues concerning the land disposals that were carried out from the 1980s are discussed in detail in Chapter six.

Land disposals before 1982

This section examines the sale and transfer of railway land in the Te Rohe Potae inquiry district up until the creation of the New Zealand Railways Corporation in 1982. Disposals carried out after this time, which stemmed from the restructuring of Railways, are examined in Chapter six.

It appears that little railway land was disposed of in the inquiry district until 1982. Table 6 details the disposals that have been identified – nine transactions involving about 67 acres. As explained above, the Railways Department had a general policy of retaining and leasing surplus lands. A change in this policy appears to have been introduced in the early 1950s in respect of rural lands, but this does not seem to have been implemented in the inquiry district. This was possibly because of the NIMT's importance in the rail network and a perception that it was more likely that surplus lands along the NIMT would be required in the future.

Table 6: *Railway lands disposed of in the Te Rohe Potae inquiry district before 1980*⁶⁷⁵

Year	Description	Area	Details
1939	Sec 13 Blk IV Otake SD Sec 14 Blk IV Otake SD	1a 0r 6.3p 0a 0r 38.8p	Located at Te Kuiti, this land was exchanged for an area taken from Pukenui 2D4A. ⁶⁷⁶
1941	Sec 36 Blk IV Orahiriri SD	0a 0r 29.6p	Located at Otorohanga, this land was declared Crown land in 1941. ⁶⁷⁷ It was set apart for a Post Office in 1950, and in 1964 was again declared Crown land. ⁶⁷⁸ Today, the land is in European ownership.
1942	Sec 12 Blk X Tangitu SD	0a 1r 5.8p	Located at Ongarue, this land was reserved for the use of public buildings in 1942. ⁶⁷⁹ In 1969, the reserve status of part of the land (37p) was revoked and the remaining part (8.8p) set aside for an automatic telephone exchange. ⁶⁸⁰ Today, the larger portion is in European ownership, while the smaller portion is owned by Telecom.

⁶⁷⁴ Ibid.

⁶⁷⁵ The disposals recorded in this table are shown as 'lands given up' in the railway land plans held by Ontrack. These plans record accurately record all transactions of railway lands up until about 1990. Railway Plan Books 10 and 11, Ontrack. The table does not record various small areas given up for roads.

⁶⁷⁶ Authority for the exchange was signed by Minister of Railways, D.G. Sullivan, on 2 December 1940. Sullivan, 2 December 1940, BAOB 1542 1496b 9/25 part 8, ANZ Auckland. Supporting Papers, p1.

⁶⁷⁷ *New Zealand Gazette*, 1941, p 2527. SO 28496, South Auckland Land District, LINZ.

⁶⁷⁸ *New Zealand Gazette*, 1950, p 1753. *New Zealand Gazette*, 1964, p1974.

⁶⁷⁹ *New Zealand Gazette*, 1942, p1364. SO 10041, Taranaki Land District, LINZ.

⁶⁸⁰ *New Zealand Gazette*, 1969, p1129. *New Zealand Gazette*, 1969, p1968.

Year	Description	Area	Details
1967	Sec 3 Blk V Mapara SD	1a 1r 19.7p	Located at Kopaki, this land was formerly part of an area of Rangitoto Tuhua 68M 2B 3B, taken in 1938. It was declared Crown land in 1967 and was sold to the Waitomo County Council. ⁶⁸¹
1972	Sec 8 Blk V Mapara SD	1a 2r 5.2p	Located at Kopaki, this land was formerly part of an area of Rangitoto Tuhua 68M 2B 3B, taken in 1938. It was declared Crown land in 1972 and was sold to a European. ⁶⁸²
1974	Lot 421 Parish of Mangapiko	4a 0r 10p	Located on the bank of the Mangapiko Stream at Te Awamutu, this land was declared Crown land in 1974. ⁶⁸³ In 1975, it was sold to the New Zealand Dairy Company, which wanted the land for a sewage plant. ⁶⁸⁴
1979	Part Whenuatupu Ohinemoa 1	4a 3r 00p 4a 0r 25p	Formerly part of Rangitoto Tuhua Block, this was the Waimiha quarry, taken in 1903. At some stage, a road was built through the quarry, reducing the area held by Railways and dividing it into two portions. The land was declared Crown land in 1979 and purchased by the Maori Affairs Department of land development purposes. ⁶⁸⁵
1981	Sec 10 Blk X Puniu SD	1a 1r 7.3p	This land, surplus land resulting from curve easement work, was without legal access. ⁶⁸⁶ It was sold to the neighbouring land owner.
1981	Secs 55, 60, 61 Blk XV Orahiri SD	0a 1r 2.2p 13a 3r 6.1p 34a 1r 13.5p	In May 1981, pursuant to the Public Works Act 1928, this land was declared to be Crown land subject to the Land Act 1948. ⁶⁸⁷ The land was part of an area of 64 acres 3 roods that had been purchased from a European, J.C.H. Somerville in 1921. ⁶⁸⁸ Sections 55 and 60 appear to have been purchased by the Waitomo District Council for residential subdivision, while section 61 was retained by the Department of Lands and Survey for reserve purposes.
Total		67a 1r 9.5p	

The process of disposing of surplus land was carried out in accordance with specific legislative provisions. When the procedures for taking land for public works developed in England, one of the standard protections for owners was that taken land that was no longer required was to be valued and offered back to the former owner and then to the adjacent land owner.⁶⁸⁹ If these offers were not taken up, the land could then be sold on the open market. However, for much of the twentieth century (and the whole of the period during which the disposals in Table 6 were carried out), public works legislation in New Zealand did not provide for offer back to former owners.

⁶⁸¹ *New Zealand Gazette*, 1967, p350. Certificate of title TNB1/535, Taranaki Land District, LINZ.

⁶⁸² *New Zealand Gazette*, 1967, p310. Certificate of title TNC3/740, Taranaki Land District, LINZ.

⁶⁸³ *New Zealand Gazette*, 1974, p2545.

⁶⁸⁴ Certificate of title SA19C/668, South Auckland Land District, LINZ. Land Settlement Board report for Crown land adjoining Part Lot 409 Mangapiko Parish, BAOB 1542 1498a 9/25 part 12, Main Trunk Railway Line, 1965-1980, ANZ Auckland. Supporting Papers, p2.

⁶⁸⁵ *New Zealand Gazette*, 1979, p2518. Certificate of title TNF1/238, Taranaki Land District, LINZ.

⁶⁸⁶ Minute sheet, folio 325, BAOB 1542 1498a 9/25 part 13, Main Trunk Railway Line, 1980-1982, ANZ Auckland. Supporting Papers, pp3-4. SO 49634, South Auckland Land District, LINZ.

⁶⁸⁷ *New Zealand Gazette*, 1981, pp1201-1202.

⁶⁸⁸ Chief Engineer to General Manager, 13 May 1921, NZRC file 9432/200, Te Kuiti – Taking Land At, OnTrack. Supporting Papers, p385.

⁶⁸⁹ Marr, *Public Works*, pp145-146. A related protection was that land taken by compulsion should only be used for the purpose for which it was taken.

Provision for offer back was introduced in the Public Works Act 1928, but in 1935 this was repealed by amending legislation that provided that land could be sold either to the owner of any adjacent lands or by public auction or tender.⁶⁹⁰ The 1928 Act also provided other ways of dealing with land that was no longer required for a public work. Surplus land could alternatively be set aside for education purposes or declared Crown land that was to be administered and disposed of under the Land Act 1924.⁶⁹¹ The disposal provisions of the 1924 Act provided for sale by public auction and, in cases where land was without access, sale at valuation to adjoining owners.⁶⁹² Land could be set aside for a wide range of public uses, which meant that land taken for a specific purpose could, when no longer required, be used for another purpose.⁶⁹³ Statutory provisions concerning disposal did not change significantly until the passage of the Public Works Act 1981, which – as discussed in Chapter six – reintroduced the protection of offer back to former owners.⁶⁹⁴

The disposals identified in Table 6, undertaken between 1935 and the introduction of the Public Works Act 1981, were therefore carried out without offer back to the former owners. With the exception of the 1974 disposal (land that lay to the north of the Puniu River) and the 1981 disposal involving land within Orahiru Survey District (land purchased from a European), all of the areas disposed of had been taken from Maori. At least two areas, the lands disposed of in 1941 and 1942, appear to have involved land that Maori had gifted for the NIMT, a situation where offer back appears to be especially appropriate. In both of these cases, the land was set aside for a different purpose before most of it was sold to private interests. The 1979 disposal did result in land being returned to Maori ownership, though not to the former owners or their descendants. This land (the Waimiha quarry, taken in 1903) was purchased by the Department of Maori Affairs for land development purposes and then later amalgamated with adjacent Maori blocks.

Conclusion

Though central Government had for many years possessed statutory powers to compulsorily take Maori land for public works, the negotiations that preceded the construction of the NIMT

⁶⁹⁰ Section 35, Public Works Act 1928. Section 14, Public Works Amendment Act 1935.

⁶⁹¹ Section 35, Public Works Act 1928.

⁶⁹² Section 77, Land Act 1924. Section 148, Land Act 1924.

⁶⁹³ Section 359, Land Act 1924.

⁶⁹⁴ See, in particular, sections 53 and 54 of the Land Act 1948 and section 4 of the Public Works Amendment Act 1954.

included discussions about the land required for the railway. The settler Government recognised that issues concerning this land would need to be addressed before Rohe Potae Maori agreed to the NIMT. Discussions concerning the land required for the railway focussed on the amount of land that would be taken and whether compensation would be paid for this land. Ballance made clear statements about both of these issues at the meeting held at Kihikihi on 4 February 1885, the final meeting that Rohe Potae Maori had with the Native Minister before making their decision to support the railway. In respect of the first issue, Ballance was careful to assure that the Government sought only a limited area of land required for the railway itself: one chain for the line, perhaps two chains where cuttings were required, and five or ten acres for stations. In regard to the issue of payment, Ballance stated unequivocally that compensation would be paid for the taken land.

When Rohe Potae Maori agreed to the construction of the NIMT on 27 February 1885, the Government was advised that the track should be one chain wide, fenced, and paid for. However, an offer to gift a limited area of land was subsequently made, possibly initially at the sod-turning ceremony held on the banks of the Puniu River on 15 April 1885. Evidence relating to the gift is recorded in a number of documentary sources. The terms of the gift provided that the Government could take without payment a one chain strip for the track, one acre for small stations, and three acres for large stations. All lands taken outside these areas were to be paid for. In a letter written to Wahanui on 1 October 1886, Ballance accepted the gift and assured that lands taken beyond the limits of the gift would be paid for.

It is likely that two motivations underpinned the decision to gift land for the railway. The decision was probably linked to Rohe Potae leaders' opposition to the Native Land Court, Government representatives having consistently stated that compensation would be paid only after ownership had been determined. It also seems likely that the gift was motivated by a desire to make a lasting contribution to the railway, a show of good faith that deepened the Government's moral obligation to deliver on its promises, not only in respect of the railway, but also with regard to the land policy matters that were being discussed at the same time.

The Government failed to act in accordance with the assurances that Ballance had made regarding the land required for the NIMT, both in respect of the area taken and the payment of compensation. In regard to the area taken, it is unclear whether the Public Works Department, in carrying out the takings in accordance with the procedures set down in public works

legislation, was aware of the statements that Ballance had made. The area of almost 1100 acres of Maori land that was taken for the NIMT in the Te Rohe Potae inquiry district up until mid-1903 (when construction through the district was completed) clearly exceeded the limited area that the Native Minister had said would be required. The area taken for the track and stations was greater than what Ballance had stated, and the takings included several areas that were acquired for quarry purposes.

The possibility of land being acquired for quarries was not discussed during negotiations and there is no evidence that Rohe Potae Maori were consulted before the quarry lands were taken. It is notable that the takings were carried out under statutory provisions that did not require consultation with land owners. Indeed, during this time, provisions for taking land for railway purposes lacked some of the standard protections for land owners that were included in the provisions for taking land for general purposes. There were very limited requirements relating to notification of the land owner and owners were not able to make formal objections. The creation of severances and the provision of access to these areas – a concern where the NIMT runs along the Ongarue River – may have been an issue that owners would have wished to comment upon when land was being taken for the NIMT.

The failure of the Government to pay the owners compensation for the areas that were taken in excess of what Rohe Potae Maori agreed to gift also seems to have owed much to the Public Works Department being unaware of the assurances that Ballance had made. In December 1890, the Native Land Court assessed compensation for lands that had been taken for the railway between the Puniu River and Te Kuiti, confirming out-of-Court settlements regarding areas taken from 11 blocks. The owners of all except one block felt bound by the decision to gift land for the railway, possibly indicating that Maori continued to support the railway and perhaps remained optimistic that it would bring the prosperity that Ballance had spoken of. The Court made compensation awards totalling £123 10s, but it appears that most of this remained unpaid because of the difficulty of distributing the money to a large number of owners.

With the exception of an 1895 arrangement whereby the Crown's interest in Pukenui block was reduced in recognition of land that had been taken from this block for the railway, no other compensation was paid for the areas taken during the construction of the railway that were in excess of what Maori had agreed to gift. In 1903, the Public Works Department adopted the position that a statutory obligation to pay compensation did not exist at the time that the land

was taken. (The Solicitor General believed the land had been taken on 2 April 1885, when the Governor signed an Order in Council under the Public Works Act 1882.) This position was maintained by the Department when it rejected claims in 1911 and 1923.

After construction of the NIMT was completed through the Te Rohe Potae inquiry district, numerous additional takings of land for railway purposes were carried out. Between mid-1903 and 1990, some 192 acres were taken, most of this land being acquired before 1925. Land was taken for a range of purposes, including small areas for a branch line between Okahukura and Stratford. In terms of land area, the main purpose for taking land was to secure stone resources. Takings in 1903, 1905, 1907, and 1912 for quarries involved about 93 acres. The takings were particularly significant because, as discussed in Chapter three, Maori expected to be paid for stone extracted from their land for the railway. The acquisition of the quarry lands therefore prevented Maori from deriving an ongoing economic benefit from stone resources. A number of small takings in the 1980s appear to have been carried out in conjunction with the electrification of the NIMT.

In carrying out the additional takings, which lay outside what Ballance had stated would be required for the NIMT, the taking authorities clearly appear to have had an obligation to consult with the affected Maori owners. However, the statutory process for taking land for railway purposes did not require consultation with owners. The separate provisions for railway takings, which lacked the notification and objection protections of general taking provisions, remained in place for most of the twentieth century. Change was eventually introduced in the Public Works Act 1981, which does not include separate provisions for taking land for railway purposes and also places greater emphasis on negotiating agreements with Maori over land required for public works purposes.

Little evidence has been located about the takings carried out from mid-1903. However, in the case of the 1912 taking (the largest of the additional takings, involving 48 acres), it seems that the Railways Department took the land without consulting with the owners. The case suggests that, during the first two decades of the twentieth century at least, Maori owners were generally not consulted. The additional takings carried out after 1970 reflect a shift in attitudes regarding the compulsory acquisition of land for public works and a changing statutory framework. Even though they involved relatively small areas, it appears that all the takings carried out after 1970 were subject to agreements with the owners.

Compensation generally appears to have been awarded for the additional takings, the Native Land Court being responsible for this until 1962. Details of compensation have not been established for two takings (involving about 18 acres) carried out before the repeal in 1927 of provisions that enabled up to five percent of Maori land to be taken for road and railway purposes without compensation. It is possible that the 'five percent rule' was applied in these cases, though a lack of record-keeping requirements in connection with the rule make it difficult to establish this with any certainty. However, there is clear evidence that the rule was applied in respect of the 1907 quarry taking, when it was used to limit the area over which compensation was assessed.

Where compensation was determined by the Native Land Court, the Court's award sometimes confirmed settlements reached out of court. In other cases, the Court sometimes had to weigh up a large amount of conflicting evidence or, when owners were not represented, rely on limited information. The absence of owner representation may have reflected inadequate notification procedures or the difficulties of organising a large number of owners – both problems that reflected shortcomings in the land taking procedures. The Court's award in the case of the 1907 quarry taking indicates that the Court sometimes lacked the necessary expertise to assess the value of taken land and did not protect the interests of the owners, at least in the early part of the twentieth century. In this case, the Court ascribed no value to the limestone resource for which the land was taken and most of the compensation for the loss of land and a water right was awarded to the European leaseholder. It has not been possible to establish that the compensation awarded by the Court was in every case paid and, where payments were made, that the money was distributed to all owners in accordance with their relative interests in the taken land.

It appears that the amount of land taken for railways in the district was greater than what was required for immediate operational needs, a practice of the Railways Department that aimed to ensure that there would be sufficient land to meet future increases in traffic. The fairness of this practice – taking land to save Railways the cost and inconvenience of acquiring land at a later date – seems questionable. Holding a significant area of land for which it had no immediate use, the Department sought to lease suitable areas as a source of revenue. In the Te Rohe Potae inquiry district, at least 75 areas of railway land were leased during the twentieth century, including both rural and urban areas. One of the leased areas was the limestone quarry at

Waiteti, south of Te Kuiti, which comprised lands taken from Maori in 1895, 1907, and 1912. By the 1930s, the Department had no further use for this land, which was sold in 1993.

Few areas of railway land in the inquiry district were sold before the 1980s, when extensive land disposal was undertaken in accordance with the major restructuring policies introduced at that time. Research has identified only eight disposals before the creation of the New Zealand Railways Corporation in 1982. These disposals, carried out between 1939 and 1981 and involving about 19 acres, were undertaken in accordance with statutory procedures that did not require that land had to be first offered back to the former owners – a previously longstanding protection for land owners. It appears that none of the land was repurchased by the original owners or their descendants.

Chapter Five: Railways in the Te Rohe Potae Inquiry District, 1903-1980

Introduction

This chapter discusses the operation of railways in the Te Rohe Potae inquiry district from 1903 to 1980 – the period between the opening of the NIMT to traffic through the district and the restructuring of New Zealand Railways (NZR) that began in the 1980s. In particular, it looks at how the NIMT was linked to a number of important developments that occurred in the district during this time. The chapter begins by describing how the NIMT played a key role in the transport infrastructure of the King Country, providing access to a large area of land, including lands purchased from Maori and taken up by European settlers. It then looks at the connection between the NIMT and the growth of a major sawmilling industry, which was dominated by Europeans sawmillers, but appears to have provided an economic benefit to some Maori landowners. Following this, the chapter discusses how the NIMT provided a footing for two other significant developments – the building of the Stratford-Okahukura branch line, and the creation in 1903 of three Native Townships along the railway at Otorohanga, Te Kuiti, and, just outside the inquiry district, Taumarunui. Stepping back from the role of the NIMT in the King Country, the chapter then comments on the railway's importance to the national economy. It concludes by briefly examining Rohe Potae Maori employment on the railway.

It should be noted that the discussion of the various developments linked to the NIMT that is presented in this chapter is relatively brief and based on limited research. The chapter does not comment conclusively on issues relating to the interests of Rohe Potae Maori. Instead, it identifies a number of issues that are beyond the scope of the report and require further research. Most of the developments discussed in the chapter will be addressed more substantially in other reports, which together will provide a comprehensive picture of the changes that occurred in the district during the period. For example, the twentieth century land alienation report will provide useful information on land purchase patterns and the extent to which Maori retained land along the NIMT and were therefore potentially able to benefit from its operation. The native townships report will explore in detail issues arising from the creation of the three native townships along the railway. Another relevant report will be the proposed economic capability overview report, which will examine a number of socio-economic issues,

including matters concerning the sawmilling industry and Maori employment in the Rohe Potae inquiry district.⁶⁹⁵

NIMT and the expansion of European settlement in the King Country

As argued earlier, the NIMT had been conceived not only as a transport link between the major centres of Auckland and Wellington but also as a means to open the King Country District to European settlement. This objective saw land purchase undertaken in conjunction with the construction of the railway, which for a number of years would occupy a key place in the district's transport infrastructure and provide (with connecting roads) access to a large area of land. Land purchased from Maori in the King Country appears to have become available for settlement in significant quantities in the mid-1890s, and it seems that from around 1900 settlers began taking up this land.⁶⁹⁶

Figure 24 shows that by 1903 the Crown had acquired and disposed of sizeable areas of land in the north west of the Te Rohe Potae inquiry district. The map also shows that Maori retained ownership of much of the land in the east of the inquiry district, almost all of which had passed through the Court. Figure 25 shows land tenure in the Rohe Potae in 1910. A comparison of Figure 24 and Figure 25 shows that by 1910 the area of land acquired and disposed of by the Crown had increased markedly, though a sizeable, yet diminishing area remained in Maori ownership.

⁶⁹⁵ Nicholas Bayley, 'Aspects of economic and socio-economic development in the Te Rohe Potae inquiry district (Wai 898), 1840-2008 – a scoping report', a report commissioned by the Waitangi Tribunal, 2009, pp 30-37.

⁶⁹⁶ For land available for settlement in the mid-1890s, see *AJHR*, 1895, C-1, map, 'North Island: shewing land transactions, 1894-1895'.

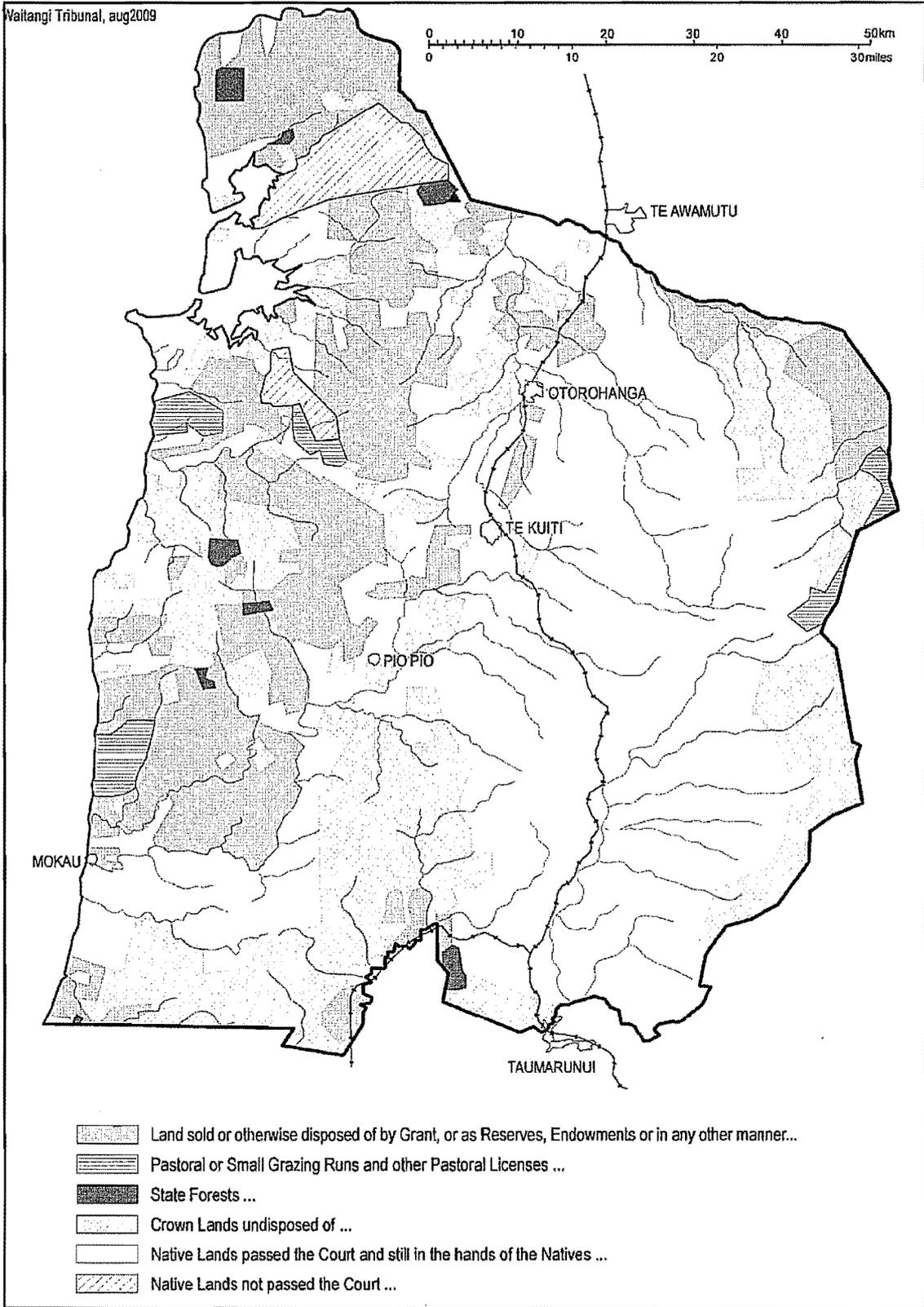


Figure 24: Land tenure in the Te Rohe Potae inquiry district, 1902-1903 (AJHR, 1903, C-1)

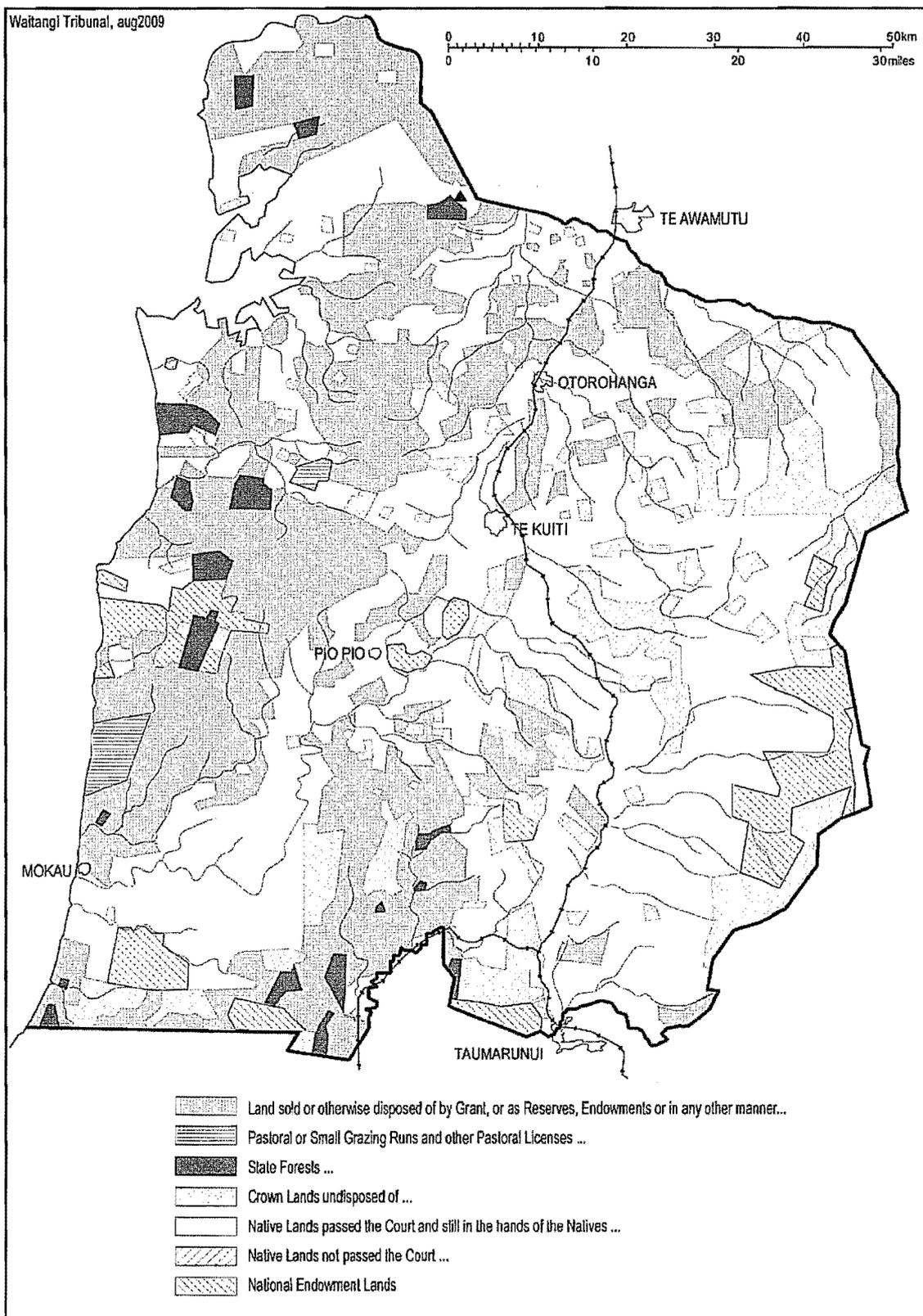


Figure 25: Land tenure in the Te Robe Potae inquiry district, 1909-1910 (AJHR, 1910, C-1)

The NIMT was clearly important in enabling European settlers to take up land and transport goods and stock to and from their properties. However, roads were also important and often appear to have been built to link settlement lands with the railway. In the Department of Lands and Survey's annual report of 1898, it was detailed that the main road work being undertaken in the central Auckland district was a road from Te Kuiti railway station to Awakino.⁶⁹⁷ It was noted that the road would provide access to a large area of land, which could be settled when the road was opened and native title extinguished. Another important road, it was reported, was the Ohura road from Ongarue (on the NIMT) to Stratford.

The linking of settlement lands with the NIMT by roads was noted again in the Department of Lands and Survey's annual report of 1900. Detailing that some 50,000 acres of land had been taken up in Kawhia County, with a further 100,000 acres due for selection in the near future, the 1900 report stated that the land was some distance from main lines of communication and that considerable money had been spent on building roads and connecting the land with the NIMT.⁶⁹⁸ Lands and Survey's annual report of 1901 records a significant increase in road building in the northern King Country as European settlement activity increased.⁶⁹⁹ Among the roads built at this time and linked to the NIMT was a road between Te Kumi and Pungarehu and a road between Otorohanga and Hauturu. The Te Kumi-Pungarehu road was described to be the first section of a proposed road that would provide the main outlet to the NIMT for settlers taking up the 170,000 acre Kinohaku West block.⁷⁰⁰ The 1901 report also discussed the need to properly form the road between Kihikihi, Otorohanga, and Te Kuiti – stated to be the only unformed section of the road between Auckland and Taranaki.⁷⁰¹

While the NIMT was clearly helpful to European settlement, providing access to lands purchased from Maori, it is also true that Maori retained significant areas along the railway many years after Government purchasing had commenced. (This is evident from an examination of Figure 25, which shows land tenure in 1910.) The twentieth century land alienation report will shed light on how long Maori continued to possess sizeable holdings along the railway and were therefore able to benefit from the access it provided. The report will also hopefully provide an indication as to whether the NIMT added financial value to Maori land when this land was sold. It should be noted that the extent to which Maori landowners were able to use the railway may

⁶⁹⁷ *AJHR*, 1898, C-1, p xv.

⁶⁹⁸ *AJHR*, 1900, C-1, p iv.

⁶⁹⁹ *AJHR*, 1901, C-1, pp 62-64.

⁷⁰⁰ *AJHR*, 1901, C-1, p 62.

⁷⁰¹ *AJHR*, 1901, C-1, p 64.

have been limited by a lack of connecting roads. It appears that – around the turn of the twentieth century, at least – connecting roads were primarily built to provide access to settlement lands. However, given the patchwork of tenure, these roads clearly would have passed through areas owned by Maori. The road between Te Kuiti and Awakino seems to have been built through Maori land in anticipation that the land would successfully be acquired for European settlement.

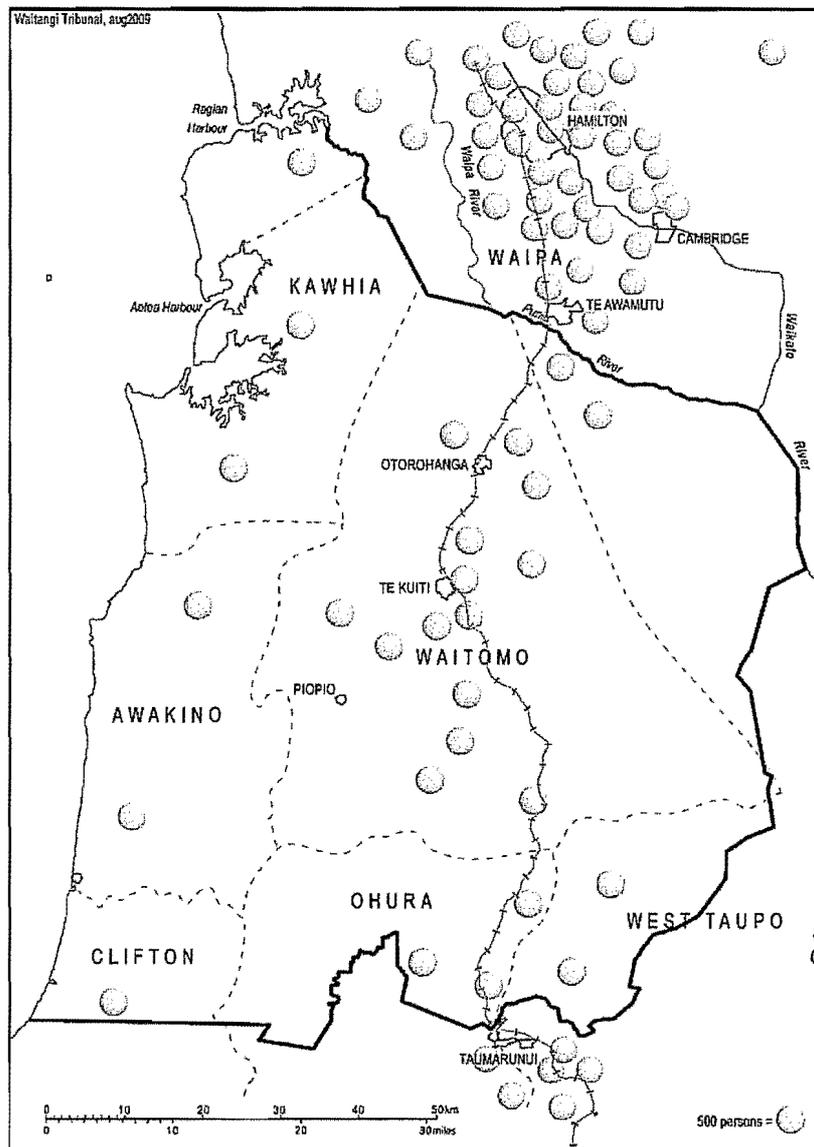


Figure 26: *Density of Non-Maori Population, 1916 (Results of a census of the Dominion of New Zealand taken for the night of 15 October, between p30 and p31)*

The European population of the King Country increased steadily as settlers began to take up land served by the NIMT and a growing road network. The creation of Native Townships on the NIMT at Te Kuiti and Otorohanga, discussed below, also contributed to the increase of the European population. Between 1901 and 1911, the number of non-Maori residents in the King Country district (probably including Taumarunui) increased from about 1400 to about 12,000.⁷⁰² This increase at least partly reflected significant changes in land tenure resulting from Government land purchase activity. Figure 26 shows that in 1916 most of the European population of the King Country was broadly located along the NIMT, illustrating the importance of the railway to European settlement, though other factors were also at play, such as the suitability of land for close settlement.

The growth of European settlement and the role that the NIMT played in providing access to newly settled lands appears to be reflected in the increase in the number of stock transported on the railway between 1901 and 1913. Table 7 and Table 8 detail the number of sheep and cattle carried from stations within the Te Rohe Potae inquiry district for which statistics were recorded in the Railways Department's annual reports. It seems likely that these were the principal stations and that stock was also carried from the smaller stations.

Table 7: *Number of sheep transported from NIMT stations in the Rohe Potae inquiry district, 1901-1913*⁷⁰³

station	1901	1904	1907	1910	1913
Te Awamutu	2317	7160	13,218	13,903	6802
Otorohanga	no details	no details	no details	no details	11,724
Te Kuiti	no details	no details	no details	23,241	25,329
Ongarue	no details	no details	no details	1602	4233
Taringamutu	no details	no details	no details	no details	0
Total	2317	7160	13,218	38,746	48,088

Table 8: *Number of cattle transported from NIMT stations in the Rohe Potae inquiry district, 1901-1913*⁷⁰⁴

station	1901	1904	1907	1910	1913
Te Awamutu	1317	2922	4326	1500	1332
Otorohanga	no details	no details	no details	no details	733
Te Kuiti	no details	no details	no details	4037	3404
Ongarue	no details	no details	no details	no details	990
Taringamutu	no details	no details	no details	476	2
Total	1317	2922	4326	6013	6461

⁷⁰² Ministry of Works Town and Country Planning Division, *Waikato, Coromandel, and King Country region*, Government Printer, Wellington, 1973, p173.

⁷⁰³ *AJHR*, 1901, D-2, Return 12, p32; *AJHR*, 1904, D-2, Return 12, p29; *AJHR*, 1907, D-2, Return 12, p15; *AJHR*, 1910, D-2, Return 12, p15; *AJHR*, 1913, D-2, Return 12, p15.

⁷⁰⁴ *AJHR*, 1901, D-2, Return 12, p32; *AJHR*, 1904, D-2, Return 12, p29; *AJHR*, 1907, D-2, Return 12, p15; *AJHR*, 1910, D-2, Return 12, p15; *AJHR*, 1913, D-2, Return 12, p15.

As most of the sheep and cattle recorded in Table 7 and Table 8 were transported from the northern part of the inquiry district, where European settlement was greatest, it seems likely that the stock mostly belonged to European settlers who had taken up land in the district. However, in regard to another commodity, timber, utilisation of the railway appears to have provided some benefit to Maori landowners. The potential of the railway to 'develop the value' of standing timber had been noted by Ballance during the negotiations that preceded the construction of the NIMT.⁷⁰⁵

Sawmilling and the NIMT

This section briefly discusses the major sawmilling industry that developed along the NIMT in the King County. Based on the exploitation of extensive tracts of indigenous forest and utilising the NIMT, this industry provided an economic opportunity for Maori who retained forest lands along the railway. The proposed economic capabilities report will provide a detailed examination of the sawmilling industry. Here, it has only been possible to identify the importance of the NIMT to the development of the industry, to briefly discuss how the industry operated, and to note issues that require further research. In its report on the claims of the adjacent Central North Island inquiry district, the Tribunal has commented on the indigenous forestry industry that operated in that area, identifying a number of ways that the Crown failed to protect the interests of iwi and hapu.⁷⁰⁶ In particular, the Tribunal points to the targeted Crown purchasing of forest land, a failure to protect iwi and hapu from participating in the industry, and a flawed regulatory regime.

While the timber required for the construction of the NIMT provided some stimulus to the sawmilling industry (particularly the supply of sleepers, as detailed in Chapter three), it was the railway's capacity to efficiently carry bulk quantities of sawn timber from the district that was most important to the development of the industry. Without the NIMT, the industry would largely have been limited to meeting local demand. Elsewhere, where it was not possible to transport timber, areas of forest on land suitable for agriculture were often simply burnt and cleared for immediate farming use. As timber was progressively cut back from the railway, an extensive network of private tramlines was built to connect the NIMT with timber cutting areas. Table 10 shows the outward traffic of timber from selected NIMT stations within the Rohe

⁷⁰⁵ *AJHR*, 1885, G-1, p23.

⁷⁰⁶ Waitangi Tribunal, *He Maunga Rongo: Report on Central North Island Claims, Stage One, Volume 2*, Legislation Direct, Wellington, 2008, pp1112-1153.

Potae between 1910 and 1962, giving some indication of the vast amount of timber transported out of the district by rail.⁷⁰⁷ Though it lies outside the Te Rohe Potae inquiry district, the table includes details of timber transported from Taumarunui station as some of this timber may have been cut from within the inquiry district.

⁷⁰⁷ It should be noted that this table only includes the stations recorded in that particular edition of the *AJHR*. For example, Mangapehi Station was in existence before 1950, however it was not recorded in the *AJHR* table in selected editions prior. As a consequence this table only provides an indication of the timber transported from the district.

Table 10: Outward Traffic of Timber from NIMT stations in the King Country 1910-1962⁷⁰⁸

Station	Timber (Hundreds of superficial feet*)											
	1910	1915	1920	1925	1930	1935	1940	1945	1950	1955	1960	1962**
Te Awamutu	12,324	235	1,437	6,170	294	43	13,562	9,091	7,659	3,861	8,714	8,585
Otorohanga	-	159	34,723	25,306	16,658	1,737	518	5,563	3,948	5,333	8,484	24,592
Te Kuiti	29,521	37,208	45,888	113,742	122,837	116,488	102,050	50,026	93,609	20,684	46,531	36,806
Mangapehi	-	-	-	-	-	-	-	-	148,093	206,515	212,117	200,367
Ongarue	-	8,885	13,184	95,060	96,800	90,204	114,479	150,910	-	-	-	-
Okahukura	-	-	-	-	9,986	17,721	5,364	3,973	8,079	42,755	35,608	27,967
Ohura	-	-	-	-	-	-	-	-	-	-	-	41,275
Taringamotu	32,713	73,262	56,409	83,666	-	-	-	-	-	-	-	-
Taumarunui	49,743	126,174	118,928	78,990	117,034	108,874	66,794	55,377	145,238	229,167	206,018	248,054
Total	124,301	245,923	270,569	402,934	363,609	335,067	302,767	274,940	406,626	508,315	517,472	587,646

*A superficial foot of timber, an imperial measurement, is the volume of wood in a board that is one foot long, one foot wide, and one inch thick.

** 1962 was the last year the *AJHR* published information on individual stations on the NIMT and branches.

⁷⁰⁸ *AJHR* 1910, D2, p17; *AJHR* 1915, D2, p15; *AJHR* 1920, D2, p15; *AJHR* 1925, D2, p19; *AJHR* 1930, D2, p25; *AJHR* 1935, D2, p19; *AJHR* 1940, D2, p51; *AJHR* 1945, D2, p15; *AJHR* 1950, D2, p39; *AJHR* 1955, D2, p37; *AJHR* 1960, D2, p39; *AJHR* 1962, p27.

The earliest sawmill to process timber from within the Rohe Potae appears to have been established near Kihikihi in 1886 by J.W. Ellis and a Mr Lewis, who secured rights to cut a 1100 acre area of kahikatea near Otorohanga.⁷⁰⁹ (The Kawhia Committee may have been involved in negotiations concerning the cutting of this timber, though no evidence regarding this has been located.) In 1890, the mill was moved to Otorohanga, and the following year, upon Lewis' retirement, J.H.D. Burnand, the inspector of railway works at Poro-o-tarao, entered into partnership with Ellis.⁷¹⁰ Around this time, the partnership took over another mill operating at Hanganui.⁷¹¹ In 1898, Ellis and Burnand, realising the opportunity created by the advance of the railway, started to secure rights over bush in the Mangapehi area, signing an agreement with the owners of Rangitoto 36 (Te Tiroa) block.⁷¹² Ellis and Burnand Ltd (1903) would become one of the largest timber companies in the country. The Company opened mills at Mangapehi in 1903, Mananui in 1906, and Ongarue in 1913.⁷¹³

Lead by Ellis and Burnand, the sawmilling industry in the King Country expanded considerably during the first decade of the twentieth century. As construction of the NIMT progressed southwards, it provided access to large areas of standing timber – a resource that was becoming depleted in other parts of the North Island. Sawmills were established along the railway from Mangapehi to Raetihi. Figure 24 and Figure 25 show that much of the land in the southern part of the Te Rohe Potae inquiry district through which the NIMT passed (and from which timber was extracted) remained in Maori ownership at this time.

Sawmillers appear to have begun negotiating timber-cutting rights with Maori in the south of the inquiry district around 1900, ahead of the railway construction. As noted above, Ellis and Burnand began taking steps to secure cutting rights in the Mangapehi area around 1898. In August 1900, as detailed in Chapter three, Wilkinson reported that Europeans were negotiating with Maori for the purchase of totara located upon certain subdivisions of Rangitoto Tuhua block.⁷¹⁴ Sawmillers reached agreements with Maori that provided for royalties to be paid for

⁷⁰⁹ Dick Craig, *Land of the Maniapoto*, King Country Chronicle, Te Kuiti, 1951, p52.

⁷¹⁰ R.D. Stanley, 'Burnand, John Henry Davis, 1850-1919', Dictionary of New Zealand Biography, updated 22 June 2007, URL: <http://www.dnz.govt.nz/>. Lyndsay McMillan and Audrey Walker, *Ongarue: a place of the heart*, Ongarue School Centenary Committee, Ongarue, 2005, p258.

⁷¹¹ Craig, *Land of the Maniapoto*, p52.

⁷¹² Ken Anderson, *Maoriland sawmillers: Ellis and Burnand Ltd: sawmillers and timber merchants: Mangapehi*, Family of Ken Anderson, Manurewa, p11.

⁷¹³ Michael Roche, *History of New Zealand Forestry*, New Zealand Forestry Corporation Limited in association with GP Books, 1990, p116.

⁷¹⁴ Wilkinson to Sheridan, 18 August 1900, MA-MLP 1900/150, cited in Berghan, p379.

timber removed for milling, with different rates applying to the different types of timber. Ellis and Burnand's arrangements appear to have initially been on a payment per log basis, with Maori agreeing to supply whole logs.⁷¹⁵

Owing to concern over the fairness and legality of the timber arrangements being reached around this time, the Government included clauses in the Maori Land Laws Amendment Bill 1903 to invalidate all existing agreements for access to timber on Maori land.⁷¹⁶ The Bill was referred to the Native Land Committee, which heard evidence concerning timber agreements from a number of sawmillers and their representatives, but not from Maori landowners. J.W. Ellis was among the sawmillers who spoke to the Committee and, like the other witnesses, he indicated that the timber agreements he was party to were equitable. When questioned whether he had had any complaints from or disputes with Maori during his sawmilling operations, Ellis stated that he had not and believed those with whom he had arrangements were 'the most envied people in the King Country'.⁷¹⁷ Upon the Committee's recommendation, the clauses relating to timber agreements were struck out of the 1903 Bill.⁷¹⁸

In 1905 and 1907, the Department of Lands and Survey prepared reports on the forestry industry, which provide details of sawmills operating near the NIMT in the Te Rohe Potae inquiry district and at Taumarunui. This information is presented in Table 11. Details of the Taumarunui mills are included in the table because it seems possible that they may have been processing timber cut from within the inquiry Te Rohe Potae inquiry district.

Table 11: *Sawmills in the Te Rohe Potae inquiry district and Taumarunui (located along or in the vicinity of the NIMT) recorded in Department of Lands and Survey reports of 1905 and 1907⁷¹⁹*

name of sawmill	locality	ownership of land cutting upon	output per annum (superficial feet)
Otorohanga (Ellis and Burnand)	Otorohanga (adjoining NIMT station)	Maori	2,150,000 (1905) 2,250,000 (1907)
Mangapehi (Ellis and Burnand)	Mangapehi (near NIMT station)	Maori (about 5000 acres)	3,683,700 (1905) 3,683,700 (1905)
Tiroa (Ellis and Burnand)	Waimiha Stream, Pahi Survey District	supplied from same bush as Mangapehi mill	about 700,000 (1905)
Totara Timber Company	Ongarue (adjoining NIMT station)	Maori	250,000 (1907)

⁷¹⁵ *AJHR*, 1903, I-3A, p13.

⁷¹⁶ Roche, p121.

⁷¹⁷ *AJHR*, 1903, I-3A, p13.

⁷¹⁸ Hone Heke (MP for Northern Maori) claimed that the clauses had hastened the speculative acquisition of timber cutting rights, noting the recent purchase of cutting rights over 27,000 acres near Taumarunui. Roche, p121.

⁷¹⁹ *AJHR*, 1905, C-6, p4, 12. *AJHR*, 1907, C-4, p15, 21.

name of sawmill	locality	ownership of land cutting upon	output per annum (superficial feet)
Hendersons's Mill	Waitangi (about 10 miles up the Taringamutu Valley from the NIMT station)	Maori	750,000 (1907)
Hyde	Matiere	Maori and Crown	250,000 (1907)
Lovett and Ryan	Taringamutu (about three miles from NIMT station)	Maori ('small patch of bush')	500,000 (1907)
Taumarunui Timber Company	Taumarunui (one mile north of NIMT station)	Maori and Crown	800,000 (1907)
Andrews and Greening	Taumarunui	Maori and Crown	600,000 (1907)

Though many of the sawmills operating along the NIMT in the Te Rohe Potae inquiry district were processing timber cut from lands owned by Maori, it is notable that Maori themselves did not own any sawmills, something that would have enabled Maori to maximise the financial potential of the forests areas they held. The reasons for this are unclear, though the difficulty of raising capital against land with multiple owners may have been a factor. Significant sums of money were required to develop the sawmilling operations, which were not always financially successful.⁷²⁰ Evidence concerning only one Maori-owned sawmill in the Te Rohe Potae inquiry district has been located – the sawmill that was briefly owned and operated by Maori at Ongarue in about 1900, discussed earlier in Chapter three.⁷²¹



Figure 27: *Ellis and Burnand Mill, Mangapehi, 1904* (Anderson, *Maoriland Sawmillers*, p30)

⁷²⁰ Roche, p119.

⁷²¹ Outside the inquiry district, Maori were involved in sawmilling initiatives, though these ventures were sometimes unsuccessful. This was the case with the Pungapunga Timber Company, established in 1903 with cutting rights over 7,000 acres near Manunui. One of the original directors was Te Hueheu Tukino and many of its shares were issued to local Maori with an interest in the forest land. The venture lacked capital and by 1905 was not actively in operation. The company wound up in 1909 after efforts to raise working capital failed. Roche, p122.

In 1907, statutory provisions were introduced that required timber agreements to be approved by Maori Land Boards owing to concerns that there should be greater scrutiny of agreements between sawmillers and Maori. Section 26 of the Maori Land Claims Adjustment and Laws Amendment Act 1907 stipulated that parties to existing agreements concerning timber, flax, and suchlike could apply to the local Maori Land Board to have the agreements approved within two months of the passing of the Act. After inquiring into the agreements, the Boards would then make recommendations to the Native Minister as to whether they should be approved or whether modifications should be made. Section 28 of the Maori Land Laws Amendment Act 1908 extended the timeframe for applications to six months.⁷²²

Following the passage of this legislation, the Maniapoto-Tuwharetoa Maori Land Board received numerous applications from sawmillers who had entered into agreements with Maori for cutting rights to timber located on land within the Te Rohe Potae inquiry district. While these documents have not been located, some details of the applications are recorded in the Board's register of applications.⁷²³ The timber agreements to which the applications related may have been largely standardised, it being noted in one case that the agreement contained the 'usual rights to pay royalties quarterly and to erect sawmills within six months'.⁷²⁴ Many of the applications appear to have concerned agreements to cutting rights on the Rangitoto Tuhua block. Details of land area are not always recorded in the register, but it is evident that the applications covered a wide range, from 100 acres (an agreement concerning Puketarata block) to 10,169 acres (an agreement concerning Rangitoto Tuhua 68).⁷²⁵

The proportion of applications approved by the Land Board has not been established and the extent to which the Land Board's scrutiny ensured that the interests of Maori owners were protected is unclear. Evidence concerning just one application has been located. In respect of Ellis and Burnand's 1898 agreement with the owners of Rangitoto Tuhua 36 block, the Board determined that the royalty rates were fair but that changes were required to the method of measuring logs.⁷²⁶ Commenting generally on the timber agreements reached with Maori in the

⁷²² Brent Parker, 'Brief of evidence of Brent Parker on the construction of the North Island Main Trunk railway through the inquiry district and the associated timber industry', Crown Law Office brief of evidence for Whanganui inquiry district (Wai 903, Doc# M1), 30 March 2009, pp14-15.

⁷²³ BACS 10206 box 2a, Maniapoto-Tuwharetoa register of application for confirmation of alienation of land by lease or sale, 1907-1909, ANZ Auckland.

⁷²⁴ MT 08/17, BACS 10206 box 2a, ANZ Wellington.

⁷²⁵ MT 08/17 and 1908/62, BACS 10206 box 2a, ANZ Wellington.

⁷²⁶ Anderson, p27.

West Taupo district at this time, Roche observes that at least some sawmillers negotiated timber agreements with Maori landowners at lower rates than were available from the Crown.

A new framework for the sale of timber cutting rights was introduced with the creation of District Maori Land Boards under the Native Land Act 1909. The Act deemed that the sale of timber, flax, and suchlike was an alienation of the land.⁷²⁷ Where there were more than 10 owners, alienations had to be confirmed by the District Land Board.⁷²⁸ It appears that the Waikato Maniapoto District Maori Land Board received a number of applications for leases that provided for timber to be cut at specified royalty rates from land in the Te Rohe Potae inquiry district.⁷²⁹ The Board confirmed at least some of these leases, including, for example, separate leases to four individuals that covered the whole of Rangitoto Tuhua 66A and 66B and contained provisions for timber cutting.⁷³⁰ With a total area of over 10,000 acres, these blocks included some 4680 acres of millable forest land. Sometime after the leases commenced in July 1911, an agreement was entered into that saw the harvesting of timber taken over by Ellis and Burnand. In accordance with the agreement, Ellis and Burnand ceased logging operations on 31 December 1929.⁷³¹

District Land Boards were required to collect timber royalties and, after deducting a commission, distribute the money to the owners.⁷³² Further research is required to establish the extent to which the Waikato Maniapoto District Land Board was successful in recovering and distributing royalties for timber harvested in the Te Rohe Potae inquiry district. In some cases, royalties would have amounted to a significant amount of money. The timber on Rangitoto Tuhua 66A, for example, covering an area of 3620 acres, was valued in 1916 at £4525, not much less than the value of the land itself, which was valued at £5430.⁷³³ The royalty system appears to have sometimes been abused by sawmillers who did not disclose the full quantity of timber that they harvested. In 1935, for example, following complaints by the owners, a Forest Service ranger

⁷²⁷ Sections 211, Native Land Act 1909.

⁷²⁸ Sections 217, Native Land Act 1909.

⁷²⁹ See, for example, BACS 10206 box 6a, Waikato Maniapoto Register of application for confirmation of alienation of land by lease or sale, 1911-1912, ANZ Auckland. It is difficult to determine the number of applications for timber leases because these leases were often not distinguished from ordinary land leases in the Board's register.

⁷³⁰ Summary of leases – Rangitoto Tuhua 66A and Rangitoto Tuhua 66B, undated, BACS 15355 94j 3050, Land Alienation – Rangitoto Tuhua 66A and 66B: Taumarunui Totara Timber Company, 1908-1911, ANZ Auckland. Supporting Papers, pp25-28.

⁷³¹ Report on position of lease – Rangitoto Tuhua 66A, undated, BACS 15355 94j 3050, ANZ Auckland. Supporting Papers, pp29-30.

⁷³² Anderson, p65.

⁷³³ Valuation of Rangitoto Tuhua 66A, 31 March 1916, BACS 15355 94j 3050, ANZ Auckland. Supporting Papers, p31.

found that Ellis and Burnand had been short measuring logs cut from Maraeroa C.⁷³⁴ Illegal logging also sometimes occurred. For example, about one million superficial feet of timber was removed from Rangitoto Tuhua 66A3B in the late 1930s without the consent of the owners or the Land Board.⁷³⁵ The timber was delivered to a mill operating on Rangitoto Tuhua 66A2B and to Ellis and Burnand's mill at Manunui, with royalties paid to an individual who had no Court-recognised interest in the land.

In at least one case, dissatisfaction with royalty rates caused disputes between the Maori land owners and the sawmiller that held the timber cutting rights. In the 1920s and 1930s, disputes concerning royalties arose between the owners of Rangitoto Tuhua 36 and Ellis and Burnand.⁷³⁶ In 1924, the owners petitioned the House of Representatives, requesting that the Order in Council confirming the 1898 agreement be revoked.⁷³⁷ (An Order in Council had been issued following the Maniapoto-Tuwharetoa Maori Land Board's enquiry under the Maori Land Claims Adjustment and Laws Amendment Act 1907.) The owners took this action because the royalties they received continued to be based on the rates set down in the 1898 agreement. As a result of the petition, legislation enabling changes to be made to existing flax and timber agreements was passed.⁷³⁸ The owners of Rangitoto Tuhua 36 then negotiated with Ellis and Burnand to amend the agreement for timber royalties.⁷³⁹ However, it appears the new rate remained low compared to other cutting areas.⁷⁴⁰ This and complaints concerning the Company's tramlines gave rise to further difficulties between the owners and Ellis and Burnand. Protests by the owners led to a new agreement in 1937, which included lump sum payments for timber that had been removed without royalties being paid.⁷⁴¹

This section has briefly examined the sawmilling industry that arose along the NIMT around the turn of the twentieth century. As a result of the construction of the railway, the forest areas held by Maori along the line became a resource of significant financial value. The extent to which Maori were able to fully realise this value – an issue that is beyond the scope of this report – is somewhat unclear. The question will be addressed in the proposed economic capability overview report, which will provide a detailed examination of the sawmilling industry. It is likely

⁷³⁴ Ibid, p67.

⁷³⁵ Field Officer to Registrar, Native Department, Auckland, 6 September 1939, BACS 15355 94j 3050, ANZ Auckland. Supporting Papers, p32.

⁷³⁶ Anderson, pp46-54.

⁷³⁷ Ibid, p30.

⁷³⁸ Ibid, p32.

⁷³⁹ Ibid, p33

⁷⁴⁰ Ibid, p46.

that in some cases Maori sold forested areas along the NIMT, with the value of the timber included in the purchase price. However, it appears that Maori often sought to receive money for timber without selling their land. Rather than set up their own sawmills, Maori entered into timber cutting agreements. The area of land in the Te Rohe Potae inquiry district subject to these agreements has not been established and it has not been possible to quantify the money earned by Maori through royalties. While further research is required to assess whether the royalty rates were reasonable and whether Maori owners generally received the royalties they were owed, the preliminary research presented above suggests that there were sometimes problems with the system that meant that the owners did not always receive fair payment for the timber harvested from their land. However, even if this was the case, the amount of money that owners received may nevertheless still have been significant.

The cutting of indigenous forests along the NIMT in the King County continued into the second half of the twentieth century, declining from the 1950s as a result of widespread deforestation. The last large mills closed in the 1960s, including Ellis and Burnand's operations at Ongarue and Mangapehi, which ended in 1966 and 1968 respectively.⁷⁴²

Stratford-Okahukura branch line and other proposed branch lines

The construction of the NIMT created the potential for branch lines to connect the NIMT with other districts. As with the NIMT, it was not envisaged that branch lines would be built simply to link distant places, but rather to serve and maximise the settlement potential of the lands through which they passed. Before driving the last spike of the NIMT at Manganui-o-te-Ao on 6 November 1908, Prime Minister Sir Joseph Ward spoke of the Government's intention of building further railways to assist land settlement. Ward thought that the NIMT should be viewed as only a link in the railway system and stated that the Government intended to pursue a vigorous policy of railway construction for the purpose of facilitating and aiding back country settlement.⁷⁴³ Several years before the NIMT was completed, work had begun on a major branch line between Okahukura (on the NIMT) and Stratford (on the Marton-New Plymouth railway). The section of this line that lies between Okahukura and Ohura – about 30 kilometres of railway – is located in the Te Rohe Potae inquiry district. Serious consideration was also given to a branch line to Kawhia and Raglan, but this was never built. In marked contrast to the

⁷⁴¹ Ibid, p53.

⁷⁴² Ken Anderson, *Sparse Timber Sawmillers: Ellis & Burnand Ltd, Sawmillers and Timber Merchants, Ongarue, Manurewa* (Publisher), p6; Anderson, *Maoriland Sawmillers*, p159.

negotiations that preceded the construction of the NIMT, no consultation was undertaken with Maori in respect of branch lines in the inquiry district.

As detailed in Chapters two and three, a railway linking the King Country with Taranaki had been considered as an alternative to the central route of the NIMT. Two western routes through Taranaki were among the four routes explored before it was decided in 1884 to build the NIMT along the central route. One of the western routes followed the Awakino River and then the coast to Waitara, while the other ran through central Taranaki to Stratford (see Figure 10). In 1889, more detailed survey work was undertaken to enable a comparison of the central route with routes from Ongarue to Ngaire (south of Stratford) and Ongarue to Waitara.⁷⁴⁴ These routes and a third route from Mokau (Puketutu) Station to Waitara were again considered as possible alternatives to the central route of the NIMT in an 1899 report by Resident Engineer R.W. Holmes.⁷⁴⁵

Holmes recommended that the NIMT should proceed along the central route, but believed that the Ngaire route possessed much potential, particularly in respect of the volume of traffic that it would draw from the land through which it passed. Holmes assessed the merits of the three Taranaki routes with regard to engineering concerns and construction costs, and the extent to which minerals, timber, and settlement land would be served by each route. The revenue-earning potential of each route was also commented upon. In respect of the Ngaire route, Holmes stated that good country suited for close settlement extended on both sides of the line for 75 percent of its length.⁷⁴⁶ He claimed that a railway would be almost a necessity for the future prosperity of this land owing to its long distance from markets and the difficulty of maintaining roads.⁷⁴⁷ Holmes noted that a railway would, of course, also provide a means of communication between Auckland, Wellington, and Taranaki.

Holmes' 1899 report was no doubt influential in the Government's decision to build a railway between Stratford and Ongarue, which was authorised in two parts in the Railways Authorisation Acts of 1900 and 1901. No evidence has been located to suggest that any consultation was undertaken with Rohe Potae Maori when the decision to build the railway was made. This apparent lack of consultation contrasts markedly with the negotiations that, just fifteen years

⁷⁴³ *Evening Post*, 6 November 1908, p8.

⁷⁴⁴ *AJHR*, 1889, D-1, pp42-45.

⁷⁴⁵ *AJHR* 1899, D-1, pp105-113.

⁷⁴⁶ *AJHR* 1899, D-1, pp112.

⁷⁴⁷ *AJHR* 1899, D-1, p113.

earlier, had preceded the construction of the NIMT. At that time, Rohe Potae Maori had agreed to the construction of only one railway in the district. The absence of consultation reflects that by the turn of the twentieth century Rohe Potae Maori had considerably less political power and there was no obstacle to European settlement in the district. Consultation was not undertaken even though the proposed railway ran through lands that remained in Maori ownership. An examination of Figure 22 shows that in 1903 much of the land along the section of the railway that lay within the Rohe Potae district was held by Maori.

Construction of the Stratford-Okahukura railway took more than 30 years, beginning in 1901 and ending in 1932.⁷⁴⁸ Work commenced from Stratford and in 1911 started from the eastern end of the line. While the railway had been authorised to run between Stratford and Ongerue, the Railways Authorisation Act 1911 authorised a deviation of the eastern end so that it connected with the NIMT at Okahukura.⁷⁴⁹ The 1912 Public Works Statement explained that construction had begun from the eastern end for the benefit of settlers in the Ohura district, who would otherwise have to wait many years before the line from Taranaki reached their settlement.⁷⁵⁰ An examination of Figure 25 shows that in 1910 Maori still owned some land along the eastern end before construction began from Okahukura. It is unclear whether formation of the railway stimulated the purchase of this land. It was not until 1928 that the railway reached Ohura from Okahukura, a daily goods and passenger train being described 'of great service to the district'.⁷⁵¹ As detailed in Chapter four, small areas of Maori land within Whatitokarua block were taken for the Stratford-Okahukura railway.

While the Stratford-Okahukura railway was the only branch line built from the NIMT in the Te Rohe Potae inquiry district, consideration was also given to a line to Kawhia and Raglan. In 1908, settlers in the Ohura district promoted, as an alternative to the then Stratford-Ongerue line, a railway up the Ohura and Mokau Valleys that would link with both the NIMT and Kawhia Harbour.⁷⁵² In August 1912, a deputation waiting on the Minister of Public Works, which included John Ormsby, requested that a trial survey be made of a branch line linking the NIMT

⁷⁴⁸ *AJHR*, 1901, D-1, pv; *AJHR*, 1933, D-1, pxii.

⁷⁴⁹ The deviation appears to have been made for engineering reasons and reduced the length of the line by six miles. *AJHR*, 1912, D-1, pvi.

⁷⁵⁰ *AJHR*, 1912, D-1, pvi.

⁷⁵¹ *AJHR*, 1928, D-1, ppxi-xii.

⁷⁵² Plan of proposed railway to link Ohura and Mokau Valley with Kawhia Harbour and the Main Trunk Railway, W 1 19/88 part 1, Railways – Branch Lines and Lines Initiated After 1913 – Kawhia Harbour-Stratford Proposal, 1903-1914, ANZ Wellington.

with Kawhia.⁷⁵³ During the following year, the Public Works Department appears to have undertaken a reconnaissance survey of the proposed branch line, but took no further action, though some public interest in the line remained.⁷⁵⁴ After World War I, proposals were put forward for a light railway linking Hamilton to Kawhia and Raglan, which was promoted by individuals who believed that the proposed railway would benefit the rural economy.⁷⁵⁵ The proponents looked to establish, under the Local Railways Act 1914, a district railway board that would be able to rate lands for the construction of the railway. However, numerous objections were made by individuals who wished to be excluded from the district, and interest in the railway appears to have waned in the early 1920s.⁷⁵⁶ Some survey work may have been carried out, but there is no evidence that any land was taken for the proposed railway.⁷⁵⁷

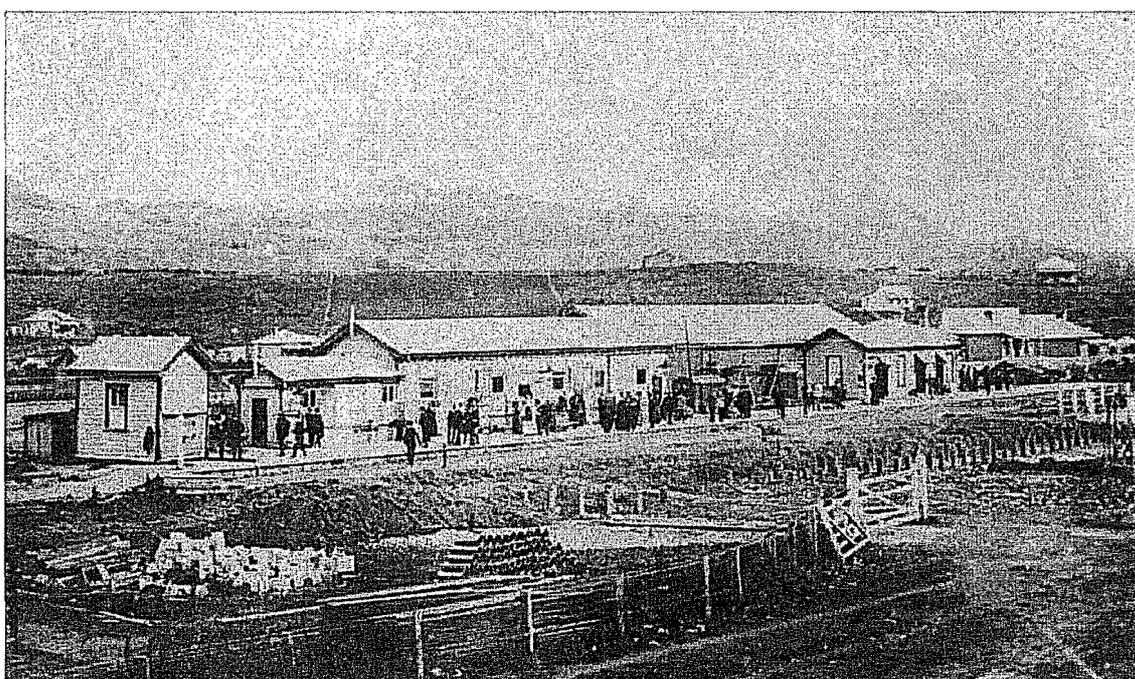


Figure 28: *Te Kuiti Station* (Te Kuiti Historical Society)

⁷⁵³ *Evening Post*, 1 August 1912, p8.

⁷⁵⁴ Murray to Works, 13 May 1920, telegram, BBAD 1054 2088e 20/1/4, Railways – Hamilton –Kawhia – Raglan, 1920-1922, ANZ Auckland. Supporting Papers, p34. *Evening Post*, 10 July 1914, p8.

⁷⁵⁵ *Waikato Times*, 5 December 1919, extract in BBAD 1054 2088e 20/1/4, ANZ Auckland. Supporting Papers, p33.

⁷⁵⁶ Objections to the proposed railway is discussed in Public Works Department correspondence. See, for example, District Engineer to Engineer-in-Chief, 21 December 1921, BBAD 1054 2088e 20/1/4, ANZ Auckland. Supporting Papers, pp35-36.

⁷⁵⁷ In his history of Waipa County, Barber details that a survey of a railway from Hamilton to Raglan and Kawhia began in 1921. L.H. Barber, *The view From Pirongia: the history of Waipa County*, Richards Publishing in association with Waipa County Council, Auckland and Te Awamutu, 1978, p38.

Native Townships

This section briefly examines the link between the NIMT and the creation in 1903 of Native Townships along the railway at Otorohanga, Te Kuiti, and, outside the inquiry district, Taumarunui. Heather Bassett and Richard Kay are preparing a separate, comprehensive report on Native Townships in the Te Rohe Potae inquiry district.⁷⁵⁸ Their report will discuss the statutory and policy background to the creation of Native Townships and examine the establishment and subsequent administration of the five Native Townships that were created in the Te Rohe Potae inquiry district. (In addition to the Native Townships created at Otorohanga and Te Kuiti, Native Townships were also established on Kawhia Harbour at Karewa, Te Puru, and Parawai.) Leanne Boulton has examined the creation and administration of Taumarunui Native Township in her report on Native Townships in the Whanganui inquiry district.⁷⁵⁹

The policies and legislation that provided for the creation of Native Townships are examined elsewhere and are therefore only briefly discussed here.⁷⁶⁰ Provisions that enabled discreet areas of Maori land to be surveyed and set aside as townships were introduced by the Liberal Government and relate to a general policy that sought to open new land for European settlement and provide for closer, small-scale settlement. The intention of Native Townships legislation was not to create townships for Maori (as the word 'Native' suggests), but rather was to create townships for European settlers on Maori land. In their scoping report, Bassett and Kay observe that the Native Townships policy was an attractive tool for the Crown to extend its authority in the Rohe Potae, formerly a stronghold of the Kingitanga movement and with a long history of Maori refusal to engage with the Native Land Court and land sales.⁷⁶¹

Under the Native Townships Act 1895, up to 500 acres of Maori land could, without consultation with the owners, be proclaimed as a Native Township. The site was to be laid out into streets, sections for leasing, reserves for Maori occupation (up to 20 percent) and reserves for public facilities. Streets and the reserves for public facilities were vested in the Crown, while the sections for leasing and Maori reserves were vested in the Crown in trust for the Maori

⁷⁵⁸ A scoping report for this project has been completed. Heather Bassett and Richard Kay, 'Scoping Report: The Impact of the Native Township Acts in the Rohe Potae: Te Kuiti, Otorohanga, Karewa, Te Puru, and Parawai Native Townships', a scoping report commissioned by the Crown Forestry Rental Trust, January 2009.

⁷⁵⁹ Leanne Boulton, *Native Townships in the Whanganui Inquiry District Research Report*, a report commissioned by the Waitangi Tribunal, August 2003.

⁷⁶⁰ Suzanne Woodley, 'The Native Townships Act 1895', *Waitangi Tribunal Rangahaua Whanui series* (preliminary report), September 1996. Bassett and Kay, pp13-19. Boulton, pp17-25, 52-69.

⁷⁶¹ Bassett and Kay, p14.

owners. Authority over the administration and occupation for the Native Township was vested in the Commissioner of Crown Lands.

The Maori Land Administration Amendment Act 1901 empowered Maori Land Councils to establish and administer Native Townships upon the request of a majority of owners. (Created under the Maori Lands Administration Act 1900, the Maori Land Councils had a majority of Maori members.) The Native and Maori Land Laws Amendment Act 1902 empowered the Governor to declare any parcels of Maori land to be vested in a Maori Land Council as the site of a Native Township, which was to be administered by the Council for the benefit of the owners.

The Native Townships at Otorohanga (243 acres), Te Kuiti (238 acres), and Taumarunui (342 acres) were all proclaimed by the Governor in 1903 under the Native and Maori Land Laws Amendment Act 1902.⁷⁶² The development of settlements at Otorohanga and Te Kuiti had begun during the building of the NIMT. While the railway construction era did not last long at Otorohanga, Ellis and Lewis established their sawmill at Otorohanga in the late 1880s and the Native Land Court also sat there.⁷⁶³ In contrast, Te Kuiti served as a railway construction town for a number of years after the railhead reached it in 1887, being an important staging point for the heavy construction undertaken further south, including the Waiteti Viaduct and the Poro-o-Tarao Tunnel.⁷⁶⁴ At both Te Kuiti and Otorohanga, Maori spent money on the erection of a number of buildings in the growing settlements.⁷⁶⁵ They also appear to have entered into arrangements with European inhabitants, some of whom established businesses. In 1901, the number of non-Maori residing at Otorohanga and Te Kuiti was recorded at 150 and 134 respectively.⁷⁶⁶

The situation was quite different at Taumarunui, where there was little development of a settlement prior to the establishment of the Native Township. In 1901, only 13 non-Maori were recorded to be living at Taumarunui.⁷⁶⁷ As detailed earlier, the NIMT reached Taumarunui in 1903. During the following year, Taumarunui became the terminus of steamer traffic on the Whanganui River, enabling tourists and other travellers from Wanganui to continue on from

⁷⁶² *New Zealand Gazette*, 1903, p254, *New Zealand Gazette*, 1903, p2506.

⁷⁶³ Dick Craig, *Land of Maniapoto*, p52.

⁷⁶⁴ *Ibid*, p53.

⁷⁶⁵ Wilkinson to Sheridan, 16 March 1896, ABWN 6095 W5021 239 7/581/2, part 1, ANZ Wellington, cited in Bassett and Kay, p31.

⁷⁶⁶ *Results of a census of the Colony of New Zealand taken for the night of the 31st March 1901*, p42.

Taumarunui to Auckland by railway.⁷⁶⁸ Expectations of a large volume of tourist traffic partly explain why, in 1903, Taumarunui was chosen as the location of a major rail depot.⁷⁶⁹ (Further north, the railway had been important to the development of tourism at Waitomo Caves, first visited by tourists in about 1890.⁷⁷⁰) Taumarunui would also become an important centre for the sawmilling industry discussed above.

The railway was clearly an important factor underpinning the creation of the three Native Townships. Owing to the NIMT's key role in the transport infrastructure of the district, Otorohanga, Te Kuiti, and Taumarunui possessed the potential to develop into regional service centres as settlement of the land and activities such as sawmilling and tourism increased. Woodley claims that settlers agitated for the establishment of the three Native Townships, which would allow Europeans to take better advantage, with more secure title, of the business opportunities that existed at each place.⁷⁷¹ The growing number of settlers occupying land outside the towns probably also viewed the creation of the Native Townships as desirable because they wanted access to a wider range of businesses services and public facilities.

In the cases of Otorohanga and Te Kuiti, where the Maori land owners had invested money in buildings, Maori appear to have been closely involved in the decision to create Native Townships and seemingly saw benefits in their establishment. Following the passage of the 1895 Act, the Surveyor-General instructed Wilkinson to travel to Otorohanga to explain the legislation and suggest that a Native Township be created.⁷⁷² However, at a meeting held in March 1896, the owners of the land at Otorohanga and Te Kuiti rejected the establishment of Native Townships, largely because they objected to the provision that required the Native reserves to be vested in the Crown for the benefit of the owners.⁷⁷³

Maori seem to have looked more favourably upon the idea of creating Native Townships at Otorohanga and Te Kuiti following the passage of the Native and Maori Land Laws

⁷⁶⁷ Ibid.

⁷⁶⁸ Dick Craig, *The King Country (Robe Potae)*, Te Awamutu Couriers NZ Ltd, 1991, p141.

⁷⁶⁹ District Engineer to Under Secretary, Public Works, 24 June 1903, R 3 W2278 53 1903/1989 part 1, ANZ Wellington; General Manager to Under Secretary, Public Works, 9 July 1903, R 3 W2278 53 1903/1989 part 1, ANZ Wellington.

⁷⁷⁰ R. Arrell, *Waitomo Caves: a century of tourism*, Waitomo Caves Museum Society, Waitomo Caves, 1984, p24. The closest railway station to Waitomo Caves was Hangatiki. In 1903, a regular coach service was established between Waitomo Caves, Hangatiki, and Te Kuiti.

⁷⁷¹ Suzanne Woodley, p15. Boulton confirms that Taumarunui Native Township was established after persistent lobbying by settlers in the surrounding district. Boulton, p41.

⁷⁷² Bassett and Kay, p30.

⁷⁷³ Ibid, p31.

Amendment Act 1902.⁷⁷⁴ The Otorohanga and Te Kuiti Native Townships were established under the 1902 Amendment Act and vested in the Waikato-Tuwharetoa District Land Council at the request of at least some owners.⁷⁷⁵ However, the Maori Land Councils were succeeded by the Maori Land Boards established under the Maori Land Settlement Act 1905, which provided for significantly less Maori representation.

Partly owing to their location on the NIMT, the Native Townships created at Otorohanga, Te Kuiti, and Taumarunui enjoyed a reasonable level of economic activity and became the principal service centres of the district. As detailed in Table 12, the non-Maori population of the three Native Townships grew steadily, reflecting the growth in European settlement generally and the economic opportunities associated with this. It should be noted that some of the population growth in the three Native Townships related directly to the railway and the employment opportunities that arose as railway operations expanded after the NIMT was completed and opened to through traffic.

Table 12: *Non-Maori population of Te Kuiti, Otorohanga, and Taumarunui, 1901, 1911 and 1921*⁷⁷⁶

town	1901	1911	1921
Te Kuiti	134	1266	2247
Otorohanga	150	323	516
Taumarunui	13	1128	2144

Population growth and economic prosperity were among the circumstances that saw Europeans and the Crown take steps to purchase the freehold of the Maori-owned sections. The Native Townships Act 1910 permitted township land to be sold to the Crown or private individuals. Woodley observes that Maori ownership of the lands in Te Kuiti, Otorohanga, and Taumarunui Native Townships was steadily eroded, and that by 1927 more than 50 percent of the total lands in these townships were no longer in Maori hands.⁷⁷⁷ In addition to alienation by sale, Maori land in the Native Townships was subject to compulsory taking under public works legislation. As detailed in Chapter four, more than three acres of Maori land in Te Kuiti Native Township was taken for railway purposes in 1911.

⁷⁷⁴ Ibid.

⁷⁷⁵ Woodley, pp18-19.

⁷⁷⁶ *Results of a census of the Colony of New Zealand taken for the night of the 31st March 1901*, p42; *Results of a census of the Dominion of New Zealand taken for the night of the 2nd April 1911*, pp27, 51; *Results of a census of the Dominion of New Zealand taken for the night of the 17th April 1921*, pp18, 21.

⁷⁷⁷ Woodley, p29.

Benefit to national economy

This section briefly examines the contribution of the NIMT to the national economy in order to gain some understanding of the role the railway has played in the European settlement of New Zealand in the broadest context. It should be noted that most of the written sources on New Zealand railways contribution to the national economy are polemic, including the official record. The political nature of the arguments surrounding state constructed, owned and operated railways in New Zealand – combined with the general romance surrounding rail – contributes to the polarisation of discussion. Most sources take a position either for or against privatisation/state ownership.⁷⁷⁸ However, some general observations can be made. Understandably, any assessment of the contribution of the NIMT to the national economy should not be assessed on the operational profitability of the line alone. Rather, assessment should consider the broader question of increased productivity fostered and economic growth stimulated through the land opened to farming and transportation provided by the NIMT.

Until the restructuring of the 1980s NZR did not operate with a significant imperative to increase profits. As Waterson states of the 1920s and 1930s: ‘While the railways were expected to yield a dividend sufficient to cover working expenses, pay interest charges and earn a three or four per cent surplus if possible, the developmental role was the major part the railways were called upon to play.’⁷⁷⁹ Indeed, operational profit for the whole of New Zealand railway system has generally been insignificant compared to the debt that was incurred in construction.⁷⁸⁰ The problem has been compounded by the construction of many branch lines for political expediency rather than economic reason in a country where construction costs are very high.⁷⁸¹ By 1930 the original ‘developmental’ purpose of particular lines had in many cases been served – that is the opening of land for settlement or resources for extraction – leaving many lines unable to sustain their own running costs let alone interest on the debt incurred in construction.⁷⁸² In the decades after 1914, an increasing number of Government commissions were formed to investigate the growing problems facing Government railways and propose solutions.⁷⁸³ The major problems included dramatically increased maintenance costs and the onset of motor

⁷⁷⁸ See Michael Bassett, *The State in New Zealand 1840-1984: Socialism without Doctrines?*, Auckland University Press, Auckland, 1998, generally negative view of state owned and operated railways, specifically pp60-63, 71-72, 150-155.

⁷⁷⁹ Waterson, p86.

⁷⁸⁰ Gee, p147; Waterson, pp103-104.

⁷⁸¹ Waterson, pp103-104; 101; Heron, pp3-11.

⁷⁸² Waterson, pp103-104.

⁷⁸³ See *AJHR* 1925, D2A, pp1-68; *AJHR* 1930, D4, pp1-72.

vehicle competition.⁷⁸⁴ From this time, Government subsidy and protection became the norm.⁷⁸⁵ From the 1930s until the 1970s any profit made on the lines was artificially inflated, due to the concessions offered to commercial and individual customers, largely protecting New Zealand railways from the competition of road transport.⁷⁸⁶ However, in the 1970s, many of these fundamental problems remained unchanged and resurfaced through a combination of the global economic situation and domestic political change.⁷⁸⁷ Chapter six details Government deregulation and privatisation of Railways that attempted to address some of these issues.

The NIMT appears to be an exception to this national pattern, being a profitable and intensively used line. As the Minister of Works, Mr Goosman, stated of the NIMT in 1950: 'Its traffic constitutes 60 per cent. of North Island total; 40 per cent. of that of both Islands; and it is 13 per cent. greater than that of the whole of the South Island.'⁷⁸⁸ Pierre puts these figures in context when he added that the NIMT only comprised 12 percent of the total national rail mileage.⁷⁸⁹ In 1956, the General Manager of NZR commented that:

It [NIMT] is the busiest main line in New Zealand. Each weekday ten heavily loaded goods trains and two express trains pass over it in each direction. The goods trains carry some 3,000 tons of goods (coal, timber, cement, petrol, merchandise of all sorts) over the line every working day. And this traffic is being moved at a speed and with an economy that compares favourably with any railway traversing a similar type of country.⁷⁹⁰

Until after the Second World War the passenger service provided by the NIMT was the most popular form of transportation between Auckland and Wellington as well as from the smaller towns along the route to these centres. After the Second World War, the steady improvement of roads and motor vehicles and advent of serious competition from domestic aviation undermined the NIMT passenger service. Although the passenger service declined markedly over the later twentieth century, the NIMT has maintained an important role in the transportation of bulk goods. In 1997, the North Island Main Trunk carried 36% of the New Zealand railway network's total freight.⁷⁹¹

⁷⁸⁴ Waterson, pp111-128.

⁷⁸⁵ Johnson, Larsen and Ramshaw, p112.

⁷⁸⁶ Anderson, pp60-66; Garry Hawke, *The Making of New Zealand: An Economic History*, Cambridge University Press, Great Britain, 1985, pp264-265.

⁷⁸⁷ Leitch and Stott, pp145-159.

⁷⁸⁸ *AJHR 1950*, D2, p15.

⁷⁸⁹ Pierre, p243.

⁷⁹⁰ General Manager, Railways, to Editor, *Weekly News*, 10 December 1956, AAVK W3180 2 PUB 1/8 part 1, NIMT, 1933-1958, ANZ Wellington.

⁷⁹¹ *North and South*, November 1997, p97.

In addition to the profitability of the line itself, the NIMT has been a significant stimulus to the North Island's, and in turn New Zealand's, economic development. The completion of the NIMT in 1908 unified what had been until that time a series of disparate branch lines, including the Wellington-Taranaki and Wellington-Manawatu-Hawkes Bay railways, into one cohesive North Island land transportation network.⁷⁹² The communication and trade links established through the NIMT joined what had until that time been largely separate provincial markets, contributing to the North Island's twentieth century development, rapidly surpassing the South Island in economic growth and population.⁷⁹³ Further completing New Zealand's rail network, in 1962 a New Zealand Railway owned and operated rail and road ferry began running between Wellington and Picton joining the two Islands separate rail systems. The ferry would prove to be commercially successful in passenger and freight transport.⁷⁹⁴

The completion of New Zealand's rail system, with the NIMT as one of two major trunk lines, was an important auxiliary in the growth of the dairy and frozen meat export industry which began to develop after 1881. It is generally recognised that growth of these industries has been the foundation of New Zealand's economy. After first increasing production through 'opening' large areas of potential pasture, the NIMT has transported farm stock and produce to processing facilities and to port for shipment as well as, perhaps most importantly, bulk farm essentials such as fertiliser back to rural areas.⁷⁹⁵ As Atkinson states of the frozen meat industry: 'Insulated railway wagons designed and built at the Department's [NZR] Addington workshops provided the crucial link between farm, works and port.'⁷⁹⁶ The NIMT's contribution to the broader economic development of New Zealand, although difficult to quantify, was and is clearly significant.

Though the NIMT railway remained important to the national economy as a key part of New Zealand's transport infrastructure, the significance of the railway to the local economy diminished. The railway continued to play a role in transporting goods to other regions, but it appears that by 1970 the use of railway transport within the inquiry district had declined considerably.⁷⁹⁷ This shift saw the closure of some small, rural stations. The nation-wide decline of seasonal livestock traffic contributed to these closures – a direct result of competition from

⁷⁹² Bill Pierre, *The North Island Main Trunk: An Illustrated History*, A.H & A.W Reed Ltd, Wellington, 1981, p270.

⁷⁹³ Waterson, p94.

⁷⁹⁴ Leitch and Stott, pp120-121.

⁷⁹⁵ Heron, pp143-147; Waterson, pp90-91.

⁷⁹⁶ Atkinson, p65.

road motor-vehicle transport.⁷⁹⁸ Also, as noted above, the milling of indigenous timber began to decline in the 1950s, with the last large mills shutting down in the late 1960s. At least two stations were closed in the 1960s, Te Mawhai (1962) and Te Kumi (1968). The closures began *en masse* in the 1970s and continued into the 1980s, including Te Koura (1971), Te Kawa (1971), Tuhua (1972), Ongarue (1979), Kopaki (1982), Hangatiki (1982), Waimiha (1986), Matiere (1986) and Mangapehi (1986).⁷⁹⁹

Rohe Potae Maori employment by New Zealand Railways

This section briefly discusses Rohe Potae Maori employment on the railway in the period between 1903 and 1980. This work provided wage income, which increasingly became available in the district as European settlement activity increased. The proposed economic capability overview report will discuss Maori employment generally and should, with reference to population figures, shed light on the relative importance of railway work compared to other types of employment. A comprehensive quantitative analysis of Rohe Potae Maori employment with NZR between 1903 and 1980 is not provided here. Such a task is beyond the scope of this report and could not be easily accomplished owing to a lack of data.⁸⁰⁰ This section instead provides only a general indication of the number of Rohe Potae Maori employed by NZR. It also discusses the nature of this employment and the economic and social benefit that it provided workers. This discussion is based on information gathered at the 'railway focus group' hui held at Hamilton, Te Kuiti, and Taumarunui, which were mostly attended by former Maori NZR workers and their whanau. (Further details concerning these hui are provided in the Introduction.)

In considering Rohe Potae Maori employment with NZR, it is important understand the broader role that NZR played as a source of employment in twentieth century New Zealand. It is well recognised that NZR was a large employer in New Zealand throughout most of the twentieth century, with numbers ranging from 12,505 in 1910, 26,342 in 1950, and 21,222 by 1975.⁸⁰¹ As Waterson states of NZR in the 1930s:

⁷⁹⁷ Ministry of Works Town and Country Planning Division, *Waikato, Coromandel, and King Country region*, Government Printer, Wellington, 1973, p173.

⁷⁹⁸ Leitch and Stott, p141.

⁷⁹⁹ See, for example, correspondence relating to the 1979 closure of Ongarue station in AAEB W3440 PUB 1/8 part 4, North Island Main Trunk Railways, 1978-1986, ANZ Wellington. Supporting Papers, p288.

⁸⁰⁰ Annual lists of NZR employees exist for the years from 1913 to 1985, but except for the year 1980 these do not identify the place of employment for each staff member. Electoral roles might be useful for establishing the number of Maori railway workers in the Te Rohe Potae inquiry district, though these have not been examined.

⁸⁰¹ *AJHR* 1910, D2, p45; *AJHR* 1950, D2, p45; *AJHR* 1975, F7, p15.

The Railways permeated every aspect of the economic life of the country. They were the largest enterprise controlled by the State, they employed more labour than any other organization, they ran the only sizeable semi-heavy industry in the land, the Railway workshops, and they were the means of transporting the exports upon which New Zealand lived from the farm to the overseas port.

Employment by NZR offered a wide range of work including, for example, manual track and yard labour, catering and hospitality positions, engine and rolling stock maintenance, clerical work as well as training in associated trades.⁸⁰² For much of the twentieth century, as just described, the Government considered railways as an essential state service provided for 'the people', rather than a profit making enterprise.⁸⁰³ The employment of a large workforce to operate and maintain New Zealand's rail network was seen as an essential part of this service.

Evidence from three different sources indicates that Rohe Potae Maori made up a significant proportion of the district's NZR workforce. A file concerning applications made by NZR employees in the mid-twentieth century for staff houses at Te Kuiti include several applications by Maori.⁸⁰⁴ Also, a Department of Maori Affairs district welfare report of March 1955 notes that an unspecified number of Maori 'boys and girls' in rural areas commonly gained employment with NZR.⁸⁰⁵ In an attempt to provide a rough indication of the number of Maori railway workers in the King Country before the restructuring of the 1980s, Table 13 provides details of the total number of NZR employees and those with Maori surnames. As many Maori would have had European surnames, the figures give an indication of the minimum number of Maori employees. On this basis, at least 20 percent of railway workers in the King Country district appear to have been of Maori descent, with at least 71 Maori in the district working on the railway. While a comparison with other areas of employment has not been made, NZR work in 1980 clearly provided income for numerous Maori families, offering employment opportunities across a range of different skill levels.⁸⁰⁶

⁸⁰² Leitch and Stott, p142.

⁸⁰³ *AJHR* 1923, D2, ppi-v, xv-xvii; Atkinson, pp60-61.

⁸⁰⁴ AAEB W3199 109 07/2393/3 part 3, Allocation of Houses at Te Kuiti, 1940-1957, ANZ Wellington. Supporting Papers, pp256-283.

⁸⁰⁵ District welfare report, 31 March 1955, MA W2490/138 record no. 36/29/2 part 2 District - Welfare Officers Report - Waikato-Maniapoto 1955-1956, ANZ Wellington. Supporting Papers, pp55-60.

⁸⁰⁶ The 1980 staff list details that Maori occupied many different positions, including the jobs of shunter, traffic operator, engine driver, signal technician, and builder.

Table 13: New Zealand Railways' Employment in the King Country, 1980⁸⁰⁷

Location	Total Number of Employees	Employees with Maori Surnames
Taumarunui	248	36
Te Kuiti	49	19
Te Awamutu	27	8
Ohura	16	0
Otorohanga	16	7
Mangapehi	1	-
Ongarue	1	1
Pureora	1	-
Total	349	71

Some speakers at the hui related stories that showed that not all Rohe Potae Maori who wished to work for NZR had been able to gain this employment. For example, Janice Tuhoro stated that her father tried unsuccessfully to get a job with NZR at Otorohanga: 'He got a white collar Pakeha guy that said "No, there's no jobs"'.⁸⁰⁸ Jim Taitoko also pointed out that Maori who did not live along the railway were less likely to work on the railway, stating that 'we never got a railway, we never got these jobs for life.'⁸⁰⁹ It is also notable that the majority of NZR employees over the twentieth century were men, something this was reflected in the former employees who attended the hui.

Based on the stories of the former employees, it appears the majority of Maori employed by NZR in the Te Rohe Potae inquiry district were manual labourers or 'on the ground floor'. Tommy Hemaia-Wahani, who worked for NZR between 1976 and 1994, stated that generally 'all the fellas upstairs were all Europeans, and all the fellas down on the ground floor were us [Maori], yes. Plus a lot of our drivers were all Maori's....'⁸¹⁰ Like many of those interviewed, Tommy Hemaia-Wahani began employment with NZR as a manual labourer, in his case in the Te Awamutu shunting yards. Other examples include Tiwha Bell and Bill Turner, who began employment as Engine Cleaners in 1952 (Te Kuiti) and 1961 (Te Rapa/Hamilton) respectively. Charlie Ashby commenced employment as a 'ganger' doing track maintenance on different sections of line in Taranaki (later moving into the Rohe Potae).⁸¹¹ Although formal advertising of roles was the norm, many interviewees recalled an informal recruitment process. Bill, while discussing his employment at Te Rapa (Hamilton), after initially failing to get a job at Te Kuiti, remembers a casual process in which he personally approached the supervisor for a job. He

⁸⁰⁷ NZR *List of Staff 1980*, ANZ Wellington (open shelf).

⁸⁰⁸ Railway Focus Group Hui, Te Kuiti, pm, pp3-4.

⁸⁰⁹ Railway Focus Group Hui, Te Kuiti, pm, pp21-22.

⁸¹⁰ Railway Focus Group, Hamiton Hui, am, transcript p14.

⁸¹¹ Railway Focus Group, Te Kuiti Hui, am, transcript pp1-2, 5, 6-7.

believes the supervisor stated: ‘Oh, you can start tomorrow, that’s how short we are of Cleaners.’⁸¹²

Once employed, progression through ‘the ranks’ was common, although often slow and requiring transfer to other stations in and outside the Rohe Potae. Tiwha Bell recounts the long process of moving from cleaner to engine driver:

I started over here [Te Kuiti] as a Fireman – we all start from the bottom, you are a Cleaner, then you go into Fireman and then you spend time. In those years [1950s] you usually have to spend about seven years as a Fireman before you got to be able to sit what they called a “Secondary Engine Driver’s Ticket.”⁸¹³

Similarly, Charlie Ashby gave his recollection of the process of promotion in the track maintenance gangs:

In those days you had to work your way up from grade three to grade two, then to a grade one ganger. It took a while to get there. I worked myself up until I ended up as grade one in Te Kuiti here. From there onto [a] tapper, and we used to pack the track. I went on to that. They wanted me to do special duties over in the Kaimai tunnel... laid all the track through that tunnel... And then in 1978 I was appointed the inspector down in Gore, so we had to pack up the family and go to Gore.⁸¹⁴

A number of those interviewed stated that families moved around and sometimes outside the inquiry district in order to pursue promotion.⁸¹⁵ In their history of NZR, Leitch and Stott note that transfers were common and were often required to gain employment or promotion on the railways.⁸¹⁶

When discussing the 1950s and 1960s, some former employees recalled that NZR provided employment for many members of their whanau. Tiwha Bell stated that ‘If you go back to all our families – you can go back to most of our families from here, from big families, all our uncles and cousins and all of them, they were Railways.’⁸¹⁷ Specifically, he added: ‘All my uncles used to work on the railroad, and it was a source of employment until they restructured, as they call it.’⁸¹⁸ Amelia Kereopa, who’s father was employed by NZR prior to the Second World War, described how many of her whanau were employed around Taumarunui and Waimiha.⁸¹⁹ Terry Turu described in detail his whanau’s and friend’s employment with NZR and how it influenced him:

⁸¹² Railway Focus Group, Te Kuiti Hui, am, transcript p5.

⁸¹³ Railway Focus Group, Te Kuiti Hui, am, transcript p3; also see Hamilton, am, transcript, pp9, 15-16.

⁸¹⁴ Railway Focus Group, Te Kuiti Hui, am, transcript pp7-8.

⁸¹⁵ Railway Focus Group, Te Kuiti Hui, am, transcript p6, p7-8; Hamilton, am, transcript p1.

⁸¹⁶ Leitch and Stott, p142.

⁸¹⁷ Railway Focus Group, Te Kuiti Hui, am, transcript p3.

⁸¹⁸ Railway Focus Group, Te Kuiti Hui, am, transcript p4.

⁸¹⁹ Railway Focus Group, Hamilton Hui, am, transcript p7.

Well I didn't work on the railway but I know a lot of my cousins worked there. One of the problems I had – I was brought up on the farm and I was mechanically minded, I loved to tinkering around with machinery. So I was determined not to go and work on the railway. All the family became engine drivers and I had no intention of being an engine driver. I wanted to become a mechanic.

But everyone in the catchment became railway workers back in Taumarunui. They [the rest of the hui] [are] talking about my cousin, Noel Roberts. I think one out of our family he was the first one that sort of went as an engine driver and then his younger brothers, because he was adopted out, then his younger brothers followed suit. The Haupapa's followed suit, and this fella here was making sure that he wasn't going to follow any of them.⁸²⁰

Judging from these comments, often when one family member was employed by NZR others would also follow. Leitch and Stott note the existence of these 'railway families' amongst Railway's staff, with successive generations being employed by NZR.⁸²¹

Employment with NZR offered Rohe Potae Maori workers a range of economic benefits. The most obvious benefit was a steady income over their working life, as employment by NZR between 1910 and 1970 offered 'traditional careers' or employment until retirement.⁸²² The general longevity of employment with NZR was confirmed by a number of those interviewed. Tiwha Bell began work for NZR in 1952 and finished in the mid-1990s, Tommy Hemaia-Wahani from 1975 to 1994, Bill Turner 1961 to 1988, and Charlie Ashby from 1951 to 1987.⁸²³ The wages or salaries offered by NZR over the twentieth century have understandably fluctuated and developed in the context of New Zealand's broader labour and economic history, however they have generally been considered fair.⁸²⁴ Interviewees generally thought that NZR paid well, often adding the caveat that entry-level wages were low but over time the money increased.⁸²⁵

Employment through NZR also offered the possibility of renting a NZR house. In 1980, NZR owned 4000 houses in New Zealand.⁸²⁶ Rental on these properties was traditionally low.⁸²⁷ Tommy Hemaia-Wahani confirmed that his railway house did have very reasonable rates, although it became more expensive when his whanau moved to Auckland: 'Very cheap. \$8 a week . . . yeah, it was good in the country. But when we went to Auckland it went up to about

⁸²⁰ Railway Focus Group, Hamilton Hui, am, transcript p8.

⁸²¹ Leitch and Stott, p142.

⁸²² Leitch and Stott, p142.

⁸²³ Railway Focus Group, Te Kuiti Hui, am, transcript pp2-3, 6-8; Hamilton, am, transcript pp1-2.

⁸²⁴ Leitch and Stott, pp27, 44, 52, 86, 142.

⁸²⁵ Railway Focus Group, Te Kuiti Hui, am, transcript, pp5-6, 9; Hamilton, am, transcript pp17-18.

⁸²⁶ *Rails*, July 1989, pp266-267.

⁸²⁷ Leitch and Stott, p142.

\$64 a week. Yes, so it jumped right up, you know.⁸²⁸ During the restructuring, the opportunity to purchase these houses was also given, but families were not always able to buy or choose not to.⁸²⁹ The process of application by staff for railway houses has not been researched in detail, however, according to a number of those interviewed many employees were able to rent these houses if they wished.⁸³⁰



Figure 29: NZR North Island rugby team, 1980 (AAVK W3493, ANZ Wellington)

Back Row (from left): M. Murumuru (Frankton); W. Murphy (Westfield); L. Bradcock (Frankton); D. McKendry (Westfield); K. Dempsey (Taumarunui); R. Cribb (Taumarunui); R. Barrett (Tairāpapa).
Middle Row: J. Young (Wellington); T. Kairua (Otahuhu); B. Cribb (Taumarunui); A. Watene (Taumarunui); P. Nuka Nuka (Frankton); T. Pinkham (Taumarunui); M. Firth (Kawerau); R. Hill (Taumarunui).
Front Row: P. Ngaki, Assistant Manager and Coach (Hamilton); R. Kakahi (Taumarunui); M. Roberts, Captain (Penrose); J. Sawyers; L. Lewis (Whangarei); T. Murumuru (Westfield); L.P. Harwood, Manager (Taumarunui).

Although not an economic benefit, many of the former workers interviewed conveyed that employment by NZR offered social opportunities and a strong sense of community. In particular, camaraderie amongst the workers was noted. For example, Bruce Benefield, a Pakeha former stationmaster, recollected that when he commenced employment the staff clerk told him “Boy, you’re joining the biggest extended family in New Zealand,” and I think they had 25,000

⁸²⁸ Railway Focus Group, Hamilton Hui, am, transcript p18.

⁸²⁹ Railway Focus Group, Hamilton Hui, am, transcript pp27, 29; Railway Focus Group, Te Kuiti Hui, pm, transcript pp12-13.

⁸³⁰ Railway Focus Group, Te Kuiti Hui, pm, transcript pp12.

to 26,000 employees at the time. And he said, “They’re a band of brothers” sort of.⁸³¹ Bruce Benefield endorsed this view, still referring to another interviewee, Charlie Ashby, as ‘Brother.’⁸³² Although this is clearly a romanticised view of the workplace and collegial relationships that would not have been experienced by all, these sentiments were echoed by a number of interviewees. One particular focus of this camaraderie was NZR rugby union teams in the King Country, particularly in Taumarunui and Te Kuiti.⁸³³ When discussing Te Kuiti, George Searancke commented on Te Kuiti NZR playing fields:

So what I think, a lot of the men that worked and lived there needed something for them to get out on a Sunday and let off a bit of steam, so they formed a rugby team and they used to invite a lot of teams to come and play them on a Sunday. So the railway down in Te Kuiti was a hub. It attracted not only railway workers, but mates and all that sort of thing.⁸³⁴

Charlie Ashby, who represented NZR rugby at a North Island and at the national level, later became a selector.⁸³⁵ He attended the hui wearing his NZR rugby blazer.

NZR was a relatively hazardous workplace and numerous accidents were recalled during the interviews.⁸³⁶ Tommy Hemaia-Wahani vividly remembered a life threatening accident that he was involved in:

I had my own little engine and crew and that was actually - just about the end of my years or my job with New Zealand Rail because working in the yard more or less like this - you had the south end shunter and the north end shunter, and I was sitting in the west side/south side with my own gang and crew ready to come out. We had the speaker man at the top talking to me and he said, “Yeah, Tom, just wait, work on the north end - work on the south end, you’ll get a green...” So anyway, we were there for about 10 minutes and you might get a call, “you’ve got a green, Tom” and I looked up and saw the green and I drive her out.

As we started to move out, we probably moved about 50-60 yards I suppose, and I could here the speaker talking to the north shunt - “north shunt stop movement”. I never heard anything after that. I woke up in the Intensive Care Unit at Auckland Hospital. All my crew the whole lot of us all ended up in hospital, but I was the worse one of the lot. But there was just - Taumarunui - that big accident we had down in Taumarunui was only a baby, there was something like about 170 wagons sky high. Yeah, I woke up in the Intensive Care Unit in Auckland Hospital.

That happened on 30 April, it was a Wednesday 30 April 1988 and my doctor, he was top Neurosurgeon in Australasia, his name was Dr Kuanar [phonetic] and he talked

⁸³¹ Railway Focus Group, Te Kuiti Hui, am, transcript p24.

⁸³² Railway Focus Group, Te Kuiti Hui, am, transcript p25.

⁸³³ Railway Focus Group, Taumarunui Hui, am, transcript p7; Hamilton Hui, am, p24.

⁸³⁴ Railway Focus Group, Hamilton Hui, am, transcript p28.

⁸³⁵ Railway Focus Group, Te Kuiti Hui, am, transcript p47.

⁸³⁶ Railway Focus Group, Hamilton Hui, am, transcript p15; Railway Focus Group, Te Kuiti Hui, am, transcript p37.

about - he said to me your job, you'll be off work for along time. Well a Maori being a Maori - nah, along time wasn't, you know, was too long. I went off – it was April, May, June, July, August, September, October, November - I went back to work. But I should have stayed off for another five months because I went back to work in November then I started having nystagmus eyes, also I was getting bad headaches, arm out of the socket, all these things happened to me.

From the same token, when I did go back to work I applied for another transfer, even though I'd gone back to work. I applied for Te Rapa, or even back to Te Awamutu. My boss turned around and said to "oh, I can't get you Te Rapa but Te Awamutu," I said "Yeah I'll go". Then he said to me "You can't go until Friday". He told me on the Monday, Wednesday I was out - just packed all my gear, told all my staff, told all the crew at Western Marton yard. I turned wagons on the front of an express goods train going to Wellington, it was coming to Te Awamutu dropping off, and I came down the next day.⁸³⁷

Tommy was Officer in Charge of Te Awamutu railway station until 1994, when he was made redundant.⁸³⁸

This section has shown that Rohe Potae Maori appear to have made up a significant proportion of the NZR workforce in the district, though it has not been possible to accurately quantify the number of Rohe Potae Maori employees. The proposed economic capability overview report should shed light on the relative importance of railway work compared to other types of employment. For those Rohe Potae Maori who worked for NZR, the benefits included steady income and secure, long-term employment with the potential of promotion, as well as the opportunity to rent affordable NZR housing for their families and engage in the social life offered by one of New Zealand's largest employers.

Conclusion

This chapter has identified that the operation of the NIMT between 1903 and 1980 was linked to a number of important developments that were part of the process of political, economic, and social transformation that occurred in the Rohe Potae from around the turn of the twentieth century. While the role of the NIMT has been examined, the various developments connected to the railway have been discussed only briefly. There are a number of issues relating to the interests of Rohe Potae Maori that are beyond the scope of the report and require further research. These issues will largely be addressed in other research reports.

⁸³⁷ Railway Focus Group, Hamilton Hui, am, transcript p18.

⁸³⁸ Railway Focus Group, Hamilton Hui, am, transcript p19.

It is evident that during the first decades of the twentieth century, the NIMT played a key role in the district's transport infrastructure, providing access to a large area of land. The railway was used by European settlers who, around 1900, began taking up lands that had been purchased from Rohe Potae Maori. This process saw a significant increase in the non-Maori population of the King Country, which initially seems to have been broadly located along the NIMT. While the NIMT was clearly helpful to European settlers, it is also true that Maori retained significant areas along the railway many years after Government purchasing had commenced. The twentieth century land alienation report will shed light on how long Maori continued to hold land along the NIMT and were therefore potentially able to benefit from the railway in accordance with the assurances that Ballance had made prior to construction.

As well as providing access to settlement lands, the construction of the NIMT also played a key role in the development of the important King Country sawmilling industry, enabling timber to be efficiently transported to distant markets. As Ballance had spoken of during the negotiations, forest areas owned by Maori along the line became a resource of significant financial value. It appears that Maori often sought to receive money for timber without selling their land, entering instead into timber cutting agreements with European sawmillers. The area of land in the Te Rohe Potae inquiry district subject to these agreements has not been established and it has not been possible to quantify the money earned by Maori through royalties. Preliminary research presented in this chapter suggests that owners sometimes did not receive fair payment for the timber harvested, though nevertheless still may have received a considerable amount of money from timber royalties. The extent to which Maori were able to fully benefit from the sawmilling industry will be addressed in the proposed economic capability overview report.

The construction of the NIMT created the potential for additional branch lines, which like the NIMT, were intended to open more land and resources for European settlement. As detailed in Chapters one and two, a railway link to Taranaki Province from Auckland had long been sought after, such a route having been seriously considered as a possible course of the NIMT. Between 1901 and 1932 a line was constructed between Stratford and Okahukura. Significantly, no consultation was undertaken with Rohe Potae Maori regarding the line, even though considerable portions of the proposed line ran through Maori owned land at the time that the decision to build the line was made. Although detailed research of the twentieth century political engagement report should shed more light on the matter, it seems clear that by this time consultation with Rohe Potae Maori was no longer considered necessary by the Government.

The creation of Native Townships at Te Kuiti, Otorohanga and Taumarunui in 1903 was also closely connected with the NIMT. Owing to the railway's key role in the transport infrastructure of the district, these places possessed the potential to develop into regional service centres as settlement of the land and activities such as sawmilling and tourism increased. It appears that settlers agitated for the establishment of the three Native Townships, which enabled Europeans to take better advantage, with more secure title, of the business opportunities that existed at each place. However, in the cases of Otorohanga and Te Kuiti, where the Maori land owners had invested money in buildings, Maori appear to have been closely involved in the decision to create Native Townships and seemingly saw benefits in their establishment. It is notable that in 1910 legislative change enabled Europeans and the Crown to take steps to purchase the freehold of Maori-owned Native Township sections. By 1927, more than 50 percent of the total lands in the Te Kuiti, Otorohanga, and Taumarunui townships were no longer in Maori hands. Issues concerning Native Townships in the Rohe Potae inquiry district will be closely examined in a separate report.

Looking at the NIMT more broadly, it is evident that the railway played a significant role in the settlement of the North Island and, in turn, New Zealand as a whole. Although not the case with other parts of the New Zealand rail network, the NIMT has been and is a profitable and intensively used line. The completion of the NIMT in 1908 unified a series of separate North Island lines into one cohesive network, enabling communication and overland transport in an island that had been largely reliant on maritime transport. The completed New Zealand rail network, with the NIMT as one of two major trunk lines, also contributed to the creation of trade links between provincial centres, further breaking down the isolation that had characterised the nineteenth century. The network was also an important auxiliary in the growth of the foundational dairy and frozen meat export industries in New Zealand, transporting stock and farm essentials to and from rural centres. Though the NIMT has remained important to the national economy, the significance of the railway to the local King Country economy has diminished as rail's role in stock transport and the timber industry declined after 1950.

The operation of the NIMT created employment opportunities for Rohe Potae Maori, who appear to have made up a significant proportion of the NZR workforce in the district. This work provided wage income, which increasingly became available in the district as European settlement activity increased. The proposed economic capability overview report should shed

light on the relative importance of railway work compared to other types of employment. For those Rohe Potae Maori who worked for NZR, the benefits included regular income and secure, long-term employment with the opportunity for promotion, as well as the opportunity to rent affordable NZR housing and engage in the social life offered by one of the country's largest employers.

Chapter Six: Restructuring and Beyond, 1980-2008

Introduction

The final chapter in this report examines developments since 1980, a time during which the railway system has been subject to a number of important changes – corporatisation of NZR in 1982, restructuring of the new Corporation, privatisation of railway operations in 1992, and return to state ownership in 2008. This chapter begins with an overview of these developments, with particular reference to the railway system in the King Country. It is noted that the changes were introduced without Rohe Potae Maori being consulted in recognition of their historical interests in the NIMT. Following the overview, two developments that impacted upon the interests of Rohe Potae Maori are examined in detail. First, the implementation of major cuts to the number of railway workers from the mid-1980s is discussed. Maori railway workers in the King Country were among those affected by the staff cuts. The extent to which central Government considered and attempted to mitigate the social impacts of this and other state sector restructuring is examined. Secondly, an examination is provided of the disposal of surplus railway land, a revenue-raising initiative, also introduced in the mid-1980s, which has seen numerous areas of railway land in the Te Rohe Potae inquiry district sold. The extent to which the interests of King Country Maori were protected during the disposal process, both as former owners and in regard to their unsettled Treaty of Waitangi claims, is discussed.

Overview of major developments

Background to corporatisation

Up to 1980, NZR's mandate was to provide New Zealand with an effective freight and passenger transportation system at minimum cost, while at the same time fulfilling a wide range of social objectives regarded as being in the 'public interest'.⁸³⁹ The first steps towards a comprehensive restructuring of NZR were taken in the early 1980s by the National Government led by Robert Muldoon. The move was a response to NZR's deteriorating financial performance and followed developments overseas, where some restructuring of national railway operators had already taken place.⁸⁴⁰ Unlike the restructuring of Government trading organisations undertaken by the Labour Government elected in 1984, the restructuring of NZR was not initiated as part of a broader agenda to reshape the role of Government and reform the New Zealand economy.

⁸³⁹ Ian Duncan and Alan Bollard, *Corporatization and privatization: lessons from New Zealand*, Oxford University Press, Auckland, 1992, p121.

⁸⁴⁰ Booz, Allen, and Hamilton, *Comprehensive review of operations and strategic options evaluation*, New Zealand Railways Corporation, Wellington, 1983, pI-4.

During the 1950s and 1960s, NZR recorded, over the twenty year period, about \$8 million in net revenue before interest charges on outstanding loans.⁸⁴¹ In the 1970s, however, NZR posted cumulative net losses of almost \$225 million before interest. These losses were caused by a number of factors. Rising diesel prices after 1973 significantly increased NZR operating expenses and, at the same time, Government price control policies (aimed at controlling inflation) limited NZR ability to recoup costs.⁸⁴² The financial losses also resulted from increased competition following important changes to the rules that protected NZR against road transport freight operators. These regulations, which had been introduced in the 1930s, required licensing of road carriers and restricted the distance that freight could be hauled by road where a rail service operated.⁸⁴³ The regulations were relaxed for some commodities and the allowable distance for road haulage extended to 64 kilometre (40 miles) in 1961.⁸⁴⁴ In 1977, the distance was further extended to 150 kilometres.

Between 1960 and 1980, the number of staff employed by NZR declined from about 25,000 to a little over 21,000, reflecting to a limited extent NZR's changing financial fortunes.⁸⁴⁵ By 1980, a 'sinking lid' policy required annual staff reductions of 1.5 percent. Commenting on this policy in February 1980, the Secretary to the Treasury stated that a significant reduction in staff numbers would be an essential element of measures required to tackle NZR's losses, noting that staffing costs represented over 60 percent of NZR's total operating costs.⁸⁴⁶ However, reductions in staff numbers conflicted with the role that NZR was expected to play in employment creation – a social objective that added to operating costs. During the year ending 31 March 1982, for example, with net losses having increased to \$57 million and net losses after interest amounting to \$99 million, NZR was obliged to absorb onto the regular staff some 600 individuals who had previously been found work with NZR under various Department of Labour sponsored employment creation schemes.⁸⁴⁷ The Department was also expected to recruit school leavers

⁸⁴¹ Booz, Allen, and Hamilton, pI-2.

⁸⁴² Ibid.

⁸⁴³ Duncan and Bollard, p121.

⁸⁴⁴ R.Y. Cavana, *Railway system in New Zealand: case study in strategic change*, Graduate School of Business and Government Management, Victoria University, Wellington, 1992, p2.

⁸⁴⁵ Kevin Hyde, 'Telling the world about the NZR experience', *Rails*, July 1989, p266. Colman, Minister of Railways, response to written question, 3 June 1981, ABJP W4103 67, 501/76/3 part 4, Employment – Staff Ceiling, 1980-1985, ANZ Wellington. Supporting Papers, p312.

⁸⁴⁶ Secretary to the Treasury to the Minister of Finance, 15 February 1980, ABJP W4103 67, 501/76/3 part 4, ANZ Wellington. Supporting Papers, p311.

⁸⁴⁷ General Manager, NZRC, to Chairman, Board of Directors, NZRC, memorandum on staffing levels 1982/83, undated, ABJP W4103 67, 501/76/3 part 4, ANZ Wellington. Supporting Papers, pp313-316.

and apprentices over and above its own requirements to the maximum capacity of NZR's training facilities.⁸⁴⁸

In February 1979, NZR undertook a public relations campaign to raise public awareness of NZR's financial difficulties and convey the message that organisational change was required.⁸⁴⁹ Though it was evident that NZR would be subject to significant general change, the NIMT was clearly viewed as having an ongoing and pivotal role in the rail system. This is apparent from the considerable investment that was being made to upgrade the line to ensure the viability of its future operation in the face of increasing competition from road transport. In June 1979, the General Manager announced that work would begin on the electrification of the NIMT between Palmerston North and Te Rapa, a major project that was completed in 1988.⁸⁵⁰ In late 1980, after six years of construction work, a new 1.3 kilometre Poro o Tarao Tunnel was opened.⁸⁵¹ The old tunnel, which would have impeded electrification, had restricted clearances and had been affected by ground movements. A year later, the 9.5 kilometre Mangaweka-Utiku Deviation, south of Taihape, was completed.⁸⁵²

Establishment of New Zealand Railways Corporation, 1982

In December 1980, the Minister of Railways announced that NZR would be reformed as a corporation, with the 150 kilometre limit retained as the basis of competition between road and rail.⁸⁵³ The New Zealand Railways' Corporation Act 1981 provided the statutory authority for the establishment of a corporation. The Corporation's focus would be to operate New Zealand's rail system on a commercial basis. The Act required both that the Corporation carry out its operations so that revenue exceeded costs (including interest and depreciation) and that it provide a return on capital at a rate specified from time to time by the Minister of Finance.⁸⁵⁴

⁸⁴⁸ Leitch and Stott, p123.

⁸⁴⁹ Leitch and Stott, p152. *AJHR*, 1979, F-7, p16. In *Time for Change*, the first of a series of booklets issued by the General Manager, it was explained that traffic was declining and operating losses increasing, a situation that demanded change. *Time for Change*, ABJP W4098 57 09/2645/64 part 1, Railway Discussion Booklet – 'Time for Change', 1978-1981, ANZ Wellington.

⁸⁵⁰ Leitch and Stott, p154. In 1981, the Government approved a budget of \$165 million for this major work. *Rails*, August 1988, p7. *Rails*, May 1990, p209.

⁸⁵¹ Leitch and Stott, p157.

⁸⁵² *Ibid*, pp158-159. The deviation involved three new viaducts and replaced a difficult section of the line that included steep grades, sharp curves, and small-bore tunnels that had hindered operations for many years and would have presented an obstacle to electrification.

⁸⁵³ *Ibid*, p156.

⁸⁵⁴ Section 12(1)(e), New Zealand Railways Corporation Act 1981.

The New Zealand Railways' Corporation (NZRC) was constituted in April 1982. A board of directors was appointed, comprising representatives from a wide spectrum of the business community.⁸⁵⁵ In 1989, the Chief Executive of the Corporation, Kevin Hyde, described the appointment of the Board as 'a significant catalyst for change'.⁸⁵⁶ Hyde stated that the Board, with 'none of the baggage of railways tradition', set about questioning and overturning long-standing ways of doing things from the perspective of contemporary business practice. The Minister of Railways' involvement in the running of the business was limited. This was an important shift as Ministers had tended to be involved in decisions that had political impacts, such as pricing and employment policies.⁸⁵⁷ Hyde claimed that attempts to introduce more commercial structures and policies before 1982 had been unsuccessful because politicians were reluctant to live with the political consequences.⁸⁵⁸

In December 1982, Muldoon announced that legislation would be introduced to abolish the 150 kilometre road freight limit and to modify the existing system of licensing of road operators.⁸⁵⁹ Though the legislation would place increased pressure on the new Railways' Corporation from road transport competition, Muldoon stated that he did not believe it would result in redundancies, though employees who left would not be replaced.⁸⁶⁰ In response, the Labour opposition launched a 'Save Rail' campaign, with leader David Lange claiming there was 'little basis' to the Government's plans.⁸⁶¹ (The restructuring of Railways would nevertheless continue after Labour was elected in 1984.) In November 1983, the 150 kilometre limit was removed and over the next three years the license fee for road carriers was progressively eliminated.⁸⁶² According to Kevin Hyde, the decision to deregulate the road transport industry and remove railway's protection was made in the face of growing pressure from the New Zealand business community, which sought reduced transport costs in a difficult economic climate.⁸⁶³

Planning for restructuring

One of NZRC's first initiatives was to commission a report by United States based international management consultants Booz, Allen, and Hamilton, a firm experienced in the restructuring of

⁸⁵⁵ Cavana, p4.

⁸⁵⁶ Hyde, p264.

⁸⁵⁷ Duncan and Bollard, pp122-123.

⁸⁵⁸ Hyde, p264.

⁸⁵⁹ Leitch and Stott, p164.

⁸⁶⁰ Ibid, p162.

⁸⁶¹ Ibid, p163.

⁸⁶² Duncan and Bollard, p121.

⁸⁶³ Hyde, p265.

transportation organisations.⁸⁶⁴ The consultants were asked to review the whole of Railways' operations and to identify changes that would enable the Corporation to meet its commercial objectives in a deregulated environment. In their 1983 report, Booz, Allen, and Hamilton emphasised that their task had been to evaluate economic and not social or political issues.⁸⁶⁵ The report unequivocally asserted that significant change was necessary if the Corporation was to meet its statutory obligation to have revenue exceed costs and provide a return on capital.⁸⁶⁶ It made a number of specific suggestions for improvements in productivity and proposed that the structure of the organisation be reconfigured into four business groups that dealt separately with freight services, passenger services, marine services (the interisland ferries), and property management.⁸⁶⁷ The consultants predicted that staff numbers would be reduced significantly.⁸⁶⁸



Figure 30: *Centennial commemoration of the turning of the first sod, 1985 (Te Awamutu Museum)*

As noted earlier, the restructuring of NZRC continued unabated following the election of the Labour Government in 1984. The restructuring was consistent with the approach that Labour applied to other Government trading organisations. The corporatisation of these organisations

⁸⁶⁴ Cavana, p4.

⁸⁶⁵ Booz, Allen, and Hamilton, pii.

⁸⁶⁶ Ibid, pI-7.

⁸⁶⁷ Booze, Allen, and Hamilton, pVIII-12 and 13. Hyde, 263-265.

⁸⁶⁸ Ibid.

was an important aspect of the major economic reforms introduced by Labour. The State-Owned Enterprises Act 1986 created nine year Government-owned corporations, including Post Office, Electricity, and Land. NZRC was also designated a State-Owned Enterprise (SOE) under the 1986 Act. The overriding statutory objective of each SOE was to operate a successful business.⁸⁶⁹ Within this, the SOE was to be as profitable and efficient as a comparable private sector business, be a good employer, and show a sense of social responsibility.

Change without consultation with Rohe Potae Maori

No evidence has been located to suggest that Rohe Potae Maori were consulted over either the establishment of the Corporation or its restructuring plans. As noted above, the Corporation was run by a Board, with members appointed from the business community. It is argued here that Rohe Potae Maori possibly should have been consulted about staff cuts and certainly should have been consulted about land disposal policies.

In respect of staff cuts, the issue of consultation arises from the agreements and understandings that had been reached prior to construction of the NIMT, which by 1980 seem to have been long forgotten from public decision making. In particular, the staff cuts were potentially relevant to the general assurance that Ballance had made regarding the economic benefit that the NIMT would bring Rohe Potae Maori. It is unclear from the research presented in Chapter five of this report whether Rohe Potae Maori employment with NZR constituted a significant economic benefit. However, the proposed economic capabilities overview report should provide an indication of the relative importance of NZR employment for Rohe Potae Maori, shedding light on whether consultation over job losses was warranted. It is notable that neither the National Government that set up the Corporation nor the Labour Government that came to power in 1984 specifically considered how Rohe Potae Maori would be affected by the staff cuts carried out during the restructuring of NZRC.

In regard to the policy of disposing of surplus railway land, an obligation to consult with Rohe Potae Maori related to the fact that most of the land required for the NIMT in the King Country district had formerly been owned by Maori. While some of this land was taken compulsorily, Rohe Potae gifted a significant area for the track and stations, presumably expecting that it would always be used for railway purposes. As the disposal of railway lands in the King Country was likely to involve land formerly owned and possibly gifted by Rohe Potae Maori, it seems

⁸⁶⁹ Jane Kelsey, *Rolling back the state: privatisation of power in Aotearoa/New Zealand*, Bridget Williams Books, Wellington,

reasonable to suggest that there should have been consultation with Rohe Potae Maori about the general policy of disposing of surplus railway land.

Restructuring of New Zealand Railways Corporation

The 1983 Booze, Allen, and Hamilton report provided the blueprint for the restructuring of Railways – a process that was to be carried out over several years.⁸⁷⁰ In accordance with the consultant's recommendation, NZRC was divided into separate business groups.⁸⁷¹ Freight, passenger, and property groups were established, though not a marine group as also proposed in the Booz, Allen, and Hamilton report. By 1990, the restructuring of NZRC had resulted in significant change. R.Y. Cavana details that from 1 April 1982 to 30 June 1990, the Corporation's operations shifted in the following ways:

- staff numbers reduced by 64 percent from 22,000 in 1982 to 8,000 in 1990;
- wagon fleet numbers decreased by 57 percent;
- number of mainline locomotives reduced by 35 percent;
- average size of trains increased by 18 percent;
- real freight rates lowered by 50 percent;
- overall labour productivity increased by 125 percent.⁸⁷²

The length of line in use (about 4,200 kilometres) did not change significantly over the period between 1982 and 1990.⁸⁷³

In spite of productivity gains, Railway's financial performance remained poor. Between 1982 and 1990, the Corporation's cumulative net losses amounted to \$608 million.⁸⁷⁴ This partly reflected a decline in the amount of freight handled by Railways – a 16 percent decrease in total volume carried by distance.⁸⁷⁵ (The decline in rail freight resulted from the growing competition from road transport following the deregulation of the road transport industry. It also resulted from shifting trade patterns due to other Government policies – for example, the removal of border protection and tariffs on imported goods – and economic recession.) Railways poor financial performance also reflected the considerable financial cost of restructuring and

1993, pp 29-30.

⁸⁷⁰ Hyde, p264.

⁸⁷¹ Leitch and Stott, p167.

⁸⁷² Cavana, p6.

⁸⁷³ Hyde, p263.

⁸⁷⁴ Cavana, p9.

⁸⁷⁵ Cavana, p7.

cumulative interest and financial charges.⁸⁷⁶ At the same time, Government social service payments and subsidies were wound down from 1986.⁸⁷⁷

At the close of the 1980s, with the Corporation on the verge of technical bankruptcy, Government took major steps to restructure the Corporation's balance sheet. On 1 January 1990, the Government injected equity of \$360 million into the Corporation, took over \$1087 million of debt, and wrote down the Corporation's assets by \$856 million. In the year ending 30 June 1990, the Corporation recorded an operating profit of \$13 million and a small net profit of \$2.4 million.⁸⁷⁸ This was the first operating profit posted by the Corporation for four years.

Moves towards privatisation – the establishment of New Zealand Rail Limited, 1990

The financial cost of restructuring the Corporation's balance sheet was undertaken as the Government began to look towards the possibility of privatising the Corporation. In the 1988 Budget, the Labour Government had announced that the Corporation's 'non core assets', including surplus lands, would be sold.⁸⁷⁹ The following year, in June 1989, the Government advised that the sale of all or part of the Corporation's 'core assets' was a definite possibility at some point in the future.⁸⁸⁰ The Board was instructed to reorganise the Corporation so that it would comply more fully with the objectives of the State-Owned Enterprises Act and allow for the possibility of privatisation.⁸⁸¹

The New Zealand Railways Corporation Restructuring Act 1990 enabled Ministers to form limited liability companies and transfer railway assets and liabilities to these companies, which could be sold from public ownership.⁸⁸² On 28 October 1990, New Zealand Rail Limited was established under the provisions of the 1990 Act to take over NZRC's rail-related activities.⁸⁸³ Directed by a board, New Zealand Rail was accountable to the Minister of Finance and the Minister of State-Owned Enterprises. The company leased the lands required for its activities from the Corporation, which continued to be responsible for the sale of surplus lands and also retained road-related passenger transport activities.⁸⁸⁴ In November 1990, it was announced that

⁸⁷⁶ *Rails*, May 1990, 209.

⁸⁷⁷ Duncan and Bollard, p130.

⁸⁷⁸ Cavana, p9. *NZ Railway Observer*, December 2001-January 2002, p134.

⁸⁷⁹ *Dominion*, 10 June 1989, p1.

⁸⁸⁰ *Ibid.*

⁸⁸¹ *Rails*, July 1989, p270.

⁸⁸² *Rails*, May 1990, pp208-209.

⁸⁸³ Cavana, p9.

⁸⁸⁴ Duncan and Bollard, p122.

the road passenger services would be sold – the first asset sale announced by the new National Government.⁸⁸⁵

The National Government's 1991 Budget, delivered by Finance Minister Ruth Richardson, announced a general policy to promote privatisation of state businesses where this was believed to benefit the country as a whole.⁸⁸⁶ Privatisation was considered to be beneficial if it enabled the state to withdraw from activities deemed not to be of 'core government responsibility' and where it was considered that a state sector business would perform better in private ownership. R.C. Mascarenhas identifies that privatisation – the transfer of assets from Government to the private sector – was the final stage in the reform of public enterprises undertaken in New Zealand during the 1980s and 1990s.⁸⁸⁷ He explains that while the earlier stages of commercialisation and deregulation sought to enhance efficiency, privatisation was based largely on 'fiscal arguments'.⁸⁸⁸

Though it is likely that New Zealand Rail was viewed as one of the state businesses marked for privatisation, it was not until late 1993 that it was sold from public ownership. In the meantime, New Zealand Rail focussed on consolidating its financial position and reshaping its organisational structure. In the year ending 30 June 1992, New Zealand Rail's operating profit increased to \$40 million, suggesting an increasingly sound financial footing.⁸⁸⁹ In spite of the positive financial performance of New Zealand Rail, the process of cutting staff numbers continued, and by 1992 only 5,400 people were employed in the New Zealand railway system.⁸⁹⁰

Purchase of New Zealand Rail Limited by Tranz Rail, 1993

In September 1993, the New Zealand rail system was privatised when New Zealand Rail was sold for \$328 million to Tranz Rail Limited, a private consortium.⁸⁹¹ In contrast to the privatisation of Telecom and Air New Zealand – two other assets that had a key role in the

⁸⁸⁵ *Dominion*, 24 November 1990, p1.

⁸⁸⁶ 'Budget 1991', *AJHR* 1991, B-6A, cited in Cavana, p12.

⁸⁸⁷ R.C. Mascarenhas, 'State-Owned Enterprises', in Boston, J., Martin, J., Pallot, J., and Walsh, P., eds., *Reshaping the state: New Zealand's bureaucratic revolution*, Oxford University Press, Auckland, 1991, p28, 33-48.

⁸⁸⁸ Mascarenhas, p43.

⁸⁸⁹ Cavana, p10.

⁸⁹⁰ Cavana, p12.

⁸⁹¹ *Rails*, November 1993, p80. *New Zealand Listener*, 21 July 2001, p26. In purchasing New Zealand Rail, the Tranz Rail consortium capitalised on what appears to have been a low purchase price, making significant financial gains. Business commentator Brain Gaynor has pointed out that Fay Richwhite were the financial advisors of New Zealand Rail in the three years prior to privatisation and therefore had an intimate knowledge of the company's financial structure and the potential to take advantage of the strong balance sheet left after the Government's 1990 debt takeover and equity injection. Gaynor estimates that the Tranz Rail consortium's 'big three' took \$370 million in profits from the company. *Weekend Herald*, 17-18 February 2001, A20-21.

country's communication and transport system – New Zealand Rail was sold without any shares remaining in public ownership.⁸⁹² The Tranz Rail consortium had three main shareholders: merchant bankers Fay Richwhite (31.8 percent), Wisconsin Central Transportation Corporation (27.3 percent), and Berkshire Fund (27.3 percent). Wisconsin Central Transportation Corporation (WCT) and Berkshire Fund were based in the United States and contributed five of the nine directors of the Tranz Rail Board.⁸⁹³ Edward Burkhardt, President of WCT, was appointed chairman. In 1996, Tranz Rail became a publicly listed company.

The land required for the operation of the railway remained in Crown ownership and was leased to Tranz Rail at an annual rental of \$1. By retaining the land required for the railway in public ownership, the Government retained a stake in the railway system and, without having to factor in the value of the railways lands, could settle on a purchase price that was acceptable to the purchaser. The retention of the railway land also meant that the Government avoided a number of difficult issues that would have arisen if it had sought to transfer the land to a private company. One of these issues concerned the offer back provisions of the Public Works Act 1981, which require that land must be offered back to the former owners when it is no longer required for a public use. Issues relating to railway lands that were subject to Treaty of Waitangi claims added another level of complexity to the difficulties that the Government would have faced if it had sought to transfer the land required for the operation of the railway.

As with the earlier restructuring initiatives, there is no evidence that Rohe Potae Maori were consulted over the decision to privatise the railway system. When Rohe Potae Maori agreed to the construction of the NIMT and gifted land for the track and stations, it is likely that they understood that the Government would be responsible for the operation of the railway, ensuring that it was managed in a way that was consistent with the understandings reached during the negotiations. It seems very likely that Rohe Potae Maori did not agree to the construction of the NIMT with any expectation that the railway would one day be passed to private business interests who would operate it for the profit of shareholders. While the Government retained ownership of the railway land during the period that the railway was privately owned, it was not involved in decisions concerning the management of the railway. As detailed below, the private owners made further cuts to staff numbers and made capital investment decisions that were of concern to the long term viability of rail transport.

⁸⁹² *New Zealand Herald*, 13 September 2002, pA19.

⁸⁹³ *Rails*, November 1993, p80

Tranz Rail's operation of the New Zealand railway system, 1993-2004

The New Zealand railway system was owned and operated by Tranz Rail until 2004. Continuing New Zealand RAILS' performance leading up to privatisation, the new owners posted net profits throughout the 1990s, though the level of net profit fluctuated somewhat.⁸⁹⁴ While freight and passenger carriage increased during the 1990s, this was not reflected in Tranz Rail's profit levels because intense competition from road carriers, shipping, and airlines pushed freight rates down.⁸⁹⁵ Increases in rail freight owed much to growth in the long distance carriage of single commodities, particularly timber, milk, and coal.⁸⁹⁶ (The importance of the NIMT continued. In 1997, for example, the NIMT handled almost 36 percent of the company's freight.⁸⁹⁷) As part of efforts to reduce fixed costs, Tranz Rail made further cuts to staff numbers and by 1999 the number of full-time equivalent staff had been reduced to about 4300.⁸⁹⁸

In July 1999, differences within the Tranz Rail Board saw Burnhardt dumped as chairman, apparently the victim of a coup led by directors who did not agree with his long term view of company investment needs.⁸⁹⁹ Burnhardt later described the difference as a fundamental clash between himself – a 'railroad man' – and Fay, Richwhite and Berkshire, who he claimed were interested only in 'the financial side'.⁹⁰⁰ Burnhardt observed that, following his departure, capital expenditure declined from \$125.4 million in 1999 to \$54.5 million in 2002, reflecting a significant change in the management ethos.⁹⁰¹ A number of observers criticised the extent to which Tranz Rail was 'run down' from the late 1990s, when assets were sold and spending on track and rolling stock dried up.⁹⁰² Tranz Rail's declining capital investment no doubt owed something to the company's ailing financial performance, which would have made such investment increasingly unaffordable.

Tranz Rail's annual report for the year ending 30 June 2000 confirmed a trend of growing freight volumes and falling revenue caused by declining freight rates.⁹⁰³ In October 2000, a major

⁸⁹⁴ *New Zealand Railway Observer*, December 2001-January 2002, pp134-140. Profit ranged from \$38.9 million for the year ending 30 June 1994 to 73.6 million for the year ending 30 June 1995.

⁸⁹⁵ *Ibid*, pp138-139. In 1994, the National Government allowed overseas ships to carry domestic freight. Some opponents of this policy claimed that the foreign ships, allegedly operating tax free and often heavily subsidised, causing internal freight rates to decline significantly. See, for example, *The Press*, 30 June 2004, pA19.

⁸⁹⁶ *Rails*, September 1999, p32. *North and South*, November 1997, p99.

⁸⁹⁷ *North and South*, November 1997, p97.

⁸⁹⁸ *Rails*, October 1999, p58.

⁸⁹⁹ *New Zealand Railway Observer*, December 2001-January 2002, p139.

⁹⁰⁰ *Dominion Post*, 2 May 2003, pB5.

⁹⁰¹ *Ibid*.

⁹⁰² *Ibid*.

⁹⁰³ *New Zealand Railway Observer*, December 2001-January 2002, p140.

restructuring plan was announced, which aimed to focus the company on long haul rail freight, freight distribution (including trucking), and the interisland ferry service.⁹⁰⁴ In 2001, Tranz Rail sold a major stake in the passenger train services to Australian company West Coast Rail.⁹⁰⁵ A number of passenger train services that were deemed to be uneconomic were stopped, including in 2004, the overnight service between Auckland and Wellington, the *Northerner*.⁹⁰⁶ In spite of restructuring initiatives, Tranz Rail's financial performance continued to decline.⁹⁰⁷ There was growing criticism of the service provided by the rail operator, with certain major exporters reportedly in conflict with the company, claiming that they were unable to use the network in a cost efficient and effective way.⁹⁰⁸

State involvement in the rail system reconsidered

In light of this situation, the Labour-Progressive Government looked to intervene to secure the future of the rail system, Prime Minister Helen Clark in July 2002 expressing the view that it was important for the country to have a functioning railway system.⁹⁰⁹ The *New Zealand Herald* reported that many ministers viewed the national rail network as a vital strategic asset, particularly as the forestry 'wall of wood' matured in the North Island.⁹¹⁰ In addition to the economic role of rail, the Labour-Progressive Government and Green Party also believed that greater use of rail would bring environmental and social benefits. In 2002, the New Zealand Transport Strategy promised improvements to existing road and rail networks as part of New Zealand's commitment to energy efficiency.⁹¹¹

The poor financial performance of Tranz Rail gave rise to consideration of the policies that would more easily enable New Zealand's rail system to be operated profitably, particularly whether the 'playing field' between rail and road operators needed to be levelled and, if so, how this might be achieved. Though disputed by road transport operators, a number of commentators believed that road carriers had an unfair advantage over the rail operator because, unlike the rail operator's burden of maintaining a track network, road carriers did not face an

⁹⁰⁴ *Weekend Herald*, 17-18 February 2001, A20-21.

⁹⁰⁵ *Listener*, 2 September 2006, p30.

⁹⁰⁶ *Ibid.* Services were also cut between the following destinations: Auckland and Rotorua, Auckland and Tauranga, Auckland and Hamilton, Wellington and Napier, and Christchurch and Invercargill.

⁹⁰⁷ *New Zealand Herald*, 13 September 2002, pA19.

⁹⁰⁸ *New Zealand Herald*, 19 July 2002, pA13.

⁹⁰⁹ *Ibid.*

⁹¹⁰ *Ibid.*

⁹¹¹ *Listener*, 2 September 2006, p29.

equivalent responsibility for the maintenance of the road system.⁹¹² One potential solution would be for the Government to repurchase the track network and assume responsibility for track maintenance, substantially reducing the costs faced by the rail operator.

Purchase of Tranz Rail by Toll, with state resuming ownership of tracks, 2003

On 5 September 2003, the Tranz Rail Board recommended that a purchase offer by Australian company Toll Holdings be accepted.⁹¹³ (Tranz Scenic, which operated the train passenger services, was also acquired by Toll.⁹¹⁴) Under the terms of an agreement with Toll, the Government paid \$1 for the purchase of the rail network on the understanding that both parties would work together to rebuild the rail network.⁹¹⁵ The Government agreed to invest, over a five year period, \$200 million in a new Crown entity, TrackCo, which would be the owner of the rail network.⁹¹⁶ (The responsibilities of the proposed TrackCo entity were handed to NZRC, which was renamed OnTrack.) It was also agreed that Toll would pay a track access charge and invest \$100 million up-front in rolling stock.

Toll's operation of the New Zealand railway system, 2004-2008

Toll's operation of the rail system lasted for only four years. Two problems emerged soon after the new ownership regime was in place. The first difficulty concerned the failure of the Government and Toll to reach a long-term agreement on the track access charges paid by Toll, which was Ontrack's main source of operating funding.⁹¹⁷ The other problem to emerge was that the \$200 million allocated by the Government for upgrading the rail network appeared to be insufficient.⁹¹⁸ Toll New Zealand regarded its financial performance with disappointment. In the company's annual report for the year ending 30 June 2006, Chairman Mark Rowsthorn stated that Toll's freight business was struggling in the face of road competition and argued that a more balanced regime for track access charges was necessary.⁹¹⁹ Rowsthorn also expressed frustration at the significant investments that the Government was making in roading while the rail track network required urgent attention.

⁹¹² *Listener*, 21 July 2001, pp26-27.

⁹¹³ *Rails*, October 2003, p50. Toll acquired 84 percent of shares in Tranz Rail. *NZ Business*, April 2004, p38.

⁹¹⁴ *Listener*, 2 September 2006, p30.

⁹¹⁵ *Ibid*.

⁹¹⁶ *Rails*, August 2003, p5. The \$200 million was to be applied for track upgrades outside Auckland. \$780 million was set aside for rail upgrades in Auckland. *Dominion Post*, 10 October 2006, pA10.

⁹¹⁷ *Dominion Post*, 10 October 2006, pA10.

⁹¹⁸ *New Zealand Railway Observer*, February-March 2006, p187.

⁹¹⁹ *New Zealand Railway Observer*, February-March 2007, p192.

Road transport unquestionably dominated New Zealand's freight market. In September 2006, the *Listener* reported that 83 percent of the country's freight was taken by road.⁹²⁰ (With 400 trucks, Toll itself a significant player amongst the road carriers.) A study undertaken around this time by Transport Engineering Research stated that it was doubtful that rail could transport more than 20% of current freight without revolutionary change. However, in spite of its relatively small market share, rail continued to be important for some of New Zealand's largest companies. In October 2006, Wayne Butson, Secretary of the Rail and Maritime Transport Union, identified three lines that were particularly attractive:

1. East Coast line from Tauranga to Auckland (carrying coal and milk for Fonterra);
2. NIMT (carrying freight for the Warehouse and other companies); and
3. Midland line between Greymouth and Christchurch (carrying coal for Solid Energy).⁹²¹

In order to cut costs, Toll looked to close the line between Napier and Gisborne, which carried just 5 trains per week.⁹²² In mid-2006, Toll also announced that it would cut the *Overlander*, the NIMT daytime passenger service between Wellington and Auckland.⁹²³ However, the proposal to close the *Overlander* – the remaining passenger service on the historic NIMT – was received by the public with some disappointment, and in the end Toll agreed to continue running the service three times a week.⁹²⁴

Government buy-back returns railway system to state ownership, 2008

In May 2008, the Labour Government purchased Toll New Zealand's rail and ferry operations for \$665 million.⁹²⁵ The failure of Toll and the Government to agree how much the rail operator should contribute to future upgrades had created a deadlock, putting the Government in a position where it had little choice but to buy Toll if it wanted big improvements in rail freight.⁹²⁶ The purchase of Toll reflected the Government's view that the role of rail in New Zealand's transport system would be increasingly important. The strongest motivation behind the Government's purchase of Toll was the link between rail and the objectives of the Government's environmental policy, specifically the goal of halving per capita greenhouse gas emissions from domestic transport by 2040.⁹²⁷ (The electrified NIMT, powered largely by hydro-generated

⁹²⁰ *Listener*, 2 September 2006, p30.

⁹²¹ *Dominion Post*, 10 October 2006, pA10.

⁹²² *Dominion Post*, 10 October 2006, pA10.

⁹²³ *Listener*, 2 September 2006, p28.

⁹²⁴ *Dominion Post*, 10 October 2006, pA10.

⁹²⁵ *Dominion Post*, 10 May 2008, pC1. Toll retained its trucking business – Toll Tranzlink – and was given a six year, \$20 million rent holiday from the facilities it occupied at rail terminals.

⁹²⁶ *Dominion Post*, 10 May 2008, pC1.

⁹²⁷ *New Zealand Herald*, 9 August 2008, pB5.

power, is particularly attractive in this respect.) Another important consideration related to rising fuel costs and declining oil supplies, which cast doubt over the future of long distance travel by private cars and aircraft.

With the return of the railway system to public ownership, it is again possible for the Government to consult with Rohe Potae Maori about any significant changes that are relevant to their historical interests in the NIMT. Following the buyback, the Government began to prepare an investment budget of hundreds of millions of dollars.⁹²⁸ Soon after the purchase was announced, the *Dominion Post* recorded comments by one 'rail insider', who believed that about \$600 million would need to be spent on ageing infrastructure to improve reliability on existing routes and enable rail to compete with road transport alternatives.⁹²⁹ It was claimed that a considerable amount of replacement work was required for aging bridges, sleepers, culverts, tunnels, and signalling equipment. Steel viaducts in the central North Island were said to need repairing, and it was stated that the NIMT would benefit from tunnel work to make way for large, hi-cube containers.

The National-led Government, elected in October 2008, has sidelined investment plans in KiwiRail. In December 2008, with Treasury reporting a significant deterioration of the Crown's accounts, the Government announced that it would not carry out planned spending on an upgrade of the state-owned rail system.⁹³⁰ National has undertaken not to privatise KiwiRail (or any other state assets) during its first term of office.

Job losses

This section discusses the major cuts in the number of railway workers that were implemented from the mid-1980s, with particular reference to Maori railway employees in the King Country. As stated earlier, Rohe Potae Maori were not consulted over the introduction of changes to the railway system after 1980, including policies relating to staffing levels. In light of the general assurance made by Ballance in respect of the economic benefit that the railway would provide, it is suggested above that Rohe Potae Maori possibly should have been consulted about plans to reduce staff numbers in the King Country. The most significant reduction in staff numbers occurred during the restructuring of the Corporation, with ongoing, smaller cuts carried out after this time. Details are provided here of the number of job losses, nationally and in the King

⁹²⁸ Ibid.

⁹²⁹ *Dominion Post*, 10 May 2008, pC1.

⁹³⁰ *Press*, 19 December 2008, pA1.

Country, and also the process by which the Corporation reduced staff numbers. The extent to which the Government considered and attempted to mitigate the social impacts of this and other state sector staff cuts is also examined.

Staff reductions and restructuring

As detailed above, a significant reduction of staff numbers was considered to be essential to the successful restructure of the New Zealand railway system. With staffing costs in 1980 accounting for more than 60 percent of Railways' total operating expenses, Booz, Allen, and Hamilton stated in their 1983 report that NZRC would face 'a potentially disastrous situation' if action was not taken to reduce staff levels.⁹³¹ Booz, Allen, and Hamilton predicted that their restructuring plan, if fully implemented, would see manpower requirements decline by 40 percent by 1988. In March 1984, in a letter that summarised NZRC's restructuring plan, the Chairman of the NZRC Board advised Muldoon that in addition to staff losses through 'normal attrition' it was anticipated that some 3500 Railways' staff would be released by early retirement and redundancy over a five year period.⁹³²

Significant staff cuts that could not be met by 'normal attrition' began in 1986. During 1986 and 1987, the introduction of two-man train crews, which saw guards' vans removed from trains, resulted in the loss of some 500 jobs (or about three percent of the workforce at the time).⁹³³ The closure of Wanganui's East Town workshop in 1986 also saw job losses.⁹³⁴ There was further staff reductions associated with numerous station closures. Late in 1986, for example, the once-busy Mangapehi Station was closed to traffic, with the loss of one position.⁹³⁵ Staff cuts continued with the introduction of single-person train crews.⁹³⁶ It was expected that this new system (applied first to the NIMT late in 1988) would reduce locomotive crew by some 240 nationwide, with 'real savings in wages and associated costs'. Investment in new equipment and technology also inevitably had an impact on manpower requirements. In 1988, NZRC purchased machines to assist in track welding and sleeper replacement.⁹³⁷ During the same year,

⁹³¹ Secretary to the Treasury to the Minister of Finance, 15 February 1980, ABJP W4103 67, 501/76/3 part 4, ANZ Wellington. Supporting Papers, p311. Booz, Allen, and Hamilton, pVI-29.

⁹³² Chairman, Board of Directors, NZRC, to Prime Minister, 22 March 1984, ABJP W4103 43 392/1 part 1, Business Strategy, 1984-1987, ANZ Wellington. Supporting Papers, pp289-290.

⁹³³ *Rails*, July 1989, p266. *Rails*, December 1988, pp107-108;

⁹³⁴ Leitch and Stott, p168.

⁹³⁵ Regional Traffic Manager, Freight Business Group, to Anderson, Te Kuiti Branch Secretary, NUR, 26 September 1986, AAEB W3199 159 10/2525 part 1, Traffic Staff Mangapehi, 1910-1986, ANZ Wellington. Supporting Papers, p284.

⁹³⁶ *Rails*, December 1988, pp107-108.

⁹³⁷ *Rails*, December 1988, pp105-106.

the Corporation laid off 500 of its track maintenance workers.⁹³⁸ In December 1990, the closure of two more workshops saw the loss of 123 jobs in Wanganui and Christchurch.⁹³⁹ NZRC explained that the modernisation of rail equipment and a falloff in freight business were the main reasons for the closures.

The number of staff cut by NZRC during the restructuring process appears to have exceeded the expectations expressed during planning, perhaps reflecting the significant pressure that the Corporation faced to reduce costs and remain competitive in the newly deregulated transport environment. In 1983, when the Booz, Allen, and Hamilton report was released, NZRC had some 20,000 staff.⁹⁴⁰ By 1990, the Corporation employed only about 8000 staff, representing a 60 percent reduction from the 1983 level.⁹⁴¹ In 1992, the year before New Zealand Rail Limited was privatised, the rail operator employed only 5400 staff, a reduction of almost 75 percent from 1983.⁹⁴² (It should be noted that the decline in staff numbers between 1990 and 1992 partly reflected the fact that some staff remained with NZRC after the creation of New Zealand Rail.) Staff reductions continued under Tranz Rail, and by 1999 the company's number of full-time equivalent staff had been reduced to about 4300.⁹⁴³ In 2006, the Rail and Maritime Transport Union stated that Toll, OnTrack, and train maintenance firm United Group Rail employed a total of about 4500 workers.⁹⁴⁴ Today, OnTrack and KiwiRail employ about 3500 staff nationwide.⁹⁴⁵

It is notable that the major staff cuts implemented during the restructuring of the Corporation were carried out at the same time as significant lay offs in other SOEs. Duncan and Bollard detail that between 1987 and 1991 some 30,000 jobs were cut from the following seven SOEs: Coalcorp, Electricorp, Forestrycorp, New Zealand Post, Railways, State Insurance, and Telecom.⁹⁴⁶ The restructuring of SOEs had a significant impact on certain regions and parts of the community where a reliance on state sector employment had developed and few other employment options existed. In the King Country district, predominantly rural and with a small

⁹³⁸ Jane Kelsey, *Rolling back the state: privatisation of power in Aotearoa/New Zealand*, Bridget Williams Books, Wellington, 1993, p336.

⁹³⁹ *Dominion*, 14 November 1990, p13.

⁹⁴⁰ Extract of minutes of meeting of Directors of the New Zealand Railways Corporation, 19 May 1983, ABJP W4103 67 501/76/3 part 4, ANZ Wellington. Supporting Papers, p317.

⁹⁴¹ Cavana, p6.

⁹⁴² *Ibid*, p12.

⁹⁴³ *Rails*, October 1999, p58.

⁹⁴⁴ *Dominion Post*, 10 October 2006, pA10.

⁹⁴⁵ This figure was provided by Jane Campbell, OnTrack, 20 February 2009.

⁹⁴⁶ Duncan and Bollard, p67.

population, the possibility of private enterprise expanding quickly to provide employment for those laid off was limited.

Staff cuts in the King Country

The extent of railway job losses in the King Country since 1980 has been consistent with the total level of staff cuts made nationwide. In 1980, as detailed in Chapter five, some 349 full-time Railways' employees were based within the Te Rohe Potae inquiry district and the bordering town of Taumarunui. While these employees were spread across a number of locations, the main centres of employment were Te Kuiti and Taumarunui. (Over 70 percent of railway jobs in the King Country district were based in Taumarunui, reflecting the important role that the town played in the operation of the NIMT.) A conservative assessment based on surnames suggests that at least 20 percent of railway workers in the King Country district were of Maori descent, equating to at least 71 Maori in the district working on the railway. Though a comparison with other areas of employment has not been made, it is clear that NZR work provided income for numerous Maori families, offering employment opportunities across a range of different skill levels.⁹⁴⁷

From the available evidence, it has not been possible to chart exactly when railway employment in the King Country district fell. However, in February 2009 OnTrack and KiwiRail had only 65 staff based in the Te Rohe Potae inquiry district and in Taumarunui.⁹⁴⁸ (Of these staff, 26 were based in Taumarunui.) This represents a decrease of over 80 percent from the number of railway employees in the district in 1980. The proportion of OnTrack and KiwiRail staff of Maori descent has not been established. However, it is clear that the restructuring process that began in the early 1980s spelt an end to the role that the railway system had played in providing employment opportunities for King Country Maori. Speaking at Te Kuiti on 2 April 2009, former railway worker Tiwha Bell commented on the impact that the restructuring of Railways had on local Maori and noted that it was part of a wider reform process that saw significant cuts to jobs traditionally occupied by Maori:

All my uncles used to work on the railroad, and it was a source of employment until they restructured, as they call it. But that restructuring, as we all know, in the 80s it hit every sector of our people. Unfortunately, it was our people who got hit first. And if you have a look at the roads here, and I can remember as a kid that just about everybody with a

⁹⁴⁷ The 1980 staff list details that Maori occupied many different positions, including the jobs of shunter, traffic operator, engine driver, signal technician, and builder.

⁹⁴⁸ This figure was provided by Jane Campbell, OnTrack, 20 February 2009.

shovel was a Maori. . . . It hit the Public Works, as we well know – it hit Telecom people, our people. But it hit the railways hard here.

Voluntary redundancy

While reductions in NZRC staff numbers were met through ‘normal attrition’ up until 1986, it became clear to NZRC management that the changes being planned could not rely on attrition alone. In 1989, NZRC Chief Executive, Kevin Hyde, observed that at the beginning of the process of reducing staff numbers there had been no institutional mechanisms for encouraging people to move, with jobs at Railways (as for other Government employment) historically having been for life, until pensioned after 40 years.⁹⁴⁹ In seeking to cut jobs, NZRC initially faced resistance from unions, who strongly advocated job protection and union rights.⁹⁵⁰ However, according to Hyde, the union position changed when it was made clear that the Government was not going to continue to fund Railways.⁹⁵¹

Though unions accepted that staff cuts were inevitable, they maintained that no employees should be laid off compulsorily.⁹⁵² During 1986, a voluntarily severance package was developed. Not wishing to sanction a process by which jobs were lost, the unions declined to negotiate the package, believing it was a matter between employees and the Corporation. As at May 1986, the NZRC severance package provided that employees would receive:

1. 20 days pay for first year of employment;
2. 10 days pay for second to twentieth year (maximum of 210 days pay under provisions 1 and 2);
3. 23 days pay for spouse and each dependant child;
4. 65 days pay in lieu of notice provided employee finishes on agreed date;
5. payment of resigning/retiring leave if employee eligible;
6. payment of outstanding and pro rata leave; and
7. payment of long service leave if owing.⁹⁵³

This package would have provided some laid-off workers with short-term financial security. For example, an individual of ten years employment who was married with three dependent children might have received a redundancy payment equivalent to about two-thirds their annual wage (excluding payment for any leave owing). In cases where employees who accepted a severance

⁹⁴⁹ *Rails*, July 1989, p266.

⁹⁵⁰ *Rails*, July 1989, p263.

⁹⁵¹ *Rails*, July 1989, p267. In March 1989, for example, National Union of Railwaymen Wellington Branch Chairman, Kevin Addley, admitted that, while the union had to look after members, when it came to staff reductions, management had stronger arguments and cuts had to be made. *Rails*, March 1989, p172.

⁹⁵² *Rails*, July 1989, p266.

⁹⁵³ General Manager, NZRC, to Director, Finance and Accounts, NZRC, 22 May 1986, ABJP W4103 67 501/76/4 part 1, Staff Activities Linked to Corporate Downsizing, 1986-1987, ANZ Wellington. Supporting Papers, p319.

package occupied a Railways' house, they were able to continue to occupy the house for up to six months at the rental charged to employees, unless they decided to vacate or purchase the property.⁹⁵⁴ After this time, one month's notice would be given to the ex-employee if the property was required by NZRC.⁹⁵⁵

NZRC appears to have established interview teams to assist affected staff, providing information on redeployment, severance payments, and superannuation.⁹⁵⁶ Relocation and retraining options appear to have been made available to at least some staff, but few of these were taken up.⁹⁵⁷ At the beginning of the redundancy process, the Corporation also liaised with a number of Government departments about the proposed layoffs, reflecting the scale of the layoffs and the impact that they might have. In March 1986, the General Manager invited selected departmental officials to a meeting to provide information about the proposed staff cuts, noting that officials would be aware that Railways was 'facing difficulties' and that the solution to these difficulties might result in 'social dislocation'.⁹⁵⁸

By September 1990, some 7680 NZRC employees had taken voluntary redundancy at a cost of about \$251 million to the Corporation.⁹⁵⁹ In 1989, NZRC Chief Executive, Kevin Hyde, stated that all severances had been achieved on a 'voluntary' basis, without compulsion.⁹⁶⁰ Unions remained outside the process until early 1990, when – with the voluntary severance package not achieving the required results – unions and the Corporation began negotiating severance agreements.⁹⁶¹ By 1997, it was calculated that cuts in the number of staff employed on the New Zealand railway system had cost \$352 million in redundancy payments.⁹⁶²

Social impacts of staff cuts

No evidence has been located to suggest that, before setting up the Corporation, the National Government attempted to determine the social impacts that would result from corporatizing

⁹⁵⁴ Senior Executive Officer to Corporate Manager, Human Resources, 21 January 1987, p5, ABIW W4019 82 31/10 part 8, Housing, 1989-1990, ANZ Wellington. Supporting Papers, pp326-331.

⁹⁵⁵ Question for written answer, despatched 10 July 1986, ABJP W4103 67 501/76/4 part 1, ANZ Wellington. Supporting Papers, p320.

⁹⁵⁶ General Manager, NZRC, to Director, Finance and Accounts, NZRC, 22 May 1986, ABJP W4103 67 501/76/4 part 1, ANZ Wellington. Supporting Papers, p319.

⁹⁵⁷ *Rails*, July 1989, p266.

⁹⁵⁸ See, for example, Assistant General Manager, NZRC, to Secretary, Maori Affairs, 20 March 1986, ABJP W4103 67 501/76/4 part 1, ANZ Wellington. Supporting Papers, p318.

⁹⁵⁹ *Rails*, January 1991, p128.

⁹⁶⁰ *Rails*, July 1989, p266.

⁹⁶¹ *Rails*, January 1991, p128.

⁹⁶² *North and South*, November 1997, p96.

Railways without limiting the number of staff that would be cut to meet commercial objectives. It appears that any social costs associated with corporatisation were seen to be justified by the economic benefits that corporatisation was expected to bring. This view also seems to have been held by the Labour Government that allowed the restructuring of Railways to proceed without political interference. NZRC's restructuring process was consistent with the far-reaching economic reforms that Labour introduced from 1984, which included the corporatisation of a number of state-owned trading departments under the SOE Act 1986.

The Labour Government was clearly aware that there would be significant social impacts associated with the corporatisation process. In July 1986, the Government's Ministerial Co-ordinating Committee on State Owned Enterprises expressed concern about 'transitional issues', particularly regional employment impacts, arising from the SOE process.⁹⁶³ The Ministerial Co-ordinating Committee, which was focussed on the new corporations set up under the 1986 Act, requested that the State Services Commission (SSC) prepare a paper on the social costs of the transition to corporations. In a paper dated 28 August 1986, the SSC advised that social impacts from the SOE process were inevitable and could broadly be classified as the adjustments required, first, from the individuals concerned and, secondly, from local communities.⁹⁶⁴ The SSC believed that the reduction in staff numbers would cause only 'short term dislocation'. There was no suggestion that the restructuring of SOEs should not proceed because of the social impacts of the process. Rather, restructuring process was considered an important part of the reforms deemed necessary to regenerate the economy and create new, more profitable areas of employment.

The Treasury, in a paper to the Minister of Finance, dated 28 October 1986, reiterated the view that the general process of economic reform should continue regardless of social impacts, arguing that these impacts would be of a temporary nature and would ease when the benefits of the reforms were felt.⁹⁶⁵ Treasury acknowledged that the adjustment process involved 'a number of short term costs', with much of the adjustment being reflected in a period of slower economic

⁹⁶³ Briefing paper, 'Social Costs of Transitions to Corporation', Chairman, State Services Commission to Chairman, Ministerial Co-ordinating Committee on State Owned Enterprises, 19 August 1986, p1, AAFH W4160 24 100/3/1/2 part 1, Social Impact Unit – SOE [State Owned Enterprise] – Social Costs of Transition To Corporations, 1986-1987, ANZ Wellington. Supporting Papers, p334.

⁹⁶⁴ Briefing paper, 'Social Costs of Transitions to Corporation', Chairman, State Services Commission to Chairman, Ministerial Co-ordinating Committee on State Owned Enterprises, 19 August 1986, p1, AAFH W4160 24 100/3/1/2 part 1, ANZ Wellington. Supporting Papers, p334.

⁹⁶⁵ Briefing paper, 'Structural Adjustment Assistance and Disadvantaged Workers', Secretary to the Treasury to the Minister of Finance, 28 October 1986, p2, AALR 873 W5427 230 39/1A part 2, State Owned Enterprises – Social Impact of Corporatisation, 1986-1986, ANZ Wellington. Supporting Papers, p360.

growth and higher unemployment. (Between March and September 1986, the number of registered unemployed rose nationally from 54,180 to 73,678.⁹⁶⁶ In the Waikato labour area, which included most of the Te Rohe Potae inquiry district, the number rose from 4520 to 6668.) Treasury further acknowledged that the 'adjustment costs' would be high for some individuals and regions, particularly where earlier Government policies had had 'distortionary effects across regions'.⁹⁶⁷ However, it was argued that surplus labour released from firms and areas of the economy that were no longer profitable would – as a result of the reforms – eventually be picked up by new firms and activities, often in different parts of the region or the country. Though Treasury anticipated that some regional migration would be necessary, it believed that many of the reforms would benefit regions and that it was incorrect to assume that the outcome of the policies would lead to all regions declining.⁹⁶⁸

It is notable that Treasury's assessment did not take account of some of the economic costs of transformation. In respect of unemployment, individuals who lost their jobs and were unable to gain other employment would have gone onto the unemployment benefit. This situation meant, for example, that reductions in the railway workforce, though helping to ease the financial burden attributable to NZRC, created the need for significant new expenditure by another part of the state. There may also have been other, less obvious economic costs associated with the restructuring of state-owned corporations. In smaller centres, such as some of the towns in the King Country, where few other employment options were available, staff cuts would – as the Treasury anticipated – have resulted in some migration to larger cities, causing pressure on facilities in these centres and possibly necessitating Government investment. A further economic impact of the restructuring of NZRC, in particular, concerned trade training. Leitch and Stott claim that prior to the restructuring NZR served as a 'technical training school for the nation', with countless young people learning trades such as fitting, turning, and boiler-making in NZR workshops. Many of these apprentices had gone on to jobs in private industry.⁹⁶⁹

⁹⁶⁶ Commissioner of Works to Secretary, State Services Commission, 10 December 1986, Table 10A, AAFH W4160 27 100/3/6 part 1, Social Impact Unit – SOE [State Owned Enterprises] – Unemployment Statistics, 1986-1987, ANZ Wellington. Access restricted.

⁹⁶⁷ Briefing paper, 'Structural Adjustment Assistance and Disadvantaged Workers', Secretary to the Treasury to the Minister of Finance, 28 October 1986, p2, AALR 873 W5427 230 39/1A part 2, ANZ Wellington. Supporting Papers, p360.

⁹⁶⁸ Instead, it was stated that a 'more complex and dynamic picture' would emerge, which in some cases would see migration from the regions, but – in the medium term – would see investment moving into regions to take advantage of the regions' resources.

⁹⁶⁹ Leitch and Stott, p123.

In August 1986, in accordance with a recommendation from the SSC, the Ministerial Co-ordinating Committee on State-Owned Enterprises decided to set aside resources for one year to enable a special unit within the SSC to monitor and provide advice on the social impacts associated with the restructure of the public sector.⁹⁷⁰ The unit that was created – late in the corporatisation process and with limited resources – was known as the Social Impact Unit (SIU). An official who worked in the SIU observed that it was constrained by access to information and a limited scope for consultation – reasons that helped to explain why the SIU was viewed as ‘somewhat marginal to the corporatisation process’.⁹⁷¹ The papers produced by the SIU were largely of general nature, with some focus on the social impacts associated with the corporatisation of the New Zealand Forest Service.⁹⁷²

Government assistance to mitigate social impacts

Government measures to provide assistance to individuals and communities affected by the restructuring of SOEs were of a limited nature. This approach perhaps reflects advice that the Treasury provided the Minister of Finance in its paper of 28 October 1986, where it was argued that any assistance, including employment creation schemes, should be of a level that would not affect the reform process:

From our perspective, it is important to ensure that any intervention facilitates the adjustment process and does not prevent it or slow it down. In other words Government interventions should not impede the release of productive resources, including labour, from declining industries and regions into activities where there will be long term benefit to New Zealand.⁹⁷³

Assistance was mostly provided through existing Government services, including the unemployment benefit, retraining under the Training Assistance Programme, and targeted employment subsidies under the Job Opportunity Scheme.⁹⁷⁴ In October 1986, Cabinet decided to supplement existing schemes by providing \$5 million for an ‘Adjustment Assistance

⁹⁷⁰ Briefing paper, ‘Social Impact of Transition to Corporations’, undated, AAFH W4160 24 100/3/1 part 1, ANZ Wellington. Access restricted.

⁹⁷¹ Malcolm, ‘State Owned Enterprises: Social Impact Assessment’, 27 January 1987, p5, AAFH W4160 21 100/1/6 part 1, Social Impact Unit – Administration – General Closures, 1982-1987, ANZ Wellington. Access restricted.

⁹⁷² See, for example, briefing paper, ‘Social Impact of Transition to Corporations’, undated, author unknown to Chairman, Special Ministerial Co-ordinating Committee on State Owned Enterprises, AALR 873 W5427 230 39/1A part 1, State Owned Enterprises – Social Impact of Corporatisation – [includes maps], 1986-1986, ANZ Wellington. Supporting Papers, pp341-358.

⁹⁷³ Briefing paper, ‘Structural Adjustment Assistance and Disadvantaged Workers’, Secretary to the Treasury to the Minister of Finance, 28 October 1986, p3, AALR 873 W5427 230 39/1A part 2, ANZ Wellington. Supporting Papers, p361.

⁹⁷⁴ Briefing paper, ‘Social Costs of Transitions to Corporation’, Chairman, State Services Commission to Chairman, Ministerial Co-ordinating Committee on State Owned Enterprises, 19 August 1986, p4, AAFH W4160 24 100/3/1/2 part 1, ANZ Wellington. Supporting Papers, p337.

Contingency Fund'.⁹⁷⁵ It was noted that the objective of the fund was to facilitate rather than inhibit the changes arising from the Government's SOE policy. The fund would provide \$4 million for allocation in 20 regional co-ordination areas. SSC officials divided regions into three groups for allocation – high, medium, and low – on the basis of the following criteria:

- an unemployment rate of 6% or higher;
- expected substantial changes in population patterns as a result of the process of corporatisation;
- an underdeveloped community/social service infrastructure; and
- a largely immobile population because of cultural or other ties to the region.⁹⁷⁶

The Waikato and King Country districts were not categorised as high, medium, or low allocation regions.⁹⁷⁷ However, Te Kuiti was designated a regional coordination area and money from the Contingency Fund were allocated from the Te Kuiti office of the Department of Maori Affairs. By July 1987, about \$48,000 had been distributed at Te Kuiti from the Fund.⁹⁷⁸ Among the payments made, the Kawhia Moana Trust Board received \$9500 to undertake a study on local employment opportunities. The King Country Regional Development Committee also received \$9000 for employment opportunities research. In its application, the Regional Development Committee noted that there was a high level of unemployment in the north of the King Country and explained that the research was intended to help create employment for displaced forestry workers or other public sector employees who might be affected by state restructuring.⁹⁷⁹ The Council stated that the majority of these people and their families wished to remain in the area and believed that, for social and economic reasons, this should be encouraged.

Disposal of surplus railway lands

This section examines issues relating to the process of disposing of surplus railway lands in the Te Rohe Potae inquiry district – a revenue-raising exercise initiated during the restructuring of NZRC and a process that continues today. As argued above, it seems that Rohe Potae Maori should have been consulted about the introduction of policies concerning the disposal of surplus land. Most of the land required for the NIMT in the King Country district had formerly been

⁹⁷⁵ Draft briefing paper, 'Summary of Operation of the Adjustment Assistance Contingency Fund', author unknown, undated, p1, AALR 873 W5427 230 39/1A part 3, State Owned Enterprises – Social Impact of Corporatisation, 1986-1987, ANZ Wellington. Supporting Papers, p362.

⁹⁷⁶ Ibid, p2. Supporting Papers, p363.

⁹⁷⁷ Ibid, pp2-3. Supporting Papers, pp363-364.

⁹⁷⁸ Bell, Maori Affairs, Te Kuiti, to Lister, State Services Commission, 2 July 1987, AAFH W4160 31 100/5/16 part 1, Social Impact Unit – Regional Co-ordinating Committee (Regional Representatives) – Te Kuiti, 1987-1987, ANZ Wellington. Access restricted.

⁹⁷⁹ King Country Regional Development Council to Bell, Co-ordinator, Social Impact Committee, Te Kuiti, 23 June 1987, AAFH W4160 31 100/5/16 part 1, ANZ Wellington. Access restricted.

owned by Maori. As detailed in Chapter four, Te Rohe Potae Maori gifted land for the track and stations of the NIMT and additional areas of Maori land were taken compulsorily for railway purposes under public works legislation. Since 1982, about 137 hectares of railway land in the inquiry district have been disposed of, comprising numerous parcels of urban and rural land that had been used for a range of purposes. The disposal process has been subject to certain statutory provisions that provide former owners with a right of repurchase, and there are also other statutory and policy initiatives that have sought to specifically protect Maori interests during disposal.

Land disposal and restructuring

As discussed in Chapter four, NZR had significant property holdings, including a large number of properties that were not required for railway operations and were leased to private interests. NZRC's considerable property interests were not overlooked during the restructuring process, and – in accordance with the objectives of this process – steps were taken to maximise the revenue-earning potential of the Corporation's land assets.

In their 1983 report, Booze, Allen, and Hamilton identified that NZR had traditionally engaged in several property-related activities, including land leasing, housing, outdoor advertising.⁹⁸⁰ The consultants noted that in the year ending 31 March 1983 NZRC had generated almost \$4 million of revenue through the leasing of land and space in its commercial facilities.⁹⁸¹ However, in the same year, costs of \$7.5 million were incurred in connection with the 4000 houses owned by the Corporation and rented to its employees, while rental paid by the tenants provided revenue of only about \$2.5 million. Booze, Allen, and Hamilton noted that the Corporation was in the process of reducing its inventory of houses. The consultants stated that NZRC's objectives in property management were somewhat unclear and that its decisions for optimising a return from these assets were conservative.⁹⁸² As well as suggesting that all property activities be consolidated within a separate property division, the consultants recommended that NZRC accelerate its programme to reduce its housing stock.⁹⁸³ They also suggested that an inventory of properties be developed, which could then be assessed to identify, for each property, the most suitable action to maximise benefit to the Corporation.

⁹⁸⁰ Booze, Allen, and Hamilton, p III-24.

⁹⁸¹ Ibid, p III-25.

⁹⁸² Ibid.

⁹⁸³ Ibid, VII-6.

The consultants' recommendations regarding the Corporation's property interests were reflected in NZRC's strategic plan for the period 1984/85-1988/89, which noted the proposal to bring all property activities together in one division and stated that work was underway to develop an inventory of Railways' property and the uses to which the properties could be put.⁹⁸⁴ This work, the strategic plan noted, would proceed as quickly as possible, 'with the aim of allowing proposals for a good financial return on presently under-utilised land to be quickly implemented.'⁹⁸⁵ Generating revenue quickly from property assets would help to reduce operating losses at a time when NZRC faced substantial expenses associated with a major restructuring programme. By mid-1986, NZRC had been divided into three principal business groups – freight, passenger, and property.⁹⁸⁶ Late in 1986, Graeme Bell and Associates commenced a detailed property review of the Corporation's land holding to decide upon a 'development or disposal strategy' for all Corporation properties.⁹⁸⁷ It was noted at this time that there was an 'ever-increasing list of enquiries' from real estate people and developers who wished to 'take advantage' of NZRC's property resources.⁹⁸⁸

In 1987, NZRC began disposing of property deemed to be surplus to requirements. In the year ending 31 March 1988, NZRC earned \$60 million from property sales and rents, and in the following year revenue from this source increased to \$102 million.⁹⁸⁹ The sale of surplus properties slowed, particularly in provincial centres, as a result of the economic downturn that followed the sharemarket crash of October 1987.⁹⁹⁰ (As well as affecting property sales, these conditions also saw the Corporation shelve certain property development projects.) However, during this period, NZRC proceeded successfully with plans to sell all but a few of the houses that it rented to its employees.

Disposal of railway houses

The Corporation had begun selling its housing stock in 1982, at which time it owned some 4000 houses.⁹⁹¹ In 1989, Kevin Hyde, Chief Executive of NZRC, explained that in earlier years it had

⁹⁸⁴ New Zealand Railways Corporation Strategic Plan 1984/85-1988/89, ABJP W4103 43 392/1 part 1, ANZ Wellington, p 10. Supporting Papers, p301.

⁹⁸⁵ Ibid.

⁹⁸⁶ General Manager, NZRC, to Group Managers, Heads of Branches, Heads of Divisions, 2 May 1985, ABJP W4103 43 392/1 part 1, ANZ Wellington.

⁹⁸⁷ Graeme Bell and Associates Limited to General Manager, NZRC, 17 November 1986, ABJP W4098 114 15/3935/6 part 1, Property Business Group Land, Hamilton, 1986-1987, ANZ Wellington. Supporting Papers, pp321-323.

⁹⁸⁸ Ibid.

⁹⁸⁹ Duncan and Bollard, p 130.

⁹⁹⁰ *Rails*, March 1989, p 171.

⁹⁹¹ *Rails*, July 1989, pp 266-267.

been essential to provide employee housing because Railways had operated in many remote areas.⁹⁹² However, as operations became more centralised, the housing stock became increasingly concentrated in cities and the rationale of it being needed in order to attract staff became questionable. Hyde also acknowledged that the decision to dispose of the houses also related to the fact that the houses, which were not let at market rates, were costly to maintain and administer.

According to Hyde, NZRC initially adopted a policy that each house had to be offered first to its sitting tenants, then to the state housing organisations, and lastly to other railway staff before it was sold on the open market.⁹⁹³ (Presumably, this policy applied only after statutory provisions that required land to be offered back to former owners had been followed. These provisions are discussed below.) By 1988, about 1600 houses, or 40% of the original stock, had been sold by this method. At this stage, the sale process was reviewed in light of the poor state of the houses and maintenance costs.⁹⁹⁴ In February 1988, NZRC decided that the remaining houses should be disposed of as quickly as possible.⁹⁹⁵ (An exception to this policy was made in respect of 'essential' houses – those in isolated localities where the general market did not provide employees an opportunity of purchasing or renting accommodation for themselves.⁹⁹⁶) As well as accelerating the disposal of houses, NZRC also decided to raise rent to market levels and offer mortgage assistance to tenants who wished to purchase their homes.⁹⁹⁷ NZRC's half-yearly report for the six months ending 30 September 1988 detailed that many tenants had elected to buy the houses they occupied.⁹⁹⁸

Having decided to fast track the disposal of its remaining surplus housing stock, NZRC explored the possibility of a bulk housing sale with the state-owned Housing Corporation, but this proved unsuccessful.⁹⁹⁹ NZRC then looked at entering a bulk deal with other parties and finally reached an agreement with a private investment firm that was set up specifically to on-sell the houses. In February 1989, it was reported that Stone Key Investments Limited, an Auckland company,

⁹⁹² Ibid.

⁹⁹³ Ibid.

⁹⁹⁴ Ibid.

⁹⁹⁵ General Manager, NZRC, to Group Managers, Railfreight Systems, Passenger Business Group, Property Business Group, 19 February 1988, ABIW W4019 82 31/10 part 8, ANZ Wellington. Supporting Papers, p332.

⁹⁹⁶ General Manager, NZRC, to Group Manager, Passenger Business Group, 19 February 1988, ABIW W4019 82 31/10 part 8. Supporting Papers, p333.

⁹⁹⁷ *Rails*, July 1989, pp 266-267.

⁹⁹⁸ *Rails*, March 1989, p 171.

⁹⁹⁹ *Rails*, July 1989, pp 266-267.

would pay \$63 million to buy 1426 Railway houses.¹⁰⁰⁰ (Some 250 of these houses were located in Wellington and another 150 in Auckland.¹⁰⁰¹) Stone Key brought the houses in association with Countrywide Banking Corporation, which offered mortgage options for tenants who wished to buy their houses. Tenants were given the first right of refusal to buy the houses.¹⁰⁰² John Coney, who had established Stone Key Investments and sat on the company's board, stated that he intended to on-sell the houses within two years. (Coney assured that tenants would be able to continue renting during this time, but was unsure what would happen to them after two years.¹⁰⁰³) In July 1989, it was reported that more than a quarter of the 1426 Railways houses sold to Stone Key had been on-sold within two months, mostly to tenants.¹⁰⁰⁴

In the Te Rohe Potae inquiry district, at least 53 surplus railway house properties were sold after 1982.¹⁰⁰⁵ (This number is likely to be conservative because of the difficulty of establishing whether surplus land was occupied by a dwelling.) Most of these houses were located in Te Kuiti and Te Kumi, with others at Te Awamutu, Ohura, and Mangapehi. The majority of houses were sold prior to the 1989 Stone Key deal, with many appearing to have been purchased by tenants.¹⁰⁰⁶ A significant number of houses not bought by the occupants were acquired by various Government agencies for housing purposes, particularly the Housing Corporation (11 houses) and Department of Maori Affairs (6 houses). The 1989 Stone Key deal included 17 houses in the inquiry district, most of which were located at Te Kuiti and Te Kumi. It is unclear how many of these houses were on-sold to tenants. Following the Stone Key deal, NZRC sold a small number of houses that presumably were not deemed to be surplus at that time of the bulk sale. At least two houses were included in a bulk land sale at Te Awamutu, which saw a total area of about 17 hectares transferred to private interests in 1991.

¹⁰⁰⁰ *National Business Review*, 14 February 1989, p 3.

¹⁰⁰¹ *Rails*, July 1989, p 278.

¹⁰⁰² In the event of purchase, sale prices were to be negotiated within a 10 percent range of special valuations carried out in June 1988. Tenants would have a choice of mortgage options, including relatively cheap mortgages from the Housing Corporation and the Maori Affairs Department, and also the back-up option of a mortgage from Countrywide. *National Business Review*, 14 February 1989, p 3.

¹⁰⁰³ *National Business Review*, 14 February 1989, p 3.

¹⁰⁰⁴ *Rails*, July 1989, p 276.

¹⁰⁰⁵ See Table 14. In addition to the sale of houses on residential properties, some houses appear to have been sold for removal. This appears to have occurred at Mangapehi, where four of five railway houses were removed from an area that was disposed of in 1988. Group Manager Property to Registrar, Waikato-Maniapoto District Maori Land Board, 5 June 1987, BAOB 4979 A1239/276 MP 145 part 1, Maori Land Purchase by Crown – Railway Land Mangapehi Revesting, 1987-1988, ANZ Auckland. Supporting Papers, pp9-10.

¹⁰⁰⁶ Disposal records kept at OnTrack indicate where houses were purchased by occupants. See, for example, LGU 4236, OnTrack.

Some of the house properties disposed of by NZRC involved land that had been acquired from Rohe Potae Maori, including, for example, five sections within Block XV of Te Kuiti Native Township, which had been taken in March 1911.

Disposal of non-housing properties

Steps to dispose of non-housing properties continued alongside the events that led to the Stone Key deal. As detailed earlier, the systematic disposal of surplus railway land began in 1987. In July 1990, NZRC's property division was split into two units – a property disposal group that became responsible for selling land and buildings that were surplus to operational requirements and a property management group that would look after the land and buildings that were to be retained by Railways.¹⁰⁰⁷ By this time, it had been established that Railways owned over 25,000 hectares of land nationwide, comprising more than 18,000 separate land parcels. While most of this land was required for railway operations, some 8,000 acres had been classified as surplus and available for disposal.¹⁰⁰⁸ It is unclear how much land had been disposed of by this time, some three years after the disposal process had begun.

Commenting on the split of NZRC's property division, Kevin Hyde, Chief Executive of NZRC, stated that the new property disposal group was expected to get the best price for Railways' land.¹⁰⁰⁹ While this might be achieved by immediate sale or strategic development and sale, the 'bottom line' was to maximise value. Hyde stated that Railways' had no intention of flooding the market with property, and it was therefore planned that the disposals be carried out over a six year period. It was intended that the property disposal group would make a particular effort to sell many of the properties held under lease.¹⁰¹⁰ Of some 9500 leases, grants, and easements (most of which brought in an annual income of less than \$100), some 2500 leased properties of significant value had been classified as surplus. It was intended that the Corporation would dispose of these properties when the leases come up for renewal.¹⁰¹¹

¹⁰⁰⁷ *Rails*, August 1990, p 5.

¹⁰⁰⁸ In some cases it was expected that the property disposal group would work with the property management group to separate surplus property from land needed for operating purposes. This might have been the case, for example, where land occupied by track and other structures needed to be rationalised or have the facilities moved elsewhere in order to free up the land for sale.

¹⁰⁰⁹ *Rails*, August 1990, p 5.

¹⁰¹⁰ *Ibid.*

¹⁰¹¹ *New Zealand Property*, April 1991, p 14.

The property disposal group remained as part of NZRC when New Zealand Rail Limited took over the Corporation's core business in November 1990.¹⁰¹² (NZRC also handled the lease to New Zealand Rail of the land and buildings required for the operation of the railway.) Hyde's plan for disposals to be carried out over a six-year timeframe and in a manner that would maximise sale prices does not appear to have been carried through. In July 1991, Graham Quinn, who had succeeded Hyde as NZRC's Chief Executive, spoke of a two-year timetable for the land disposal programme.¹⁰¹³ Earlier, in April 1991, Jock Lee, recently retired from his role in charge of NZRC land disposals, claimed that he had been under strong pressure from Treasury to sell as much surplus land as possible as quickly as possible.¹⁰¹⁴ The Corporation was publicly criticised for the manner in which it carried out some of its disposals. In the case of the sale of 19 freehold properties that was completed in March 1991, there was criticism of NZRC's failure to disclose sale prices (amounting to \$17 million) and dissatisfaction expressed by lessees who were not given the opportunity to bid for the land.¹⁰¹⁵

In July 1991, NZRC released the findings of an independent review into the sale of Corporation property assets.¹⁰¹⁶ The review, carried out by accountants Ernst and Young, was commissioned by NZRC after members of the Labour opposition had voiced concerns that individuals close to members of the National Government were improperly involved in the property disposals. The review focussed on the Corporation's sales programme, payment and expenditure controls, and property disposal procedures. It also commented on fraud or improper dealings by Corporation employees. The review found that the Corporation's systems were not of a commercially acceptable standard and noted that there was a high rate of non-compliance with documentary procedures. No evidence of improper dealings on the part of NZRC employees was found. However, the review stated that, in the case of some employees, the need to complete the sale process in a short timeframe had resulted in a 'mindset or philosophy' that had caused them to act with a lack of discipline and compliance with accepted business procedures.

In September 1992, the Corporation faced fresh public criticism for undertaking another 'secret' land deal, which had been carried out with merchant bankers Fay Richwhite acting as advisers.¹⁰¹⁷ In February 1994, the Department of Survey and Land Information (DOSLI) became

¹⁰¹² *Rails*, December 1990, p 101.

¹⁰¹³ *Dominion*, 24 July 1991, p 8.

¹⁰¹⁴ *New Zealand Property*, April 1991, p 14.

¹⁰¹⁵ *Independent*, 25 September 1992, pp 1-2.

¹⁰¹⁶ *Dominion*, 24 July 1991, p 8.

¹⁰¹⁷ *Independent*, 25 September 1992, pp 1-2.

responsible for the administration and disposal of the remaining surplus railway lands – a process that continues to be carried out today by Land Information New Zealand (LINZ).¹⁰¹⁸

Railway land disposals in the Te Rohe Potae inquiry district

Tables 14, 15, and 16 (see pages 275 to 279) provide details of the disposal of railway lands in the Te Rohe Potae inquiry district since the corporatisation of NZR in 1982. During this time, at least 137 hectares of railway lands in the inquiry district has been disposed of, while a further area of about 9 hectares is marked for future disposal.

Table 14 sets out the lands that were disposed of by NZRC between 1982 and 1994, when the disposal of surplus railway lands became the responsibility of DOSLI. (While the table is based on comprehensive research, undertaken with assistance from OnTrack, it is possible that there may be inaccuracies and omissions.¹⁰¹⁹) Table 14 records that NZRC disposed of some 64 hectares of land within the inquiry district between 1982 and 1994, involving numerous parcels. Most of this land was disposed of after 1987, when NZRC began to systematically dispose of surplus land in accordance with its restructuring plans. A small number of disposals, such as those completed in 1986, involved land exchanges with adjacent owners. These disposals were carried out in connection with track realignments and were different from the revenue-raising disposals carried out as part of the restructuring.¹⁰²⁰

It is evident from Table 14 that NZRC disposed of a range of different property types – housing, quarry lands, station land, and vacant rural and urban lands. Housing properties comprised at least 12 hectares of the land disposed of between 1982 and 1994. The largest area of land disposed of by NZRC during this time was three adjoining parcels at Waiteti that contained a limestone quarry – a total area of about 29 hectares, purchased by McDonalds Lime Company in 1993. This land comprised most of the area within Pukenui block that had been taken from Maori owners for quarry purposes in 1895, 1907, and 1912.

¹⁰¹⁸ Personal communication with Peter Trotman, 29 November 2002, cited in Cleaver, 'Public Works in the Whanganui Inquiry District', p322. Trotman was involved in the land disposal process while employed by the New Zealand Railways Corporation.

¹⁰¹⁹ In particular, OnTrack employee John Whibly provided assistance in preparing Table 14. Mr Whibly has dealt with railway property matters for many years, working for NZRC before it was renamed OnTrack.

¹⁰²⁰ This is the case, for example, with the 1986 disposal of land at Te Kawa, Lot 3 LO 34980. See LO 34980, NZRC file 31114/96/43, Otorohanga – Te Kawa: Proposed Curve Easement, OnTrack. Supporting Papers, p384.

Table 15 provides details of the surplus railway lands that have been disposed of by DOSLI and LINZ since 1994. The information in Table 15 has been provided by LINZ.¹⁰²¹ The table records that some 73 hectares of land within the inquiry district has been disposed of since 1994. Many of the parcels sold were areas of station land, while a number of other areas were vacant rural and urban land. By far the largest area disposed of by LINZ was the transfer in 1996 of about 49 hectares of water supply reserve land at Ohura to the Department of Conservation.

Table 16 sets out details of a number of parcels of surplus railway land in the inquiry district that are marked for future disposal by LINZ. The information in Table 16 has been again been provided by LINZ.¹⁰²² The table details that about 9 hectares of land in the inquiry district is marked for future disposal. Most of this land is located in rural areas.

Statutory framework and 'offer back' provisions of Public Works Act 1981 and New Zealand Railways Corporation Restructuring Act 1990

The disposal of surplus railway lands has been undertaken within a statutory and policy framework that sets out the procedures by which land is to be transferred from Crown ownership to private ownership. The land disposal provisions of the Public Works Act 1981 and, from 1990, the New Zealand Railways Corporation Restructuring Act 1990, have been of particular importance, as have certain policy initiatives introduced after 1990 that have aimed to protect Maori interests in the disposal of lands that are subject to Treaty of Waitangi claims.

Up until 1990, the Corporation was required to dispose of land in accordance with the disposal provisions of the Public Works Act 1981.¹⁰²³ This Act remains in place today as the principal public works statute and its disposal provisions continue to apply to both Crown and local Government lands. Section 40 of the Act provides that when the Crown or a local authority is disposing of surplus land it must first be offered back to the original owners or their successors.¹⁰²⁴ However, the offer back provision applies only if the land is not required for another public work.¹⁰²⁵ There are also a number of other situations where the disposing

¹⁰²¹ In particular, LINZ employee Paul Kelly provided the details that are presented in Table 15. Mr Kelly was involved in LINZ's disposal of surplus railway lands and has worked for LINZ for a number of years.

¹⁰²² LINZ employee Paul Kelly provided the details that are presented in Table 16.

¹⁰²³ Section 30 of the New Zealand Railways Corporation Act 1981 imposed the powers and duties of the Minister of Works and Development on the Minister of Railways in respect of matters and works under the Corporation's control.

¹⁰²⁴ The Public Works Act 1981 reintroduced the concept of offer back after it had been absent from the statute books for nearly 50 years.

¹⁰²⁵ Section 40(1)(a), Public Works Act 1981. In cases where land is required for another public work, it is transferred in accordance with section 50 of the 1981 Act. If part of the surplus land is required for another public work, only the required portion is transferred, leaving the residue for disposal.

authority may determine that offer back is inapplicable. A right of repurchase does not apply if the chief executive of LINZ or the local authority considers that to do so would be ‘impracticable, unreasonable, or unfair’.¹⁰²⁶ Offer back also does not apply if it is determined that there has been a ‘significant change’ in the character of the land owing to the public work for which it was held.¹⁰²⁷ In cases where it is found that land could only be sold to an adjacent landowner owing to its ‘size, shape, or situation’, the disposing authority can sell the land to the adjacent landowner at a negotiated price.¹⁰²⁸ It has been noted that these exemptions to offer back are open to interpretation and there has been some uncertainty as to how they should be applied.¹⁰²⁹

Where land is to be offered back for repurchase, entitlement to the offer lies firstly with the person or persons from whom the land was acquired. If the former owner is deceased, the offer must be made to that individual’s successor or successor in probate. Section 40 provides that the land is to be offered at current market value unless the chief executive of LINZ or the local authority considers that it is reasonable to sell at a lesser price.¹⁰³⁰ Where land is to be offered back to Maori owners, section 41 of the 1981 Act provides that, as an alternative to the process of sale that is set out in section 40, the land can be returned by a vesting order issued under section 134 of Te Ture Whenua Maori Act 1993. This requires the disposing authority to make an application Maori Land Court, identifying to whom the land is to be vested in and the price and other terms of the vesting.

From August 1990, land disposals carried out by NZRC were no longer subject to the Public Works Act 1981. Instead, the Corporation was required to dispose of the land in accordance with section 23 of the New Zealand Railways Corporation Restructuring Act 1990. The offer back provisions of section 23 of the 1990 Act largely mirror those of the Public Works Act 1981, requiring that land be offered back to former owners or their successors except in certain cases where it is deemed that this would be ‘impractical, unreasonable, or unfair’ or that ‘significant change’ has taken place. Land may be sold directly to adjoining owners (without offer back to former owners) in cases where it is believed that, because of the ‘size, shape or situation’ of the land, it could not be expected that the it could be purchased by anyone other than an adjacent

¹⁰²⁶ Section 40(2)(a), Public Works Act 1981.

¹⁰²⁷ Section 40(1)(b), Public Works Act 1981.

¹⁰²⁸ Section 40(4), Public Works Act 1981.

¹⁰²⁹ Cathy Marr, ‘The Waimarino Purchase Report’, a report commissioned by the Waitangi Tribunal, 2004, pp 656-657.

¹⁰³⁰ Section 40(1)(c) and (d), Public Works Act 1981.

owner.¹⁰³¹ Section 23 of the 1990 Act provides greater flexibility in the process of selling land in cases where offer back is deemed to be inapplicable or is not taken up by former owners and where the land is not to be sold to an adjacent owner. While the 1981 Act requires land to be sold by 'public auction, public tender, private treaty, or by public application at a specified price', the 1990 Act allows the land to be sold 'to any person on such terms and conditions as it [the Corporation] thinks fit'.¹⁰³²

In July 1991, Chris Webber, writing in resource management magazine *Terra Nova*, expressed concerns about NZRC's application of the offer back provisions.¹⁰³³ Webber claimed that in a recent private tender of 3000 leased properties there had been little evidence of the lands being offered back to former owners or their descendents. He explained that 'out' clauses in the legislation meant that land did not have to be offered back if it was considered that this would be unfair or impractical, that the land had been significantly changed, or that it was 'tied in' with neighbouring interests. Stating that NZRC had not been available to comment on why repurchase offers had not been made to former owners, Webber suggested that one argument used to justify the decision was a belief that the existence of long-term leases made the land unusable to claimants. As well as choosing not to offer back, Webber claimed that the NZRC disposal process was executed through a confidential, 'invitation only', tender process.

In the 1995 *Turangi Township Report*, the Tribunal examines the offer back regime of the Public Works Act 1981 Act with regard to the disposal of certain lands that had been taken from Maori.¹⁰³⁴ While the Tribunal focuses on the disposal provisions of the Public Works Act 1981, its observations are clearly also relevant to the largely similar disposal provisions of the New Zealand Railways Corporation Restructuring Act 1990. The *Turangi* Tribunal states that the claimants were prejudicially affected by the disposal provisions of the Public Works Act 1981 because these provisions:

- permit the Crown, in certain circumstances, without consultation with former Maori landowners or their successors, not to offer surplus land back to such former owners;
- permit the Crown to retain the whole of the profit from the sale of such surplus land at current market value, whether sold back to the former Maori owners from whom the land was compulsorily taken or on-sold to a third party;

¹⁰³¹ Section 23(4), New Zealand Railways Corporation Restructuring Act 1990.

¹⁰³² Section 42(1)(d), Public Works Act 1981. Section 23(3), New Zealand Railways Corporation Restructuring Act 1990.

¹⁰³³ *Terra Nova*, July 1991, p 48.

¹⁰³⁴ Waitangi Tribunal, *Turangi Township Report 1995*, Wai 84, Brookers, Wellington, 1995, pp 320-321.

- fail to require the Crown to make allowances for the circumstances surrounding the compulsory acquisition of the land from former Maori owners, including the need for the compulsory acquisition of the land or, if the use of the land was essential, whether it was necessary to acquire the freehold of the land;
- permit the Crown to offer to sell such surplus land at a price or on conditions which are manifestly in excess of the ability of the former Maori owners or their successors to meet;
- fail to require the Crown to have regard to the special circumstances of multiple Maori owners of such land and to seek to accommodate such circumstances; and
- fail to permit the Crown to offer to sell the land to the wider hapu or tribal group to which the former Maori owners belong, if such owners are unable or unwilling to purchase surplus land offered to them by the Crown.¹⁰³⁵

Disposal of surplus railway land and Treaty of Waitangi (State Enterprises) Act 1988

As well as the disposal provisions of the Public Works Act 1981 and, from 1990, the New Zealand Railways Corporation Restructuring Act 1990, the disposal of surplus railway land has also been subject to certain policy initiatives that were introduced to protect Maori interests during the disposal process. However, these initiatives were not introduced until about 1991, by which time NZRC had been disposing of property for several years. The Corporation's disposals were not subject to the statutory protections that applied to the land disposals of most other State-Owned Enterprises, which enabled land to be resumed to Maori ownership upon a recommendation by the Waitangi Tribunal.

In the mid-1980s, Maori were not unaware that the Labour Government's moves to corporatize state trading departments might affect their future ability to obtain the return of some Crown land in settlement of historical grievances. Prior to the passage of the State-Owned Enterprise Act 1986, the Waitangi Tribunal and Maori expressed concern that the proposed legislation would prevent Maori from securing the return of lands that were to be transferred to the new enterprises while being subject to claims before the Tribunal.¹⁰³⁶ In response, Parliament made changes to the legislation, inserting into the Act, first, a provision that required the Crown to act consistently with the principles of the Treaty of Waitangi and, secondly, provisions that enabled land that was subject to a claim made prior to the passage of the Act to be returned to Crown ownership upon a recommendation by the Waitangi Tribunal, even in cases where the land had been on-sold to private interests.¹⁰³⁷

¹⁰³⁵ Ibid.

¹⁰³⁶ P.D. Green, 'Section 27B Memorials', *New Zealand Law Journal*, August 1999, p 299.

¹⁰³⁷ Sections 9 and 27, State-Owned Enterprises Act 1986.

The changes inserted into the State-Owned Enterprises Act 1986 were insufficient to satisfy Maori concerns. As a result, legal action was taken by the Maori Council, which saw the Court of Appeal rule that protection should be extended to lands that were not already subject to claims before the Tribunal.¹⁰³⁸ Following several months of negotiations between the Maori Council and the Crown, the Treaty of Waitangi (State Enterprises) Act 1988 was passed. This Act enabled the Crown to resume ownership of land transferred to a State-Owned Enterprise upon a recommendation by the Tribunal, regardless of whether or not the land was subject to a claim.¹⁰³⁹ However, for reasons that are unclear, this provision, which required a 'section 27(b)' memorial to be placed on the title of lands, applied only to land transferred to new corporations established under the 1986 Act and listed in the second schedule of the Act.¹⁰⁴⁰

Lands held by NZRC were not memorialised under the Treaty of Waitangi (State Enterprises) 1988 Act, which meant that once land had been disposed of there was no possibility of it being resumed to Crown ownership and transferred to Maori. (In reality, the protection provided by section 27(b) memorials has proved to be limited, with the Tribunal reluctant to exercise its powers under the 1988 Act.) The New Zealand Railways Corporation Restructuring Act 1990 required that a memorial be placed on the title of lands transferred to the Crown-transferee company – New Zealand Rail, the rail operator.¹⁰⁴¹ Upon a recommendation by the Tribunal, the memorialised land could be resumed to Crown ownership and returned to Maori, but only after it was no longer required by the rail operator.¹⁰⁴² These provisions were of limited relevance because, as explained above, no land was transferred to the rail operator, which leased the land required for its railway operations from NZRC.

The absence of any statutory protection of Maori interests in NZRC's disposal process was noted in July 1991 by Chris Webber, who observed that the Corporation was not subject to the 'clawback' provisions of the Treaty of Waitangi (State Enterprises) Act 1988.¹⁰⁴³ The implication of this, he stated, was that 'a century's worth of acquired assets could be sold *en masse* without any claim protection.' Weber noted that claims had been made in respect of King Country lands acquired for the NIMT.

¹⁰³⁸ Green, p 300.

¹⁰³⁹ Section 4, Treaty of Waitangi (State Enterprises) Act 1988.

¹⁰⁴⁰ Section 4, Treaty of Waitangi (State Enterprises) Act 1988. Sections 23 and 28, State-Owned Enterprises Act 1986.

¹⁰⁴¹ Section 38, New Zealand Railways Corporation Restructuring Act 1990.

¹⁰⁴² Section 39, New Zealand Railways Corporation Restructuring Act 1990.

¹⁰⁴³ *Terra Nova*, July 1991, p 48.

Introduction of initiatives to protect Maori interests during disposal of surplus railway lands, 1991-1993

It appears that around the time that Weber's July 1991 article was published, the Corporation was beginning to take existing Maori claims into consideration when carrying out the disposals. Peter Trotman, a former NZRC employee, who was involved in the disposal of Corporation lands, states that in about 1991 the Corporation followed an internal process of examining whether the lands that were being disposed of were subject to specific Treaty claims.¹⁰⁴⁴ In cases where land was found to be subject to a claim, a consultation process was undertaken with claimants. It is unclear what options were made available to claimants in such cases. As with the State-Owned Enterprise Act 1986, this initial attempt by NZRC to protect Maori interests was limited in that only existing claims were taken into consideration.

A more robust measure to protect Maori interests during the disposal of railway lands was introduced in late 1991, when the Crown Congress Joint Working Party (CCJWP) was established. The CCJWP was set up under the terms of an agreement signed on 10 October 1991, following negotiations between Crown officials and representatives of the National Maori Congress.¹⁰⁴⁵ The Congress initiated these negotiations after NZRC entered into a conditional sale and purchase agreement to bulk sell some 2000 leased properties, which were valued in excess of \$50 million.¹⁰⁴⁶ (At the same time as the Congress's action, claims concerning railway lands were lodged with the Waitangi Tribunal, including the Whanganui ki Maniapoto Wai 48 claim.¹⁰⁴⁷) The Congress represented a large group of iwi, though Ngai Tahu, Tainui, and Ngati Whakaue, who were already in negotiations with the Crown, decided to stay outside the Congress negotiations.¹⁰⁴⁸

¹⁰⁴⁴ Personal communication with Peter Trotman, 29 November 2002, cited in Cleaver, 'Public Works in the Whanganui Inquiry District', pp 322-323.

¹⁰⁴⁵ Information Brief for Iwi, June 1992, attachment 3, CCJWP, vol 1, private papers of Archie Tairaoa, Hinengakau Development Trust, Taumarunui. Supporting Papers, pp416-424. The Maori Congress was established in July 1990 at Ngaruawahia. The Congress sought to provide a unified Maori voice, representing all iwi. One way that it aimed to protect Maori interests was through monitoring legislation and Government practices, as well as initiating new legislation. *Dominion*, 17 July 1990, p 28.

¹⁰⁴⁶ Briefing paper, 'Crown/Congress Joint Process for Addressing Treaty Issues', Secretary to the Treasury to Minister for State-Owned Enterprises, 12 May 1992, CCJWP, vol 1, private papers of Archie Tairaoa, Hinengakau Development Trust, Taumarunui. Supporting Papers, pp400-405.

¹⁰⁴⁷ Information brief for iwi, June 1992, p 2, CCJWP, vol 1, private papers of Archie Tairaoa, Hinengakau Development Trust, Taumarunui. Supporting Papers, p410.

¹⁰⁴⁸ Agreement between Crown and National Maori Congress, 10 October 1991, schedule 2, CCJWP, vol 1, private papers of Archie Tairaoa, Hinengakau Development Trust, Taumarunui. Supporting Papers, p424.

Under the agreement of 10 October 1991, the disposal of surplus railway lands became subject to a process that aimed to define and recognise Maori interests in these lands.¹⁰⁴⁹ (The CCJWP process applied only where offer back to former owners was not taken up or was deemed to be inapplicable.¹⁰⁵⁰) The process required land to be categorised according to the level of Maori interest and it set out how land in different categories should be dealt with to enable disposal to proceed. In cases where a significant interest existed, land was vested in the appropriate claimants. However, where the interest was undefined or of a general nature, disposal to a third party proceeded subject to compensation being paid to the claimants.

It was resolved that the CCJWP would address Maori interests in surplus railway lands on an area-by-area basis, beginning initially with lands in Auckland.¹⁰⁵¹ After dealing with Auckland lands, the CCJWP provided clearances for the disposal of surplus railway lands in Wellington, Waikanae, and South Auckland before being wound up in mid-1993. The Waitangi Tribunal approved the agreements reached in respect of these lands, confirming that the negotiations had been undertaken with the appropriate claimants.¹⁰⁵² At the time that the CCJWP was disbanded, work was being undertaken on establishing claimant interests in the Whanganui and Tauranga districts.¹⁰⁵³ No evidence has been located to suggest that the CCJWP provided clearances or made any payments in respect of surplus railway lands in the Te Rohe Potae inquiry district.

In March 1992, the CCJWP considered a method of fast-tracking clearances, whereby claimants would simply be paid a fixed portion of the sale price of all surplus railway lands.¹⁰⁵⁴ This idea was not implemented, however, and in mid-1992 the CCJWP came under some pressure from NZRC to secure clearances at an increased rate that would enable it to meet its sales targets.¹⁰⁵⁵

¹⁰⁴⁹ Agreement between Crown and National Maori Congress, 10 October 1991, CCJWP, vol 1, private papers of Archie Tairora, Hinengakau Development Trust, Taumarunui. Supporting Papers, pp416-424.

¹⁰⁵⁰ Wainwright to Quinn, 27 February 1992, CCJWP, vol 1, private papers of Archie Tairora, Hinengakau Development Trust, Taumarunui. Supporting Papers, pp395-396.

¹⁰⁵¹ Wainwright and Hall, CCJWP progress report, 27 February 1992, CCJWP, vol 1, private papers of Archie Tairora, Hinengakau Development Trust, Taumarunui. Supporting Papers, pp389-394.

¹⁰⁵² Waitangi Tribunal, 'Report on Auckland Railway Lands (Wai 264)', 21 May 1992; Waitangi Tribunal, 'Report on Wellington Railway Lands (Wai 264)', 21 December 1992; Waitangi Tribunal, 'Report on Waikanae Railway Lands (Wai 264)', 21 December 1992; Waitangi Tribunal, 'Report on South Auckland Railway Lands (Wai 264)', 18 May 1993.

¹⁰⁵³ Fisher to CCJWP, 9 June 1993, CCJWP, vol 1, private papers of Archie Tairora, Hinengakau Development Trust, Taumarunui. Supporting Papers, pp425-426.

¹⁰⁵⁴ Wainwright to CCJWP, 30 March 1992, CCJWP, vol 1, private papers of Archie Tairora, Hinengakau Development Trust, Taumarunui. Supporting Papers, pp397-399.

¹⁰⁵⁵ Quinn to Co-Managers, CCJWP, 19 June 1992, CCJWP, vol 1, private papers of Archie Tairora, Hinengakau Development Trust, Taumarunui. Supporting Papers, pp406-407.

Protection Mechanism for Surplus Crown Land

The activities of the CCJWP gave way to the 'Protection Mechanism for Surplus Crown Land' (PMSCL), which was established in 1993 and, with some modification, remains in place today. A cabinet-approved process, the PMSCL aims to safeguard the ability of the Crown to settle Treaty of Waitangi claims with land that is of significance to claimants and at the same time allow the Government to operate efficiently by disposing of surplus assets.¹⁰⁵⁶ It does not apply to land that has been transferred to SOEs and is subject to statutory memorials.¹⁰⁵⁷ During disposal, offerback provisions are observed before the PMSCL is applied. It is applicable only in cases where land has been offered back and former owners do not exercise their right of repurchase or where offerback is deemed not to apply.

The PMSCL, which is today administered by the Office of Treaty Settlements (OTS), enables selected surplus Crown lands to be held in regional landbanks for possible use as redress in future Treaty settlements.¹⁰⁵⁸ (Much of the land in the Te Rohe Potae inquiry district is included in the King Country landbank.¹⁰⁵⁹) Each regional landbank has a financial limit, based on the Crown's assessment of the likely value of Treaty settlements in the area, which provides a maximum value for the protected properties.¹⁰⁶⁰ In a disposal where the PMSCL is applicable, details of the surplus property must be submitted to OTS for advertisement.¹⁰⁶¹ A list of surplus Crown properties, with an invitation for applications for protection under the PMSCL, is then advertised by newspaper. These details are also sent directly to Maori on OTS' database. Applicants wishing to have a property protected under the PMSCL must have a claim registered with the Waitangi Tribunal (or an endorsement from the claimant to use the claim) and the property must be within the boundaries of the registered claim.¹⁰⁶²

Applications under the PMSCL are assessed by an 'Officials Committee' that makes recommendations to Cabinet Ministers, who decide whether or not to approve the recommendations.¹⁰⁶³ Three Ministers have the delegation from Cabinet to consider the Officials

¹⁰⁵⁶ Office of Treaty Settlements, *Protection of Maori Interests in Surplus Crown-Owned Land – Information for Applicants*, 2005, pp 2-5.

¹⁰⁵⁷ *Ibid*, p 3.

¹⁰⁵⁸ *Ibid*, p 5.

¹⁰⁵⁹ Office of Treaty Settlements, *Protection of Maori Interests in Surplus Crown-Owned Land – Information for Crown Agencies*, 2006, p 20.

¹⁰⁶⁰ *Ibid*, 11.

¹⁰⁶¹ Office of Treaty Settlements, *Protection of Maori Interests in Surplus Crown-Owned Land – Information for Applicants*, 2005, p 6.

¹⁰⁶² *Ibid*, p 7.

¹⁰⁶³ *Ibid*, pp 10-11.

Committee's recommendations: the Minister in Charge of Treaty of Waitangi Negotiations, the Minister of Finance, and the Minister of Maori Affairs. In exceptional circumstances, Cabinet may exempt a property from landbanking to allow it to be sold to a specific third party. This policy might be applicable, for example, in cases where the surplus land is required to provide continuing community services. A property may also be exempt from landbanking in cases where a local authority wish to acquire Public Works Act land held by the Crown for a local work.¹⁰⁶⁴

When assessing applications under the PMSCL, the Officials Committee assess whether:

- the applicant's reasons as to the significance of the site to the claimants or its proposed future use are sufficient evidence for the Crown to protect it;
- the reasons given by the applicants for protecting the property justify the cost of landbanking the property until settlement;
- if the financial limit has been reached for the claim area, the property is of such significance that an exception should be made and the property protected anyway; and
- the property should be protected because negotiations on a settlement may be in progress or are about to begin.¹⁰⁶⁵

Disposal process in the Te Rohe Potae inquiry district – discussion

A detailed examination of the process by which surplus railway land has been disposed of in the Te Rohe Potae inquiry district cannot be provided here because records kept by NZRC, DOSLI, and LINZ during disposal have been difficult to locate. Even though the disposals were carried out in the recent past, it appears that many relevant files may have been destroyed or otherwise lost within the organisations, possibly as a result of organisational change. Correspondence and reports relating to considerations surrounding offer back to former owners are particularly relevant to this study, but unfortunately few of these have been found. Offer back records have not, for example, been located for perhaps the most significant disposal involving land that was taken from Maori – the 1993 sale to McDonalds Lime Company of almost 30 hectares of limestone quarry land at Waiteti, which comprised land taken compulsorily from Maori owners in 1895, 1907, and 1912. It is unclear in this case whether the land was offered back to the former owners.

The application of offer back provisions is particularly relevant to Te Rohe Potae Maori because it is likely that a significant proportion of the surplus railway lands that have been disposed of in the inquiry district were acquired from Maori. As detailed in Chapter four, Maori gifted the land

¹⁰⁶⁴ Ibid, pp 12-13.

¹⁰⁶⁵ Ibid, pp 10-11.

that was initially required for the track and stations of the NIMT and also later had areas taken compulsorily for additional railway requirements. The fact that Maori gifted some of the land required for the railway is important and raises certain questions in respect of gifting and the disposal provisions of the Public Works Act 1981 and the New Zealand Railways Corporation Restructuring Act 1990. Neither of these Acts included special provisions for gifted land. During the disposal of land that was gifted for public works purposes, should the descendants of former owners be expected to pay for the return of the land if it is offered back? And in cases where gifted land is not offered back – for example, because of access issues – is it appropriate that revenue from the sale of such lands should be retained by the disposing authority?

It appears that there are very few instances where surplus railway land in the Te Rohe Potae inquiry district has been returned to the former owners through the offer back provisions. There appears to be only one certain case where land has been purchased following offer back – European A.B. Pleasants' 1996 acquisition of about two hectares of land at Matiere.¹⁰⁶⁶ A small number of other disposals may have involved offer back, such as the 2005 sale of Otorohanga Station land to Maori trustees, involving an area of about 1.5370 hectares.¹⁰⁶⁷ A significant number of properties have been disposed of to Government departments and local authorities. Most of these disposals have involved housing properties sold between 1982 and 1988. These disposals appear to have been carried out in accordance with the provisions of the Public Works Act 1981 that enabled land to be transferred for another public work.

The available records indicate that it has been standard practice for the land's acquisition history to be investigated and for an assessment to be made as to whether or not the land should be offered back. An example of an offer back investigation is provided in relation to LINZ's disposal of a 2.3230 hectare area of surplus railway land at Te Kumi, which in 2005 was acquired by the Waitomo District Council for use as a sports ground. The offer back report established that this land had been part of the area purchased off J.C.H. Somerville in 1921.¹⁰⁶⁸ The report recommended that the land be offered back to Somerville's successors and an offer was

¹⁰⁶⁶ See Table 15

¹⁰⁶⁷ See Table 15.

¹⁰⁶⁸ Morrice, Opus, to Crown Property Contracts, LINZ, 11 April 2003, Con/50250/09/10911/A, LINZ. Supporting Papers, pp374-379.

accordingly made.¹⁰⁶⁹ This offer was not taken up, and steps were then taken to proceed with disposal to another party.¹⁰⁷⁰

In cases where the disposal involved an area of surplus railway land that had no legal access, offer back to the former owners was deemed to be inapplicable and the land was offered instead to the adjacent land owner. This was the case, for example, when two areas of land (a total area of 5.4560 hectares) were disposed of in 1986 by NZRC under the Public Works Act 1981 as part of an exchange to acquire additional land for the track. The land, located near Te Kuiti, was part of the area of Pukenui 2M that had been taken from Maori for quarry purposes in 1912. A report signed by the NZRC Property Business Group Manager and the Office Solicitor in July 1986 stated that the land could only be sold to the adjoining owners.¹⁰⁷¹ It was noted that under normal circumstances the land would be offered back to the original owners.

The available evidence provides other examples of land being disposed of to adjacent landowners where offer back was deemed not to apply because of a lack of access. In 1986, three sections of land at Te Kawa, comprising a total area of 2.5200 hectares, were disposed of to adjacent land owners. One of the areas was exchanged for an area required for a realignment of the track. The NZRC offer back report noted that the land had been acquired in 1886, but did not establish that the land had been gifted by its former Maori owners.¹⁰⁷² In some cases when land was disposed of to adjacent owners, these owners were descendants of some of the original owners from whom the lands had been taken. This seem to have been the case, for example, when in 2000 LINZ disposed of 0.9426 hectares of landlocked land at Te Kawa to J.W. Wetere, the owner of adjacent land, a partition Ouruwhero block.¹⁰⁷³

Mangapehi case study

Detailed file evidence concerning the application of offerback provisions has been located in respect of the disposal of an area of land at Mangapehi, which was carried out in 1987 and 1988, early in the process of disposing of surplus railway lands. The land, an area of 7 acres 1 rood,

¹⁰⁶⁹ Morrice, Opus, to King, undated draft letter, Con/50250/09/10911/A, LINZ. Supporting Papers, pp380-381.

¹⁰⁷⁰ Morrice, Opus, to Principal Adviser, Crown Property Clearances, LINZ, 7 July 2003, Con/50250/09/10911/A, LINZ. Supporting Papers, pp382-383.

¹⁰⁷¹ Summary of acquisition and clearance of land at Waitete, signed by Group Manager, Property Business, and Office Solicitor, July 1986, NZRC file 30437, Land Purchase for Easement from Dibble Bros, OnTrack. Supporting Papers, pp386-387.

¹⁰⁷² Summary of acquisition and clearance of land at Te Kawa, signed by Group Manager, Property Business, and Office Solicitor, February 1986 NZRC file 31114/96/43, Otorohanga-Te Kawa: Proposed Curve Easement, OnTrack. Supporting Papers, p388.

part of Rangitoto Tuhua 68G 2C, had been taken from six Maori owners in 1944. Five houses were built on the land and the remainder of the area was leased for grazing and cropping purposes.¹⁰⁷⁴ Early in 1987, NZRC began taking steps to dispose of the land. By this time, four of the five houses had been removed. The remaining house was occupied by a recently-redundant railway worker, a Mr Batley, who had been the station master at Mangapehi.¹⁰⁷⁵

In May 1987, NZRC prepared a report on the acquisition history of the land, concluding that the land should be offered back to the former owners or their successor under section 40(2) of the Public Works Act 1981.¹⁰⁷⁶ However, the report also noted that Batley was interested in acquiring the land. As an ex-employee, NZRC showed considerable concern for Batley's interests. In a letter written to the Maori Land Court, requesting the names of the former owners and their successors, the Manager of the Property Group stated that, if the owners did not want the land, it would be offered to Batley. It was noted that Batley had been a good employee and was a well known and active member of the local Maori community.¹⁰⁷⁷

The Maori Land Court established that there were some 21 former owners and successors, who mostly resided in various locations in the King Country and Waikato.¹⁰⁷⁸ After receiving these details, the NZRC asked an officer in the Hamilton office of the Department of Survey and Land Information, Don Prentice, to meet and either obtain a clearance from the owners or complete a sale to them.¹⁰⁷⁹ (Prentice was believed to have 'a certain expertise in dealing with Maori people in such an offering back situation'.) It was suggested that Batley be invited to the meeting, 'in an effort to be seen to be doing as much as we possibly can for one of our ex staff members'.

Prentice established that the former owners were also owners of the Tiroa block and he arranged to attend a meeting of the owners of that block on 4 December 1987, with the aim of

¹⁰⁷³ Agreement for sale and purchase of real estate, 31 May 2000, Con/50023/09/11024/2, LINZ. Supporting Papers, pp371-373

¹⁰⁷⁴ Group Manager Property, summary of acquisition and clearance of land at Mangapehi, 18 May 1987, BAOB 4979 A1239/276 MP 145 part 1, ANZ Auckland. Supporting Papers, pp6-8.

¹⁰⁷⁵ Group Manager Property to Registrar, Waikato-Maniapoto District Maori Land Board, 5 June 1987, BAOB 4979 A1239/276 MP 145 part 1, ANZ Auckland. Supporting Papers, pp9-10.

¹⁰⁷⁶ Group Manager Property, summary of acquisition and clearance of land at Mangapehi, 18 May 1987, BAOB 4979 A1239/276 MP 145 part 1, ANZ Auckland. Supporting Papers, pp6-8.

¹⁰⁷⁷ Group Manager Property to Registrar, Waikato-Maniapoto District Maori Land Board, 5 June 1987, BAOB 4979 A1239/276 MP 145 part 1, ANZ Auckland. Supporting Papers, pp9-10.

¹⁰⁷⁸ List of owners of Rangitoto Tuhua 68G2C as at January 1987, BAOB 4979 A1239/276 MP 145 part 1, ANZ Auckland. Supporting Papers, p5.

¹⁰⁷⁹ Elton to Chief Surveyor, DOSLI, Hamilton, 24 August 1987, BAOB 4979 A1239/276 MP 145 part 1, ANZ Auckland. Supporting Papers, pp11-12.

ascertaining whether they were interested in acquiring the land and whether they had the financial ability to do so.¹⁰⁸⁰ Only four owners remained present when Prentice addressed the meeting, and these individuals were unanimous that they were not interested in the land.¹⁰⁸¹ However, to be sure of the position, Prentice wrote to the remaining owners on 10 December 1987, advising them that if they were interested they should notify him before the end of January 1988 and that such notification should be accompanied by a guarantee of cash payment.¹⁰⁸²

Prentice received two inquiries, one verbal and one written, both seemingly from members of the Wehi family.¹⁰⁸³ The written inquiry was made by solicitors representing Kawe Kehu Wehi, requesting information concerning the acquisition of the land and its valuation.¹⁰⁸⁴ (In October 1987, the land and improvements had been valued at \$38,000.¹⁰⁸⁵) On 26 January 1988, after receiving this information, the solicitors advised that Mr Wehi and his family were 'anxious to purchase back the area . . . and are busy finding ways and means of financing that purchase.'¹⁰⁸⁶

On 10 February 1988, Prentice wrote to NZRC's Property Business Group, reporting that he had received no firm requests for the land accompanied by a guarantee of cash payment.¹⁰⁸⁷ He noted that he had received two inquiries expressing an interest in the land, but stated that purchase money was still being sought and might be as far away as May. Prentice advised that he had therefore written to the individuals concerned, informing them that he was unable to consider their late application. He suggested that the land be disposed of to Batley at valuation, a course of action that appears to have been carried out.

This disposal shows that, at the beginning of the disposal process, at least, the offer back provisions were sometimes applied in a way that prevented former owners from purchasing land

¹⁰⁸⁰ Prentice to Secretary, Tiroa Trust, 19 November 1987, BAOB 4979 A1239/276 MP 145 part 1, ANZ Auckland. Supporting Papers, pp15-16.

¹⁰⁸¹ Prentice to Property Business Group, 10 December 1987, BAOB 4979 A1239/276 MP 145 part 1, ANZ Auckland. Supporting Papers, p17.

¹⁰⁸² Prentice, circular letter regarding Rangitoto Tuhua 68G 2C, 10 December 1987, BAOB 4979 A1239/276 MP 145 part 1, ANZ Auckland. Supporting Papers, pp18-19.

¹⁰⁸³ Prentice to Property Business Group, 10 February 1988, BAOB 4979 A1239/276 MP 145 part 1, ANZ Auckland. Supporting Papers, p22. Prentice to Wehi, 10 February 1988, BAOB 4979 A1239/276 MP 145 part 1, ANZ Auckland. Supporting Papers, p24. Prentice to Phillips and Powell, 10 February 1988, BAOB 4979 A1239/276 MP 145 part 1, ANZ Auckland. Supporting Papers, p23.

¹⁰⁸⁴ Phillip and Powell to Manager, DOSLI, Hamilton, 18 January 1988, BAOB 4979 A1239/276 MP 145 part 1, ANZ Auckland. Supporting Papers, p20.

¹⁰⁸⁵ Mackisack, Valuation New Zealand, 6 November 1987, BAOB 4979 A1239/276 MP 145 part 1, ANZ Auckland. Supporting Papers, p13.

¹⁰⁸⁶ Phillip and Powell to Manager, DOSLI, Hamilton, 26 January 1988, BAOB 4979 A1239/276 MP 145 part 1, ANZ Auckland. Supporting Papers, p21.

back even when this was their clear wish. In particular, the disposal indicates that little flexibility was shown in respect of the amount of time that owners were given to raise funds to conclude a purchase. Section 42(2) of the 1981 Act, now repealed, provided that land could be disposed of if an offer to the former owners had not been accepted either within 40 working days or such period as the disposing authority considered reasonable. In the Mangapehi case, the offer seems to have remained open only for the minimum 40 working days, even though there was strong interest in repurchasing the land. This lack of flexibility seems to have been particularly unsympathetic given that more than one owner was involved (as is likely in most offer backs involving land formerly held by Maori) – a situation that meant that the response to offer back would be more drawn out because of the greater time involved in organising multiple owners. The decision to limit the offer back period to 40 days probably owed something to a general desire to see the disposal of the surplus lands carried out quickly, and it also seems possible that the officials involved may have been influenced by a desire to see the land disposed of to the former NZRC employee rather than the former Maori owners.

Protection of lands subject to Treaty of Waitangi claims

As detailed earlier, the disposal of surplus railway lands was initially undertaken without any special protection of Maori interests. The Treaty of Waitangi (State Enterprises) 1988 Act did not apply to Railway lands and it was not until 1991 that NZRC began an informal process of checking whether land was subject to specific claims. Between 1985, when the Labour Government allowed historical claims to be made to the Waitangi Tribunal, and the end of 1990, a significant area of surplus railway land, mostly housing properties, was disposed of in the Te Rohe Potae inquiry district. In total, at least 13 hectares were disposed of during this time. In November 1991, soon after the CCJWP was established, a number of parcels of land at Te Awamutu, a total area of about 17 hectares, were transferred to private interests. This disposal would presumably been subject to NZRC's internal claim-review process, but owing to a lack of evidence the nature of NZRC's inquiries into this land is unclear.

As detailed earlier, the CCJWP did not provide clearances for railway land disposals in the Te Rohe Potae inquiry district. However, in June 1993, around the time that the CCJWP was wound up, NZRC sold the limestone quarry lands at Waiteti to McDonalds Lime Company. It is unclear whether this disposal was subject to the PMSCL mechanism introduced around this time. In terms of land area, the disposal of most surplus railway land in the Te Rohe Potae

¹⁰⁸⁷ Prentice to Property Business Group, 10 February 1988, BAOB 4979 A1239/276 MP 145 part 1, ANZ

inquiry district has taken place during the operation of the PMSCL mechanism. Several parcels of surplus railway land in the inquiry district have been landbanked – a total area of about 4 hectares, comprising lands located at Mangapehi, Te Kuiti, and Ngaroto. (It is notable that the Mangapehi land, an area of 2.5 hectares, appears to have been land that was originally gifted by Maori. It therefore may be inappropriate for this land to be returned as part of the financial redress of any a future settlement of historical claims.) It is unclear whether the financial limits of the King Country landbank will enable further land to be included in the landbank.

Conclusion

The final chapter in this report has examined developments since 1980, a time during which the management of the New Zealand rail system has undergone a series of major changes, reflecting a wider process of economic and social transformation. The first change, made in response to Railways' declining financial performance, saw NZR corporatized in 1982. The new Corporation then underwent major restructuring before rail operations were privatised in 1992. In 2008, following 16 years of private ownership, the rail system was repurchased and returned to state ownership. These major changes in the management of the rail system were introduced without discussion with Rohe Potae Maori. The chapter has focused on two developments of particular significance to Rohe Potae Maori, which were initiated during the restructuring of NZRC: staff cuts and the disposal of surplus railway lands. It has been argued that Rohe Potae Maori possibly should have been consulted about staff cuts and certainly should have been consulted about land disposal policies.

In respect of staff cuts, the issue of consultation arises from the agreements and understandings that had been reached prior to construction of the NIMT, particularly Ballance's general assurance regarding the economic benefit that the NIMT would bring Rohe Potae Maori. It is unclear whether Rohe Potae Maori employment with NZR constituted a significant economic benefit. However, the proposed economic capabilities overview report should provide an indication of the importance of NZR employment for Rohe Potae Maori, shedding light on whether consultation over job losses was warranted. It is notable that neither the National Government that set up the Corporation nor the Labour Government that came to power in 1984 specifically considered how Rohe Potae Maori might be affected by staff cuts.

The extent of railway job losses in the King Country since 1980 has been consistent with the total level of staff cuts made nationwide, which declined most dramatically between about 1986 and 1992. In 1980, as detailed in Chapter five, some 349 full-time Railways' employees were based within the Te Rohe Potae inquiry district and the bordering town of Taumarunui. A conservative assessment suggests that at least 20 percent of railway workers in the King Country district were of Maori descent, equating to at least 71 Maori in the district working on the railway. In 1980, Railways' work therefore clearly provided income for numerous King Country Maori, with NZR offering employment opportunities across a range of different skill levels. While it has not been possible to chart exactly when railway employment in the King Country district fell, it has been established that in February 2009 OnTrack and KiwiRail had only 65 staff based in the Te Rohe Potae inquiry district and in Taumarunui, representing a decrease of over 80 percent from the number of railway employees in the district in 1980.

Before setting up NZRC, the National Government does not appear to have determined the social impacts that would result from corporatizing Railways without limiting the number of staff that would be cut to meet commercial objectives. It seems that any social costs associated with corporatisation were seen to be justified by the economic benefits that corporatisation was expected to bring. This view also seems to have been held by the Labour Government that allowed the restructuring of Railways to proceed without political interference. NZRC's restructuring process was consistent with the far-reaching economic reforms that Labour introduced from 1984, which included the corporatisation of a number of state-owned trading departments under the SOE Act 1986. Cuts to NZRC staff numbers were carried out alongside significant job cuts in other areas of the state sector, which included many jobs traditionally occupied by Maori. The Labour Government's Ministerial Co-ordinating Committee on State Owned Enterprises expressed concern about 'transitional issues' arising from the SOE process, but appears to have accepted advice from officials who argued that the process would involve only 'short term dislocation'.

The Labour Government's measures to provide assistance to individuals and communities affected by the restructuring of SOEs were of a conservative nature. This approach seems to have reflected advice from Treasury that warned against any level of assistance, including employment creation schemes, that might affect the reform process, including the 'release of labour' from declining industries and regions. Assistance was mostly provided through existing Government services, including the unemployment benefit. While the cuts to the number of

railway staff appear to have been achieved through voluntarily redundancy, it seems likely that the redundancy packages would have generally provided ex-railway workers with only short-term financial security.

In regard to the policy of disposing of surplus railway land, also introduced during the restructuring of NZRC, an obligation to consult with Rohe Potae Maori existed because of the fact that most of the land required for the NIMT in the King Country district had formerly been owned by Maori. As detailed in Chapter four, Rohe Potae gifted a significant area for the track and stations, presumably believing it would always be used for railway purposes, and had further land taken compulsorily under public works legislation. As the disposal of railway lands in the King Country was likely to involve land formerly owned and possibly gifted by Rohe Potae Maori, it seems reasonable to suggest that there should have been consultation with Rohe Potae Maori about the general policy of disposing of surplus railway land.

Not only was the land disposal policy introduced without consultation with Rohe Potae Maori, it seems that at the beginning of the disposal process there was no clear, public communication regarding the policy and how it was to be carried out. In the Te Rohe Potae inquiry district, some 137 hectares have been disposed of since 1982 by NZRC, DOSLI, and LINZ. These disposals have involved a range of different property types, including vacant rural and urban land, housing, and quarry land. NZRC began disposing of housing properties in 1982, and in 1987 also started to dispose of other surplus lands. One of the largest disposals involved almost 30 hectares of limestone quarry land at Waiteti, which comprised land compulsorily taken from Maori owners in 1895, 1907, and 1912. This land was sold to private interests in 1993. The process of disposal continues today with about nine hectares of surplus land in the inquiry district earmarked for future disposal.

The disposal of surplus railway lands was initially carried out under the Public Works Act 1981 and, later, the New Zealand Railways Corporation Restructuring Act 1990. Both of these Acts included provisions that required land to be offered back to the former owners. (The 1981 Act reintroduced offer back provisions, which had been absent from public works legislation for almost 50 years.) It is notable, however, that there were a number of exemptions to offer back. For example, offer back did not apply in cases where land was required for another purpose. The way that offer back provisions were applied during the disposal of surplus railway land was

clearly of relevance to Te Rohe Potae Maori because it is likely that a significant proportion of these lands had been acquired from Maori.

The fact that Maori gifted some of the land required for the railway is important and raises certain questions in respect of gifting and the offer back provisions of the 1981 and 1990 Acts, neither of which included special provisions for gifted land. In particular, it is questionable whether the descendants of former owners who gifted land for public works purposes should be expected to pay for the return of the land when it is offered back. It is also questionable whether it is appropriate in cases where gifted land is not offered back – for example, because of access issues – that revenue from the sale of such lands should be retained by the disposing authority.

It appears that very few of the disposals carried out in the Te Rohe Potae inquiry district since 1982 resulted in land being repurchased by former owners through the offer back provisions. A significant number of properties have been disposed of to Government departments and local authorities, seemingly in accordance with provisions that have enabled land to be transferred for another public work. In other cases, it appears that it has been standard practice during disposal for the land's acquisition history to be investigated and for an assessment to be made as to whether or not it should be offered back. In cases where the disposal involved an area of surplus railway land that had no legal access, offer back to the former owners was deemed to be inapplicable and the land was offered instead to the adjacent land owner. Where land was offered back to the former owners, detailed file evidence relating to land at Mangapehi indicates that, during the early years of the NZRC disposals at least, former owners were not given sufficient opportunity to purchase the land.

In the Mangapehi case, the former Maori owners were given only 40 working days to accept the offer and raise funds to complete the purchase (the minimum time provided in the 1981 Act). Though the owners expressed a strong interest in the land, it was withdrawn before they were able to arrange finance. This lack of flexibility seems to have been particularly harsh given that more than one owner was involved (as is likely in most offer backs involving land formerly held by Maori) – a situation that meant that the response to offer back was likely to require more time. The decision to limit the offer back period seems to have reflected a general desire to see the disposal of the surplus lands carried out quickly, and it also may have been influenced by a desire to see the land disposed of to the former NZRC employee rather than the former Maori owners.

It is notable that for several years the disposal of surplus railway lands was carried out without any protection of Maori interests relating to historical Treaty of Waitangi claims. For reasons that are unclear, the Treaty of Waitangi (State Enterprises) Act 1988 – introduced following legal action by the Maori – did not apply to lands being disposed of by NZRC. It was not until 1991 that NZRC began an informal process of checking whether land was subject to specific claims. Between 1985, when the Labour Government allowed historical claims to be made to the Waitangi Tribunal, and the end of 1990, at least 13 hectares of surplus railway land, mostly housing properties, was disposed of in the Te Rohe Potae inquiry district. In mid-1991, concerns over NZRC plans to bulk sell leased properties led the National Maori Congress to negotiate with the Government to establish a more robust and transparent process of protecting Maori interests.

The CCJWP, which operated until mid-1993, does not appear to have provided any clearances for railway land disposals in the Te Rohe Potae inquiry district, which appear to have stalled during this time. However, in June 1993, around the time that the CCJWP was wound up, NZRC sold the limestone quarry lands at Waiteti to McDonalds Lime Company. It is unclear whether this disposal was subject to the PMSCL mechanism that superseded the CCJWP. In terms of land area, the disposal of most surplus railway land in the Te Rohe Potae inquiry district has taken place during the operation of the PMSCL mechanism. During this time, several parcels of surplus railway land in the inquiry district have been landbanked for the future settlement of historic claims.

Table 14: *Surplus railway lands in Te Robe Potae inquiry district disposed of by New Zealand Railways Corporation between 1982 and 1994*

Date Sold	Description	Legal Description	CT	Sold To	Area (ha)
1982	House and land, Te Kuiti	Lots 1 & 2 Blk XIV Te Kuiti Native Township		Police Department	0.1912
1982	Land, Matiere Station	Sec 1 Blk XV Aria SD and Crown land		T Keepa	0.5008
1983	Houses, Te Kumi	Lots 4, 5, &10 DPS 32549		Housing Corporation	0.1991
1983	House, Te Kumi	Lot 7 DPS 32549	SA 29B/623	Housing Corporation	0.0654
1983	House, Te Kumi	Lot 11 DPS 32549		Housing Corporation	0.1021
1983	House, Te Kumi	Lot 14 DPS 32549		Housing Corporation	0.1202
1983	House, Te Kumi	Lot 15 DPS 32549		Housing Corporation	0.1111
1983	House, Te Kumi	Lot 16 DPS 32549		Housing Corporation	0.1108
1983	House, Te Kumi	Lot 17 DPS 32549		Housing Corporation	0.1105
1983	House, Te Kumi	Lot 9 DPS 34059		Housing Corporation	0.0740
1983	House, Te Kumi	Lot 5 DPS 34059		Housing Corporation	0.0736
1983	House, Ohura	Lot 5 DP 14010		Housing Corporation	0.1318
1983	House, Ohura	Lot 5 DP 8685		Housing Corporation	0.0787
1984	House, Carroll Street, Te Kuiti	Lot 12 Blk XV Te Kuiti Native Township		Department of Maori Affairs	0.0708
1984	Vacant land, Carroll Street, Te Kuiti	Lot 16 Blk XV Te Kuiti Native Township		Waitomo District Council	0.0708
1984	House, Carroll Street, Te Kuiti	Lot 20 Blk XV Te Kuiti Native Township		GA Holder	0.0708
1984	Vacant land, Carroll Street, Te Kuiti	Lots 22 & 23 Blk XV Te Kuiti Native Township		KR Sorensen	0.1644
1984	House, Te Kuiti	Lot 5 Blk XIV Te Kuiti Native Township		SDJ & JA Elliot	0.0925
1984	Land, Ohura	Lot 4 DP 14010		RA & C Olsen	0.1252
20/1/1984	Land, Ohura	Lot 1 DP14010	SA F4/1161	Declared Crown land subject to the Land Act 1948	0.1129
10/12/1984	Land, Ohura	Lot 3 DP14010	SA F4/1163	RW & H Te Awa	0.1221
1985	House, Te Kuiti	Lot 14 Blk XIV Te Kuiti Native Township		GLA & OJ Roberts	0.0708
1985	House, Te Kumi	Lot 1 DPS 32549		BR & LH Mangu	0.0927
1985	House, Te Kumi	Lot 6 DPS 32549		LP & QH Green	0.0927
1985	House, Te Kumi	Lot 8 DPS 32549		Department of Maori Affairs	0.0746
1985	House, Te Kumi	Lot 12 DPS 32549		Department of Maori Affairs	0.1088
25/1/1985	Vacant land, Ohura	Lot 2 DP14010	SA F4/1162	ATA Ormslay & JM Chandler	0.1166
1986	House, Te Kumi	Lot 3 DPS 32549		B Ruaporo	0.0540
1986	Part limestone quarry, Waiteti (land exchange)	Part Pukenui 2M		NZ Limestone Products Limited	2.1600
1986	Part limestone quarry, Waiteti (land exchange)	Part Pukenui 2M		Department of Lands and Survey	3.2960
1986	Land, Te Kawa (land exchange)	Lot 3 LO 34908		RP and J Ward	0.4000
1986	House[?], Ohaupo	Lot 2 DP 63		LL & JO Bennett	0.0809
1987	House, Te Kumi	Lot 3 DPS 34059	SA 30B/398	RK & MA Ngarotata	0.0927

Date Sold	Description	Legal Description	CT	Sold To	Area (ha)
1987	Land, Ohaupo	Part railway land (Deeds Index 15A/500)		TB Davies	0.8044
1987	House, Ohura	Lot 3 DP 6904		N Poutu	0.0840
1987	House, Ohura	Lot 32 DP 6904		FP Lague	0.0898
1987	House, Ohura	Lot 30 DP 6904		Department of Maori Affairs	0.0845
1987	House, Ohura	Lot 33 DP 6904		SJ Chapman	0.0936
1988	House and land, Ellis Road, Mangapehi	Lot 4 DP 4103	TN H2/1383	B. Batley	2.9340
1988	House, Te Kuiti	Lot 4 Blk XIV Te Kuiti Native Township	SA 30C/224	T & TR Ngatai	0.0943
1988	House, Te Kuiti	Lot 18 Blk XIV Te Kuiti Native Township		AR King	0.0708
1988	House, Otorohanga			PR Carr & MA Wallace	0.1016
1988	Land exchange, Te Kuiti (subject to section 107(7) of the Public Works Act 1981)	Sec 1 (area 'A') SO 56899		New Zealand Limestone Products Ltd	0.2910
1988	House, Ohura	Lot 12 DP 6904		Department of Maori Affairs	0.0976
1988	House, Ohura	Lot 29 DP 6904		Department of Justice	0.0827
17/10/1988	House, Ohura	Lot 35 DP 6904	SA H1/391	Department of Maori Affairs	0.0918
1989	House, Ohura	Lot 2 DP 6904	SA H1/383	Stone Key Investments Ltd	0.0835
	House, Ohura	Lot 10 DP 6904	SA H1/389		0.0923
	House, Te Kuiti	Lot 3 Blk XIV Te Kuiti Native Township	SA 30C/226		0.0966
	House, Te Kuiti	Lot 2 DPS 32549	SA 29B/618		0.0531
	House, Te Kuiti	Lot 9 DPS 32549	SA 29B/625		0.0841
	House, Te Kuiti	Lot 13 DPS 32549	SA 29B/629		0.1199
	House, Te Kuiti	Lot 1 DPS 34059	SA 30B/396		0.0789
	House, Te Kuiti	Lot 2 DPS 34059	SA 30B/397		0.0788
	House, Te Kuiti	Lot 6 DPS 34059	SA 30B/401		0.0765
	House, Te Kuiti	Lot 7 DPS 34059	SA 30B/402		0.0762
	House, Te Kuiti	Lot 10 DPS 34059	SA 30B/405		0.0813
	House, Te Kuiti	Lot 12 Blk XIX Te Kuiti Native Township	SA 32A/563		0.0821
	House, Te Awaraputu	Lot 65 DPS 6405	SA 38C/174		0.0698
	Houses (4), Te Kumi	Part Sec 59 Blk XV Orahiri SD	SA 44B/178		0.4922
1989	House[P], Ohaupo	Lot 3 DP 63		WA Drabble	0.0809
1989	House[P], Ohaupo	Lot 4 DP 63		KD & AM King	0.0809
1989	House, Te Kumi	Lot 4 DPS 34059		EN Barton	0.0728
14/4/1989	House, Te Kumi	Lot 8 DPS 34059	SA 30B/403	MT Ordish	0.0843
30/6/1989	Land, Tuhua (land exchange)			National Roads Board	0.1239
21/7/1989	Leased land, Ohaupo	Lot 4 DP 63	SA 35D/658	KD & AM King	0.0800
21/10/1989	Land, Carroll Street, Te Kuiti				0.0943
28/5/1990	Land, Te Kawa (land exchange)	Sec 2 SO 57215	SA 43C/354	MJ Milham	1.4165
28/5/1990	Land, Te Kawa (land exchange)	Sec 2 SO 57214	SA 43C/354	MJ Milham	0.7432

Date Sold	Description	Legal Description	CT	Sold To	Area (ha)
1990	Land, Ohaupo	Lot 2 DPS 494429		Ohaupo Developments Ltd	0.7056
1991	Houses[?], Te Kumi	Sec 54 Blk XV Orahiri SD	SA 35A/773	DC Bailey & J Barker	0.5190
7/2/1991	Land, Te Kuiti	Sec 54 SO 50437	SA 35A/773	Te Kuiti Livestock & General Transport Ltd	0.5190
2/10/1991	Land, Te Kumi	Lot 3 DPS 41089	SA 37A/999	Saves U More Supermarket	0.2126
29/11/1991	Leased land near Te Awamutu (access from Paterangi Road)		SA 25B/645-6	G & BI Rushbrook	1.7960
	Land bordered by Mangapiko Stream and Paterangi Road, Te Awamutu				12.8806
	Land At Te Awamutu, Paterangi Road.				0.3182
	House, Paterangi Road, Te Awamutu				0.0820
	Land adjacent to Paterangi Road, Te Awamutu				0.0820
	Access way, Paterangi Road to NZRC sandpit				0.1360
	NZRC sandpit, Paterangi Road, Te Awamutu				1.2760
	Land adjacent to access way to sandpit and Paterangi Road				0.0520
	Land adjacent to Paterangi Road, Te Awamutu				0.0812
	House, Paterangi Road, Te Awamutu				0.0820
	Land at Corner Road, Te Awamutu				0.4080
	Public Access to rubbish dump off Paterangi Road				0.0720
Land adjacent to Paterangi Road or Meadways Corner Road		0.2000			
30/6/1992	Mangaokewa Stream bed, Te Kuiti (shown On DPS 61780)			Crown	0.9300
21/10/1992	Historic Huiputea Pine Reserve, Otorohanga	Lots 3 & 4 DPS 62786		Otorohanga District Council	0.0559
27/11/1992	Land, Otorohanga Station	Lot 2 DPS 62786	SA 51B/749	Storcraft Ltd	0.3170
11/6/1993	Land, Waiteti,	Lot 2 DPS 61780	SA 50D/244-6	McDonalds Lime Co	1.5040
11/6/1993	Part limestone quarry, Waiteti,	Lot 3 DPS 61780	SA 50D/244-6	McDonalds Lime Co	1.4500
11/6/1993	Part limestone quarry, Waiteti	Lot 1 DPS 61780	SA 50D/244-6	McDonalds Lime Co	26.3100
30/6/1993	Land required for esplanade reserve, Te Kuiti	Lot 4 DPS 61780		Waitomo District Council	0.3400
Not recorded	Land, Otorohanga (land exchange)	Secs 1 & 2 SOs 59419 & 59420		GR & MA Osborne	1.4288
Not recorded	Land, Te Kawa (land exchange)	Sec 2 SO 57214			0.7432
Not recorded	Land, Ohaupo	Lot 1 DPS 61135		DC McDonald	0.0748
Not recorded	House[?], Te Kumi	Sec 56 Blk XV Orahiri SD	SA 35A/774	Furst Homes Ltd	0.0927
Not recorded	House[?], Te Kuiti	Lot 11, DP 36394		AJ & BI Gill	0.4226
Not recorded	Land, Te Kumi	Lot 1 DPS 41089	SA 37A/997	Tram (JVB)	0.2101
Not recorded	Land, Te Kumi	Lot 2 DPS 41089	SA 37A/998	Tram (JVB)	0.1737
Total					63.7372

Table 15: Surplus railway lands in Te Robe Potae inquiry district disposed of by Land Information New Zealand from 1994

Date Sold	Description	Legal Description	NZRC ID No.	CT	Sold To	Area (ha)
Not recorded	Station yard, Te Awamutu	Lot 1 DPS 68576	C30427 & others	SA 55A/212	DTL Properties	4.3440
Not recorded	Station yard, Otorohanga	Lots 1-4 DPS 19628	C30487, C30488, C30489	SA 20B/25, SA 20A/1450, SA 20B/294, SA 20B/293	Not recorded	0.4181
Not recorded	Land at Carroll St (opposite Te Kuiti Station)	Lot 2 DPS 26622	C30561	SA 24D/1206	Not recorded	0.2641
Not recorded	Land at Te Kumi Road, Te Kuiti	Pt Lot 3 DP 15146	C30531	NZ Gazette 1991, p 3319	Not recorded	0.7372
Not recorded	Land at Te Kumi Road, Te Kuiti	Lot 1 DP 41089	C30499, C30498	SA 37A/997	Not recorded	0.2101
1996	Water supply reserve, Ohura	Subdivision 2 Blk V Sec 1 Ohura SD	C44294	NZ Gazette 1996, p 1587	Department of Conservation	48.9670
1996	Land at Ngaroto	Lot 1 DPS 68148	C31715, C31716	SA 54C/960	Office of Treaty Settlements	0.5442
1997	Land at Ongarue Back Road, Te Koura	Lot 1 58529	C34613, C34614, C34615, C34616, C34617	SA 38A/728	AT Porritt	5.5992
1997	Land Ohura Road, Matiere	Lot 1 DP 18995	C40537	TN K4/760	A B Pleasants (offer back)	2.0500
1997	Land at Tui/Huia Street, Ohura	Sec 2 Block XVII Town of Ohura	C43522	TN B1/174	DR Allan	0.1012
2000	Te Kawa Station	Lot 1 DPS 87227	C31690	SA 69B/90	DT & SM Forsythe	0.4040
2000	Te Kawa Station	Lot 1 DPS 87228	C31689	SA 69B/91	MB & PK Ormsby	0.4059
2000	Te Kawa Station	Lot 2 DPS 86768	C34197	SA 69B/92	JR Wetere	0.4442
2000	Te Kawa Station	Lot 1 DPS 86768	C34198	SA 68D/122	JR Wetere	0.4984
2000	Mangapehi Station	Lot 1 DP 19250	C30775, C30776, C34264	SA K3/359	Office of Treaty Settlements	2.5000
2000	Industrial site, Te Kuiti	Allotments 8 & 10, Block XV Te Kuiti Maori Township	C30562	SA 30C/227	Office of Treaty Settlements	0.1416
2001	Te Kuiti Station	Lot 1 DPS 87195	C30557	SA 69B/12	Office of Treaty Settlements	0.0996
2001	Te Kuiti Station	Part Te Kuiti Native Township	C30551	SA 70A/902	Office of Treaty Settlements	0.0028
2001	Te Kuiti Station	Part Te Kuiti Native Township	C30549	SA 70A/902	Office of Treaty Settlements	0.0088
2001	Te Kuiti Station	Part Te Kuiti Native Township	C30553	SA 70A/904	Office of Treaty Settlements	0.1075
2001	Te Kuiti Station	Part Te Kuiti Native Township	C30554	SA 70A/902	Office of Treaty Settlements	0.1730
2001	Te Kuiti Station	Part Te Kuiti Native Township	C30555	SA 70A/902	Office of Treaty Settlements	0.2670
2001	Te Kuiti Station	Part Te Kuiti Native Township	C30560	SA 70A/902	Office of Treaty Settlements	0.3796
2004	Te Kuiti Station	Lot 4 DP 88766	C30558	SA 70A/903	Waitomo District Council	0.2263
2005	Otorohanga Station	Pt Lot 1 DPS 62786	C30473	SA 51B/748	Trustees for Maori Reservation	0.6000
2005	Otorohanga Station	Pt Lot 1 DPS 62786	C30475, C30476	SA 51B/748	Trustees for Maori Reservation	0.9370
2005	Sports ground, Te Kuiti	Part Section 57, Block XV Orahiriri SD	C30510, C30521, C30522, C30523, C30524, C30525,	SA 50A/295	Waitomo District Council	2.3230

Date Sold	Description	Legal Description	NZRC ID No.	CT	Sold To	Area (ha)
			C30526			
Total						72.7538

Table 16: Surplus railway lands in Te Robe Potae Inquiry District presently held by Land Information New Zealand for disposal

Description	Legal Description	NZRC ID No.	CT	Area (ha)
Otorohanga Station yard	Railway land adjoining Lot 1, DPS 62786	C34675	SA 0A/145,	0.0825
Land at Otorohanga	Part Otorohanga C2A1B Block	C30496	N/A	0.3833
Industrial Site, Waiteti Road, Te Kuiti	Lot 1 DPS 67572	C30572	N/A	2.3730
Reservoir, Ongarue	Part Rangitoto Tuhua 77E Block	C44032	N/A	0.1948
Okahukura Station yards	Part Rangitoto Tuhua 55A & Part Rangitoto Tuhua 52F3	C42152,42153	N/A	1.6200
Okahukura Station yards	Part Rangitoto Tuhua 55A & Part Rangitoto Tuhua 52F3	C42144, C42145, C42146, C42147, C42148, C42149	N/A	2.5110
Land at Ohura Road, Matiere	Adjoining Ohura South K4 Sec 2B 3A No 1	C44350	N/A	0.1870
Land at Taranui Street, Ohura	Sect 12 Blk XVIII Town of Ohura	C40506	N/A	0.1267
Land at Taranui Street, Ohura	Sect 14 Blk XVIII Town of Ohura	C44254	N/A	0.0827
Land at Taranui Street, Ohura	Part Lot 1 DP 6818	C40497	N/A	0.7493
Land at Ohura	Part Sec's 12 & 13 Blk XVIII Town of Ohura	C40507	N/A	0.0708
House, Ohura	Part Sec's 12 & 13 Blk XVIII Town of Ohura	C40508	N/A	0.0690
House, Ohura	Part Sec's 10 & 11 Blk XVIII Town of Ohura	C40505	N/A	0.2276
Stockyards, Tokocima	Part Sec 24 Blk XIV Ohura SD	C40483	N/A	0.1894
Total				8.8671

Conclusion

As in other colonial settings during the second half of the nineteenth century, officials and politicians in New Zealand conceived of railways, along with roads and telegraph, as the technological and practical devices to extend and strengthen European settlement. The drive for these public works was further fuelled by the idea that such 'progress' would reduce the risk of further armed conflict with Maori as they came under the influence of 'civilisation', cementing Government authority over areas outside of their control. Vogel's 1870 Public Works initiative embodied these ideas. During the resulting decade of massive spending on infrastructure, Government officials and politicians promoted public works to Maori as beneficial to both communities. Fitting into this boarder context, the NIMT from its early conception was intended to extend transport and communication in the North Island, connecting Auckland and Wellington and, perhaps primarily, to open land and resources for European settlement.

During the 1870s, following the comparative turmoil of the previous decade, the growth of European settlement in the districts surrounding the Rohe Potae, combined with increasing legislative power to acquire land for public works, placed the central Government in an improved position to pursue a North Island main trunk. Pressure to open the central North Island also grew as settlers, witnessing a steady growth in the size and wealth of settlement, gained a renewed confidence after the 'war wariness' of the 1860s. Yet rather than using compulsory methods of land acquisition in the 'King's country', the Government found it necessary to negotiate with Rohe Potae Maori leadership. Government authority was not complete over much of central North Island – the King Country still being closed to unwanted public works, the Native Land Court and European's generally – and the colony could not afford another war. Under the combined pressures of the encroaching Native Land Court, extension of roads around the district, Rohe Potae leadership maintained efforts to control their rohe, including continued rejection of the Court, but also renewed dialogue with the Government over issues of concern to the district. Although more research is required, some evidence suggests that pressure was increasing within the aukati to seek new forms of economic opportunity, yet it was essential, from a Rohe Potae leadership perspective that increased engagement with settler society remained under their control. By the end of the decade, the Rohe Potae was still a closed district to unwanted European influence, however, the railway had by then been constructed to Te Awamutu, approaching aukati, and was emerging into a significant issue for both peoples.

Despite the apparent lack of progress toward the construction of a North Island main trunk, events moved rapidly after 1880. Between 1881 and 1885, in several key stages of negotiation, the Government gained consent for construction of the NIMT. Rohe Potae leadership agreed to the railway on the understanding that a number of key agreements regarding reform to the existing Maori land legislation and administration of their district had been reached as well as some specific assurances regarding the construction of railway itself. The guarantee of the former was essential before consent was given to the construction railway.

Throughout the negotiations, Government officials and politicians emphasised that the NIMT would bring great economic opportunity to Rohe Potae Maori, based primarily on the assumption that the railway would increase the value of their land. At the same time, the role that the railway was hoped to play in European settlement, particularly the acquisition of land, was underplayed. At a critical hui at Kihikihi on 4 and 5 February 1885, Native Minister Ballance reiterated this potential opportunity to Rohe Potae leadership. In addition, he further assured that, through the expansion of Native Committee powers and the introduction of his proposed board system, local hapu and iwi would maintain the desired control of their lands. He also stressed that Rohe Potae land would be secure from unwanted pressure from private land speculators due to the recently passed Native Land Alienation Restriction Act (1884) and, importantly, that the Government was not planning to conduct large-scale purchase in the district. In addition, he added that Maori land would not be rated in relation to the railway until sold or leased. Combined with assurances of increased land value, Ballance's statements regarding the retention and administration of land are significant as they essentially reassured Rohe Potae leadership that they would be able to utilise the economic opportunities offered by the railway. While still convinced of the role of the Native Land Court and committed to the European settlement of the Rohe Potae, it appears Ballance hoped that his proposed board system (to be implemented in the Native Land Administration Act 1886) would facilitate the settlement of the district in a way that would satisfy the interests of both European and Maori. These important assurances will be comprehensively examined by Marr's political engagement 1865-1913 report, however critically in terms of this report, it was on the foundation of these assurances that Rohe Potae leadership consented to the construction of the railway.

Believing that key concessions had been gained regarding Maori land legislation, on the final day of the hui at Kihikihi Rohe Potae leadership moved discussion to focus more directly on the construction of the railway. In this respect, Ballance asserted that one chain was required for the

line, two chains where cuttings were required, and five to ten acres for stations. Once the owners had been ascertained by the Native Land Court, compensation would be paid for this land. Timber used in construction, Ballance stated, would be paid for and the line would enable Rohe Potae Maori to utilise this resource in the longer term. A general reassurance was made that 'No injury whatever will be done to Native land', in particular that effort would be made to protect mahinga kai. Ballance also stated that construction contracts would be offered to local Maori, providing a direct economic benefit from the building of the railway. After further consultation with interior iwi, Rohe Potae leadership consented to the construction of the NIMT on the terms specified by Ballance at Kihikihi. On 15 April 1885, the 'turning of the first sod' ceremony took place south of Te Awamutu, marking the official beginning of the construction of the NIMT in the Rohe Potae.

Serious preparations for construction had begun before the consent of Rohe Potae leaders had been gained, suggesting that the negotiations were not of central importance to the Government. During the protracted period of construction, carried out between 1885 and 1903 in the inquiry district, the Government failed to uphold most of the agreements and understandings reached with Rohe Potae leadership.

Officials and politicians often discussed the construction of the NIMT and acquisition of Maori land for settlement as related issues in statements in Parliament and official documents prior to and during construction. Thus a clear relationship between the NIMT and Government purchasing and settlement policy existed, but was never fully and clearly articulated to Rohe Potae Maori. Indeed, the NIMT was promoted to Rohe Potae as means to increase the value of their land, which they would be able to utilise and retain without unwanted pressure for purchase from private or Government interests. During the years of construction the Government purchased Maori land in the Te Rohe Potae inquiry district and the much larger railway alienation restriction area, implementing this long held intention.

The Government purchasing of Maori land conducted during the construction of the NIMT stood in contrast to the assurances made during the negotiations prior to construction. Government intent to purchase solidified soon after the Kihikihi meetings when Ballance, under increasing pressure, made his plans clear for large-scale purchase in the Railway Alienation Restriction area. His comments in Parliament diverged from what he assured Rohe Potae Maori in two important ways. Firstly, purchase had not emphasised as a prime method of possible

alienation during the negotiations, rather Ballance had assured that leasing would be sufficient for the settlement of the district. Secondly, the scale and importance of the intended settlement had not been fully disclosed. It is unclear whether Ballance had always intended that land be purchased on a large-scale or whether he adopted this position later, after the negotiations, in the face of criticism in Parliament. The issue of Ballance's intentions will be fully explored in the comprehensive examination of the agreements conducted in Marr's political engagement 1865-1913 report. However, and most significantly in terms of this report, it is clear from the evidence that Ballance made important statements regarding land upon which Rohe Potae Maori had based their decision to consent to the NIMT, that were, soon after, overlooked.

This report has provided an overview of a significant portion of purchases within the inquiry district that were directly linked to the construction of the NIMT. That is, those purchases funded from the NIMT Loan Act and amendments, which totalled at least 184,853 acres. The majority of these purchases occurred in the north and south of the inquiry district between 1892 and 1894. Lands purchased using these funds were to be on-sold to settlers at a profit to further aid in the construction of the NIMT, branch lines and roads to further the settlement of the Rohe Potae. Boulton and Husbands' nineteenth century land report will address issues of fairness of the price paid for these lands and any other patterns of purchase associated with these acquisitions, as well as the full implications of Government monopoly on purchase for Rohe Potae Maori. These reports will also provide a full analysis of the wider purchase programme conducted simultaneously to the NIMT Loan acquisitions.

In respect of the specific assurances relating to the construction of the railway, the Government met some obligations and showed concern for Maori interests during the first stage of construction that ended in 1889. For example, Rohe Potae Maori received contract work and the line was fenced. The Kawhia Committee also negotiated with contractors to receive royalty payments for timber and stone resources required for the railway. During the second stage of construction that started in 1896, considerably less effort was made to protect the interests of Rohe Potae Maori, and it seems that awareness of the assurances made by Ballance faded. Though Maori continued to receive some payment for timber, contract work and payment for stone resources ceased, and the line was not fenced south of Mokau/Puketutu Station (something that was later remedied after Maori and European protest).

The Government also failed to act in accordance with the assurances that Ballance had made regarding the land required for the NIMT, both in respect of the area taken and the payment of compensation. After construction of the NIMT began, Rohe Potae Maori agreed to gift a limited area of land for the railway (one chain for the track, one acre for small stations, and three acres for large stations), something that Ballance had encouraged during negotiations. While the decision to gift land may have been linked to Rohe Potae leaders' opposition to the Native Land Court, it also seems likely that the gift was motivated by a desire to make a lasting contribution to the railway – a show of good faith that deepened the Government's obligation to uphold the understandings and agreements reached prior to construction.

In regard to the area of land acquired for the railway, almost 1100 acres of Maori land was taken for the NIMT in the Te Rohe Potae inquiry district up until mid-1903, when construction through the district was completed. The area taken for the track and stations was greater than what Ballance had stated, and the takings included several areas that were acquired for quarries, a possibility that had not been raised during negotiations. It appears that the land taken for the railway may have exceeded operational requirements, with at least 75 areas of railway land in the inquiry district being leased to private interests during the twentieth century.

In regard to the issue of compensation, the Government only partially fulfilled its obligation to compensate owners for the areas that were taken in excess of what Rohe Potae Maori had agreed to gift. In December 1890, the Native Land Court confirmed settlements reached in respect of lands that had been taken between the Puniu River and Te Kuiti, involving 11 blocks. (It should be noted the owners of all except one block felt bound by the decision to gift land for the railway, indicating that there continued to be ongoing Maori support for the railway.) However, with the exception of an 1895 arrangement concerning lands taken from Pukenui block, no other compensation was paid for the areas taken during construction. In 1903, the Public Works Department adopted the position that a statutory obligation to pay compensation did not exist at the time that the land was taken. (In an opinion provided to the Department, the Solicitor General argued that the land had been taken on 2 April 1885, when the Governor signed an Order in Council under the Public Works Act 1882.) This position was maintained by the Department when it rejected claims in 1911 and 1923.

The Government's failure to act in accordance with the assurances made to Rohe Potae Maori casts some doubt on whether the negotiations were undertaken with good faith. Some of

Ballance's comments made at Kihikihi sometimes seem to have been made without thorough consideration of the matter in question. Following the negotiations, the understandings and agreements do not appear to have been clearly communicated to the relevant Government departments, including the Public Works Department, which was responsible for building the line. Instead, it appears that the Public Works Department held little knowledge of the assurances made to Rohe Potae Maori and that this diminished over time. This clearly appears to have been an important reason why, during the second stage of construction, the line was not immediately fenced. The collapse of the Stout-Vogel Government also seems to be important in explaining why assurances made to Rohe Potae during construction were not upheld, resulting in the change of certain policies, most notably the provision of construction contracts. It appears that the new administration did not feel bound by the negotiations undertaken by Ballance and may have been unaware of some aspects of the agreements and understandings reached with Rohe Potae Maori. From the evidence examined in this report it appears that the Government undertook little consultation with Rohe Potae Maori regarding changes in policies and practices that concerned the agreements reached before construction. This was despite Rohe Potae leadership's desire for continued dialogue in regard to issues concerning the railway.

The gradual decline in the Government's recognition of the interests of Rohe Potae Maori during the construction of the line mirrored the success and fulfilment of European settlement objectives. When construction began and the Rohe Potae was first 'opened', Maori retained a measure of power in the district. The Kawhia Committee embodied this power, providing a unified voice, representing Rohe Potae Maori in negotiations, including, for example, setting royalties for the use of the stone resources required for the railway. During the second stage of construction, however, the situation had changed markedly and, with land purchase advancing and the Kawhia Committee no longer in existence, it was clearly easier for the Public Works Department, Railways Department, and the Government to overlook and neglect the interests of Rohe Potae Maori.

After construction of the NIMT was completed through the Te Rohe Potae inquiry district, numerous additional takings of land for railway purposes were carried out. Between mid-1903 and 1990, some 192 acres were taken, most of this land being acquired between 1903 and 1925. Land was taken for a range of purposes, but in terms of land area, the main purpose for taking land was to secure stone resources. Takings in 1903, 1905, 1907, and 1912 for quarries involved about 93 acres. These takings were particularly significant because Maori had expected to be

paid for stone extracted from their land. The takings therefore prevented Maori from deriving an ongoing economic benefit from stone resources.

As the additional takings lay outside what Ballance had stated would be required for the NIMT, the taking authorities clearly appear to have had an obligation to consult with the affected Maori owners, though for most of the twentieth century the statutory process for taking land for railway purposes did not require consultation. While little evidence has been located about the takings carried out from 1903, the case of the 1912 taking (the largest of the additional takings, involving 48 acres) suggests that, during the first two decades of the twentieth century at least, Maori owners were generally not consulted. In contrast, the additional takings carried out after 1970 were subject to agreements with the owners, reflecting a shift in attitudes towards the compulsory acquisition of land for public works and a changing statutory framework.

Compensation generally appears to have been awarded for the additional takings. However, provisions that enabled up to five percent of Maori land to be taken for road and railway purposes without compensation appear to have been applied in at least one case, the 1907 Waiteti quarry taking, where the 'five percent rule' was used to limit the area over which compensation was assessed. In some cases, the Native Land Court, which was responsible for assessing compensation up until 1962, had to weigh up a large amount of conflicting evidence or, when owners were not represented, rely on limited information. The Court's award in the case of the 1907 quarry taking indicates that the Court sometimes lacked the necessary expertise and did not protect the interests of the owners, at least in the early part of the twentieth century. In this case, the Court ascribed no value to the limestone resource for which the land was taken and most of the compensation for the loss of land and a water right was awarded to the European leaseholder.

In 1903, after building work ended in the inquiry district, trains began operating along the NIMT to Taumarunui. (In 1908, construction of the railway was completed and the line was opened to through traffic.) Between 1903 and 1980, the NIMT was linked to a number of important developments that were part of the process of political, economic, and social transformation that occurred in the Rohe Potae from around the turn of the twentieth century. This report has examined the role of the NIMT, but has not closely examined wider issues relating to the developments connected to the railway, which are beyond the scope of the report and will largely be addressed in other reports.

During the first decades of the twentieth century, the NIMT played a key role in the district's transport infrastructure. The railway provided access to a large area of land and was used by European settlers who, around 1900, began taking up lands that had been purchased from Rohe Potae Maori. This process saw a significant increase in the non-Maori population of the King Country. While the NIMT was clearly helpful to European settlers, it is also true that at the opening of the twentieth century Maori retained significant areas along the railway. The twentieth century land alienation report will show how long Maori continued to own land along the NIMT and were therefore potentially able to benefit from the railway in accordance with the assurances that Ballance had made prior to construction.

As well as providing access to settlement lands, the NIMT also played a key role in the development of the important King Country sawmilling industry, enabling timber to be efficiently transported out of the district. As Ballance had spoken of during the negotiations, forest areas owned by Maori along the line became a resource of significant financial value. It seems that Maori often sought to receive money for timber without selling their land, entering instead into timber cutting agreements with European sawmillers. The area of land in the Te Rohe Potae inquiry district subject to these agreements has not been established and it has not been possible to quantify the money earned by Maori through royalties. The extent to which Maori were able to fully benefit from the sawmilling industry will be addressed in the proposed economic capability overview report.

The NIMT was also important to other significant developments – the building of the Stratford-Okahukura branch line and the creation in 1903 of three Native Townships along the railway at Otorohanga, Te Kuiti, and, just outside the inquiry district, Taumarunui. The Stratford-Okahukura line, built between 1901 and 1932, was constructed with the intention of making more land and resources available for European settlement. The fact that consultation was not undertaken with Rohe Potae Maori regarding this railway, even though it passed through areas of land that remained in Maori ownership, indicates that by this time the Government no longer believed it was necessary to consult with Rohe Potae Maori.

Looking at the NIMT more broadly, it is evident that the railway played a significant role in the settlement of the North Island and, in turn, New Zealand a whole. In comparison to other parts of the New Zealand rail network, the NIMT has been a profitable and intensively used line. Its

completion in 1908 unified a series of separate North Island lines into one cohesive network, enabling communication and overland transport in a island which until that time had been largely reliant on maritime transport. The network was also an important auxiliary in the growth of the important dairy and frozen meat export industries in New Zealand, transporting stock and farm goods to and from rural centres.

It is notable that the operation of the NIMT between 1903 and 1980 created employment opportunities for Rohe Potae Maori, who seem to have made up a significant proportion of the NZR workforce in the district. In 1980, at least 71 of the 349 railway workers in the inquiry district and Taumarunui had Maori surnames. The proposed economic capability overview report should shed light on the relative importance of railway work compared to other types of employment. For those Rohe Potae Maori who worked for NZR, the benefits included regular income and secure, long-term employment with the opportunity for promotion, as well as the opportunity to rent affordable NZR housing.

Since 1980, the New Zealand railway system has undergone a series of major changes, which have broadly reflected a wider process of economic and social transformation. Two policies of particular significance to Rohe Potae Maori were introduced following the corporatisation of NZR in 1982: staff cuts and the disposal of surplus railway lands. This report has argued that Rohe Potae Maori possibly should have been consulted about staff cuts and certainly should have been consulted about land disposal policies.

In regard to the reduction of staff numbers, the issue of consultation arises from the agreements and understandings that had been reached prior to construction of the NIMT, particularly Ballance's assurance that the railway would be of economic benefit to Rohe Potae Maori. However, it is unclear whether Rohe Potae Maori employment with NZR constituted a significant economic benefit. The proposed economic capabilities overview report should therefore shed light on whether consultation over job losses was warranted. The implementation of staff cuts clearly had implications on the extent to which railway employment might provide an ongoing economic opportunity to Rohe Potae Maori. Staff numbers were reduced most dramatically during the 1980s and cuts were also made when the railway system was privately owned between 1992 and 2008. Today, OnTrack and KiwiRail employ only 65 staff in the Te Rohe Potae inquiry district and Taumarunui.

In regard to the policy of disposing of surplus railway land, also introduced during the restructuring of NZRC, an obligation to consult with Rohe Potae Maori existed because of the fact that most of the land required for the NIMT in the King Country district had formerly been owned by Maori. As detailed above, Rohe Potae Maori gifted a significant area for the track and stations and had further land taken compulsorily under public works legislation. Not only was the land disposal policy introduced without consultation with Rohe Potae Maori, it seems that at the beginning of the disposal process there was no clear, public communication regarding the policy and how it was to be carried out. Since 1982, some 137 hectares of surplus railway land has been disposed of by NZRC, DOSLI, and LINZ in the Te Rohe Potae inquiry district, involving a range of different property types.

Initially carried out under the Public Works Act 1981 and, later, the New Zealand Railways Corporation Restructuring Act 1990, the disposals were subject to provisions that required land to be offered back to the former owners. These provisions, it should be noted, did not apply when land was required for another purpose. In a number of cases, surplus railway land in the Rohe Potae inquiry district was transferred to Government departments or local authorities. It seems that very few of the disposals resulted in land being repurchased by former owners through the offer back provisions. In cases where the disposal involved an area of land that had no legal access, offer back to the former owners was deemed to be inapplicable. Where land was offered back to the former owners, detailed file evidence relating to land at Mangapehi indicates that, during the early years of the NZRC disposals at least, former owners were not given sufficient time to purchase the land. In this case, the decision to limit the offer back period seems to have reflected a general desire to see the disposal of the surplus lands carried out quickly.

This desire for haste might also explain why, for several years, the disposal of surplus railway lands was carried out without any protection of Maori interests relating to historical Treaty of Waitangi claims. For reasons that are unclear, the Treaty of Waitangi (State Enterprises) Act 1988 did not apply to lands being disposed of by NZRC, and it was not until 1991 that NZRC began an informal process of checking whether land was subject to specific claims. Between 1985, when the Labour Government allowed historical claims to be made to the Waitangi Tribunal, and the end of 1990, at least 13 hectares of surplus railway land, mostly housing properties, were disposed of in the Te Rohe Potae inquiry district. Under the existing PMSC

mechanism, introduced in 1993, several parcels of surplus railway land in the inquiry district have been landbanked for the future settlement of historic claims.

Appendix: North Island Main Trunk Section Opening Dates within the Te Rohe Potae Inquiry District

First Phase of Construction

Ohaupo – Te Awamutu	1 July 1880	PWD hand over to Railways Department
Te Awamutu – Otorohanga	9 March 1887	PWD hand over to Railways Department
Otorohanga – Te Kuiti	2 Dec 1887	PWD hand over to Railways Department
Te Kuiti – Puketutu	8 May 1889	PWD hand over to Railways Department

Second Phase of Construction

Puketutu – Poro-o-tarao	1 April 1901	PWD hand over to Railways Department
Por-o-tarao – Taumarunui	1 Dec 1903	PWD hand over to Railways Department

Commission

OFFICIAL

Wai 898, # 2.3.26

WAITANGI TRIBUNAL

CONCERNING: the Treaty of Waitangi Act 1975

AND: the Te Rohe Pōtae Inquiry

DIRECTION COMMISSIONING RESEARCH

1. Pursuant to clause 5A of the second schedule of the Treaty of Waitangi Act 1975, the Tribunal commissions Jonathan Sarich, a member of the Tribunal's staff, and Philip Cleaver, contract researcher, to prepare a report on railways and hapū and iwi of the Te Rohe Pōtae inquiry district for the Te Rohe Pōtae district inquiry. This project is project 16 in the agreed casebook programme for the inquiry (Wai 898 #6.2.7).
2. The report will focus on the North Island Main Trunk Line and any branch lines and will address the following topics:
 - a) Government and hapū and iwi motivations and understandings of agreements made to build the main trunk railway through the district, with particular regard to questions around economic development, settlement, political authority and security;
 - b) The extent to which the construction and operation of the railways in this district reflected any understandings and assurances made in the negotiations between the Crown and hapū and iwi in the 1880s, including, for example:
 - Agreed conditions over the construction of the railway and any agreed alterations to these,
 - Compensation payments for lands required for the railway route,
 - Protection of urupā, kāinga, wāhi tapu and other sites of importance during railway construction,
 - Promises of economic benefits from the railway, including specific promises to Māori communities of work undertaking railway contracts,
 - Assurances to Māori committees, such as the Kawhia committee, that they would be able to manage economic opportunities offered by the railway, including setting rates to be paid for timber and gravel required, and
 - The extent to which standard public works provisions were applied rather than agreements reached through negotiations.

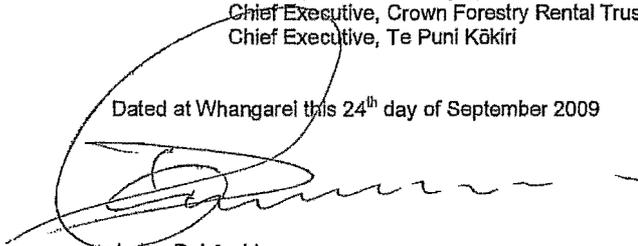
This section should include consideration of any protest by Te Rohe Pōtae Māori in relation to these issues and Crown responses to such protest;

- c) Whether land and resources acquired for railway purposes in this district were significantly in excess of agreements in the negotiations, or of what was required for the actual railway route, and whether alternatives to taking such as leases for some railway purposes were seriously considered;
- d) Whether adequate compensation for land and resources taken for the railway was provided and whether the compensation that was awarded was properly /

- paid;
- e) The impact on remaining lands of railway takings, such as landlocked land, loss of access to urupā and commercially unusable land between the railway line and roads;
 - f) Any issues raised by Māori at the time of construction about the environmental effects of railway construction, for example destruction of mahinga kai, and Crown responses to these;
 - g) The relationship between railway development, tourism and the creation and management of native townships in the district;
 - h) The impact of the development and operation of the railways on hapū and iwi communities of the district and on their exercise of authority, including the social and economic impact of construction camps on local communities, the role of the railways in enabling liquor to be introduced outside of community control and any changes in settlement patterns, including the relocation of marae and communities;
 - i) Benefits Māori communities derived in the Te Rohe Pōtae district from the arrival and operation of the railway, including economic opportunities, and the extent of any restrictions on opportunities to gain economic benefit from the railway, such as the use of legal monopolies to prevent Māori selling resources such as timber and stone;
 - j) The extent and nature of ongoing employment of members of the hapū and iwi of the district on the railway;
 - k) Any later developments or agreed changes in understandings over the railway subsequent to the original negotiations, including over whether some land might be given free of charge, later Government and Native/Māori Land Court understandings and determinations about compensation payments for lands, and later inquiries into railways issues and agreements in the district, including the inquiry conducted by Justice Smith in 1946;
 - l) Negotiations and agreements over the restructuring of the railways in the 1980s, ownership of the railways corridor and changes in ownership of the railway system, which was privatised in 1993 and returned to state ownership in 2008;
 - m) Issues relating to lands taken but never used for railway purposes, leasing by the railways of lands taken but not used for railway purposes, lands taken to fund railways and the return of lands (and railway housing) no longer required for railway purposes; and,
 - n) The relationship between the development and operation of the railway and the Crown's land purchasing and land settlement policies.
3. The commission commenced on 17 November 2008. A complete draft of the report is to be submitted by 2 October 2009 and will be circulated to claimants and the Crown for comment.

4. The commission ends on 30 October 2009, at which time one copy of the final report must be submitted for filing in unbound form, together with indexed copies of any supporting documents. An electronic copy of the report should also be provided in Word or Adobe Acrobat format. The report and any subsequent evidential material based on it must be filed through the Registrar.
5. At the discretion of the Presiding Officer the commission may be extended if one or more of the following conditions apply:
 - a) The terms of the commission are changed so as to increase the scope of work;
 - b) More time is required for completing one or more project components owing to unforeseeable circumstances, such as illness or denial of access to primary sources;
 - c) The Presiding Officer directs that the services of the commissionees be temporarily reassigned to a higher priority task for the inquiry;
 - d) The commissionees are required to prepare for and/or give evidence in another inquiry during the commission period.
6. The report may be received as evidence and the author may be cross-examined on it.
7. The Registrar is to send copies of this direction to:
 - Jonathan Sarich
 - Philip Cleaver
 - Claimant counsel and unrepresented claimants in the Te Rohe Pōtae Inquiry
 - Chief Historian, Waitangi Tribunal Unit
 - Manager - Research/ Report Writing Services, Waitangi Tribunal Unit
 - Inquiry Supervisor, Waitangi Tribunal Unit
 - Inquiry Facilitator, Waitangi Tribunal Unit
 - Solicitor General, Crown Law Office
 - Director, Office of Treaty Settlements
 - Chief Executive, Crown Forestry Rental Trust
 - Chief Executive, Te Puni Kōkiri

Dated at Whangarei this 24th day of September 2009


Judge D J Ambler
Presiding Officer
WAITANGI TRIBUNAL

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